

119TH CONGRESS
1ST SESSION

H. R. 3525

To improve agency rulemaking, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2025

Ms. VAN DUYNE introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To improve agency rulemaking, 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 “Regulatory Account-
5 ability Act”.

6 **SEC. 2. DEFINITIONS.**

7 Section 551 of title 5, United States Code, is amend-
8 ed—

9 (1) in paragraph (5), by striking “rule making”
10 and inserting “rulemaking”;

11 (2) in paragraph (6), by striking “rule making”
12 and inserting “rulemaking”;

1 (3) in paragraph (13), by striking “and” at the
2 end;

3 (4) in paragraph (14), by striking the period at
4 the end and inserting a semicolon; and

5 (5) by adding at the end the following:

6 “(15) ‘guidance’ means an agency statement of
7 general applicability that—

8 “(A) is not intended to have the force and
9 effect of law; and

10 “(B) sets forth a policy on a statutory,
11 regulatory, or technical issue or an interpreta-
12 tion of a statutory or regulatory issue;

13 “(16) ‘major guidance’ means guidance that the
14 Administrator finds is—

15 “(A) likely to lead to—

16 “(i) any annual effect on the economy;

17 “(ii) a major increase in costs or
18 prices for consumers, individual industries,
19 Federal, State, local, or Tribal government
20 agencies, or geographic regions; or

21 “(iii) significant adverse effects on
22 competition, employment, investment, pro-
23 ductivity, innovation, public health and
24 safety, or the ability of United States-
25 based enterprises to compete with foreign-

1 based enterprises in domestic and export
2 markets; or

3 “(B) a departure from a prior statutory in-
4 terpretation or agency policy;

5 “(17) ‘major rule’ means any rule that the Ad-
6 ministrator determines is likely to—

7 “(A) cause an annual effect on the econ-
8 omy of \$100,000,000 or more;

9 “(B) cause a major increase in costs or
10 prices for consumers, individual industries, Fed-
11 eral, State, local, or Tribal government agen-
12 cies, or geographic regions;

13 “(C) cause significant adverse effects on
14 competition, employment, investment, produc-
15 tivity, innovation, public health and safety, or
16 the ability of United States-based enterprises to
17 compete with foreign-based enterprises in do-
18 mestic and export markets; or

19 “(D) raise novel legal or policy issues aris-
20 ing out of legal mandates;

21 “(18) ‘Office of Information and Regulatory Af-
22 fairs’ means the office established under section
23 3503 of title 44 and any successor to that office;
24 and

1 “(19) ‘Administrator’ means the Administrator
2 of the Office of Information and Regulatory Af-
3 fairs.”.

4 **SEC. 3. RULEMAKING.**

5 Section 553 of title 5, United States Code, is amend-
6 ed—

7 (1) in the section heading, by striking “**Rule**
8 **making**” and inserting “**Rulemaking**”;

9 (2) in subsection (a), by striking “(a) This sec-
10 tion applies” and inserting the following:

11 “(a) APPLICABILITY.—This section applies”; and

12 (3) by striking subsections (b) through (e) and
13 inserting the following:

14 “(b) RULEMAKING CONSIDERATIONS.—In a rule-
15 making, an agency shall consider, in addition to other ap-
16 plicable considerations, the following:

17 “(1) The legal authority under which a rule
18 may be proposed, including whether rulemaking is
19 required by statute or is within the discretion of the
20 agency.

21 “(2) The nature and significance of the problem
22 the agency intends to address with a rule.

