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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend section 206 of the E-Government Act of 2002 to improve the integrity and management of mass comments and computer-generated comments in the regulatory review process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HIGGINS of Louisiana introduced the following bill; which was referred to the Committee on _____

A BILL

To amend section 206 of the E-Government Act of 2002 to improve the integrity and management of mass comments and computer-generated comments in the regulatory review process, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comment Integrity
5 and Management Act”.

1 **SEC. 2. PURPOSE.**

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

7 **SEC. 3. IMPROVING INTEGRITY AND MANAGEMENT OF**
8 **MASS COMMENTS AND COMPUTER-GEN-**
9 **ERATED COMMENTS IN THE REGULATORY**
10 **REVIEW PROCESS.**

11 (a) IN GENERAL.— Section 206 of the E–Govern-
12 ment Act of 2002 (Public Law 107–347; 44 U.S.C. 3501
13 note) is amended by—

14 (1) redesignating subsection (e) as subsection
15 (f); and

16 (2) inserting after subsection (d) the following:
17 “(e) INFORMATION INTEGRITY.—

18 “(1) VERIFICATION OF ELECTRONIC SUBMIS-
19 SIONS.—With respect to each comment accepted by
20 electronic means under subsection (c), in accordance
21 with the guidance established by Director in para-
22 graph (3), the head of an agency shall verify, to the
23 greatest extent possible, at the time the comment is
24 submitted, whether the comment has been submitted
25 by a human being.

1 “(2) IDENTIFICATION AND MANAGEMENT OF
2 MASS COMMENTS.—

3 “(A) IDENTIFICATION OF MASS COM-
4 MENTS.—With respect to each comment accept-
5 ed by electronic means under subsection (c) by
6 the head of an agency, the head of the agency
7 shall—

8 “(i) to the extent practicable, reason-
9 ably determine whether such comment is a
10 mass comment; and

11 “(ii) in the case that the agency has
12 made a reasonable determination that the
13 comment is a mass comment, indicate on
14 any publicly available copy of the comment,
15 or comment variations, (through a label or
16 indicator, and in a machine and human
17 readable format) that the comment is part
18 of a mass comment submission; and

19 “(B) HANDLING OF MASS COMMENTS.—
20 Notwithstanding subsection (d)(2)(A), instead
21 of making available through the electronic dock-
22 et of the agency each comment identified as a
23 mass comment under paragraph (2), the head
24 of an agency may—

1 “(i) make available through such
2 docket only a single representative sample
3 of each such mass comment; or

4 “(ii) in the case where mass com-
5 ments take the form of variations on cer-
6 tain standardized but not identical lan-
7 guage the agency make available through
8 such docket a single copy of one of the
9 variations of the mass comment.

10 “(C) NUMBER OF SUBMISSIONS.—In case
11 in which the head of an agency makes available
12 through such docket a single representative
13 sample or a single copy of one of the variations
14 of a mass comment under subparagraph (B),
15 the head of the agency shall indicate (through
16 a label or indicator, and in a machine and
17 human readable format), on the sample or copy
18 made available, the number of submissions that
19 were determined to be identical, or sub-
20 stantively identical to the sample or copy made
21 available on such docket.

22 “(3) OMB GUIDANCE.—

23 “(A) GUIDANCE.—Not later than 240 days
24 after the date of the enactment of this sub-
25 section, the Director, in consultation with the

1 Administrator of General Services, shall issue
2 guidance to the heads of each agency on the im-
3 plementation of the requirements of this sub-
4 section.

5 “(B) CONTENTS OF GUIDANCE.—The
6 guidance issued pursuant to subparagraph (A)
7 shall include recommendations for agencies on
8 how to best manage comments accepted by elec-
9 tronic means, including recommendations on
10 how to do the following:

11 “(i) Use technology tools and proce-
12 dures that verify, to the greatest extent
13 possible, whether a comment is being sub-
14 mitted by a human being.

15 “(ii) Identify mass comments, includ-
16 ing how to leverage software tools to iden-
17 tify whether a comment is a mass com-
18 ment.

19 “(iii) Indicate (through a label or in-
20 dicator, and in a machine- and human-
21 readable format), that a comment is a
22 mass comment.

23 “(iv) Use new technology to offer new
24 opportunities for public participation in the
25 rulemaking process.

