

## HR 2804

ALERRT Act of 2014

**Congress:** 113 (2013–2015, Ended)

**Chamber:** House

**Policy Area:** Government Operations and Politics

**Introduced:** Jul 24, 2013

**Current Status:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governm

**Latest Action:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs. (Mar 4, 2014)

**Official Text:** <https://www.congress.gov/bill/113th-congress/house-bill/2804>

### Sponsor

**Name:** Rep. Holding, George [R-NC-13]

**Party:** Republican • **State:** NC • **Chamber:** House

### Cosponsors (10 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Bachus, Spencer [R-AL-6]	R · AL		Jul 24, 2013
Rep. Chabot, Steve [R-OH-1]	R · OH		Jul 24, 2013
Rep. Coble, Howard [R-NC-6]	R · NC		Jul 24, 2013
Rep. Collins, Doug [R-GA-9]	R · GA		Jul 24, 2013
Rep. Franks, Trent [R-AZ-8]	R · AZ		Jul 24, 2013
Rep. LaMalfa, Doug [R-CA-1]	R · CA		Jul 24, 2013
Rep. Marino, Tom [R-PA-10]	R · PA		Jul 24, 2013
Rep. Smith, Jason [R-MO-8]	R · MO		Jul 24, 2013
Rep. Meadows, Mark [R-NC-11]	R · NC		Aug 1, 2013
Rep. Gosar, Paul A. [R-AZ-4]	R · AZ		Feb 11, 2014

### Committee Activity

Committee	Chamber	Activity	Date
Homeland Security and Governmental Affairs Committee	Senate	Referred To	Mar 4, 2014
Judiciary Committee	House	Referred to	Sep 13, 2013
Oversight and Government Reform Committee	House	Reported By	Feb 25, 2014

### Subjects & Policy Tags

**Policy Area:**

Government Operations and Politics

## Related Bills

Bill	Relationship	Last Action
113 HR 4	Related bill	<b>Nov 13, 2014:</b> Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 597.
113 HRES 487	Procedurally related	<b>Feb 26, 2014:</b> Motion to reconsider laid on the table Agreed to without objection.

Achieving Less Excess in Regulation and Requiring Transparency Act of 2014 or the ALERRT Act of 2014 - **Title I: All Economic Regulations Are Transparent Act** - All Economic Regulations are Transparent Act of 2014 or the ALERT Act of 2014 - (Sec. 102) Requires the head of each federal agency to submit a monthly report to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for each rule such agency expects to propose or finalize during the following year. Sets forth the required content of such reports, including: (1) a summary of the nature of the rule, (2) the objectives of and legal basis for issuance of the rule, (3) the stage of the rulemaking as of the date of submission, and (4) whether the rule is subject to periodic review as a rule with a significant economic impact.

Requires each agency head to submit a monthly report for any rule expected to be finalized during the following year for which the agency has issued a general notice of proposed rulemaking. Requires such reports to include an approximate schedule for completing action on the rule and an estimate of its cost and economic effects.

Requires the Administrator to make such monthly reports publicly available on the Internet.

Requires the Administrator to publish, not later than October 1 of each year, in the Federal Register: (1) information that the Administrator receives from each agency under this Act; (2) the number of rules and a list of each such rule that was proposed by each agency and each rule that was finalized by each agency; (3) the number of agency actions that repealed a rule, reduced the scope or cost of a rule, or accelerated the expiration date of a rule; (4) the total cost of all rules proposed or finalized; and (5) the number of rules for which an estimate of the cost of the rule was not available.

Requires the Administrator to make publicly available on the Internet, not later than October 1 of each year: (1) the analysis of the costs or benefits of each proposed or final rule issued by an agency for the previous year, (2) the docket number and regulation identifier number for each such rule, (3) the number of rules reviewed by OMB for the previous year, (4) the number of rules for which a review by the head of an agency was completed, (5) the number of rules submitted to the Comptroller General (GAO), and (6) the number of rules for which a resolution of disapproval was introduced in Congress.

Prohibits a rule from taking effect until the information required by this Act is posted on the Internet for not less than six months, unless the agency proposing the rule seeks an exemption under the Freedom of Information Act (FOIA) or the President determines by executive order that such rule is necessary because of an imminent threat to health or safety or other emergency, for the enforcement of criminal laws, for national security, or to implement an international trade agreement. Makes such requirement effective eight months after enactment of this Act.

**Title II: Regulatory Accountability Act** - Regulatory Accountability Act of 2014 - (Sec. 202) Defines "major rule" and "major guidance," for purposes of this Act, as a rule or guidance that is likely to impose: (1) an annual cost on the economy of \$100 million or more, adjusted annually for inflation; (2) a major increase in costs or prices; (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with foreign-based enterprises; or (4) significant impacts on multiple sectors of the economy. Defines "high-impact rule" as a rule that is likely to have an annual cost on the economy of \$1 billion or more, adjusted annually for inflation. Defines "negative-impact on jobs and wages rule" to mean a rule that is likely to reduce employment or wages.

