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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. _____

To amend title 44, United States Code, to require the Administrator of the Office of Information and Regulatory Affairs to review regulations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MITCHELL introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 44, United States Code, to require the Administrator of the Office of Information and Regulatory Affairs to review regulations, 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 “OIRA Insight, Reform,
5 and Accountability Act”.

1 **SEC. 2. OFFICE OF INFORMATION AND REGULATORY AF-**
2 **FAIRS.**

3 (a) AMENDMENT.—Subchapter I of chapter 35 of
4 title 44, United States Code, is amended by adding at the
5 end the following new sections:

6 **“§ 3522. Office of Information and Regulatory Affairs**
7 **Regulatory Working Group; regulatory**
8 **plan; Unified Agenda**

9 “(a) REGULATORY WORKING GROUP.—

10 “(1) ESTABLISHMENT; MEMBERS.—The Admin-
11 istrator of the Office of Information and Regulatory
12 Affairs shall convene a working group to be known
13 as the Regulatory Working Group, whose members
14 shall consist of the following:

15 “(A) The Administrator.

16 “(B) Representatives selected by the head
17 of each agency that the Administrator deter-
18 mines to have significant domestic regulatory
19 responsibility.

20 “(C) Other executive branch officials as
21 designated by the Administrator.

22 “(2) CHAIR.—The Chair of the Regulatory
23 Working Group shall be the Administrator, who
24 shall periodically advise Congress on the activities of
25 the Regulatory Working Group.

1 “(3) PURPOSE.—The Regulatory Working
2 Group shall serve as a forum to assist agencies in
3 identifying and analyzing important regulatory
4 issues, including, at a minimum—

5 “(A) the development of innovative regu-
6 latory techniques;

7 “(B) the methods, efficacy, and utility of
8 comparative risk assessment in regulatory deci-
9 sion making; and

10 “(C) the development of streamlined regu-
11 latory approaches for small businesses and
12 other entities.

13 “(4) MEETINGS.—The Regulatory Working
14 Group shall meet not less than quarterly and may
15 meet as a whole or in subgroups of members with
16 an interest in particular issues or subject areas.

17 “(5) ANALYTICAL STUDIES.—To inform the
18 discussion of the Regulatory Working Group, the
19 Regulatory Working Group may request analytical
20 studies and reports by the Office of Information and
21 Regulatory Affairs, the Administrative Conference of
22 the United States, or any other agency.

23 “(b) REGULATORY PLAN.—

24 “(1) IN GENERAL.—

1 “(A) DEADLINE FOR AND DESCRIPTION OF
2 REGULATORY PLAN.—Not later than June 1 of
3 each year, the head of each agency shall ap-
4 prove and submit to the Administrator a regu-
5 latory plan that includes each significant regu-
6 latory action that the agency reasonably expects
7 to issue in proposed or final form in the fol-
8 lowing fiscal year or thereafter and the retro-
9 spective review described in paragraph (2). The
10 regulatory plan shall also contain, at a min-
11 imum, the following:

12 “(i) A statement of the regulatory ob-
13 jectives and priorities of the agency.

14 “(ii) A summary of each planned sig-
15 nificant regulatory action including, to the
16 extent possible, alternatives to be consid-
17 ered and preliminary estimates of the an-
18 ticipated costs and benefits of such action.

19 “(iii) A summary of the legal basis for
20 each such action, including whether any
21 aspect of the action is required by statute
22 or court order.

23 “(iv) A statement of the need for each
24 such action and, if applicable, how the ac-
25 tion will reduce risk to public health, safe-

1 ty, or the environment, as well as how the
2 magnitude of the risk addressed by the ac-
3 tion relates to any other risk within the ju-
4 risdiction of the agency.

5 “(v) The schedule for each such ac-
6 tion, including a statement of any applica-
7 ble statutory or judicial deadline.

8 “(vi) The name, email address, and
9 telephone number of a knowledgeable agen-
10 cy employee the public may contact for ad-
11 ditional information about each such ac-
12 tion.

