

114TH CONGRESS  
2D SESSION

# H. R. 6177

To require the Administrator of the Office of Information and Regulatory Affairs and the head of each Federal agency to increase transparency in the regulatory review process, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2016

Mr. DEFAZIO introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require the Administrator of the Office of Information and Regulatory Affairs and the head of each Federal agency to increase transparency in the regulatory review process, 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 “Accountability in Rule-  
5 making Act”.

6 **SEC. 2. REGULATORY REVIEW TRANSPARENCY.**

7 (a) UNIFIED REGULATORY AGENDA.—

1           (1) ESTABLISHMENT.—Not later than Decem-  
2           ber 31, March 31, June 30, and September 30, of  
3           each year, the head of each agency shall submit to  
4           the Administrator of the Office of Information and  
5           Regulatory Affairs a unified regulatory agenda. The  
6           Administrator shall make each unified regulatory  
7           agenda available on a public website in an accessible  
8           format.

9           (2) CONTENTS.—The unified regulatory agenda  
10          shall contain a list of each regulation under develop-  
11          ment or review by the agency. Each entry for a reg-  
12          ulation shall include, at a minimum, the following:

13                   (A) A regulation identifier number.

14                   (B) A brief summary of the regulation.

15                   (C) The legal authority for the regulation.

16                   (D) A statement of whether the Adminis-  
17          trator has declared the regulation a significant  
18          regulatory action.

19                   (E) The stage in the process of issuing the  
20          regulation.

21                   (F) A statement of whether the regulation  
22          has been submitted to the Administrator for re-  
23          view.

1           (G) Any legal deadline for the regulation,  
2 including the Public Law number of the statute  
3 that mandates such a deadline.

4           (H) Any written communication between  
5 an employee or officer of the agency and an em-  
6 ployee or officer of the Office of Information  
7 and Regulatory Affairs regarding the regula-  
8 tion.

9           (I) Any communication received from the  
10 Administrator regarding the regulation describ-  
11 ing why further consideration of the regulation  
12 is necessary.

13           (3) GUIDANCE.—Not later than 6 months after  
14 the date of the enactment of this Act, the Adminis-  
15 trator shall review agency compliance with the provi-  
16 sions of this subsection and provide recommenda-  
17 tions to bring any noncompliant agency into compli-  
18 ance.

19           (b) SIGNIFICANT REGULATORY ACTION REVIEW.—

20           (1) IN GENERAL.—Not later than 90 days after  
21 the date on which the unified regulatory agenda is  
22 submitted under subsection (a)(1), the Adminis-  
23 trator shall review each significant regulatory action  
24 listed in the agenda to ensure each action is con-  
25 sistent with applicable law.

1           (2) EXTENSION OF REVIEW PERIOD.—The  
2 deadline for review described in paragraph (1) may  
3 be extended—

4           (A) once by not more than 30 days upon  
5 written approval of the Director of the Office of  
6 Management and Budget; and

7           (B) at the request of the head of the  
8 issuing agency.

9           (3) DOCUMENTATION OF EXTENSION.—The Ad-  
10 ministrators shall provide written documentation of  
11 the reasoning for any extension of review of a regu-  
12 lation made under paragraph (3) and include such  
13 documentation in the unified regulatory agenda list-  
14 ing for the regulation.

15           (4) THIRD-PARTY COMMUNICATION.—During  
16 any review process of a significant regulatory action  
17 described in this subsection—

18           (A) an employee or officer of the Office of  
19 Information and Regulatory Affairs may not  
20 meet with an individual who is not a Federal  
21 employee or officer regarding the substance of  
22 such action unless a representative from the  
23 issuing agency has been invited;

24           (B) within 10 working days of receipt of  
25 any written communication regarding the sub-

1           stance of such action from an individual who is  
2           not a Federal employee or officer, the Adminis-  
3           trator shall provide such communication to the  
4           issuing agency; and

5           (C) within 10 working days of any oral  
6           communication regarding the substance of such  
7           action with an individual who is not a Federal  
8           employee or officer, the Administrator shall  
9           provide the date and the name or names of in-  
10          dividuals involved in such communication to the  
11          issuing agency.

