

## HR 1009

OIRA Insight, Reform, and Accountability Act

**Congress:** 115 (2017–2019, Ended)

**Chamber:** House

**Policy Area:** Government Operations and Politics

**Introduced:** Feb 13, 2017

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

**Latest Action:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs. (Mar 2, 2017)

**Official Text:** <https://www.congress.gov/bill/115th-congress/house-bill/1009>

### Sponsor

**Name:** Rep. Mitchell, Paul [R-MI-10]

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

### Cosponsors (4 total)

| Cosponsor                     | Party / State | Role | Date Joined  |
|-------------------------------|---------------|------|--------------|
| Rep. Meadows, Mark [R-NC-11]  | R · NC        |      | Feb 13, 2017 |
| Rep. Palmer, Gary J. [R-AL-6] | R · AL        |      | Feb 13, 2017 |
| Rep. Sessions, Pete [R-TX-32] | R · TX        |      | Feb 14, 2017 |
| Rep. Walberg, Tim [R-MI-7]    | R · MI        |      | Feb 16, 2017 |

### Committee Activity

| Committee  | Chamber | Activity    | Date         |
|--|---------|-------------|--------------|
| Homeland Security and Governmental Affairs Committee | Senate  | Referred To | Mar 2, 2017  |
| Judiciary Committee                                  | House   | Referred to | Feb 13, 2017 |
| Oversight and Government Reform Committee            | House   | Reported By | Feb 27, 2017 |

### Subjects & Policy Tags

#### Policy Area:

Government Operations and Politics

### Related Bills

| Bill         | Relationship         | Last Action   |
|--------------|----------------------|---|
| 115 S 676    | Related bill         | Mar 21, 2017: Read twice and referred to the Committee on Homeland Security and Governmental Affairs. |
| 115 HRES 156 | Procedurally related | Mar 1, 2017: Motion to reconsider laid on the table Agreed to without objection.                      |

## **OIRA Insight, Reform, and Accountability Act**

(Sec. 2) This bill codifies and revises the centralized regulatory review process, currently required under executive order, to require the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget to: (1) chair the Regulatory Working Group that assists agencies with regulatory issues, (2) publish a unified agenda of each agency's regulations that are under development or review, and (3) review each agency's significant regulatory actions.

OIRA's review is expanded to include the significant regulatory actions of independent regulatory agencies. Excluded from OIRA's review are: (1) the Government Accountability Office, (2) the Federal Election Commission, (3) the governments of the District of Columbia and of the territories and possessions of the United States, and (4) government-owned contractor-operated facilities.

Under the bill, a "significant regulatory action" is any substantive regulatory action 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 any statement of general applicability and future effect that sets policy on or interprets a statutory, regulatory, or technical issue, that may:

- have an annual effect on the economy of \$100 million or more;
- adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients therein; or
- raise novel legal or policy issues arising out of legal mandates.

The Regulatory Working Group shall consist of OIRA, agencies that have significant domestic regulatory responsibility, and other executive branch officials. The group must identify methods to ensure agencies coordinate with state, local, and tribal governments.

Agencies must submit annually to OIRA a regulatory plan with:

- a summary of the legal basis, need, alternatives, and schedule for each significant regulatory action they expect to issue;
- an employee the public may contact for additional information about each action;
- the agency's plan to coordinate with state, local, and tribal governments throughout the regulatory process;
- a description of any action taken to ensure that planned significant regulatory actions are not duplicative or conflicting with any other existing or planned regulatory action;
- a retrospective review of existing regulations that are unjustified, unnecessary, duplicative, inappropriately burdensome, or otherwise recommended for removal; and
- a description of any other agency program to review existing regulations.

OIRA must circulate an agency's regulatory plans to any other agency that may be affected by the plans. The other agencies must notify OIRA if a regulatory action conflicts with their own policies or actions, and OIRA must notify the relevant agencies of any conflicts.

