

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

H. R. 7219

To ensure that Federal agencies rely on the best reasonably available scientific, technical, demographic, economic, and statistical information and evidence to develop, issue or inform the public of the nature and bases of Federal agency rules and guidance, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Information Quality
5 Assurance Act”.

6 **SEC. 2. INFORMATION QUALITY ASSURANCE.**

7 (a) IN GENERAL.—Subchapter I of chapter 35 of title
8 44, United States Code, is amended by adding at the end
9 the following:

1 **“§ 3522. Information Quality Assurance.**

2 “(a) IN GENERAL.—Not later than 1 year after the
3 date of the enactment of the Information Quality Assur-
4 ance Act, the Director shall—

5 “(1) update the guidelines issued under sub-
6 section (a) of section 515 of the Consolidated Appro-
7 priations Act, 2001 (commonly known as the ‘Infor-
8 mation Quality Act’) (Public Law 106–554; 114
9 Stat. 2763A–153) (referred to in this section as the
10 ‘Information Quality Act’)—

11 “(A) to provide policy and procedural guid-
12 ance to the heads of Federal agencies for better
13 ensuring and maximizing the quality, objec-
14 tivity, utility, and integrity of influential infor-
15 mation or evidence—

16 “(i) used by the heads of Federal
17 agencies to develop or issue rules and guid-
18 ance made available to the public; or

19 “(ii) disseminated to the public to in-
20 form the public about the nature and bases
21 of such rules and guidance; and

22 “(B) in a manner consistent with—

23 “(i) this chapter; and

24 “(ii) the amendments made by the
25 Foundations for Evidence-Based Policy-

1 making Act of 2018 (Public Law 115–435;
2 132 Stat. 5529); and

3 “(2) make the guidelines updated under para-
4 graph (1) available on the website of the Office of
5 Management and Budget.

6 “(b) CONTENT OF GUIDELINES.—In updating the
7 guidelines under subsection (a), the Director shall require
8 that the head of each Federal agency to which the guide-
9 lines apply, not later than 1 year after the Director up-
10 dates such guidelines—

11 “(1) update any guidelines issued by the head
12 of the Federal agency under the Information Quality
13 Act to ensure that, in the case of influential infor-
14 mation or evidence, the best reasonably available in-
15 formation and evidence that is fit-for-purpose is re-
16 lied on in developing, issuing, or informing the pub-
17 lic about the rules and guidance of the Federal
18 agency;

19 “(2) publish the guidelines updated by the head
20 of the Federal agency under paragraph (1) on the
21 website of the Federal agency;

22 “(3) ensure the administrative mechanisms es-
23 tablished under subparagraph (B) of subsection
24 (b)(2) of the Information Quality Act are made
25 available, as applicable, with respect to seeking and

1 obtaining the correction of any influential informa-
2 tion or evidence disseminated by agencies that the
3 Federal agency uses to develop or issue a rule or
4 guidance made available to the public, or to inform
5 the public of the nature and basis of any rule or
6 guidance of the Federal agency, that does not com-
7 ply with the guidelines issued under paragraph (1);
8 and

9 “(4) include in the report required under sub-
10 paragraph (C) of subsection (b)(2) of the Informa-
11 tion Quality Act the information described under
12 that subparagraph with respect to any complaints
13 received by the Federal agency related to the accu-
14 racy of influential information or evidence the Fed-
15 eral agency uses to develop, issue, or inform the
16 public of the nature and bases of rules or guidance.

17 “(c) PUBLIC DISCLOSURE.—

18 “(1) AVAILABILITY.—

19 “(A) IN GENERAL.—Not later than 1 year
20 after the date of enactment of this Act, the Di-
21 rector shall issue guidance, which may be in-
22 cluded in the guidelines under subsection (a),
23 that directs the head of the Federal agency to
24 make available, except as provided under para-
25 graph (2), in the docket for the rulemaking of

1 any rule of the Federal agency, or in the public
2 administrative record for any guidance—

3 “(i) the critical factual material upon
4 which the head of a Federal agency relied
5 as part of the rulemaking or guidance de-
6 velopment process; and

7 “(ii) a citation to any other source
8 used to inform the rulemaking or guidance
9 development process.