23 “(3) Whether existing Federal laws or rules
24 have created or contributed to the problem the agen-
25 cy may address with a rule and, if so, whether those

1 Federal laws or rules could be amended or rescinded
2 to address the problem in whole or in part.

3 “(4) A reasonable number of alternatives for or
4 to a new rule, with the consideration of 3 alter-
5 natives presumed to be reasonable, that—

6 “(A) meet the objectives of the statutory
7 provision on which the rulemaking relies, in-
8 cluding substantial alternatives or other re-
9 sponses identified by the agency or by inter-
10 ested persons; and

11 “(B) consider not only mandating par-
12 ticular conduct or manners of compliance, but
13 also—

14 “(i) specifying performance objectives;

15 “(ii) establishing economic incentives,
16 including marketable permits, to encourage
17 desired behavior;

18 “(iii) establishing disclosure require-
19 ments that will provide information upon
20 which choices can be made by the public;
21 or

22 “(iv) adopting other means of meeting
23 the objectives of the statutory provision on
24 which the rulemaking relies without man-

1 dating particular conduct or manners of
2 compliance.

3 “(5) For any major rule, unless prohibited by
4 law, the potential costs and benefits associated with
5 potential alternative rules and other responses con-
6 sidered under paragraph (4), including quantitative
7 and qualitative analyses of—

8 “(A) the direct costs and benefits, with
9 costs and benefits measured over equal time pe-
10 riods;

11 “(B) the nature and degree of risks ad-
12 dressed by the rule and the countervailing risks
13 that might be posed by agency action; and

14 “(C) to the extent practicable, the cumu-
15 lative costs and benefits and the indirect costs
16 and benefits, and an analysis of the effects that
17 the rule is anticipated to have on entities that
18 purchase products or services from, sell prod-
19 ucts or services to, or otherwise conduct busi-
20 ness with entities to which the rule will apply.

21 “(c) NOTICE OF PROPOSED RULEMAKING.—

22 “(1) IN GENERAL.—If an agency determines
23 that the objectives of the agency require the agency
24 to issue a rule, the agency shall—

1 “(A) submit a notice of proposed rule-
2 making to the Administrator for review;

3 “(B) refrain from publishing the notice
4 until the Administrator concludes the review
5 under subparagraph (A); and

6 “(C) at the conclusion of review by the Ad-
7 ministrator, publish a notice of proposed rule-
8 making in the Federal Register, which shall in-
9 clude—

10 “(i) a statement of the time, place,
11 and nature of any public rulemaking pro-
12 ceedings;

13 “(ii) a reference to the legal authority
14 under which the rule is proposed, including
15 the specific statutory provision on which
16 the rulemaking relies;

17 “(iii) the text of the proposed rule;

18 “(iv) a summary of information
19 known to the agency concerning the con-
20 siderations described in subsection (b); and

21 “(v) where otherwise consistent with
22 applicable law, for any major rule—

23 “(I) a reasoned preliminary ex-
24 planation regarding how—

1 “(aa) the proposed rule
2 meets the objectives of the statu-
3 tory provision on which the rule-
4 making relies; and

5 “(bb) the benefits of the
6 proposed rule justify the costs;

7 “(II) a discussion of—

8 “(aa) the costs and benefits
9 of alternatives considered by the
10 agency under subsection (b)(4);

11 “(bb) whether the alter-
12 natives considered by the agency
13 under subsection (b)(4) meet the
14 objectives of the statutory provi-
15 sion on which the rulemaking re-
16 lies; and

17 “(cc) the reasons why the
18 agency did not propose an alter-
19 native considered by the agency
20 under subsection (b)(4); and

21 “(III) a solicitation of public
22 comment, including on all issues and
23 alternatives discussed under sub-
24 clauses (I) and (II) and subsection
25 (k)(1)(A).

1 “(2) ACCESSIBILITY.—

2 “(A) IN GENERAL.—Not later than the
3 date on which an agency publishes a notice of
4 proposed rulemaking under paragraph (1), all
5 studies, models, scientific literature, and other
6 information developed or relied upon by the
7 agency, and actions taken by the agency to ob-
8 tain that information, in connection with the
9 determination of the agency to propose the rule
10 that is the subject of the rulemaking shall be
11 placed in the docket for the proposed rule and
12 made accessible to the public.

