

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 9643
OFFERED BY MR. COMER OF KENTUCKY

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Comment Integrity
3 and Management Act”.

4 SEC. 2. PURPOSE.

5 The purpose of this Act is to help Federal agencies
6 manage mass and computer-generated comments in the
7 Federal regulatory process. This should in no way be un-
8 derstood to discourage mass comments, which are a vital
9 part of the regulatory process.

10 SEC. 3. IMPROVING INTEGRITY AND MANAGEMENT OF
11 MASS COMMENTS AND COMPUTER-GEN-
12 ERATED COMMENTS IN THE REGULATORY
13 REVIEW PROCESS.

14 (a) IN GENERAL.—Section 206 of the E–Government
15 Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note)
16 is amended—

17 (1) by redesignating subsection (e) as sub-
18 section (f); and

1 (2) by inserting after subsection (d) the fol-
2 lowing:

3 “(e) INFORMATION INTEGRITY.—

4 “(1) VERIFICATION OF ELECTRONIC SUBMIS-
5 SIONS.—With respect to each comment accepted by
6 electronic means under subsection (c), in accordance
7 with the guidance established by Director in para-
8 graph (3), the head of an agency shall verify, to the
9 greatest extent possible, at the time the comment is
10 submitted, whether the comment has been submitted
11 by a human being.

12 “(2) IDENTIFICATION AND MANAGEMENT OF
13 MASS COMMENTS.—With respect to each comment
14 accepted by electronic means under subsection (c) by
15 the head of an agency, the head of the agency
16 shall—

17 “(A) to the extent practicable, reasonably
18 determine whether such comment is a mass
19 comment; and

20 “(B) in the case that the agency has made
21 a reasonable determination that the comment is
22 a mass comment, indicate on any publicly avail-
23 able copy of the comment, or comment vari-
24 ations, (through a label or indicator, and in a
25 machine and human readable format) that the

1 comment is part of a mass comment submis-
2 sion.

3 “(3) OMB GUIDANCE.—

4 “(A) GUIDANCE.—Not later than 240 days
5 after the date of the enactment of this sub-
6 section, the Director, in consultation with the
7 Administrator of General Services, shall issue
8 guidance to the heads of each agency on the im-
9 plementation of the requirements of this sub-
10 section.

11 “(B) CONTENTS OF GUIDANCE.—The
12 guidance issued pursuant to subparagraph (A)
13 shall include recommendations for agencies on
14 how to best manage comments accepted by elec-
15 tronic means, including recommendations on
16 how to do the following:

17 “(i) Use technology tools and proce-
18 dures that verify, to the greatest extent
19 possible, whether a comment is being sub-
20 mitted by a human being.

21 “(ii) Identify mass comments, includ-
22 ing how to leverage software tools to iden-
23 tify whether a comment is a mass com-
24 ment.

1 “(iii) Indicate (through a label or in-
2 dicator, and in a machine-and human-read-
3 able format) that a comment is a mass
4 comment.

5 “(iv) Use new technology to offer new
6 opportunities for public participation in the
7 rulemaking process.

8 “(C) UPDATES.—The Director, in con-
9 sultation with the Administrator of General
10 Services, may update the guidance issued pur-
11 suant to subparagraph (A), as determined nec-
12 essary by the Director.

13 “(4) POLICIES CONCERNING POSTING AND CON-
14 sideration of COMPUTER-GENERATED COMMENTS
15 AND MASS COMMENTS.—

16 “(A) IN GENERAL.—Not later than 1 year
17 after the date of the enactment of this sub-
18 section, the head of each agency shall establish
19 a policy with respect to the posting and consid-
20 eration of computer-generated comments and
21 mass-comments during the rulemaking process
22 of the agency that is consistent with—

23 “(i) the requirements of paragraph
24 (2); and

1 “(ii) the guidance issued under para-
2 graph (3).

3 “(B) AVAILABILITY OF POLICY.—Not later
4 than 60 days after the date on which the head
5 of an agency establishes a policy pursuant to
6 subparagraph (A), the head of the agency shall,
7 to the extent practicable, post the policy on the
8 website through which an agency makes com-
9 ments available pursuant to subsection
10 (d)(2)(A).

