

115TH CONGRESS
1ST SESSION

H. R. 462

To amend title 5, United States Code, to include guidance documents in the congressional review process of agency rulemaking.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2017

Mr. LEWIS of Minnesota introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 5, United States Code, to include guidance documents in the congressional review process of agency rulemaking.

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 “Reforming Executive
5 Guidance Act of 2017” or as the “REG Act of 2017”.

6 **SEC. 2. CONGRESSIONAL REVIEW OF AGENCY RULE-**
7 **MAKING.**

8 (a) GUIDANCE DOCUMENTS.—Paragraph (3) of sec-
9 tion 804 of title 5, United States Code, is amended to
10 read as follows:

1 “(3) The term ‘rule’—

2 “(A) has the meaning given such term in
3 section 551, except that such term does not in-
4 clude (except as otherwise provided in subpara-
5 graph (B))—

6 “(i) any rule of particular applica-
7 bility, including a rule that approves or
8 prescribes for the future rates, wages,
9 prices, services, or allowances therefor, cor-
10 porate or financial structures, reorganiza-
11 tions, mergers, or acquisitions thereof, or
12 accounting practices or disclosures bearing
13 on any of the foregoing;

14 “(ii) any rule relating to agency man-
15 agement or personnel; or

16 “(iii) any rule of agency organization,
17 procedure, or practice that does not sub-
18 stantially affect the rights or obligations of
19 non-agency parties; and

20 “(B) includes guidance documents.”.

21 (b) SIGNIFICANT GUIDANCE DOCUMENTS.—Para-
22 graph (2) of section 804 of such title is amended to read
23 as follows:

24 “(2) The term ‘major rule’—

“(A) means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

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

“(ii) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

“(iii) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; and

“(B) includes significant guidance documents.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.”.

(c) DEFINITIONS.—Section 804 of such title is amended by adding at the end the following new paragraphs:

1 “(4) The term ‘guidance document’ means a
2 statement of general applicability and future effect,
3 other than a regulatory action, issued by a Federal
4 agency that sets forth—

5 “(A) a policy on a statutory, regulatory, or
6 technical issue; or

7 “(B) an interpretation of a statutory or
8 regulatory issue.

9 “(5) The term ‘significant guidance docu-
10 ment’—

11 “(A) means a guidance document dissemi-
12 nated to regulated entities or the general public
13 that may reasonably be anticipated to—

14 “(i) lead to an annual effect of
15 \$100,000,000 or more, or adversely affect
16 in a material way the economy, a sector of
17 the economy, productivity, competition,
18 employment, the environment, public
19 health or safety, or State, local, or tribal
20 governments or communities;

21 “(ii) create a serious inconsistency, or
22 otherwise interfere, with an action taken or
23 planned by another Federal agency;

24 “(iii) materially alter the budgetary
25 impact of any entitlement, grant, user fees,

1 or loan programs, or the rights or obliga-
2 tions of recipients thereof; or

3 “(iv) raise novel legal or policy issues
4 arising out of legal mandates; and

5 “(B) does not include any guidance docu-
6 ment—

7 “(i) on regulations issued in accord-
8 ance with section 556 or 557 of title 5,
9 United States Code;

10 “(ii) that pertains to a military or for-
11 eign affairs function of the United States,
12 other than procurement regulations and
13 regulations involving the import or export
14 of non-defense articles and services;

15 “(iii) on regulations that are limited
16 to the organization, management, or per-
17 sonnel matters of a Federal agency; or

18 “(iv) belonging to a category of guid-
19 ance documents exempted by the Adminis-
20 trator of the Office of Information and
21 Regulatory Affairs.”.

22 **SEC. 3. DEFINITION OF “RULE” TO INCLUDE SIGNIFICANT**
23 **GUIDANCE FOR PURPOSES OF RULEMAKING.**

24 Section 551(4) of title 5, United States Code, is
25 amended by inserting before the semicolon at the end the

- 1 following: “, as well as significant guidance (as such term
- 2 is defined in section 804(5))”.

