

Union Calendar No. 565

114TH CONGRESS
2D SESSION

H. R. 5226

[Report No. 114–729]

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

SEPTEMBER 8, 2016

Additional sponsors: Mr. FARENTHOLD, Mr. MEADOWS, Mr. DUNCAN of Tennessee, Mr. GROTHMAN, Mr. DAVID SCOTT of Georgia, Mr. BUCK, Mr. JODY B. HICE of Georgia, Mr. BLUM, Mr. WALKER, Mr. CARTER of Georgia, Mr. TURNER, Mr. GOSAR, and Mr. SESSIONS

SEPTEMBER 8, 2016

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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”.

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

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

11 **“§ 307. Information regarding pending agency regu-**
 12 **latory action**

13 “(a) DEFINITIONS.—In this section:

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

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

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

1 “(B) any communication that is puffery.

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

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

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

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

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

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

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

1 “(i) the date on which the Executive
2 agency first began to develop or consider
3 the agency regulatory action;

4 “(ii) the status of the agency regu-
5 latory action;

6 “(iii) an estimate of the date of upon
7 which the agency regulatory action will be
8 final and in effect; and

9 “(iv) a brief description of the agency
10 regulatory action.

11 “(B) PUBLIC COMMUNICATION.—For each
12 pending agency regulatory action, a list of each
13 public communication about the pending agency
14 regulatory action issued by the Executive agen-
15 cy and with regard to each such communica-
16 tion—

17 “(i) the date of the communication;

18 “(ii) the intended audience of the
19 communication;

20 “(iii) the method of communication;

21 and

22 “(iv) a copy of the original commu-
23 nication.

24 “(2) PERIOD.—The head of each Executive
25 agency shall publish the information required under

1 paragraph (1)(A) not later than 24 hours after a
2 public communication relating to a pending agency
3 regulatory action is issued and shall maintain the
4 public availability of such information not less than
5 5 years after the date on which the pending agency
6 regulatory action is finalized.

7 “(c) REQUIREMENTS FOR PUBLIC COMMUNICA-
8 TIONS.—Any public communication issued by an Execu-
9 tive agency that refers to a pending agency regulatory ac-
10 tion—

11 “(1) shall specify whether the Executive agency
12 is considering alternatives, including alternatives
13 that may conflict with the intent, objective, or meth-
14 odology of such agency regulatory action;

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

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

20 “(4) may not—

21 “(A) solicit support for or promote the
22 pending agency regulatory action; or

23 “(B) include statements of aggrandizement
24 for the Executive agency, any Federal em-
25 ployee, or the pending agency regulatory action.

1 “(d) REPORTING.—

2 “(1) IN GENERAL.—Not later than January 15
3 of each year, the head of an Executive agency that
4 communicated about a pending agency regulatory
5 action during the previous fiscal year shall submit to
6 each committee of Congress with jurisdiction over
7 the activities of the Executive agency a report indi-
8 cating—

9 “(A) the number pending agency regu-
10 latory actions the Executive agency issued pub-
11 lic communications about during that fiscal
12 year;

13 “(B) the average number of public commu-
14 nications issued by the Executive agency for
15 each pending agency regulatory action during
16 that fiscal year;

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

21 “(D) a copy of each public communication
22 for the pending agency regulatory actions iden-
23 tified in subparagraph (C).

24 “(2) AVAILABILITY OF REPORTS.—The head of
25 an Executive agency that is required to submit a re-

1 port under paragraph (1) shall make the report pub-
2 licly available in a searchable format in a prominent
3 location on the website of the Executive agency.”.

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

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

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