13 “(B) INFORMATION CONTROLLED BY NON-
14 GOVERNMENTAL PERSON.—With respect to any
15 information to which a nongovernmental person
16 holds a legal right to prohibit or limit reproduc-
17 tion, distribution, or public display, the infor-
18 mation shall be—

19 “(i) placed in the docket through cita-
20 tion or incorporation by reference, includ-
21 ing a specification of the identity of the
22 nongovernmental person who holds a legal
23 right to prohibit or limit reproduction, dis-
24 tribution, or public display of the informa-
25 tion and the means by which a member of

1 the public may request a full copy of the
2 information from that holder; and

3 “(ii) considered made accessible to the
4 public after a placement described in
5 clause (i), provided that the nongovern-
6 mental person who holds a legal right to
7 prohibit or limit reproduction, distribution,
8 or public display of the information makes
9 the information reasonably available upon
10 request in a timely manner to any member
11 of the public who requests a copy of the in-
12 formation.

13 “(C) EXCEPTION.—Subparagraphs (A)
14 and (B) shall not apply with respect to informa-
15 tion that is exempt from disclosure under sec-
16 tion 552(b).

17 “(3) INFORMATION QUALITY.—If an agency
18 proposes a rule that rests upon scientific, technical,
19 or economic information, the agency shall—

20 “(A) propose the rule on the basis of the
21 best publicly available scientific, technical, or
22 economic information; and

23 “(B) to the maximum extent practicable,
24 use that information in compliance with the
25 guidelines issued under section 515 of the

1 Treasury and General Government Appropria-
2 tions Act, 2001 (Public Law 106–554; 114
3 Stat. 2763A–154).

4 “(4) PUBLIC COMMENT.—

5 “(A) IN GENERAL.—After publishing a no-
6 tice of proposed rulemaking under paragraph
7 (1), an agency shall provide interested persons
8 an opportunity to participate in the rulemaking
9 through the submission of written material,
10 data, views, or arguments with or without op-
11 portunity for oral presentation, except that
12 when a rule is required by statute to be made
13 on the record after opportunity for an agency
14 hearing, sections 556 and 557 shall apply.

15 “(B) TIMELINE.—

16 “(i) IN GENERAL.—Subject to sub-
17 paragraph (C), an agency shall provide not
18 less than 60 days, or, with respect to a
19 proposed major rule, not less than 90 days,
20 for interested persons to submit written
21 material, data, views, or arguments under
22 subparagraph (A).

23 “(ii) ADEQUATE REVIEW PERIOD.—If
24 a proposed rule relies on information
25 placed in the docket through citation or in-

1 corporation by reference as described in
2 paragraph (3)(B), the comment period re-
3 quired under clause (i) shall be adequate
4 to allow interested persons to receive and
5 review that information to inform their
6 submission.

7 “(C) RESPONSIVE COMMENT PERIOD FOR
8 MAJOR RULES.—With respect to a proposed
9 major rule, an interested person who made a
10 submission under subparagraph (A) during the
11 comment period under subparagraph (B) with
12 respect to the rule may, during the period be-
13 ginning on the day after the date on which that
14 comment period closes and ending on the date
15 that is 30 days after that day, respond to any
16 other submission made by any other interested
17 person under subparagraph (A) during the ini-
18 tial comment period.

19 “(D) ACCESSIBILITY.—All comments and
20 responses submitted under this paragraph shall
21 be promptly placed in the docket and made ac-
22 cessible to the public.

23 “(5) CHANGE OF CLASSIFICATION AFTER PUB-
24 LICATION OF NOTICE.—If, after an agency submits
25 for review and publishes the notice of proposed rule-

1 making required under paragraph (1), a proposed
2 rule is determined to be a major rule, the agency
3 shall—

4 “(A) publish a notice in the Federal Reg-
5 ister with respect to the change of the classi-
6 fication of the rule; and

7 “(B) allow interested persons an additional
8 opportunity of not less than 30 days to com-
9 ment on—

10 “(i) the rule; and

11 “(ii) the change of the classification of
12 the rule.

