

114TH CONGRESS
2D SESSION

H. R. 3438

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2016

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Require Evaluation
3 before Implementing Executive Wishlists Act of 2016” or
4 as the “REVIEW Act of 2016”.

5 **SEC. 2. RELIEF PENDING REVIEW.**

6 Section 705 of title 5, United States Code, is amend-
7 ed—

8 (1) by striking “When” and inserting the fol-
9 lowing:

10 “(a) IN GENERAL.—When”; and

11 (2) by adding at the end the following:

12 “(b) HIGH-IMPACT RULES.—

13 “(1) DEFINITIONS.—In this subsection—

14 “(A) the term ‘Administrator’ means the
15 Administrator of the Office of Information and
16 Regulatory Affairs of the Office of Management
17 and Budget; and

18 “(B) the term ‘high-impact rule’ means
19 any rule that the Administrator determines may
20 impose an annual cost on the economy of not
21 less than \$1,000,000,000.

22 “(2) IDENTIFICATION.—A final rule may not be
23 published or take effect until the agency making the
24 rule submits the rule to the Administrator and the
25 Administrator makes a determination as to whether

1 the rule is a high-impact rule, which shall be pub-
2 lished by the agency with the final rule.

3 “(3) RELIEF.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), an agency shall postpone the
6 effective date of a high-impact rule of the agen-
7 cy until the final disposition of all actions seek-
8 ing judicial review of the rule.

9 “(B) FAILURE TO TIMELY SEEK JUDICIAL
10 REVIEW.—Notwithstanding section 553(d), if
11 no person seeks judicial review of a high-impact
12 rule—

13 “(i) during any period explicitly pro-
14 vided for judicial review under the statute
15 authorizing the making of the rule; or

16 “(ii) if no such period is explicitly pro-
17 vided for, during the 60-day period begin-
18 ning on the date on which the high-impact
19 rule is published in the Federal Register,
20 the high-impact rule may take effect as early as
21 the date on which the applicable period ends.

22 “(4) RULE OF CONSTRUCTION.—Nothing in
23 this subsection may be construed to impose any limi-
24 tation under law on any court against the issuance

1 of any order enjoining the implementation of any
2 rule.”.

Passed the House of Representatives September 21,
2016.

Attest:

KAREN L. HAAS,

Clerk.