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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring Accountability
in Agency Rulemaking Act”.

SEC. 2. RULEMAKING REQUIREMENTS.

(a) Approval Required.—

(1) Rules promulgated by Senate con-
formed appointee.—Except as provided in para-
graph (3), any rule promulgated under section 553 of
title 5, United States Code, shall be issued and signed
by an individual appointed by the President, by and
with the advice and consent of the Senate.

(2) Initiation of rulemaking and regu-
latory agenda.—Except as provided in paragraph
(3), any rule initiated under section 553 of title 5,
United States Code, shall be initiated by a senior ap-
pointee.

(3) Exception.—Paragraph (1) or (2) does not
apply if the head of an agency—

(A) determines, on a nondelegable basis,
that compliance with the relevant paragraph
would impede public safety or security;
(B) submits to the Administrator a notification disclosing the reasons for the exemption; and

(C) publishes such notification, consistent with public safety, security, and privacy interests, in the Federal Register.

(b) OVERSIGHT.—

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

(2) OIRA GUIDANCE AND COMPLIANCE.—The Administrator shall provide guidance on the implementation of and shall monitor agency compliance with this section.

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

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).
(2) AGENCY.—The term “agency” has the meaning given that term under section 551 of title 5, United States Code.

(3) RULE.—The term “rule” has the meaning given that term in section 551 of title 5, United States Code, and does not include any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

(4) SENIOR APPOINTEE.—The term “senior appointee” means an individual appointed by the President, or performing the functions and duties of an office that requires appointment by the President, or a non-career member of the Senior Executive Service (or equivalent agency system).
A BILL

[Report No. 118-282]

H. R. 357

118TH CONGRESS

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.

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