(Sec. 203) Revises procedures for rulemaking under the Administrative Procedure Act (APA) to require a federal agency, in the rulemaking process, to make all preliminary and final factual determinations based on evidence and to consider: (1)

the legal authority under which a rule may be proposed, (2) the specific nature and significance of the problem the agency may address with a rule, (3) whether existing rules have created or contributed to the problem the agency may address with a rule and whether such rules may be amended or rescinded, (4) any reasonable alternatives for a new rule, and (5) the potential costs and benefits associated with potential alternative rules.

Revises rulemaking notice requirements to require an agency to: (1) publish in the Federal Register advance notice of proposed rulemaking involving a major rule, a high-impact rule, a negative-impact of jobs and wages rule, or a rule that involves a novel legal or policy issue arising out of statutory mandates; (2) consult with the Administrator of the Office of Information and Regulatory Affairs of OMB before issuing a proposed rule and after the issuance of an advance notice of proposed rulemaking; (3) provide interested persons an opportunity to participate in the rulemaking process; (4) hold a hearing before the adoption of any high-impact rule; (5) expand requirements for the adoption of a final rule, including requiring that the agency adopt a rule only on the basis of the best evidence and at the least cost; and (6) grant any interested person the right to petition for the issuance, amendment, or repeal of a rule. Specifies the minimum amount of information that must be included in an advance notice.

Requires the Administrator to issue guidelines to promote coordination, simplification, and harmonization of agency rules during the rulemaking process

Exempts from such revised procedures rulemaking that concerns monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

(Sec. 204) Imposes new requirements for issuing any major guidance or guidance that involves a novel legal or policy issue arising out of statutory mandates. Authorizes the Administrator to issue guidelines for agencies in issuing major guidance or other guidance.

(Sec. 205) Provides for electronic access to transcripts of testimony and exhibits and other papers filed in a rulemaking proceeding.

Requires the record of decision in a rulemaking proceeding to include information from a hearing under the Information Quality Act or on a high-impact rule.

Requires an agency to grant a petition for a hearing in the case of a major rule, unless the agency reasonably determines that a hearing would not advance consideration of the rule or would unreasonably delay completion of the rulemaking. Exempts from this requirement rulemakings that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

(Sec. 206) Provides that an agency's denial of an Information Quality Act petition, or a failure to grant or deny such petition within 90 days, is reviewable by a court as a final action. Allows immediate judicial review of interim rules, other than in cases involving national security interests, issued without compliance with the notice requirements of this Act.

(Sec. 207) Revises standards for the scope of judicial review of agency rulemaking to prohibit a court from deferring to an agency's: (1) interpretation of a rule if the agency did not comply with APA requirements, (2) determination of the costs and benefits or other economic or risk assessment if the agency failed to conform to guidelines on such determinations and assessments established by the Administrator, (3) determinations made in the adoption of an interim rule, or (4) guidance.

(Sec. 208) Defines "substantial evidence" for purposes of evaluating agency adjudications and for rulemaking under APA

as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of the record considered as a whole, taking into account whatever in the record fairly detracts from the weight of the evidence relied upon by the agency to support its decision.

(Sec. 209) Provides that the amendments made by this Act to specified provisions of federal law shall not apply to any rulemakings pending or completed on the enactment date of this Act.

**Title III: Regulatory Flexibility Improvements Act - Regulatory Flexibility Improvements Act of 2014 - (Sec. 302)**

Amends the Regulatory Flexibility Act of 1980 (RFA) to: (1) revise the definition of "rule" under such Act to exclude a rule pertaining to the protection of the rights of and benefits for veterans or a rule of particular (and not general) applicability relating to rates, wages, and other financial indicators; and (2) define "economic impact" with respect to a proposed or final rule as any direct economic effect on small entities from such rule and any indirect economic effect on small entities that is reasonably foreseeable and that results from such rule. Includes tribal organizations within the definition of "small governmental jurisdictions" for purposes of such Act.

Requires initial and final regulatory flexibility analyses to: (1) describe alternatives to a proposed rule that minimize any adverse significant economic impact or that maximize the beneficial significant economic impact on small entities, and (2) include revisions or amendments to a land management plan developed by the Secretary of Agriculture or the Secretary of the Interior under specified Acts.

Expands the applicability of RFA to interpretive rules involving internal revenue laws that impose a recordkeeping requirement, without regard to whether such requirement is imposed by statute or regulation.

Revises the definition of "small organization" for purposes of RFA.

(Sec. 303) Requires each federal agency to include in its regulatory flexibility agenda a brief description of the sector of the North American Industrial Classification System that is affected by a proposed agency rule that is likely to have a significant economic impact on a substantial number of small entities.