13 “(6) REQUIREMENTS FOR CERTAIN COMMU-
14 NICATIONS.—

15 “(A) PROHIBITION.—Except as provided
16 in subparagraph (C), after an agency publishes
17 a notice of proposed rulemaking required under
18 paragraph (1), or after an agency publishes a
19 notice of initiation of rulemaking under sub-
20 section (d)(1)(B), the agency, and any indi-
21 vidual acting in an official capacity on behalf of
22 the agency, may not communicate, and a person
23 who receives Federal funds from the agency
24 may not use those funds to communicate,
25 through written, oral, electronic, or other

1 means, to the public with respect to the pro-
2 posed rule in a manner that—

3 “(i) directly advocates, in support of
4 or against the proposed rule, for the sub-
5 mission of information that will form part
6 of the record for the proposed rule;

7 “(ii) appeals to the public, or solicits
8 a third party, to undertake advocacy in
9 support of or against the proposed rule; or

10 “(iii) is directly or indirectly for the
11 purpose of publicity or propaganda within
12 the United States in a manner that Con-
13 gress has not authorized.

14 “(B) EX PARTE COMMUNICATIONS.—All ex
15 parte communications between an agency and
16 any stakeholder that may benefit from a pro-
17 posed rule of the agency shall be published in
18 the Federal Register with the notice of pro-
19 posed rulemaking for that rule.

20 “(C) EXCEPTION.—The prohibition under
21 subparagraph (A) shall not apply to a commu-
22 nication that requests comments on, or provides
23 information regarding, a proposed rule in an
24 impartial manner.

1 “(d) ADVANCED NOTICE OF PROPOSED RULE-
2 MAKING FOR MAJOR RULES.—

3 “(1) NOTICE FOR MAJOR RULES.—When an
4 agency determines to initiate a rulemaking that may
5 result in a major rule, the agency shall—

6 “(A) establish an electronic docket for that
7 rulemaking, which may have a physical counter-
8 part; and

9 “(B) publish an advanced notice of pro-
10 posed rulemaking in the Federal Register,
11 which shall, at a minimum—

12 “(i) briefly describe the nature and
13 significance of the problem the agency may
14 address with the rule, including any data
15 or categories of data that the agency has
16 identified as relevant or that the agency in-
17 tends to consult for the rule;

18 “(ii) refer to the legal authority under
19 which the rule would be proposed, includ-
20 ing the specific statutory provision that au-
21 thorizes the rulemaking;

22 “(iii) invite interested persons to pro-
23 pose alternatives and other ideas regarding
24 how best to accomplish the objectives of
25 the agency in the most effective manner;

1 “(iv) solicit written data, views, and
2 arguments from interested persons con-
3 cerning the information and issues identi-
4 fied in the advanced notice;

5 “(v) provide for a period of not less
6 than 30 days for interested persons to sub-
7 mit written data, views, and arguments de-
8 scribed in clause (iv) to the agency; and

9 “(vi) appear in the Federal Register
10 not later than 90 days before the date on
11 which the agency publishes a notice of pro-
12 posed rulemaking for the rule.

13 “(2) ACCESSIBILITY.—All information provided
14 to the agency under paragraph (1) shall be promptly
15 placed in the docket and made accessible to the pub-
16 lic, unless the information—

17 “(A) is information to which the submitter
18 does not hold a legal right to authorize disclo-
19 sure; or

20 “(B) is exempt from disclosure under sec-
21 tion 552(b).

22 “(3) APPLICABILITY.—With respect to the al-
23 ternatives and other ideas proposed under paragraph
24 (1)(B)(iii)—

1 “(A) the alternatives and other ideas are
2 for the benefit of—

3 “(i) the agency receiving the alter-
4 natives and other ideas; and

5 “(ii) the public; and

6 “(B) the agency receiving the alternatives
7 and other ideas may respond to the alternatives
8 and other ideas.

