114TH CONGRESS
2D SESSION

S. 3547

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 makings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2016

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

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 makings, 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 2016'' or the ''ALERT Act of 2016''.

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

(a) IN GENERAL.—Part I of 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. Agency monthly submission to Office of Information and Regulatory Affairs

"On a monthly basis, the head of each agency shall submit to the Administrator of the Office of Information and Regulatory Affairs (referred to in this chapter as 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—

"(I) 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

"(II) if the legal basis does not restrict or preclude the agency from conducting an analysis of the costs or benefits of the rule during the rule making, 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 under section 553(b)(B).

"(D) The stage of the rule making as of the date of submission.

"(E) Whether the rule is subject to review under section 610.

"(2) For any 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) not less than $50,000,000 and less than $100,000,000;

"(iii) not less than $100,000,000 and less than $500,000,000;

"(iv) not less than $500,000,000 and less than $1,000,000,000;

"(v) not less than $1,000,000,000 and less than $5,000,000,000;

"(vi) not less than $5,000,000,000 and less than $10,000,000,000; or

"(vii) not less than $10,000,000,000.

"(C) Subject to subparagraph (D), any estimate of the economic effects of the rule, including 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.

"(D) If an estimate under subparagraph (C) is not available, a statement affirming that no information on the economic effects, including the effect on the number of jobs, of the rule has been considered.

"§ 652. Office of Information and Regulatory Affairs publications

"(a) AGENCY-SPECIFIC INFORMATION PUBLISHED MONTHLY.—Not later than 30 days after the submission of information under section 651, the Administrator shall make such 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 previous year, the following:

"(A) The information that the Administrator received from the head of each agency under section 651.

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

"(i) that was proposed by each agency, including, for each such 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 such rule, an indication of whether—

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

"(II) the agency claimed an exemption from the procedures under section 553 under section 553(b)(B); and

"(III)(aa) the rule was issued pursuant to a statutory mandate; or

"(bb) the rule making is committed to agency discretion by law.

"(C) The number of agency actions, and a list of each such 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 the following:

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

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

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

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

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

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

"§ 653. 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 required to be made publicly available on the Internet regarding that rule under section 652(a) has been so available for not less than 180 days.

"(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); or

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

"(A) necessary because of—

"(i) an imminent threat to health or safety; or

"(ii) another emergency;

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

"(C) necessary for national security; or

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

"§ 654. Definitions

"In this chapter, the terms 'agency', 'agency action', 'rule', and 'rule making' have the meanings given those terms in section 551.".

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

(c) EFFECTIVE DATES.—

(1) AGENCY MONTHLY SUBMISSION TO THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—The first submission required under section 651 of title 5, United States Code, as added by subsection (a), shall be submitted not later than 30 days after the date of the enactment of this Act.

(2) CUMULATIVE ASSESSMENT OF AGENCY RULE MAKING.—

(A) IN GENERAL.—Subsection (b) of section 652 of title 5, United States Code, as added by subsection (a), shall take effect on the date that is 60 days after the date of the enactment of this Act.

(B) DEADLINE.—The first requirement to publish or make available, as applicable, under subsection (b) of section 652 of title 5, United States Code, as added by subsection (a), shall be the first October 1 after the effective date of that subsection.

(C) FIRST PUBLICATION.—The requirement under section 652(b)(2)(A) of title 5, United States Code, as added by subsection (a), shall include, for the first publication under that section, any analysis of the costs or benefits conducted for a proposed or final rule for the 10-year period preceding the date of the enactment of this Act.

(3) REQUIREMENT FOR RULES TO APPEAR IN AGENCY-SPECIFIC MONTHLY PUBLICATION.—Section 653 of title 5, United States Code, as added by subsection (a), shall take effect on the date that is 240 days after the date of the enactment of this Act.

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