13 “(B) CIRCULATION OF REGULATORY
14 PLAN.—Not later than 10 days after receiving
15 the regulatory plan under subparagraph (A),
16 the Administrator shall circulate the regulatory
17 plan to any other agency the Administrator de-
18 termines may be affected by the plan.

19 “(C) AGENCY NOTIFICATION TO OIRA OF
20 CONFLICTING SIGNIFICANT REGULATORY AC-
21 TIONS.—The head of an agency shall promptly
22 notify the Administrator in writing if any
23 planned significant regulatory action in the reg-
24 ulatory plan of another agency may conflict
25 with the policy or action taken or planned by

1 that agency. The Administrator shall forward
2 any notification received under this subpara-
3 graph to the other agency involved.

4 “(D) NOTIFICATION OF CONFLICTING SIG-
5 NIFICANT REGULATORY ACTIONS.—The Admin-
6 istrator shall notify the head of an agency in
7 writing if any planned significant regulatory ac-
8 tion conflicts with any policy or action taken or
9 planned by another agency.

10 “(E) REQUIREMENT TO PUBLISH IN UNI-
11 FIED AGENDA.—Each regulatory plan sub-
12 mitted by the head of an agency under subpara-
13 graph (A) shall be included in the October pub-
14 lication of the Unified Agenda described under
15 subsection (c).

16 “(2) RETROSPECTIVE REVIEW.—

17 “(A) LIST OF OUTDATED REGULATIONS.—
18 The head of each agency shall include in the
19 regulatory plan submitted under paragraph
20 (1)(A) a list of regulations that have been iden-
21 tified by the agency (including any comments
22 submitted to the agency) as unjustified, unnec-
23 essary, duplicative of other regulations or laws,
24 inappropriately burdensome, or otherwise rec-
25 ommended for removal.

1 “(B) DESCRIPTION OF RETROSPECTIVE
2 REVIEW.—The head of each agency shall in-
3 clude in the regulatory plan submitted under
4 paragraph (1)(A) a description of any program
5 or other effort to review existing regulations to
6 determine whether any such regulations should
7 be modified or eliminated in order to increase
8 the effectiveness in achieving the regulatory ob-
9 jectives of the agency or to reduce the burden
10 of regulations. The agency shall include any
11 statutory requirements that require the agency
12 to promulgate or continue to impose regulations
13 that the agency believes are unnecessary or out-
14 dated by reason of changed circumstances.

15 “(C) OIRA COORDINATED REVIEW.—The
16 Administrator shall work with interested enti-
17 ties and agencies, including through the proc-
18 esses established under subsection (d), to review
19 the list of regulations identified under subpara-
20 graph (A) and such entities may assist OIRA
21 and the agencies with identifying regulations or
22 groups of regulations that—

23 “(i) impose significant or unique bur-
24 dens on governmental entities and that are
25 no longer justified; or

1 “(ii) affect a particular group, indus-
2 try, or sector of the economy.

3 “(c) UNIFIED AGENDA.—

4 “(1) SUBMISSION OF REGULATIONS UNDER DE-
5 VELOPMENT OR REVIEW.—Not later than April 1
6 and October 1 of each year, the head of each agency
7 shall submit to the Administrator an agenda of each
8 regulation under development or review in accord-
9 ance with any guidance issued under this section.
10 Each agenda shall include, to the extent practicable,
11 the following:

12 “(A) For each regulation—

13 “(i) a regulation identifier number;

14 “(ii) a brief summary of the regula-
15 tion;

16 “(iii) a citation to the legal authority
17 to issue the regulation;

18 “(iv) any legal deadline for the
19 issuance of the regulation;

20 “(v) the name and phone number for
21 a knowledgeable agency employee; and

22 “(vi) the stage of review for issuing
23 the regulation.

24 “(B) For each regulation expected to be
25 promulgated within the following 18 months—

1 “(i) a determination of whether the
2 regulation is expected to be a significant
3 regulatory action or an economically sig-
4 nificant regulatory action; and

5 “(ii) any available analysis or quan-
6 tification of the expected costs or benefits.

7 “(C) For any regulation included in the
8 immediately previous agenda, an explanation of
9 why the regulation is no longer included.

