

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1004) TO AMEND CHAPTER 3 OF TITLE 5, UNITED STATES CODE, TO REQUIRE THE PUBLICATION OF INFORMATION RELATING TO PENDING AGENCY REGULATORY ACTIONS, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1009) 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

FEBRUARY 28, 2017.—Referred to the House Calendar and ordered to be printed

Mr. SESSIONS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 156]

The Committee on Rules, having had under consideration House Resolution 156, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1004, the Regulatory Integrity Act of 2017, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution makes in order only those amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 1009, the OIRA Insight, Reform, and Accountability Act, under a

structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115–4 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides for one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 1004, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 1004, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 1004 printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 1009 includes a waiver of the following:

- Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority;
- Section 303 of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority or a change in revenues for a fiscal year until the budget resolution for that year has been agreed to;
- Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause revenues to be less than the level of total revenues for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided;
- Clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 1009 was not available at the time the Committee on Oversight and Government Reform filed its report, a CBO cost estimate has since been made publicly available. Additionally, the Committee intends to submit the cost estimate for printing in the Congressional Record; and

- Clause 10 of rule XXI, which prohibits the consideration of a bill if it has the net effect of increasing mandatory spending over the five-year or ten-year period.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 1009 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 1009 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 26

Motion by Ms. Slaughter to report open rules for H.R. 1004 and H.R. 1009. Defeated: 3–7

| Majority Members | Vote | Minority Members | Vote |
|------------------------------|-------|-------------------------------|-------|
| Mr. Cole | Nay | Ms. Slaughter | Yea |
| Mr. Woodall | Nay | Mr. McGovern | Yea |
| Mr. Burgess | Nay | Mr. Hastings of Florida | Yea |
| Mr. Collins | | Mr. Polis | |
| Mr. Byrne | Nay | | |
| Mr. Newhouse | Nay | | |
| Mr. Buck | | | |
| Ms. Cheney | Nay | | |
| Mr. Sessions, Chairman | Nay | | |

Rules Committee record vote No. 27

Motion by Mr. McGovern to strike the waiver of all points of order against consideration of H.R. 1009 which includes waivers of CUTGO, statutory pay-go, and sections 303 and 311 of the Congressional Budget Act. Defeated: 3–7

| Majority Members | Vote | Minority Members | Vote |
|------------------------------|-------|-------------------------------|-------|
| Mr. Cole | Nay | Ms. Slaughter | Yea |
| Mr. Woodall | Nay | Mr. McGovern | Yea |
| Mr. Burgess | Nay | Mr. Hastings of Florida | Yea |
| Mr. Collins | | Mr. Polis | |
| Mr. Byrne | Nay | | |
| Mr. Newhouse | Nay | | |
| Mr. Buck | | | |
| Ms. Cheney | Nay | | |
| Mr. Sessions, Chairman | Nay | | |

Rules Committee record vote No. 28

Motion by Mr. Cole to report the rule. Adopted: 7–3

| Majority Members | Vote | Minority Members | Vote |
|-------------------|-------|-------------------------------|-------|
| Mr. Cole | Yea | Ms. Slaughter | Nay |
| Mr. Woodall | Yea | Mr. McGovern | Nay |
| Mr. Burgess | Yea | Mr. Hastings of Florida | Nay |
| Mr. Collins | | Mr. Polis | |
| Mr. Byrne | Yea | | |

| Majority Members | Vote | Minority Members | Vote |
|------------------------------|-------|------------------|------|
| Mr. Newhouse | Yea | | |
| Mr. Buck | | | |
| Ms. Cheney | Yea | | |
| Mr. Sessions, Chairman | Yea | | |

SUMMARY OF THE AMENDMENTS TO H.R. 1004 IN PART A MADE IN
ORDER

1. Jackson Lee (TX): Clarifies the terms “propaganda”, “publicity”, and “advocacy”, within the rule’s prohibited communications, to mean any information, statements or claims that are unsupported by science or empirical data. (10 minutes)

2. Messer, Luke (IN): Requires the Executive agency to display a list of any regulatory actions that duplicate or overlap with agency regulatory action. (10 minutes)

