

Union Calendar No. 577

114TH CONGRESS
2D SESSION

H. R. 3438

[Report No. 114-743]

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 2015

Mr. MARINO (for himself and Mr. GOODLATTE) introduced the following bill;
which was referred to the Committee on the Judiciary

SEPTEMBER 13, 2016

Additional sponsors: Mr. SESSIONS, Mr. RATCLIFFE, Mr. SMITH of Texas, Mr. COLLINS of Georgia, Mr. SENSENBRENNER, Mr. ISSA, Mr. TROTT, Mr. DESANTIS, Mr. GOHMERT, Mr. LABRADOR, Mr. BISHOP of Michigan, Mr. FRANKS of Arizona, Mr. DUFFY, Mr. BROOKS of Alabama, Mr. LAMALFA, Mr. HULTGREN, Mr. KELLY of Pennsylvania, Mr. HUELSKAMP, Mr. POSEY, Mr. JODY B. HICE of Georgia, Mr. ABRAHAM, Mr. JENKINS of West Virginia, Mr. GRIFFITH, Mr. GRAVES of Missouri, Mr. ROKITA, Mr. GROTHMAN, Mr. EMMER of Minnesota, Mrs. WAGNER, Mr. NEWHOUSE, Mr. MCCLINTOCK, and Mrs. BLACK

SEPTEMBER 13, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on August 4, 2015]

A BILL

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

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 “Require Evaluation be-*
 5 *fore Implementing Executive Wishlists Act of 2016” or as*
 6 *the “REVIEW Act of 2016”.*

7 **SEC. 2. RELIEF PENDING REVIEW.**

8 *Section 705 of title 5, United States Code, is amend-*
 9 *ed—*

10 *(1) by striking “When” and inserting the fol-*
 11 *lowing:*

12 *“(a) IN GENERAL.—When”; and*

13 *(2) by adding at the end the following:*

14 *“(b) HIGH-IMPACT RULES.—*

15 *“(1) DEFINITIONS.—In this subsection—*

16 *“(A) the term ‘Administrator’ means the*
 17 *Administrator of the Office of Information and*
 18 *Regulatory Affairs of the Office of Management*
 19 *and Budget; and*

20 *“(B) the term ‘high-impact rule’ means any*
 21 *rule that the Administrator determines may im-*
 22 *pose an annual cost on the economy of not less*
 23 *than \$1,000,000,000.*

24 *“(2) IDENTIFICATION.—A final rule may not be*
 25 *published or take effect until the agency making the*

1 *rule submits the rule to the Administrator and the*
2 *Administrator makes a determination as to whether*
3 *the rule is a high-impact rule, which shall be pub-*
4 *lished by the agency with the final rule.*

5 *“(3) RELIEF.—*

6 *“(A) IN GENERAL.—Except as provided in*
7 *subparagraph (B), an agency shall postpone the*
8 *effective date of a high-impact rule of the agency*
9 *until the final disposition of all actions seeking*
10 *judicial review of the rule.*

11 *“(B) FAILURE TO TIMELY SEEK JUDICIAL*
12 *REVIEW.—Notwithstanding section 553(d), if no*
13 *person seeks judicial review of a high-impact*
14 *rule—*

15 *“(i) during any period explicitly pro-*
16 *vided for judicial review under the statute*
17 *authorizing the making of the rule; or*

18 *“(ii) if no such period is explicitly*
19 *provided for, during the 60-day period be-*
20 *ginning on the date on which the high-im-*
21 *pact rule is published in the Federal Reg-*
22 *ister,*

23 *the high-impact rule may take effect as early as*
24 *the date on which the applicable period ends.*

1 “(4) *RULE OF CONSTRUCTION.*—*Nothing in this*
2 *subsection may be construed to impose any limitation*
3 *under law on any court against the issuance of any*
4 *order enjoining the implementation of any rule.*”.

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