12          (5) DOCUMENTATION OF CHANGES.—

13           (A) OFFICE OF INFORMATION AND REGU-  
14           LATORY AFFAIRS CHANGES.—The Adminis-  
15           trator shall document any change made by the  
16           Office of Information and Regulatory Affairs to  
17           a significant regulatory action during the review  
18           process under this subsection and make such  
19           change available on a public website in a redline  
20           or other easily understood format.

21           (B) AGENCY CHANGES.—After the Admin-  
22           istrator has reviewed a significant regulatory  
23           action under this subsection, the head of an  
24           agency shall document any change made by the  
25           agency to the regulation and make such change

1           available on a public website in a redline or  
2           other easily understood format.

3           (6) RETURN LETTER.—For each significant  
4           regulatory action that the Administrator returns to  
5           an agency for further consideration of any provision,  
6           the Administrator shall provide the issuing agency  
7           with a written explanation of why further consider-  
8           ation is necessary.

9           (c) AGENCY REMOVAL OF A REGULATION.—With re-  
10          gard to any proposed regulation that was listed and subse-  
11          quently removed from a unified regulatory agenda, the  
12          head of the agency shall publish a written explanation for  
13          such removal on a publicly available website.

14          (d) DEFINITIONS.—In this section:

15               (1) ADMINISTRATOR.—The term “Adminis-  
16               trator” means the Administrator of the Office of In-  
17               formation and Regulatory Affairs.

18               (2) AGENCY.—The term “agency” has the  
19               meaning given that term in section 3502 of title 44,  
20               United States Code, but does not include an inde-  
21               pendent regulatory agency as that term is defined in  
22               such section.

23               (3) REGULATION.—The term “regulation”—

24                       (A) means an agency statement of general  
25                       applicability and future effect, which the agency

1 intends to have the force and effect of law, that  
2 is designed to implement, interpret, or prescribe  
3 law or policy or to describe the procedure or  
4 practice requirements of an agency; and

5 (B) does not include—

6 (i) regulations issued in accordance  
7 with the formal rulemaking provisions of  
8 sections 556 and 557 of title 5, United  
9 States Code;

10 (ii) regulations that pertain to a mili-  
11 tary or foreign affairs function of the  
12 United States, other than procurement  
13 regulations and regulations involving the  
14 import or export of non-defense articles  
15 and services; and

16 (iii) regulations that are limited to an  
17 agency organization, management, or per-  
18 sonnel matters.

19 (4) REGULATORY ACTION.—The term “regu-  
20 latory action” means any substantive action by an  
21 agency normally published in the Federal Register  
22 that promulgates or is expected to lead to the pro-  
23 mulgation of a final regulation, including notices of  
24 inquiry, advance notices of proposed rulemaking,  
25 and notices of proposed rulemaking.

1           (5) SIGNIFICANT REGULATORY ACTION.—The  
2 term “significant regulatory action” means any reg-  
3 ulatory action that is likely to result in a regulation  
4 that may—

5           (A) have an annual effect on the economy  
6 of \$167,000,000 or more, adjusted annually for  
7 inflation to reflect the change in the Consumer  
8 Price Index for All Urban Consumers published  
9 by the Bureau of Labor Statistics, rounding to  
10 the nearest \$1,000,000;

11           (B) adversely affect in a material way the  
12 economy, a sector of the economy, productivity,  
13 competition, jobs, the environment, public  
14 health or safety, or State, local, or tribal gov-  
15 ernments or communities;

16           (C) create a serious inconsistency or other-  
17 wise interfere with an action taken or planned  
18 by another agency;

19           (D) materially alter the budgetary impact  
20 of entitlements, grants, user fees, or loan pro-  
21 grams or the rights and obligations of recipi-  
22 ents therein; or

23           (E) raise novel legal or policy issues aris-  
24 ing out of legal mandates.

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