(Sec. 304) Requires a detailed statement in an initial regulatory flexibility analysis to include: (1) an estimate of the additional cumulative economic impact of the proposed rule on small entities, and (2) a description of any disproportionate economic impact on small entities or a specific class of such entities.

Requires an agency, in developing an initial and final regulatory flexibility analysis, to provide: (1) a quantifiable or numerical description of the effects of a proposed or final rule and alternatives to such rule, or (2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.

(Sec. 305) Repeals provisions allowing a waiver or delay of the completion of an initial regulatory flexibility analysis. Requires the Chief Counsel for Advocacy of the Small Business Administration (SBA) to issue rules governing federal agency compliance with RFA requirements. Authorizes the Chief Counsel to modify or amend such rules, to intervene in agency adjudication relating to such rules, and to inform an agency of the impact of its rulemaking on small entities.

(Sec. 306) Revises requirements for agency notification of the SBA Chief Counsel for Advocacy prior to the publication of any proposed rule. Requires agencies to provide the Chief Counsel with: (1) all materials prepared or utilized in making the proposed rule, and (2) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities.

(Sec. 307) Modifies requirements for the periodic review of agency rules affecting small entities to require publication of a

plan for review and placement of such plan on the agency website not later than 180 days after the enactment of this Act.

(Sec. 308) Provides for judicial review of an agency final rule for compliance with RFA requirements after publication of such rule.

(Sec. 309) Amends the federal judicial code to grant exclusive jurisdiction to the U.S. Courts of Appeals to review all final rules promulgated by the SBA Chief Counsel for Advocacy governing agency compliance with RFA.

(Sec. 310) Amends the Small Business Act to authorize the SBA Chief Counsel for Advocacy to specify detailed definitions or standards by which a business may be determined to be a small business (size standard) for purposes of all enactments other than the Small Business Act or the Small Business Investment Act of 1958 (for which only the Administrator is authorized to specify small business size standards). Allows a party seeking judicial review of a rule which that includes a definition or size standard approved by the Chief Counsel for Advocacy to join the Chief Counsel as a party in an action for such review.

(Sec. 312) Amends the Small Business Regulatory Enforcement Fairness Act of 1996 to require federal agencies, in developing small entity compliance guides, to solicit input from affected small entities or associations of small entities.

(Sec. 313) Requires the Comptroller General, not later than 90 days after the enactment of this Act, to complete and publish a study that examines whether the SBA Chief Counsel for Advocacy has the capacity and resources to carry out the duties of Chief Counsel under this Act.

**Title IV: Sunshine for Regulatory Decrees and Settlements Act** - Sunshine for Regulatory Decrees and Settlements Act of 2014 - (Sec. 402) Defines a "covered civil action" as a civil action seeking to compel agency action and alleging that an agency is unlawfully withholding or unreasonably delaying an agency action relating to a regulatory action that would affect the rights of: (1) private persons other than the person bringing the action; or (2) a state, local, or tribal government. Defines a "covered consent decree" and a "covered settlement agreement" as: (1) a consent decree or settlement agreement entered into in a covered civil action, and (2) any other consent decree or settlement agreement that requires agency action relating to a regulatory action affecting the rights of private persons other than the person bringing the action or a state, local, or tribal government.

(Sec. 403) Requires an agency against which a covered civil action is brought to publish the notice of intent to sue and the complaint in a readily accessible manner and to provide interested parties an opportunity to intervene and to conduct settlement negotiations through mediation.

Requires an agency seeking to enter a covered consent decree or settlement agreement to publish such decree or agreement in the Federal Register and online not later than 60 days before it is filed with the court. Provides for public comment and public hearings on a proposed decree or agreement.

Requires the Attorney General or an agency head, if an agency is litigating a matter independently, to certify to the court that the Attorney General or the agency head approves of any proposed covered consent decree or settlement agreement.

Requires each federal agency to submit to Congress an annual report that includes: (1) the number, identity, and content of covered civil actions brought against, and covered consent decrees or settlement agreements entered against or into by, the agency; (2) a description of the statutory basis for each such covered consent decree or settlement agreement; and (3) an award of attorney fees or costs in a civil action resolved by a covered consent decree or settlement

agreement.

(Sec. 404) Requires a court to grant de novo review to any motion filed by an agency to modify a previously-entered consent decree if the basis of such motion is that the terms of the decree are no longer fully in the public interest due to the agency's obligations to fulfill other duties or due to changed facts and circumstances.

(Sec. 405) Makes the provisions of this title applicable to any covered civil action filed, or any covered consent decree or settlement agreement proposed to a court, on or after the enactment of this title.