3. Jackson Lee (TX): Exempts from the rule’s prohibited communications any communication that is protected under the First Amendment to the Constitution of the United States of America. (10 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 1009 IN PART B MADE IN
ORDER

1. Mitchell (MI): MANAGER’S Makes technical changes to H.R. 1009 to ensure consistency in dates and terms, require OIRA to review significant guidance, and prohibit the authorization of additional funds. (10 minutes)

2. Buck (CO): Ensures that federal agencies engage their partners in state, local, and tribal government throughout the regulatory process. (10 minutes)

3. Young, David (IA): Requires each agency to describe steps taken to determine a new rule or regulation is not duplicative or conflicting with any existing or planned regulatory action and to require agencies to maintain a list of active regulatory actions on website. (10 minutes)

4. Meadows (NC): Requires OIRA to keep a log of the “consultation”—which is any communication that occurs about a specific regulation before the regulation is submitted for review—for each regulation and to publish a list of all the consultations when the regulation is published in the Federal Register. (10 minutes)

5. Chaffetz (UT): Requires OIRA to maintain records on each significant regulatory action reviewed such that it is easily accessible to provide to Congress upon request. (10 minutes)

6. Connolly (VA): Exempts independent agencies from the legislation. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 1004 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON
LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, after line 17, insert the following new paragraph (and designate subsequent paragraphs accordingly):

“(2) PROPAGANDA; PUBLICITY; ADVOCACY.—The terms ‘propaganda’, ‘publicity’, and ‘advocacy’ mean information, state-

ments, or claims (or using such information, statement, or claim, as applicable) that—

“(A) are not widely accepted in the scientific community;

or

“(B) are beliefs or assertions that are unsupported by science or empirical data.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MESSER OF INDIANA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 24, strike “; and” and insert a semicolon.

Page 5, line 2, strike the period at the end and insert “; and”.

Page 5, after line 2, insert the following new clause:

“(v) if applicable, a list of agency regulatory actions issued by the Executive agency, or any other Executive agency, that duplicate or overlap with the agency regulatory action.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, after line 12, insert the following new subsection:

(c) APPLICABILITY.—Section 307 of title 5, United States Code, as added by subsection (a), does not apply to any communication that is protected under the First Amendment to the Constitution.

PART B—TEXT OF AMENDMENTS TO H.R. 1009 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MITCHELL OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 2, strike “Administrator shall work with interested” and insert the following: “head of each agency shall submit the program descriptions required in subparagraph (B) to the Administrator. The Administrator shall work with other interested”.

Page 7, beginning on line 16, strike “April 1 and October 1” and insert “March 15 and September 15”.

Page 8, beginning on line 17, strike “analysis or quantification” and insert “clear summary”.

Page 15, beginning on line 16, strike “written request by the Administrator or the head of the agency. Such request shall be granted unless the nonrequesting party denies the request in writing within 5 days after receipt of the request for extension.” and insert the following: “mutual agreement of the Administrator and the head of the agency. For each 30 day extension, the Administrator shall make publicly available online a written explanation, including the reasons for the extension and an estimate of the expected conclusion date.”.

Page 15, line 22, strike “complete” and insert “conclude”.

Page 19, line 14, strike “assess” and insert “review”.

Page 20, line 7, strike “and provide those written comments to the submitting agency”.

Page 21, beginning on line 20, strike “Within 24 hours after the conclusion of the OIRA review under this section, the head of the submitting agency shall provide the Administrator with” and insert

the following: “As soon as practicable and before publication in the Federal Register of a significant regulatory action for which OIRA concluded review under this section, the head of the submitting agency shall make available to the Administrator”.

Page 22, beginning on line 6, strike “On the earlier of 3 days after OIRA completes the review of any agency significant regulatory action under section 3523, the date on which such agency publishes the regulatory action in the Federal Register, or the date on which the agency announces” and insert the following: “On the earlier of the date on which an agency publishes a significant regulatory action reviewed under section 3523 in the Federal Register, the agency otherwise makes the significant regulatory action publicly available, or the agency announces”.

