

114TH CONGRESS
1ST SESSION

S. 1944

To require each agency to repeal or amend 1 or more rules before issuing or amending a rule.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. SULLIVAN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require each agency to repeal or amend 1 or more rules before issuing or amending a rule.

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 “Regulations Endanger
5 Democracy Act of 2015” or the “RED Tape Act of 2015”.

6 **SEC. 2. REPEAL OF RULES REQUIRED BEFORE ISSUING OR**

7 **AMENDING RULE.**

8 (a) **DEFINITIONS.**—In this section—

1 (1) the term “agency” has the meaning given
2 that term in section 551 of title 5, United States
3 Code;

4 (2) the term “covered rule” means a rule of an
5 agency that causes a new financial or administrative
6 burden on businesses in the United States or on the
7 people of the United States, as determined by the
8 head of the agency;

9 (3) the term “rule”—

10 (A) has the meaning given that term in
11 section 551 of title 5, United States Code; and

12 (B) includes—

13 (i) any rule issued by an agency pur-
14 suant to an Executive order or Presidential
15 memorandum; and

16 (ii) any rule issued by an agency due
17 to the issuance of a memorandum, guid-
18 ance document, bulletin, or press release
19 issued by an agency; and

20 (4) the term “Unified Agenda” means the Uni-
21 fied Agenda of Federal Regulatory and Deregulatory
22 Actions.

23 (b) PROHIBITION ON ISSUANCE OF CERTAIN
24 RULES.—

25 (1) IN GENERAL.—An agency may not—

1 (A) issue a covered rule that does not
2 amend or modify an existing rule of the agency,
3 unless—

4 (i) the agency has repealed 1 or more
5 existing covered rules of the agency; and

6 (ii) the cost of the covered rule to be
7 issued is less than or equal to the cost of
8 the covered rules repealed under clause (i),
9 as determined and certified by the head of
10 the agency; or

11 (B) issue a covered rule that amends or
12 modifies an existing rule of the agency, un-
13 less—

14 (i) the agency has repealed or amend-
15 ed 1 or more existing covered rules of the
16 agency; and

17 (ii) the cost of the covered rule to be
18 issued is less than or equal to the cost of
19 the covered rules repealed or amended
20 under clause (i), as determined and cer-
21 tified by the head of the agency.

22 (2) PENALTY FOR FAILURE TO REPEAL OR
23 AMEND RULES.—During the period beginning on the
24 date of failure to comply by an agency with para-
25 graph (1) in issuing a covered rule, and ending on

1 the date on which the agency complies with para-
2 graph (1) with respect to that covered rule, no statu-
3 tory pay adjustment (as defined in section 147(b) of
4 the Continuing Appropriations Act, 2011 (5 U.S.C.
5 5303 note)) shall take effect with respect to any em-
6 ployee of the agency.

7 (3) APPLICATION.—Paragraph (1) shall not
8 apply to the issuance of a covered rule by an agency
9 that—

10 (A) relates to the internal policy or prac-
11 tice of the agency or procurement by the agen-
12 cy; or

13 (B) is being revised to be less burdensome
14 to decrease requirements imposed by the cov-
15 ered rule or the cost of compliance with the cov-
16 ered rule.

17 (c) CONSIDERATIONS FOR REPEALING RULES.—In
18 determining whether to repeal a covered rule under sub-
19 paragraph (A)(i) or (B)(i) of subsection (b)(1), the head
20 of the agency that issued the covered rule shall consider—

21 (1) whether the covered rule achieved, or has
22 been ineffective in achieving, the original purpose of
23 the covered rule;

24 (2) any adverse effects that could materialize if
25 the covered rule is repealed, in particular if those

1 adverse effects are the reason the covered rule was
2 originally issued;

3 (3) whether the costs of the covered rule out-
4 weigh any benefits of the covered rule to the United
5 States;

6 (4) whether the covered rule has become obso-
7 lete due to changes in technology, economic condi-
8 tions, market practices, or any other factors; and

9 (5) whether the covered rule overlaps with a
10 covered rule to be issued by the agency.

11 (d) PUBLICATION OF COVERED RULES IN UNIFIED
12 AGENDA.—

13 (1) REQUIREMENTS.—Each agency shall, on a
14 semiannual basis, submit jointly and without delay
15 to the Office of Information and Regulatory Affairs
16 for publication in the Unified Agenda a list con-
17 taining—

18 (A) each covered rule that the agency in-
19 tends to issue during the 6-month period fol-
20 lowing the date of submission;

21 (B) each covered rule that the agency in-
22 tends to repeal or amend in accordance with
23 subsection (b) during the 6-month period fol-
24 lowing the date of submission; and

1 (C) the cost of each covered rule described
2 in subparagraphs (A) and (B).

3 (2) PROHIBITION.—An agency may not issue a
4 covered rule unless the agency complies with the re-
5 quirements under paragraph (1).

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