II

118TH CONGRESS
2D SESSION

S. 4200

To amend title 5, United States Code, to provide for the publication, by the Office of Information and Regulatory Affairs, of information relating to rule making, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2024

Mr. LEE (for himself and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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A BILL

To amend title 5, United States Code, to provide for the publication, by the Office of Information and Regulatory Affairs, of information relating to rule making, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘All Economic Regulations are Transparent Act of 2024’’ or the ‘‘ALERT Act of 2024’’.

SEC. 2. OFFICE OF INFORMATION AND REGULATORY AFFAIRS PUBLICATION OF INFORMATION RELATING TO RULES.

(a) AMENDMENT.—Title 5, United States Code, is amended by inserting after chapter 6 the following:

"CHAPTER 6A—OFFICE OF INFORMATION AND REGULATORY AFFAIRS PUBLICATION OF INFORMATION RELATING TO RULES

"§ 651. Definitions

"In this chapter:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

"(2) AGENCY; AGENCY ACTION; RULE; RULE MAKING.—The terms 'agency', 'agency action', 'rule', and 'rule making' have the meanings given those terms in section 551 of this title.

"§ 652. Agency monthly submission to Office of Information and Regulatory Affairs

"On a monthly basis, the head of each agency shall submit to the Administrator, in such a manner as the Administrator may reasonably require, the following information:

"(1) For each rule that the agency expects to propose or finalize during the following year—

"(A) a summary of the nature of the rule, including the regulation identifier number and the docket number for the rule;

"(B) the objectives of and legal basis for the issuance of the rule, including—

"(i) any statutory or judicial deadline; and

"(ii) whether the legal basis restricts or precludes the agency from conducting an analysis of the costs or benefits of the rule during the rule making, and if not, whether the agency plans to conduct an analysis of the costs or benefits of the rule during the rule making;

"(C) whether the agency plans to claim an exemption from the requirements of section 553 of this title pursuant to section 553(b)(B);

''(D) the stage of the rule making as of the date of submission; and

''(E) whether the rule is subject to review under section 610 of this title.

''(2) For each rule that the agency expects to finalize during the following year and for which the agency has issued a general notice of proposed rule making—

''(A) an approximate schedule for completing action on the rule;

''(B) an estimate of whether the rule will cost—

''(i) less than $50,000,000;

''(ii) $50,000,000 or more but less than $100,000,000;

''(iii) $100,000,000 or more but less than $500,000,000;

''(iv) $500,000,000 or more but less than $1,000,000,000;

''(v) $1,000,000,000 or more but less than $5,000,000,000;

''(vi) $5,000,000,000 or more but less than $10,000,000,000; or

''(vii) $10,000,000,000 or more; and

"(C) any estimate of the economic effects of the rule, including—

"(i) any estimate of the net effect that the rule will have on the number of jobs in the United States that was considered in drafting the rule; or

"(ii) if an estimate is not available, a statement affirming that no information on the economic effects of the rule, including the effect the rule will have on the number of jobs in the United States, has been considered.

"§ 653. Office of Information and Regulatory Affairs publications

"(a) AGENCY-SPECIFIC INFORMATION PUBLISHED MONTHLY.—Not later than 30 days after the submission of information pursuant to section 652, the Administrator shall make the information publicly available on the internet.

"(b) CUMULATIVE ASSESSMENT OF AGENCY RULE MAKING PUBLISHED ANNUALLY.—

"(1) PUBLICATION IN THE FEDERAL REGISTER.—Not later than October 1 of each year, the Administrator shall publish in the Federal Register, for the 1-year period immediately preceding the date of publication of this information, the following:

"(A) The information that the Administrator received from the head of each agency under section 652.

"(B) The number of rules and a list of each rule—

"(i) that was proposed by each agency, including, for each rule, an indication of whether the issuing agency conducted an analysis of the costs or benefits of the rule; and

"(ii) that was finalized by each agency, including for each rule an indication of whether—

"(I) the agency conducted an analysis of the costs or benefits of the rule;

"(II) the agency claimed an exemption from the procedures under section 553 of this title pursuant to section 553(b)(B); and

"(III) the rule was issued pursuant to a statutory mandate or the rule making is committed to agency discretion by law.

"(C) The number of agency actions and a list of each action taken by each agency that—

"(i) repealed a rule;

"(ii) reduced the scope of a rule;

"(iii) reduced the cost of a rule; or

"(iv) accelerated the expiration date of a rule.

"(D) The total cost (without reducing the cost by any offsetting benefits) of all rules proposed or finalized, and the number of rules for which an estimate of the cost of the rule was not available.

"(2) PUBLICATION ON THE INTERNET.—Not later than October 1 of each year, the Administrator shall make publicly available on the internet, for the 1-year period immediately preceding the date of publication of this information, the following:

"(A) The analysis of the costs or benefits, if conducted, for each proposed rule or final rule issued by an agency.

"(B) The docket number and regulation identifier number for each proposed or final rule issued by an agency.

"(C) The number of rules and a list of each rule reviewed by the Director of the Office of Management and Budget, and the authority under which each review was conducted.

"(D) The number of rules and a list of each rule for which the head of an agency completed a review under section 610 of this title.

"(E) The number of rules and a list of each rule submitted to the Comptroller General of the United States under section 801 of this title.

"(F) The number of rules and a list of each rule for which a resolution of disapproval was introduced in either the House of Representatives or the Senate under section 802 of this title.

"§ 654. Requirement for rules to appear in agency-specific monthly publication

"(a) IN GENERAL.—Subject to subsection (b), a rule may not take effect until the information described in section 652 regarding the rule has been made publicly available on the internet pursuant to section 653(a) for not less than 6 months.

"(b) EXCEPTIONS.—Subsection (a) shall not apply in the case of a rule—

"(1) for which the agency issuing the rule claims an exception under section 553(b)(B) of this title; or

"(2) which the President determines by Executive order should take effect because the rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by striking the item relating to chapter 5 and inserting the following:

"5.	Administrative Procedure	500
"6.	The Analysis of Regulatory Functions	601
"6A.	Office of Information and Regulatory Affairs Publication of Information Relating to Rules	651".

(c) EFFECTIVE DATES.—

(1) AGENCY MONTHLY SUBMISSION TO THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—Not later than 30 days after the date of enactment of this Act, the head of each agency shall submit to the Administrator of the Office of Information and Regulatory Affairs of the Office of Man-

agement and Budget the information required under section 652 of title 5, United States Code, as added by subsection (a) of this Act.

(2) CUMULATIVE ASSESSMENT OF AGENCY RULE MAKING.—

(A) IN GENERAL.—Subsection (b) of section 653 of title 5, United States Code, as added by subsection (a) of this Act, shall take effect on the date that is 60 days after the date of enactment of this Act.

(B) DEADLINE.—The first requirement to publish or make available, as the case may be, under subsection (b) of section 653 of title 5, United States Code, as added by subsection (a) of this Act, shall be the first October 1 after the effective date of subsection (b).

(C) FIRST PUBLICATION.—The first publication made available under section 653(b)(2) of title 5, United States Code, as added by subsection (a) of this Act, shall include any analysis of the costs or benefits conducted for a proposed or final rule during the 10 years preceding the date of enactment of this Act.

(3) REQUIREMENT FOR RULES TO APPEAR IN AGENCY-SPECIFIC MONTHLY PUBLICATION.—Section

654 of title 5, United States Code, as added by subsection (a) of this Act, shall take effect on the date that is 8 months after the date of enactment of this Act.

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