10 “(2) PUBLICATION OF UNIFIED AGENDA RE-
11 QUIRED.—Not later than April 15 and October 15
12 of each year, the Administrator shall compile and
13 publish online each agenda received under paragraph
14 (1) (to be known as the Unified Agenda).

15 “(3) GUIDANCE.—

16 “(A) IN GENERAL.—The Administrator
17 shall issue guidance for agencies on the manner
18 of submission under this subsection and on
19 meeting the requirements of this subsection, in-
20 cluding a standard definition for each stage of
21 review and any other definition that would as-
22 sist the public in understanding the different
23 terms used by agencies to submit the agenda
24 required under paragraph (1).

1 “(1) IN GENERAL.—The Administrator shall
2 conduct a Governmentwide coordinated review of
3 significant regulatory actions to ensure that such
4 regulations are consistent with applicable law and
5 that a regulatory action by one agency does not con-
6 flict with a policy or action taken or planned by an-
7 other agency.

8 “(2) PERIODIC AGENCY SUBMISSION OF
9 PLANNED REGULATORY ACTIONS.—The head of each
10 agency shall provide to the Administrator, at such
11 time and in such a manner as determined by the Ad-
12 ministrator, a list of each planned regulatory action
13 with an identification of whether each such regu-
14 latory action is a significant regulatory action.

15 “(3) REVIEW OF SIGNIFICANT REGULATORY AC-
16 TION REQUIRED.—

17 “(A) IN GENERAL.—The Administrator
18 shall make a determination of whether any
19 planned regulatory action submitted under this
20 section is a significant regulatory action and
21 shall review each such significant regulatory ac-
22 tion in accordance with this section.

23 “(B) NOT SUBJECT TO REVIEW.—Any
24 planned regulatory action determined by the
25 Administrator not to be a significant regulatory

1 action is not subject to review under this sec-
2 tion.

3 “(C) NOTIFICATION REQUIRED.—Not later
4 than 10 days after a planned regulatory action
5 has been determined to be a significant regu-
6 latory action, the Administrator shall notify the
7 head of the relevant agency of such determina-
8 tion.

9 “(4) WAIVER OF REVIEW FOR SIGNIFICANT
10 REGULATORY ACTION.—The Administrator—

11 “(A) may waive review of any planned reg-
12 ulatory action designated as a significant regu-
13 latory action; and

14 “(B) shall publish online a detailed written
15 explanation of any such waiver.

16 “(b) AGENCY CONSULTATION WITH OIRA.—

17 “(1) IN GENERAL.—An agency may consult
18 with OIRA at any time on any regulatory action.

19 “(2) REGULATION IDENTIFIER NUMBER.—The
20 head of an agency shall make every effort to obtain
21 a regulation identifier number for the regulatory ac-
22 tion that is the subject of the consultation before
23 consulting with OIRA.

24 “(3) CONSULTATION INFORMATION RE-
25 QUIRED.—If the head of an agency is unable to ob-

1 tain the regulation identifier number as described in
2 paragraph (2), the head of the agency shall provide
3 the regulation identifier number to OIRA as soon as
4 the number is obtained with a list of any previous
5 interactions with OIRA relating to the regulatory ac-
6 tion that is the subject of the consultation.

7 “(c) AGENCY SUBMISSION OF SIGNIFICANT REGU-
8 LATORY ACTION FOR REVIEW.—Before issuing a signifi-
9 cant regulatory action, the head of an agency shall submit
10 the significant regulatory action to the Administrator for
11 review and shall include the following:

12 “(1) The text of the significant regulatory ac-
13 tion.

14 “(2) A detailed description of the need for the
15 significant regulatory action.

16 “(3) An explanation of how the significant reg-
17 ulatory action will meet the identified need.

18 “(4) An assessment of potential costs and bene-
19 fits of the significant regulatory action.

20 “(5) An explanation of the manner in which the
21 significant regulatory action is consistent with a
22 statutory mandate and avoids undue interference
23 with State, local, and Tribal government functions.

