



Analysis of H.R. 1759 – The All Economic Regulations are Transparent Act of 2015 (the ALERT Act) (Rep. Ratcliffe)

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General criticisms:

- This bill would create several unnecessary procedural requirements (for agencies and the White House Office of Information and Regulatory Affairs (OIRA)), but no funding to carry them out.
 - o These requirements would inhibit agencies ability to carry out their statutory missions of protecting people and the environment
- The irony is that this bill would risk creating less regulatory transparency, not more.
 - o By imposing on agencies several new reporting requirements on a monthly basis, the bill would inundate the public with reams of data about the agencies' pending regulations and their impacts. Few in the general public would have the ability to realistically review all of these data and identify information that is important to them.
- The bill would generate misleading information about agencies' pending regulations, which would ultimately undermine meaningful public debate over these regulations and about the regulatory process in general:
 - o In particular, the bill would require agencies to report in detail on the costs of their regulations but would provide no information about their benefits.
 - o The result of this biased presentation is that all regulations—no matter how beneficial to society on balance—would appear to be a huge drain on society.
- The bill adds a default delay of at least 6 months into every rulemaking.
 - o This delay would come on top of the years of delays that already plague the rulemaking process, resulting in disastrous consequences to the public interest.
- This bill would do nothing to address the biggest transparency problem in the regulatory system: OIRA's centralized review of regulations.
 - o The Government Accountability Office (GAO) has issued several reports on this problem. If Congress is really concerned about regulatory transparency, it would be better served focusing on legislative solutions to this problem.

Criticisms of the bill's provisions:

- Section 651 – Monthly submission to OIRA:
 - o Once a month is too often for submission:
 - Unnecessary:

- Thanks to all of the procedural requirements that Congress has imposed, the regulatory system moves very slowly. For the vast majority of rules, their status will not change from one month to the next.
 - Wastes scarce agency resources:
 - Agencies will be submitting a report every month with no new information.
 - Not helpful to stakeholders:
 - Industry and public interest groups alike would find some of the information in the submissions useful. But with the monthly reporting cycle, the bill would generate too much data.
 - Public interest groups and small businesses would not have the resources to adequately sift through all of it and find what is useful to them.
 - This bill would thus provide a competitive advantage to large businesses and powerful trade associations at the expense of the general public.
 - The bill would automatically present only biased information about regulations:
 - In the monthly submission, agencies are required to provide only information about the estimated costs of regulation.
 - This incomplete information provides a skewed image of these regulations. To effectively evaluate a regulation, it is also essential to know about its benefits so that they can be compared to the regulation's costs.
 - Every decision—from buying a loaf of bread to issuing regulations on air pollution—will look bad if one only looks at the costs of the decision.
 - The bill would require agencies to estimate the “economic impacts” of any rules they plan to issue in the next 12 months, but it does not define “economic impacts.”
 - This term is potentially so broad that it could be read to require agencies to generate a massive amount of information about their pending regulations, which would not be helpful to policymakers or to the public and which would squander scarce agency resources.
- Section 652 – OIRA publications:
- The cumulative annual report for the Federal Register would provide only biased information about regulations:
 - For this report, OIRA would have to document the total costs of all rules proposed or finalized within the previous year, but it would not provide any information about the benefits of those regulations.
 - This incomplete information provides a skewed image of the regulation. To effectively evaluate a regulation, it is also essential to know about its benefits so that they can be compared to the regulation's costs.
- Section 653 – Preventing agency rules from taking effect:
- The bill would add at least 6 more months of delay to the rulemaking process by blocking a rule from taking effect until relevant information that is required by the bill has been published on the internet for at least 6 months.

- The provisions of the Administrative Procedure Act (APA) are already designed to provide the public with notice regarding a rule's provisions and its impacts. This delay would not add anything meaningful to the APA's existing requirements, but would instead serve only to introduce still more delays into the already ossified rulemaking process.
- Rules already take several years—and in some case more than a decade—to complete. The result is that more harm to people, the environment, and the economy. This provision of the bill would simply compound this problem.
- The exceptions provided in the bill are inadequate to ensure that agencies would be able to issue regulations in a timely fashion necessary for protecting people, the environment, and the economy.