

Union Calendar No. 226

118TH CONGRESS
1ST SESSION

H. R. 357

[Report No. 118–282]

To require the head of an agency to issue and sign any rule issued by that agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2023

Mr. CLINE (for himself, Mr. GOLDEN of Maine, Mr. PERRY, Mrs. MILLER of Illinois, Mr. GREEN of Tennessee, and Mr. OGLES) introduced the following bill; which was referred to the Committee on the Judiciary

NOVEMBER 29, 2023

Additional sponsors: Mr. BRECHEEN, Mr. NORMAN, Ms. MACE, Mr. CLOUD, Mr. GUEST, Mr. CRENSHAW, Ms. HAGEMAN, Mr. BIGGS, Mrs. LESKO, Mr. DONALDS, Mr. CRANE, Mr. FRY, Mr. GOODEN of Texas, and Mr. ALFORD

NOVEMBER 29, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 13, 2023]

A BILL

To require the head of an agency to issue and sign any rule issued by that agency, 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 “Ensuring Accountability*
5 *in Agency Rulemaking Act”.*

6 **SEC. 2. RULEMAKING REQUIREMENTS.**

7 *(a) APPROVAL REQUIRED.—*

8 *(1) RULES PROMULGATED BY SENATE CON-*
9 *FIRMED APPOINTEE.—Except as provided in para-*
10 *graph (3), any rule promulgated under section 553 of*
11 *title 5, United States Code, shall be issued and signed*
12 *by an individual appointed by the President, by and*
13 *with the advice and consent of the Senate.*

14 *(2) INITIATION OF RULEMAKING AND REGU-*
15 *LATORY AGENDA.—Except as provided in paragraph*
16 *(3), any rule initiated under section 553 of title 5,*
17 *United States Code, shall be initiated by a senior ap-*
18 *pointee.*

19 *(3) EXCEPTION.—Paragraph (1) or (2) does not*
20 *apply if the head of an agency—*

21 *(A) determines, on a nondelegable basis,*
22 *that compliance with the relevant paragraph*
23 *would impede public safety or security;*

1 (B) submits to the Administrator a notifica-
2 tion disclosing the reasons for the exemption;
3 and

4 (C) publishes such notification, consistent
5 with public safety, security, and privacy inter-
6 ests, in the Federal Register.

7 (b) OVERSIGHT.—

8 (1) AGENCY COMPLIANCE.—The head of each
9 agency shall ensure that the issuance of any agency
10 rule promulgated under section 553 of title 5, United
11 States Code, adheres to the requirements of this sec-
12 tion.

13 (2) OIRA GUIDANCE AND COMPLIANCE.—The
14 Administrator shall provide guidance on the imple-
15 mentation of and shall monitor agency compliance
16 with this section.

17 (c) RULES OF CONSTRUCTION.—This section may not
18 be construed to impair or otherwise affect the functions of
19 the Director of the Office of Management and Budget relat-
20 ing to budgetary, administrative, or legislative proposals.

21 (d) DEFINITIONS.—In this section:

22 (1) ADMINISTRATOR.—The term “Adminis-
23 trator” means the Administrator of the Office of In-
24 formation and Regulatory Affairs (OIRA) in the Of-
25 fice of Management and Budget (OMB).

1 (2) *AGENCY.*—*The term “agency” has the mean-*
2 *ing given that term under section 551 of title 5,*
3 *United States Code.*

4 (3) *RULE.*—*The term “rule” has the meaning*
5 *given that term in section 551 of title 5, United*
6 *States Code, and does not include any rule of agency*
7 *organization, procedure, or practice that does not sub-*
8 *stantially affect the rights or obligations of non-agen-*
9 *cy parties.*

10 (4) *SENIOR APPOINTEE.*—*The term “senior ap-*
11 *pointee” means an individual appointed by the Presi-*
12 *dent, or performing the functions and duties of an of-*
13 *fice that requires appointment by the President, or a*
14 *non-career member of the Senior Executive Service*
15 *(or equivalent agency system).*

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