

114TH CONGRESS
2D SESSION

H. R. 5226

To amend chapter 3 of title 5, United States Code, to require the publication of information relating to pending agency regulatory actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2016

Mr. WALBERG (for himself and Mr. NEWHOUSE) introduced the following bill;
which was referred to the Committee on Oversight and Government Reform

A BILL

To amend chapter 3 of title 5, United States Code, to require the publication of information relating to pending agency regulatory actions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regulatory Integrity
5 Act of 2016”.

1 **SEC. 2. PUBLICATION OF INFORMATION RELATING TO**
2 **PENDING REGULATORY ACTIONS.**

3 (a) AMENDMENT.—Chapter 3 of title 5, United
4 States Code, is amended by inserting after section 306 the
5 following new section:

6 **“§ 307. Information regarding pending agency regu-**
7 **latory action**

8 “(a) DEFINITIONS.—In this section:

9 “(1) AGENCY REGULATORY ACTION.—The term
10 ‘agency regulatory action’ means guidance, policy
11 statement, directive, rule making, or adjudication
12 issued by an Executive agency.

13 “(2) AGGRANDIZEMENT.—The term ‘aggran-
14 dize ment’ means—

15 “(A) any communication emphasizing the
16 importance of the Executive agency or agency
17 regulatory action that does not have the clear
18 purpose of informing the public of the sub-
19 stance or status of the Executive agency or
20 agency regulatory action; or

21 “(B) any communication that is puffery.

22 “(3) PUBLIC COMMUNICATION.—The term
23 ‘public communication’—

24 “(A) means any method (including written,
25 oral, or electronic) of disseminating information
26 to the public, including an agency statement

1 (written or verbal), blog, video, audio recording,
2 or other social media message; and

3 “(B) does not include a notice published in
4 the Federal Register pursuant to section 553 or
5 any requirement to publish pursuant to this
6 section.

7 “(4) RULE MAKING.—The term ‘rule making’
8 has the meaning given that term under section 551.

9 “(b) INFORMATION TO BE POSTED ONLINE.—

10 “(1) REQUIREMENT.—The head of each Execu-
11 tive agency shall make publicly available in a search-
12 able format in a prominent location either on the
13 website of the Executive agency or in the rule mak-
14 ing docket on Regulations.gov the following informa-
15 tion:

16 “(A) PENDING AGENCY REGULATORY AC-
17 TION.—A list of each pending agency regulatory
18 action and with regard to each such action—

19 “(i) the date on which the Executive
20 agency first began to develop or consider
21 the agency regulatory action;

22 “(ii) the status of the agency regu-
23 latory action;

1 “(iii) an estimate of the date of upon
2 which the agency regulatory action will be
3 final and in effect; and

4 “(iv) a brief description of the agency
5 regulatory action.

6 “(B) PUBLIC COMMUNICATION.—For each
7 pending agency regulatory action, a list of each
8 public communication about the pending agency
9 regulatory action issued by the Executive agen-
10 cy and with regard to each such communica-
11 tion—

12 “(i) the date of the communication;

13 “(ii) the intended audience of the
14 communication;

15 “(iii) the method of communication;

16 and

17 “(iv) a copy of the original commu-
18 nication.

19 “(2) PERIOD.—The head of each Executive
20 agency shall publish the information required under
21 paragraph (1)(A) not later than 24 hours after a
22 public communication relating to a pending agency
23 regulatory action is issued and shall maintain the
24 public availability of such information not less than

1 5 years after the date on which the pending agency
2 regulatory action is finalized.

3 “(c) REQUIREMENTS FOR PUBLIC COMMUNICA-
4 TIONS.—Any public communication issued by an Execu-
5 tive agency that refers to a pending agency regulatory ac-
6 tion—

7 “(1) shall specify whether the Executive agency
8 is considering alternatives, including alternatives
9 that may conflict with the intent, objective, or meth-
10 odology of such agency regulatory action;

11 “(2) shall specify whether the Executive agency
12 is accepting or will be accepting comments;

13 “(3) shall expressly disclose that the Executive
14 agency is the source of the information to the in-
15 tended recipients; and

16 “(4) may not—

17 “(A) solicit support for or promote the
18 pending agency regulatory action; or

19 “(B) include statements of aggrandizement
20 for the Executive agency, any Federal em-
21 ployee, or the pending agency regulatory action.

22 “(d) REPORTING.—

23 “(1) IN GENERAL.—Not later than January 15
24 of each year, the head of an Executive agency that
25 communicated about a pending agency regulatory

1 action during the previous fiscal year shall submit to
2 each committee of Congress with jurisdiction over
3 the activities of the Executive agency a report indi-
4 cating—

5 “(A) the number pending agency regu-
6 latory actions the Executive agency issued pub-
7 lic communications about during that fiscal
8 year;

9 “(B) the average number of public commu-
10 nications issued by the Executive agency for
11 each pending agency regulatory action during
12 that fiscal year;

13 “(C) the 5 pending agency regulatory ac-
14 tions with the highest number of public commu-
15 nications issued by the Executive agency in that
16 fiscal year; and

17 “(D) a copy of each public communication
18 for the pending agency regulatory actions iden-
19 tified in subparagraph (C).

20 “(2) AVAILABILITY OF REPORTS.—The head of
21 an Executive agency that is required to submit a re-
22 port under paragraph (1) shall make the report pub-
23 licly available in a searchable format in a prominent
24 location on the website of the Executive agency.”.

- 1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 The table of sections for chapter 3 of title 5, United States
3 Code, is amended by adding after the item relating to sec-
4 tion 306 the following new item:

“307. Information regarding pending agency regulatory action.”.