10 “(B) PROCESS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided under clause (ii), the guidance re-
13 quired under subparagraph (A) shall direct
14 an agency to make available the informa-
15 tion that must be made available under
16 that subparagraph as soon as reasonably
17 possible before, but at a minimum at, the
18 time that the Federal agency promulgates
19 a rule or issues guidance.

20 “(ii) NOTICE AND COMMENT.—If a
21 Federal agency engages in notice and com-
22 ment rulemaking under section 553 of title
23 5, United States Code, or provides for pub-
24 lic notice and an opportunity to comment
25 on proposed guidance, the guidance re-

1 required under subparagraph (A) shall direct
2 the Federal agency to provide notice and
3 an opportunity to comment on the critical
4 factual material upon which the head of a
5 Federal agency relied.

6 “(C) REVISIONS.—If the critical factual
7 material under subparagraph (A)(i) is revised
8 in a manner that may materially affect the
9 rulemaking or guidance after the public is given
10 notice and an opportunity to comment pursuant
11 to subparagraph (B)(ii), but before the rule or
12 guidance is published, the head of the Federal
13 agency shall make the revision available in the
14 docket for the rulemaking or in the applicable
15 administrative record for the guidance in a
16 timely manner.

17 “(2) EXCEPTION.—

18 “(A) IN GENERAL.—The guidance under
19 paragraph (1) shall direct the head of the Fed-
20 eral agency—

21 “(i) to implement paragraph (1), con-
22 sistent with this chapter, sections 552 and
23 552a of title 5, and any rights under titles
24 17 and 35;

1 “(ii) to implement paragraph (1) to
2 the maximum extent feasible, considering
3 costs to the Federal Government; and

4 “(iii) in implementing paragraph (1),
5 to not make available in the docket for the
6 rulemaking of any rule of the Federal
7 agency, or in the public administrative
8 record for any guidance, as applicable, in-
9 formation that is prohibited from being
10 disclosed to the public under any statute.

11 “(B) EXPLANATION TO BE INCLUDED IN
12 DOCKET OR ADMINISTRATIVE RECORD.—If the
13 head of the Federal agency does not make crit-
14 ical factual material available under paragraph
15 (1), subject to subparagraph (A) of this para-
16 graph, the head of the Federal agency shall in-
17 clude in the docket for the rulemaking or the
18 public administrative record, if applicable, for
19 the guidance—

20 “(i) an explanation as to why such in-
21 formation cannot be made publicly avail-
22 able; and

23 “(ii) a description of any steps being
24 taken to increase access to such informa-

1 lic may request to obtain a full copy of the
2 information from such holder.

3 “(d) **LIMITATION ON JUDICIAL REVIEW.**—Nothing in
4 this section shall be construed to authorize rights to judi-
5 cial review, other than to those rights in existence on the
6 day before the date of enactment of the Information Qual-
7 ity Assurance Act, or create any additional rights under
8 chapter 5 or 7 of title 5, United States Code (commonly
9 referred to as the ‘Administrative Procedure Act’).

10 “(e) **DEFINITIONS.**—In this section:

11 “(1) **EVIDENCE.**—The term ‘evidence’ has the
12 meaning given that term in section 3561.

13 “(2) **INFORMATION QUALITY ACT.**—The term
14 ‘Information Quality Act’ means section 515 of the
15 Treasury and General Government Appropriations
16 Act, 2001 (Public Law 106–554).”.

17 “(b) **TABLE OF CONTENTS.**—The table of contents for
18 subchapter I of chapter 35 of title 44, United States Code,
19 is amended by adding after the item relating to section
20 3521 the following:

 “3522. Information Quality Assurance.”.

21 “(c) **NO ADDITIONAL FUNDS.**—No additional funds
22 are authorized to be appropriated for the purpose of car-
23 rying out this Act or the amendments made by this Act.