1 “(6) For an economically significant regulatory
2 action, if any of the following was developed during
3 the decision making process of the agency:

4 “(A) An assessment of and quantification
5 of costs and benefits of the significant regu-
6 latory action.

7 “(B) An assessment of and quantification
8 of costs and benefits of potentially effective and
9 feasible alternatives, including any underlying
10 analysis.

11 “(C) An explanation of why the planned
12 significant regulatory action is preferable to any
13 identified potential alternatives.

14 “(d) DEADLINES FOR REVIEW.—

15 “(1) REVIEW COORDINATION.—To the extent
16 practicable, the head of each agency shall work with
17 the Administrator to establish a mutually agreeable
18 date on which to submit a significant regulatory ac-
19 tion for review.

20 “(2) EXPEDITED REVIEW.—When an agency is
21 obligated by law to issue a significant regulatory ac-
22 tion before complying with the provisions of this sec-
23 tion, the head of the agency shall notify the Admin-
24 istrator as soon as possible. To the extent prac-

1 ticable, OIRA and the agency shall comply with the
2 provisions of this section.

3 “(3) 10-DAY REVIEW.—In the case of a signifi-
4 cant regulatory action that is a notice of inquiry, ad-
5 vance notice of proposed rulemaking, or other pre-
6 liminary regulatory action prior to a notice of pro-
7 posed rulemaking, within 10 business days after the
8 date of submission of the such action to the Admin-
9 istrator, OIRA shall complete the review.

10 “(4) 90-DAY REVIEW.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), for any other significant reg-
13 ulatory action not described in paragraph (3),
14 within 90 days after the date of submission of
15 the action, OIRA shall complete the review.

16 “(B) EXCEPTION 45-DAY REVIEW.—If
17 OIRA has previously reviewed the significant
18 regulatory action described in subparagraph (A)
19 and, since that review, there has been no mate-
20 rial change in the facts and circumstances upon
21 which the significant regulatory action is based,
22 OIRA shall complete the review within 45 days
23 after submission of the action.

24 “(5) EXTENSION.—Any review described under
25 this subsection may be extended for any number of

1 additional 30-day periods upon written request by
2 the Administrator or the head of the agency. Such
3 request shall be granted unless the nonrequesting
4 party denies the request in writing within 5 days
5 after receipt of the request for extension.

6 “(6) RETURN.—If the Administrator deter-
7 mines OIRA is unable to complete a review within
8 the time period described under this subsection, the
9 Administrator may return the draft of the signifi-
10 cant regulatory action to the agency with a written
11 explanation of why OIRA was unable to complete
12 the review and what additional information, re-
13 sources, or time OIRA would need to complete the
14 review.

15 “(7) WITHDRAWAL.—An agency may withdraw
16 the regulatory action from OIRA review at any time
17 prior to the completion of the review.

18 “(e) COMPLIANCE REVIEW.—The Administrator
19 shall review any significant regulatory action submitted
20 under subsection (c) to determine the extent to which the
21 agency—

22 “(1) identified the problem that the significant
23 regulatory action is designed to address (including,
24 where applicable, the failures of private markets or
25 public institutions that warrant new agency action);

1 “(2) assessed the significance of the problem
2 the regulatory action is designed to address;

3 “(3) examined whether existing regulations or
4 laws have created or contributed to the problem that
5 the regulatory action is designed to correct and
6 whether those regulations or laws should be modified
7 to achieve the intended goal more effectively;

8 “(4) identified and assessed available alter-
9 natives to direct regulation, including providing eco-
10 nomic incentives to encourage desired behaviors,
11 such as user fees or marketable permits, or pro-
12 viding information upon which choices can be made
13 by the public;

14 “(5) considered, to the extent reasonable, the
15 degree and nature of the risks posed by various sub-
16 stances or activities within the jurisdiction of the
17 agency;

18 “(6) designed the regulatory action to be the
19 most cost-effective manner to achieve the regulatory
20 objective;

21 “(7) considered incentives for innovation, con-
22 sistency, predictability, flexibility, distributive im-
23 pacts, equity, and the costs of enforcement and com-
24 pliance by the Government, regulated entities, and
25 the public;

