

118TH CONGRESS
1ST SESSION

H. R. 357

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2023

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ensuring Account-
3 ability in Agency Rulemaking Act”.

4 **SEC. 2. RULEMAKING REQUIREMENTS.**

5 (a) APPROVAL REQUIRED.—

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

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

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

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

22 (B) submits to the Administrator a notifi-
23 cation disclosing the reasons for the exemption;
24 and

1 (C) publishes such notification, consistent
2 with public safety, security, and privacy inter-
3 ests, in the Federal Register.

4 (b) OVERSIGHT.—

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

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

14 (c) RULES OF CONSTRUCTION.—This section may
15 not be construed to impair or otherwise affect the func-
16 tions of the Director of the Office of Management and
17 Budget relating to budgetary, administrative, or legislative
18 proposals.

19 (d) DEFINITIONS.—In this section:

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

(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).

Passed the House of Representatives December 12,
2023.

Attest: KEVIN F. MCCUMBER,
Clerk.