

114TH CONGRESS
1ST SESSION

S. 1817

To improve the effectiveness of major rules in accomplishing their regulatory objectives by promoting retrospective review, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2015

Ms. HEITKAMP (for herself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To improve the effectiveness of major rules in accomplishing their regulatory objectives by promoting retrospective review, 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 “Smarter Regulations
5 Through Advance Planning and Review Act of 2015” or
6 the “Smarter Regs Act of 2015”.

1 **SEC. 2. INCORPORATING RETROSPECTIVE REVIEW INTO**
2 **NEW MAJOR RULES.**

3 (a) IN GENERAL.—Subchapter II of chapter 5 of title
4 5, United States Code, is amended—

5 (1) in section 551—

6 (A) in paragraph (13), by striking “; and”
7 and inserting a semicolon;

8 (B) in paragraph (14), by striking the pe-
9 riod at the end and inserting a semicolon; and

10 (C) by adding at the end the following:

11 “(15) ‘Administrator’ means the Administrator
12 of the Office of Information and Regulatory Affairs
13 of the Office of Management and Budget; and

14 “(16) ‘major rule’ means any rule that the Ad-
15 ministrator finds has resulted in or is likely to result
16 in—

17 “(A) an annual effect on the economy of
18 \$100,000,000 or more;

19 “(B) a major increase in costs or prices for
20 consumers, individual industries, Federal,
21 State, or local government agencies, or geo-
22 graphic regions; or

23 “(C) significant adverse effects on competi-
24 tion, employment, investment, productivity, in-
25 novation, or on the ability of United States-
26 based enterprises to compete with foreign-based

1 enterprises in domestic and export markets.”;
 2 and

3 (2) in section 553, by adding at the end the fol-
 4 lowing:

5 “(f) REGULATION-SPECIFIC FRAMEWORKS.—

6 “(1) IN GENERAL.—Beginning 180 days after
 7 the date of enactment of this subsection, when an
 8 agency publishes a proposed or final major rule in
 9 the Federal Register, the agency shall include a
 10 framework for reassessing the major rule under
 11 paragraph (2), which shall include—

12 “(A) a clear statement of the regulatory
 13 objectives of the major rule, including the soci-
 14 etal benefit and cost of the major rule;

15 “(B) the methodology by which the agency
 16 plans to analyze the major rule, including
 17 metrics by which the agency can measure—

18 “(i) the effectiveness and benefits of
 19 the major rule in producing the regulatory
 20 objectives of the major rule; and

21 “(ii) the impacts, including any costs,
 22 of the major rule on regulated entities;

23 “(C) a plan for gathering data regarding
 24 the metrics described in subparagraph (B) on
 25 an ongoing basis, or at periodic times, during

the implementation of the major rule, including the method by which the agency will invite the public to participate in the review process and seek input from other agencies, taking into account any burden to the public in supplying relevant data to agencies; and

“(D) a specific time frame, as appropriate to the major rule and not more than 10 years, under which the agency shall conduct the reassessment of the major rule in accordance with paragraph (2)(A).

“(2) REASSESSMENT.—

“(A) IN GENERAL.—Each agency shall assess the data collected under paragraph (1)(C), using the methodology set forth in paragraph (1)(B), with respect to a major rule—

“(i) to analyze how the actual benefits and costs of the major rule may have varied from those anticipated at the time the major rule was issued; and

“(ii) to determine whether—

“(I) the major rule is accomplishing its regulatory objective;

1 “(II) the major rule has been
2 rendered unnecessary, taking into
3 consideration—

4 “(aa) changes in the subject
5 area affected by the major rule;
6 and

7 “(bb) whether the major
8 rule overlaps, duplicates, or con-
9 flicts with other rules or, to the
10 extent feasible, State and local
11 government regulations; and

12 “(III) other alternatives to the
13 major rule or modification of the
14 major rule could achieve better results
15 while imposing a smaller burden on
16 society or at a lower cost, taking into
17 consideration any cost already in-
18 curred.

19 “(B) SUBSEQUENT ASSESSMENTS.—If,
20 after a reassessment of a major rule under sub-
21 paragraph (A), an agency determines that the
22 major rule will remain in effect with or without
23 modification, the agency shall—

24 “(i) determine a specific time, as ap-
25 propriate to the major rule and not more

1 than 10 years, under which the agency
2 shall conduct another assessment of the
3 major rule in accordance with subpara-
4 graph (A); and

5 “(ii) if the assessment conducted
6 under clause (i) does not result in a repeal
7 of the major rule, periodically reassess the
8 major rule in accordance with subpara-
9 graph (A) to ensure the major rule con-
10 tinues to meet the regulatory objective.

11 “(C) PUBLICATION.—Not later than 180
12 days after the date on which an agency com-
13 pletes a reassessment of a major rule under
14 subparagraph (A), the agency shall publish a
15 notice of availability of the results of the reas-
16 sessment in the Federal Register, including the
17 specific time for any subsequent assessment of
18 the major rule under subparagraph (B)(i), if
19 applicable.

20 “(3) OMB OVERSIGHT.—The Administrator
21 shall—

22 “(A) issue guidance for agencies regarding
23 the development of the framework under para-
24 graph (1) and the conduct of the reassessments
25 under paragraph (2)(A);

1 “(B) oversee the timely compliance of
2 agencies with this subsection; and

3 “(C) ensure that the results of each reassessment conducted under paragraph (2)(A)
4 are—
5

6 “(i) published promptly on a centralized Federal website; and
7

8 “(ii) noticed in the Federal Register
9 in accordance with paragraph (2)(C).

10 “(4) RULE OF CONSTRUCTION.—Nothing in
11 this subsection shall be construed to affect—

12 “(A) the authority of an agency to reassess
13 or modify a major rule of the agency earlier
14 than the end of the time frame specified for the
15 major rule under paragraph (1)(D); or

16 “(B) any other provision of law that requires an agency to conduct retrospective reviews of rules issued by the agency.”.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary to carry out the amendments made by subsection (a).
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