1 “(8) assessed costs and benefits of the regu-
2 latory action and made a reasoned determination
3 that the benefits justify the costs;

4 “(9) used the best reasonably obtainable sci-
5 entific, technical, economic, and other information
6 concerning the need for and consequences of the reg-
7 ulatory action;

8 “(10) identified and assessed alternative forms
9 of regulation and, to the extent feasible, specified
10 performance objectives rather than behavior or man-
11 ner of compliance;

12 “(11) sought comments and suggestions from
13 appropriate State, local, and Tribal officials on any
14 aspect of the regulatory action that might signifi-
15 cantly or uniquely affect those governmental entities;

16 “(12) assessed the effects of the regulatory ac-
17 tion on State, local, and Tribal governments, includ-
18 ing specifically the availability of resources to carry
19 out the regulatory action, and minimized the bur-
20 dens that uniquely or significantly affect such gov-
21 ernmental entities, consistent with achieving regu-
22 latory objectives;

23 “(13) harmonized the regulatory action with
24 the regulatory and other functions of State, local,
25 and Tribal governments;

1 “(14) avoided conflicts with or duplication of
2 other existing regulations;

3 “(15) tailored the regulatory action to impose
4 the least burden on society, including individuals,
5 businesses of differing sizes, and other entities (in-
6 cluding small communities and governmental enti-
7 ties), consistent with obtaining the regulatory objec-
8 tives, and taking into account, among other things
9 and to the extent practicable, the costs of cumulative
10 regulations;

11 “(16) drafted the regulatory action to be simple
12 and easy to understand, and minimized the potential
13 for uncertainty and litigation arising from such un-
14 certainty;

15 “(17) met all applicable Executive order re-
16 quirements;

17 “(18) met all applicable statutory requirements;
18 and

19 “(19) complied with all applicable guidance.

20 “(f) QUALITY REVIEW.—For any significant regu-
21 latory action submitted under subsection (c), OIRA shall
22 assess the extent to which the agency conducted a mean-
23 ingful and complete analysis of each of the factors de-
24 scribed in subsection (e), considering best practices, meth-
25 ods observed through reviewing other agencies, comments

1 from stakeholders, and other resources that may improve
2 the quality of the process.

3 “(g) INTERAGENCY CONSULTATION.—The Adminis-
4 trator shall identify each agency potentially affected, inter-
5 ested, or otherwise likely to provide valuable feedback on
6 a significant regulatory action submitted under subsection
7 (c) and facilitate a meaningful interagency consultation
8 process. The Administrator shall—

9 “(1) provide each identified agency with a copy
10 of the draft regulatory action;

11 “(2) allow each identified agency to review the
12 draft regulatory action for a sufficient period of
13 time, not less than 10 business days;

14 “(3) solicit written comments from such agency
15 and provide those written comments to the submit-
16 ting agency; and

17 “(4) as appropriate, facilitate conversations be-
18 tween agencies.

19 “(h) STAKEHOLDER CONSULTATION.—For all sub-
20 stantive communications between OIRA and individuals
21 not employed by the executive branch regarding a regu-
22 latory action submitted to the Administrator for review
23 under this section, the Administrator shall—

1 “(1) invite the issuing agency to any meeting
2 between OIRA personnel and individuals not em-
3 ployed by the executive branch;

4 “(2) not later than 10 business days after re-
5 ceipt of any written communication submitted by
6 any individual not employed by the executive branch,
7 make such communications available to the public
8 online; and

9 “(3) make available to the public online a log,
10 which shall be updated daily, of the following infor-
11 mation:

12 “(A) The status of each regulatory action.

13 “(B) A copy of any written communication
14 submitted by any person not employed by the
15 executive branch.

16 “(C) The dates and names of persons in-
17 volved in any substantive oral communication
18 and the subject matter discussed during such
19 communication.