9 “(4) TIMETABLE.—

10 “(A) IN GENERAL.—After considering any
11 written material submitted by interested per-
12 sons under paragraph (1), if an agency deter-
13 mines to proceed with a rulemaking for a major
14 rule, the agency proposing the rule shall estab-
15 lish a timetable for the rulemaking that—

16 “(i) contains intermediate completion
17 dates for actions of the agency, includ-
18 ing—

19 “(I) the anticipated date on
20 which the agency shall publish the no-
21 tice required under subsection (c)(1)
22 with respect to the rule; and

23 “(II) the duration of the com-
24 ment period required under subsection

1 (c)(4), including the date on which the
2 comment period shall end; and

3 “(ii) includes a final completion date
4 for actions by the agency.

5 “(B) PUBLICATION.—The timetable re-
6 quired under subparagraph (A) shall be pub-
7 lished in the electronic docket established under
8 paragraph (1)(A) with respect to the rule-
9 making.

10 “(C) CONSIDERATION OF FACTORS.—In
11 establishing the timetable required under sub-
12 paragraph (A), an agency shall consider rel-
13 evant factors, including—

14 “(i) the size and complexity of the
15 rulemaking;

16 “(ii) the resources available to the
17 agency;

18 “(iii) the national significance of the
19 rulemaking; and

20 “(iv) all statutory requirements that
21 govern the timing of the rulemaking.

22 “(D) REPORT REQUIRED.—

23 “(i) IN GENERAL.—An agency that
24 fails to meet an intermediate or final com-
25 pletion date for an action established under

1 subparagraph (A) shall submit to Congress
2 and the Director of the Office of Manage-
3 ment and Budget a report regarding why
4 the agency failed to meet the completion
5 date.

6 “(ii) CONTENTS; PUBLICATION IN
7 FEDERAL REGISTER.—A report submitted
8 under clause (i) shall—

9 “(I) include an amended time-
10 table for the rulemaking; and

11 “(II) be published—

12 “(aa) in the Federal Reg-
13 ister; and

14 “(bb) in the electronic dock-
15 et established under paragraph
16 (1)(A) with respect to the rule-
17 making.

18 “(E) CHANGES TO INTERMEDIATE DATES
19 PUBLISHED IN ELECTRONIC DOCKET.—If an
20 agency changes an intermediate completion date
21 for an action of the agency established under
22 subparagraph (A)(i), the agency shall publish in
23 the electronic docket established under para-
24 graph (1)(A)—

1 “(i) the updated completion date for
2 the action; and

3 “(ii) a brief explanation regarding the
4 reason for the change to the completion
5 date.

6 “(5) NOTICE OF DETERMINATION OF OTHER
7 AGENCY COURSE.—

8 “(A) IN GENERAL.—If, after publishing
9 the notice required under paragraph (1), an
10 agency determines not to issue a major rule,
11 the agency shall—

12 “(i) publish a notice of determination
13 of other agency course; and

14 “(ii) if the agency intends to issue a
15 rule, comply with the procedures required
16 under subsection (c).

17 “(B) CONTENTS.—A notice of determina-
18 tion of other agency course published under
19 subparagraph (A)(i) shall include—

20 “(i) a description of the alternative re-
21 sponse the agency has determined to
22 adopt; and

23 “(ii) if the agency intends to issue a
24 rule, any information required under sub-
25 section (c).

1 “(e) FINAL RULES.—

2 “(1) NET BENEFITS OF MAJOR RULE.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), in a rulemaking for a major
5 rule, an agency shall adopt the alternative con-
6 sidered under subsection (b)(5) that maximizes
7 net benefits, taking into consideration—

8 “(i) cumulative regulatory cost bur-
9 dens; and

10 “(ii) only benefits that arise within
11 the scope of the statutory provision that
12 authorizes the rulemaking.