To identify regulations that are no longer justified or that affect a particular group, industry, or economy sector, OIRA must: (1) work with interested entities and agencies; (2) meet with state, local, and tribal governments; and (3) convene conferences with businesses, nongovernmental organizations, and the public.

By March 15 and September 15 of each year, OIRA must publish the unified agenda of each agency's regulations under development or review. OIRA must: (1) issue guidance for agencies on the manner of submission of regulations for publication in the unified agenda, (2) provide a standard definition for each stage of review to assist the public in understanding the different terms used by agencies, and (3) review agency compliance.

The unified agenda must explain why any regulation included in the immediately previous agenda is no longer included.

OIRA must conduct a government-wide review of significant regulatory actions to ensure consistency with applicable law and avoid conflict with policy or action taken or planned by another agency. Each agency must provide OIRA with a list of each planned regulatory action with an identification of whether each such regulatory action is significant. OIRA shall determine whether submitted regulatory actions are significant and must review each such significant regulatory action.

Agencies may consult with OIRA at any time. OIRA must maintain a log of each agency consultation before submitting a significant regulatory action for review.

Before issuing a significant regulatory action, an agency must submit to OIRA for review: (1) a description of the need for the action and how the action will meet such need; (2) an assessment of the costs and benefits; (3) an explanation of the manner in which the significant regulatory action is consistent with a statutory mandate and avoids undue interference with state, local, and tribal government functions; and (4) an explanation of agency efforts to coordinate with state, local, and tribal governments. For economically significant regulatory actions, the agency must also submit any assessments developed during the decision-making process that quantify the costs and benefits of the regulatory action versus feasible alternatives and explain why the planned regulatory action is preferable to potential alternatives.

OIRA's deadline to complete a review after an agency's submission of a regulation is: (1) 10 days for a notice of inquiry, advance notice of proposed rulemaking, or other preliminary regulatory action prior to a notice of proposed rulemaking; (2) 90 days for any other significant regulatory action that is not preliminary; or (3) 45 days if OIRA has previously reviewed a regulatory action that was not preliminary and there has been no material change in the facts and circumstances.

OIRA's review period may be extended for any number of additional 30-day periods upon mutual agreement of OIRA and the agency. For each extension, OIRA shall make publicly available online a written explanation and an estimate of the expected conclusion date.

If OIRA is unable to conclude a review before the deadline, it may return the draft of the regulatory action to the agency with an explanation of why the review could not be completed and what additional information, resources, or time OIRA would need to complete the review. An agency may withdraw the regulatory action from OIRA review at any time prior its completion.

OIRA's review of significant regulatory actions must determine the extent to which the agency:

- identified and assessed the significance of the problem the regulation is designed to address;
- examined whether to modify any existing regulations or laws that create or contribute to the problem;
- assessed alternatives to direct regulation, including economic incentives to encourage desired behaviors;

considered risks, costs and benefits, enforcement and compliance, incentives for innovation, consistency, predictability, flexibility, distributive impacts, and equity;

- used the best reasonably obtainable information;
- identified performance objectives rather than behavior or manner of compliance;
- sought comments from, assessed effects on, and harmonized regulations with the functions of state, local, and tribal governments;
- avoided conflicts with or duplication of other existing regulations;
- tailored the regulatory action to impose the least burden on society;
- drafted the regulatory action to be simple and easy to understand; and
- complied with requirements under executive orders, statutes, and applicable guidance.

OIRA must allow other agencies to review the draft regulatory action for at least 10 business days, solicit comments from other agencies, and facilitate conversations between agencies.

OIRA must provide an agency with the results of every standard, executive order, guidance document, and law reviewed.

As soon as practicable and before publication in the Federal Register of a significant regulatory action for which OIRA concluded review, the submitting agency shall make available to OIRA a redline of any changes the agency made to the regulatory action during the review period. The agency shall identify any change made at the suggestion or recommendation of any other agency, member of the public, or other source.

OIRA must make the redline available to the public online along with the information submitted by the agency for review, the results of OIRA's review, documents exchanged between OIRA senior officials and the agency during the review, and a list of each agency consultation with OIRA on the regulatory action.

