

114TH CONGRESS
2D SESSION

H. R. 5226

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2016

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Regulatory Integrity
3 Act of 2016”.

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

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

9 **“§ 307. Information regarding pending agency regu-**
10 **latory action**

11 “(a) DEFINITIONS.—In this section:

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

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

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

24 “(B) any communication that is puffery.

25 “(3) PUBLIC COMMUNICATION.—The term
26 ‘public communication’—

1 “(A) means any method (including written,
2 oral, or electronic) of disseminating information
3 to the public, including an agency statement
4 (written or verbal), blog, video, audio recording,
5 or other social media message; and

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

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

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

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

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

22 “(i) the date on which the Executive
23 agency first began to develop or consider
24 the agency regulatory action;

1 “(ii) the status of the agency regu-
2 latory action;

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

6 “(iv) a brief description of the agency
7 regulatory action;

8 “(v) if applicable, a list of agency reg-
9 ulatory actions issued by the Executive
10 agency, or any other Executive agency,
11 that duplicate or overlap with the agency
12 regulatory action; and

13 “(vi) if a regulatory impact analysis
14 or similar cost-benefit analysis has been
15 conducted, the findings of such analysis,
16 including any data or formula used for
17 purposes of such analysis.

18 “(B) PUBLIC COMMUNICATION.—For each
19 pending agency regulatory action, a list of each
20 public communication about the pending agency
21 regulatory action issued by the Executive agen-
22 cy and with regard to each such communica-
23 tion—

24 “(i) the date of the communication;

1 “(ii) the intended audience of the
2 communication;

3 “(iii) the method of communication;
4 and

5 “(iv) a copy of the original commu-
6 nication.

7 “(2) PERIOD.—The head of each Executive
8 agency shall publish the information required under
9 paragraph (1)(A) not later than 24 hours after a
10 public communication relating to a pending agency
11 regulatory action is issued and shall maintain the
12 public availability of such information not less than
13 5 years after the date on which the pending agency
14 regulatory action is finalized.

15 “(c) REQUIREMENTS FOR PUBLIC COMMUNICA-
16 TIONS.—Any public communication issued by an Execu-
17 tive agency that refers to a pending agency regulatory ac-
18 tion—

19 “(1) shall specify whether the Executive agency
20 is considering alternatives, including alternatives
21 that may conflict with the intent, objective, or meth-
22 odology of such agency regulatory action;

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

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

4 “(4) may not—

5 “(A) solicit support for or promote the
6 pending agency regulatory action;

7 “(B) be sent through the private email ac-
8 count of an officer or employee of the Executive
9 agency; or

10 “(C) include statements of aggrandizement
11 for the Executive agency, any Federal em-
12 ployee, or the pending agency regulatory action.

13 “(d) REPORTING.—

14 “(1) IN GENERAL.—Not later than January 15
15 of each year, the head of an Executive agency that
16 communicated about a pending agency regulatory
17 action during the previous fiscal year shall submit to
18 each committee of Congress with jurisdiction over
19 the activities of the Executive agency a report indi-
20 cating—

21 “(A) the number pending agency regu-
22 latory actions the Executive agency issued pub-
23 lic communications about during that fiscal
24 year;

1 “(B) the average number of public commu-
2 nications issued by the Executive agency for
3 each pending agency regulatory action during
4 that fiscal year;

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

9 “(D) a copy of each public communication
10 for the pending agency regulatory actions iden-
11 tified in subparagraph (C).

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

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 The table of sections for chapter 3 of title 5, United States

- 1 Code, is amended by adding after the item relating to sec-
- 2 tion 306 the following new item:

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

Passed the House of Representatives September 14,
2016.

Attest:

KAREN L. HAAS,

Clerk.