Page 22, line 20, insert “senior level officials at” after “between”.

Page 24, line 20, insert after “Administrator” the following: “and a written explanation of the exemption, including the date of the decision and the reasons for exempting the specific statement, is made publically available online”.

Page 25, strike lines 1 through 7 and insert the following:

“(20) the term ‘regulatory action’ means—

“(A) any substantive action by an agency normally published in the Federal Register that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking; or

“(B) any agency statement of general applicability and future effect, other than a substantive action described in subparagraph (A), which sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue;”.

Page 26, insert after line 16 the following:

(e) EFFECTIVE DATE.—Section 3524 of title 44, as added by subsection (a), shall take effect 120 days after the date of the enactment of this Act.

SEC. 3. NO ADDITIONAL FUNDS AUTHORIZED.

No additional funds are authorized to carry out the requirements of this Act and the amendments made by this Act. Such requirements shall be carried out using amounts otherwise authorized.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUCK OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 19, strike “and”.

Page 2, line 22, strike “entities.” and insert “entities; and”.

Page 2, after line 22, insert the follow new subparagraph:

“(D) the methods used to ensure agencies coordinate with State, local, and Tribal governments.”.

Page 4, after line 14, insert the following new clause (and redesignate subsequent clauses accordingly):

“(v) A summary of the agency’s plan to coordinate with State, local, and Tribal governments throughout the regulatory process.”.

Page 8, line 16, strike “and”.

Page 8, line 18, strike “benefits.” and insert “benefits; and”.

Page 8, after line 18, insert the following new clause:

“(iii) efforts to coordinate with State, local, and Tribal governments.”.

Page 9, line 23, insert “and policies” after regulations.

Page 13, after line 14, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

“(6) An explanation of agency efforts to coordinate with State, local, and Tribal governments throughout the regulatory process.”.

Page 18, line 4, strike “appropriate” and insert “impacted”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE YOUNG OF IOWA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 14, insert the following new clause (and redesignate the subsequent clauses accordingly):

“(v) A description of any action taken by the agency to ensure that each planned significant regulatory action is not duplicative or conflicting with any other existing or planned regulatory action.”.

Page 22, after line 21, insert the following new subsection (and redesignate the subsequent subsection accordingly):

“(b) AGENCY DISCLOSURE.—Each agency that submits a significant regulatory actions to OIRA under section 3522 or 3523 shall maintain on the website of the agency the following:

“(1) A list of each active regulatory action, including the status of the regulatory action or a link to each entry on the unified agenda.

“(2) The most recent regulatory plan of the agency.

“(3) A link to each record disclosed under subsection (a).”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MEADOWS OF NORTH CAROLINA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 12, line 8, insert after “action.” the following: “OIRA shall maintain a log of each agency consultation with OIRA before submitting the significant regulatory action for review under this section, including the date of the consultation, the name of each agency official involved with the consultation, and a description of the purpose of the consultation.”.

Page 22, line 19, strike “and”.

Page 22, line 21, strike the period and insert “; and”.

Page 22, after line 21, insert the following new paragraph:

“(5) a list of each consultation described under section 3523(b).”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHAFFETZ OF UTAH OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, line 5, strike “**Public disclosure**” and insert “**Disclosure**”.

Page 22, after line 24, insert the following new subsection:

“(c) RECORDKEEPING.—The Administrator shall ensure any record associated with a significant regulatory action submitted to OIRA

under section 3522 or 3523 is easily accessible for a period of time consistent with approved records disposition schedules for the agency, in a manner that all records associated with a significant regulatory action can be promptly submitted to Congress upon request.”.

Page 23, after line 4, strike the item relating to section 3524 and insert the following new item:
“3524. Disclosure of regulatory review.”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONNOLLY
OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 26, after line 16, insert the following new subsection:

(e) EXEMPTION FOR INDEPENDENT REGULATORY AGENCIES.—The provisions of sections 3522, 3523, and 3524 of title 44, United States Code, as added by subsection (a), do not apply to an independent establishment as defined in section 104 of title 5, United States Code.