11 “(C) UPDATE TO POLICY.—The policy es-
12 tablished pursuant to subparagraph (A)—

13 “(i) shall be updated as necessary to
14 make such guidance consistent with any
15 updates to the guidance issued under para-
16 graph (3); and

17 “(ii) may be updated by the head of
18 the agency, in consultation with the Direc-
19 tor, as the head of the agency determines
20 appropriate.

21 “(5) EXCEPTION TO TIME LIMITATION FOR IM-
22 PLEMENTATION.—The requirement described under
23 subsection (f) shall not apply to this subsection.

24 “(6) DEFINITIONS.—In this subsection:

1 “(A) COMMENT.—The term ‘comment’
2 means a submission under section 553(c) of
3 title 5, United States Code.

4 “(B) COMPUTER-GENERATED COMMENT.—
5 The term ‘computer-generated comment’ means
6 a comment the substance of which is primarily
7 generated by computer software, including
8 through the use of artificial intelligence, rather
9 than by a human being.

10 “(C) MASS COMMENT.—The term ‘mass
11 comment’ means a comment submitted as part
12 of an organized submission of a large volume of
13 identical, or substantively identical, comments
14 submitted by different signatories or entities.”.

15 (b) UPDATE TO WEBSITES, INFORMATION SYSTEMS
16 OF AGENCIES.—

17 (1) IN GENERAL.—Not later than 18 months
18 after the date of the enactment of this Act, the head
19 of each agency subject to the requirements of section
20 206(e) of the E-Government Act, as added by sub-
21 section (a), shall update any website of the agency,
22 and any information system of the agency, as nec-
23 essary to ensure compliance with the requirements
24 of such section.

1 (2) REGULATIONS.GOV.—The Administrator of
2 General Services, acting through the eRulemaking
3 Program Management Office, shall update Regula-
4 tions.gov as necessary to ensure compliance with the
5 requirements of section 206(e) of the E–Government
6 Act, as added by subsection (a).

7 (3) ERULEMAKING SYSTEM.—The Adminis-
8 trator of General Services shall update the shared
9 eRulemaking system on behalf of participating agen-
10 cies.

11 (c) GAO REPORT ON COMPUTER-GENERATED COM-
12 MENTS.—Not later than 2 years after the date of the en-
13 actment of this Act, the Comptroller General of the United
14 States shall submit to the Committee on Oversight and
15 Government Reform of the House of Representatives and
16 the Committee on Homeland Security and Governmental
17 Affairs of the Senate a report on the identification of com-
18 puter-generated comments under section 206(e) of the E–
19 Government Act of 2002 (Public Law 107–347; 44 U.S.C.
20 3501 note) that includes the following:

21 (1) Recommendations on how to identify if a
22 submission under that section is a computer-gen-
23 erated comment.

24 (2) Any effect that computer-generated com-
25 ments have on the rulemaking process.

1 (3) The extent to which the public uses com-
2 puter-generated comments to participate in the rule-
3 making process at the time the report is submitted.

4 (4) How prevalent computer-generated com-
5 ments are at the time the report is submitted.

6 (5) How prevalent the Comptroller General an-
7 ticipates computer-generated comments will be 5
8 years after the date on which the report is sub-
9 mitted.

10 (d) RULE OF CONSTRUCTION.—Nothing in this Act,
11 or the amendments made by this Act, may be construed
12 as affecting the consideration of a mass comment by the
13 head of an agency during the rulemaking process.

14 (e) DEFINITIONS.—In this section:

15 (1) COMMENT.—The term “comment” means a
16 submission under section 553(c) of title 5, United
17 States Code.

18 (2) COMPUTER-GENERATED COMMENTS.—The
19 term “computer-generated comment” means a com-
20 ment the substance of which is primarily generated
21 by computer software, including through the use of
22 artificial intelligence, rather than by a human being.

23 (3) DIRECTOR.—The term “Director” means
24 the Director of the Office of Management and Budg-
25 et.

1 (4) MASS COMMENT.—The term “mass com-
2 ment” means a comment submitted as part of an or-
3 ganized submission of a large volume of identical, or
4 substantively identical, comments submitted by dif-
5 ferent signatories or entities.