Agencies must publish on their websites: (1) a list of each active regulatory action, including an indication of the status or a link to its entry on the unified agenda; (2) their most recent regulatory plan; and (3) a link to each record disclosed by OIRA about the regulatory review.

OIRA must ensure that records associated with each significant regulatory action: (1) are easily accessible for a period of time consistent with approved agency records disposition schedules, and (2) can be promptly submitted to Congress upon request.

This bill does not apply to agency statements: (1) issued in accordance with formal rulemaking provisions under the Administrative Procedure Act when rules are required by statute to be made on the record after opportunity for an agency hearing; (2) pertaining to certain military or foreign affairs functions; (3) limited to organization, management, or personnel matters; or (4) exempted by OIRA with a published explanation online that includes the date of the decision and the reasons for exemption.

(Sec. 3) No additional funds are authorized to carry out this bill.

## Actions Timeline

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- **Mar 2, 2017:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
- **Mar 1, 2017:** Rule H. Res. 156 passed House.
- **Mar 1, 2017:** Considered under the provisions of rule H. Res. 156. (consideration: CR H1430-1447; text of amendment in the nature of a substitute: CR H1435-1438)
- **Mar 1, 2017:** Providing for consideration of H.R. 1004 and H.R. 1009.
- **Mar 1, 2017:** The Speaker designated the Honorable David P. Joyce to act as Chairman of the Committee.
- **Mar 1, 2017:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 156 and Rule XVIII.
- **Mar 1, 2017:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 1009.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Mitchell Part B amendment No. 1.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Buck Part B amendment No. 2.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Young (IA) Part B amendment No. 3.
- **Mar 1, 2017:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Young (IA) amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Ms. Plaskett demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until a time to be announced.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Meadows Part B amendment No. 4.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Chaffetz Part B amendment No. 5.
- **Mar 1, 2017:** DEBATE - Pursuant to the provisions of H. Res. 156, the Committee of the Whole proceeded with 10 minutes of debate on the Connolly Part B amendment No. 6.
- **Mar 1, 2017:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Connolly amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. Connolly demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until a time to be announced.
- **Mar 1, 2017:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was on amendments which had been debated earlier and on which further proceedings had been postponed.
- **Mar 1, 2017:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 1009.
- **Mar 1, 2017:** 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. (consideration: CR H1445)
- **Mar 1, 2017:** Mr. Cartwright moved to recommit with instructions to the Committee on Oversight and Government. (text: CR H1445)
- **Mar 1, 2017:** DEBATE - The House proceeded with 10 minutes of debate on the 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 a subsection at the end of the bill titled Exemption for the Office of Government Ethics.
- **Mar 1, 2017:** The previous question on the motion to recommit with instructions was ordered without objection.
- **Mar 1, 2017:** On motion to recommit with instructions Failed by recorded vote: 193 - 234 (Roll no. 119).
- **Mar 1, 2017:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 241 - 184 (Roll no. 120).
- **Mar 1, 2017:** On passage Passed by the Yeas and Nays: 241 - 184 (Roll no. 120).
- **Mar 1, 2017:** Motion to reconsider laid on the table Agreed to without objection.
- **Feb 28, 2017:** Rules Committee Resolution H. Res. 156 Reported to House. Providing for consideration of H.R. 1004 and H.R. 1009.
- **Feb 27, 2017:** Reported by the Committee on Oversight and Government Reform. H. Rept. 115-19, Part I.
- **Feb 27, 2017:** Committee on the Judiciary discharged.
- **Feb 27, 2017:** Placed on the Union Calendar, Calendar No. 7.
- **Feb 14, 2017:** Committee Consideration and Mark-up Session Held.

**Feb 14, 2017:** Ordered to be Reported by the Yeas and Nays: 23 - 16.

- **Feb 13, 2017:** Introduced in House
- **Feb 13, 2017:** Referred to the Subcommittee on Regulatory Reform, Commercial And Antitrust Law.
- **Feb 13, 2017:** 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.