

**AMENDMENT TO H.R. 4768, AS REPORTED
OFFERED BY MR. RUSSELL OF OKLAHOMA**

Add at the end of the bill the following:

1 **SEC. 3. REQUIRING NOTICE AND COMMENT FOR CERTAIN**
2 **INTERPRETIVE RULES.**

3 Subchapter II of chapter 5 of title 5, United States
4 Code, is amended—

5 (1) in section 551—

6 (A) in paragraph (13), by striking “and”
7 at the end;

8 (B) in paragraph (14), by striking the pe-
9 riod at the end and inserting a semicolon; and

10 (C) by adding at the end the following:

11 “(15) ‘longstanding interpretive rule’ means an
12 interpretive rule that has been in effect for not less
13 than 1 year;

14 “(16) ‘revise’ means, with respect to an inter-
15 pretive rule, to promulgate an interpretive rule, any
16 provision of which conflicts, or is in any way incon-
17 sistent with, any provision of a longstanding inter-
18 pretive rule; and

19 “(17) ‘interpretive rule’ means an agency’s in-
20 terpretation of a statute or regulation that is within

1 the authority or competence of the agency, provided
2 that, the existence of an agency's interpretation may
3 be demonstrated by—

4 “(A) an interpretation of a statute or regu-
5 lation published by the agency in the Federal
6 Register, or in a private letter ruling, advisory
7 opinion letter, or the equivalent, on agency let-
8 terhead signed by an agency official or em-
9 ployee having apparent authority to issue it;

10 “(B) a course of conduct by the agency
11 over a period of time with regard to two or
12 more regulated parties that are unrelated to
13 one another; or

14 “(C) other evidence that the trier of fact
15 may find material, probative and sufficiently re-
16 liable in the circumstance to prove existence of
17 an interpretation.”; and

18 (2) in section 553—

19 (A) in subsection (b), following the flush
20 text, in subparagraph (A), by striking “inter-
21 pretative rules” and inserting “an interpretive
22 rule of an agency, unless the interpretive rule
23 revises a longstanding interpretive rule of the
24 agency”; and

1 (B) in subsection (d)(2), by striking “in-
2 interpretative rules” and inserting “an interpre-
3 tive rule of an agency, unless the interpretive
4 rule revises a longstanding interpretive rule of
5 the agency, and”.