## Actions Timeline

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- **Mar 4, 2014:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
- **Feb 27, 2014:** Considered as unfinished business. (consideration: CR H2014-2027)
- **Feb 27, 2014:** The House resolved into Committee of the Whole House on the state of the Union for further consideration.
- **Feb 27, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Connolly (VA) amendment No. 7.
- **Feb 27, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Connolly (VA) amendment No. 7, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. Connolly (VA) demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 27, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Jackson Lee amendment No. 8.
- **Feb 27, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Jackson Lee amendment No. 8, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Ms. Jackson Lee demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 27, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Jackson Lee amendment No. 9.
- **Feb 27, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Jackson Lee amendment No. 9, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Ms. Jackson Lee demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 27, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the George Miller (CA) amendment No. 10.
- **Feb 27, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the George Miller (CA) amendment No. 10, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. George Miller (CA) demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 27, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the George Miller (CA) amendment No. 11.
- **Feb 27, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the George Miller (CA) amendment No. 11, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. George Miller (CA) demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 27, 2014:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question on adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **Feb 27, 2014:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 2804.
- **Feb 27, 2014:** The previous question was ordered pursuant to the rule. (consideration: CR H2025)
- **Feb 27, 2014:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union.
- **Feb 27, 2014:** Ms. Esty moved to recommit with instructions to Judiciary. (consideration: CR H2025-2027; text: CR H2025)
- **Feb 27, 2014:** DEBATE - The House proceeded with 10 minutes of debate on the Esty motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment to add at the end of the bill a new section titled no delay of any regulation that saves tax dollars, helps small businesses and veterans, prevents discrimination, or protects consumers.
- **Feb 27, 2014:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H2026)
- **Feb 27, 2014:** On motion to recommit with instructions Failed by recorded vote: 187 - 229 (Roll no. 77). (consideration: CR H2027)
- **Feb 27, 2014:** Passed/agreed to in House: On passage Passed by recorded vote: 236 - 179 (Roll no. 78).
- **Feb 27, 2014:** On passage Passed by recorded vote: 236 - 179 (Roll no. 78).

- **Feb 27, 2014:** Motion to reconsider laid on the table Agreed to without objection.
- **Feb 27, 2014:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 2804.
- **Feb 26, 2014:** Rule H. Res. 487 passed House.
- **Feb 26, 2014:** Considered under the provisions of rule H. Res. 487. (consideration: CR H1971-1995; text of amendment in the nature of a substitute: CR H1979-1988)
- **Feb 26, 2014:** The resolution provides for consideration of H.R. 3865 and H.R. 2804. The resolution provides for one hour of debate for each bill.
- **Feb 26, 2014:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 487 and Rule XVIII.
- **Feb 26, 2014:** The Speaker designated the Honorable Virginia Foxx to act as Chairwoman of the Committee.
- **Feb 26, 2014:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 2804.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H.Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Johnson (GA) amendment No. 1.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H.Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Murphy (PA) amendment No. 2.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Rothfus amendment No. 3.
- **Feb 26, 2014:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Rothfus amendment No. 3, the Chair put the question on adoption of the amendment and by voice vote announced that the ayes had prevailed. Mr. Rothfus demanded a recorded vote, and the Chair postponed further proceedings on adoption of the amendment until a time to be announced.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Brady (TX) amendment No. 4.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Rigell amendment No. 5.
- **Feb 26, 2014:** DEBATE - Pursuant to the provisions of H. Res. 487, the Committee of the Whole proceeded with 10 minutes of debate on the Tipton amendment No. 6.
- **Feb 26, 2014:** Mr. Goodlatte moved to rise.
- **Feb 26, 2014:** On motion to rise Agreed to by voice vote.
- **Feb 26, 2014:** Committee of the Whole House on the state of the Union rises leaving H.R. 2804 as unfinished business.
- **Feb 25, 2014:** Supplemental report filed by the Committee on Oversight and Government, H. Rept. 113-354, Part II.
- **Feb 25, 2014:** Rules Committee Resolution H. Res. 487 Reported to House. The resolution provides for consideration of H.R. 3865 and H.R. 2804. The resolution provides for one hour of debate for each bill.
- **Feb 21, 2014:** Reported (Amended) by the Committee on Oversight and Government Reform. H. Rept. 113-354, Part I.
- **Feb 21, 2014:** Committee on Judiciary discharged.
- **Feb 21, 2014:** Placed on the Union Calendar, Calendar No. 262.
- **Feb 11, 2014:** Committee Consideration and Mark-up Session Held.
- **Feb 11, 2014:** Ordered to be Reported (Amended) by the Yeas and Nays: 19 - 15.
- **Sep 13, 2013:** Referred to the Subcommittee on Regulatory Reform, Commercial And Antitrust Law.
- **Jul 24, 2013:** Introduced in House
- **Jul 24, 2013:** Referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.