1 “(C) UPDATES.—The Director, in con-
2 sultation with the Administrator of General
3 Services, may update the guidance issued pur-
4 suant to subparagraph (A), as determined nec-
5 essary by the Director.

6 “(4) POLICIES CONCERNING POSTING AND CON-
7 SIDERATION OF COMPUTER-GENERATED COMMENTS
8 AND MASS COMMENTS.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of the enactment of this sub-
11 section, the head of each agency shall establish
12 a policy with respect to the posting and consid-
13 eration of computer-generated comments and
14 mass-comments during the rulemaking process
15 of the agency that is consistent with—

16 “(i) the requirements of paragraph
17 (2); and

18 “(ii) the guidance issued under para-
19 graph (3).

20 “(B) AVAILABILITY OF POLICY.—Not later
21 than 60 days after the date on which the head
22 of an agency establishes a policy pursuant to
23 subparagraph (A), the head of the agency shall,
24 to the extent practicable, post the policy on the
25 website through which an agency makes com-

1 ments available pursuant to subsection
2 (d)(2)(A).

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

5 “(i) shall be updated as necessary to
6 make such guidance consistent with any
7 updates to the guidance issued under para-
8 graph (3); and

9 “(ii) may be updated by the head of
10 the agency, in consultation with the Direc-
11 tor, as the head of the agency determines
12 appropriate.

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

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

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

20 “(B) COMPUTER-GENERATED COMMENT.—
21 The term ‘computer-generated comment’ means
22 a comment the substance of which is primarily
23 generated by computer software, including
24 through the use of artificial intelligence, rather
25 than by a human being.

1 “(C) MASS COMMENT.—The term ‘mass
2 comment’ means a comment submitted as part
3 of an organized submission of a large volume of
4 identical, or substantively identical, comments
5 submitted by different signatories or entities.”.

6 (b) UPDATE TO WEBSITES, INFORMATION SYSTEMS
7 OF AGENCIES.—

8 (1) IN GENERAL.—Not later than 18 months
9 after the date of the enactment of this Act, the head
10 of each agency subject to the requirements of section
11 206(e) of the E-Government Act, as added by sub-
12 section (a), shall update any website of the agency,
13 and any information system of the agency, as nec-
14 essary to ensure compliance with the requirements
15 of such section.

16 (2) REGULATIONS.GOV.—The Administrator of
17 General Services, acting through the eRulemaking
18 Program Management Office, shall update Regula-
19 tions.gov as necessary to ensure compliance with the
20 requirements of section 206(e) of the E-Government
21 Act, as added by subsection (a).

22 (3) ERULEMAKING SYSTEM.—The Adminis-
23 trator of General Services shall update the shared
24 eRulemaking system on behalf of participating agen-
25 cies.

1 (c) GAO REPORT ON COMPUTER-GENERATED COM-
2 MENTS.—

3 (1) REPORT.—Not later than 2 years after the
4 date of the enactment of this Act, the Comptroller
5 General of the United States shall submit to the
6 Committee on Oversight and Government Reform of
7 the House of Representatives and the Committee on
8 Homeland Security and Governmental Affairs of the
9 Senate a report on the identification of computer-
10 generated comments under section 206(e) of the E-
11 Government Act of 2002 (Public Law 107–347; 44
12 U.S.C. 3501 note), that includes the following:

13 (A) Recommendations on how to identify if
14 a submission under that section is a computer-
15 generated comment.

16 (B) Any effect that computer-generated
17 comments have on the rulemaking process.

18 (C) The extent to which the public uses
19 computer-generated comments to participate in
20 the rulemaking process at the time the report
21 is submitted.

22 (D) How prevalent computer-generated
23 comments are at the time the report is sub-
24 mitted.

1 (E) How prevalent the Comptroller Gen-
2 eral anticipates computer-generated comments
3 will be 5 years after the date on which the re-
4 port is submitted.

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

9 (e) DEFINITIONS.—In this section:

10 (1) COMMENT.—The term “comment” means a
11 submission under section 553(e) of title 5, United
12 States Code.

13 (2) COMPUTER-GENERATED COMMENTS.—The
14 term “computer-generated comment” means a com-
15 ment the substance of which is primarily generated
16 by computer software, including through the use of
17 artificial intelligence, rather than by a human being.

18 (3) DIRECTOR.—The term “Director” means
19 the Director of the Office of Management and Budg-
20 et.

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