20 “(i) CONCLUSION OF REVIEW.—

21 “(1) PROVISION TO AGENCY.—Upon completion
22 of the review, the Administrator shall provide the
23 head of an agency with the results of the OIRA re-
24 view in writing, including a list of every standard,

1 Executive order, guidance document, and law re-
2 viewed for compliance and the results for each.

3 “(2) CHANGES DURING REVIEW PERIOD.—

4 Within 24 hours after the conclusion of the OIRA
5 review under this section, the head of the submitting
6 agency shall provide the Administrator with a red-
7 line of any changes the agency made to the regu-
8 latory action during the review period. To the extent
9 practicable, the agency shall identify any change
10 made at the suggestion or recommendation of any
11 other agency, member of the public, or other source.
12 To the extent practicable, the agency should identify
13 the source of any such change.

14 **“§ 3524. Public disclosure of regulatory review**

15 “(a) IN GENERAL.—On the earlier of 3 days after
16 OIRA completes the review of any agency significant regu-
17 latory action under section 3523, the date on which such
18 agency publishes the regulatory action in the Federal Reg-
19 ister, or the date on which the agency announces a deci-
20 sion not to publish the regulatory action, the Adminis-
21 trator shall make available to the public online—

22 “(1) all information submitted by an agency
23 under section 3523;

24 “(2) the results of the review provided to the
25 agency under section 3523;

1 “(17) the term ‘economically significant regu-
2 latory action’ means any regulatory action described
3 under subparagraph (A) or (B) of paragraph (21);

4 “(18) the term ‘OIRA’ means the Office of In-
5 formation and Regulatory Affairs;

6 “(19) the term ‘regulation’—

7 “(A) means an agency statement of gen-
8 eral applicability and future effect, which the
9 agency intends to have the force and effect of
10 law, that is designed to implement, interpret, or
11 prescribe law or policy or to describe the proce-
12 dure or practice requirements of an agency; and

13 “(B) does not include such a statement
14 if—

15 “(i) issued in accordance with the for-
16 mal rulemaking provisions of sections 556
17 and 557 of title 5;

18 “(ii) the statement pertains to a mili-
19 tary or foreign affairs function of the
20 United States, other than procurement
21 regulations and regulations involving the
22 import or export of non defense articles
23 and services;

1 “(iii) the statement is limited to an
2 agency organization, management, or per-
3 sonnel matters; or

4 “(iv) the statement is exempted as a
5 regulation by the Administrator;

6 “(20) the term ‘regulation identifier number’
7 means a unique identification code for regulations,
8 which is designed to assist tracking regulations
9 through the course of development;

10 “(21) the term ‘regulatory action’ means any
11 substantive action by an agency normally published
12 in the Federal Register that promulgates or is ex-
13 pected to lead to the promulgation of a final regula-
14 tion, including notices of inquiry, advance notices of
15 proposed rulemaking, and notices of proposed rule-
16 making;

17 “(22) the term ‘significant regulatory action’
18 means any regulatory action that is likely to result
19 in a regulation that may—

20 “(A) have an annual effect on the economy
21 of \$100,000,000 or more;

22 “(B) adversely affect in a material way the
23 economy, a sector of the economy, productivity,
24 competition, jobs, the environment, public

1 health or safety, or State, local, or Tribal gov-
2 ernments or communities;

3 “(C) create a serious inconsistency or oth-
4 erwise interfere with an action taken or planned
5 by another agency;

6 “(D) materially alter the budgetary impact
7 of entitlements, grants, user fees, or loan pro-
8 grams or the rights and obligations of recipi-
9 ents therein; or

10 “(E) raise novel legal or policy issues aris-
11 ing out of legal mandates;

12 “(23) the term ‘small business’ has the mean-
13 ing given the term ‘small-business concern’ in sec-
14 tion 3 of the Small Business Act (15 U.S.C. 632);
15 and

16 “(24) the term ‘State’ means each of the sev-
17 eral States, the District of Columbia, each territory
18 or possession of the United States, and each feder-
19 ally recognized Indian tribe.”.

20 (d) DEADLINE FOR ISSUANCE OF GUIDANCE.—Not
21 later than 180 days after the date of the enactment of
22 this Act, the Administrator of the Office of Information
23 and Regulatory Affairs shall issue any guidance required
24 by section 3522 of title 44, United States Code, as added
25 by subsection (a).