13 “(B) EXCEPTIONS.—In a rulemaking for a
14 major rule, an agency may adopt an alternative
15 other than as required under subparagraph (A)
16 only if—

17 “(i) the Administrator approves the
18 adoption by the agency of the alternative;
19 and

20 “(ii) the alternative is adopted to—

21 “(I) account for costs or benefits
22 that cannot be quantified, including
23 costs or benefits related to constitu-
24 tional or civil rights, provided that the
25 agency identifies all such costs and

1 benefits and explains why those costs
2 and benefits justify the adoption of
3 the alternative; or

4 “(II) achieve additional benefits
5 or cost reductions, provided that the
6 agency—

7 “(aa) identifies—

8 “(AA) all such addi-
9 tional benefits and the asso-
10 ciated costs of those bene-
11 fits; and

12 “(BB) all such cost re-
13 ductions and the associated
14 benefits of those cost reduc-
15 tions; and

16 “(bb) explains why—

17 “(AA) the additional
18 benefits justify the addi-
19 tional costs; or

20 “(BB) the additional
21 cost reductions justify any
22 benefits foregone.

23 “(C) RULE OF CONSTRUCTION.—Nothing
24 in subparagraph (A) may be construed to pre-
25 clude an agency from including in an alter-

1 native adopted pursuant to such subparagraph
2 changes made as a result of agency analysis or
3 review performed under chapter 6 of this title.

4 “(2) PUBLICATION OF NOTICE OF FINAL RULE-
5 MAKING.—After submitting a final rule to the Ad-
6 ministrator for review and obtaining a certification
7 from the Administrator that the review has con-
8 cluded, the agency shall publish a notice of final
9 rulemaking in the Federal Register, which shall in-
10 clude—

11 “(A) a concise, general statement of the
12 basis and purpose of the rule and a reference
13 to the legal authority under which the rule is
14 made, including the specific statutory provision
15 on which the rulemaking relies;

16 “(B) a reasoned determination by the
17 agency regarding the considerations described
18 in subsection (b);

19 “(C) a response to each significant issue
20 raised in the comments on the proposed rule;

21 “(D) the internet address of a summary of
22 not more than 100 words in length of the pro-
23 posed rule, in plain language, that shall be
24 posted on the internet website under section
25 206(d) of the E-Government Act of 2002 (44

1 U.S.C. 3501 note) (commonly known as regula-
2 tions.gov); and

3 “(E) with respect to a major rule, a rea-
4 soned determination by the agency that—

5 “(i) the benefits of the rule advance
6 the relevant objectives of the statutory pro-
7 vision on which the rulemaking relies and
8 justify the costs of the rule; and

9 “(ii)(I) no other alternative considered
10 would achieve the relevant objectives of the
11 statutory provision on which the rule-
12 making relies in a manner that more
13 greatly maximizes net benefits as required
14 under paragraph (1)(A); or

15 “(II) the adoption by the agency of a
16 more costly or less costly rule complies
17 with paragraph (1)(B).

18 “(3) INFORMATION QUALITY.—If an agency
19 rulemaking rests upon scientific, technical, or eco-
20 nomic information, the agency shall—

21 “(A) adopt a final rule on the basis of the
22 best reasonably available scientific, technical, or
23 economic information; and

24 “(B) to the maximum extent practicable,
25 use that information in compliance with the

1 guidelines issued under section 515 of the
2 Treasury and General Government Appropria-
3 tions Act, 2001 (Public Law 106–554; 114
4 Stat. 2763A–154).

5 “(4) ACCESSIBILITY.—

6 “(A) IN GENERAL.—Not later than the
7 date on which an agency publishes a notice of
8 final rulemaking under paragraph (2), all stud-
9 ies, models, scientific literature, and other in-
10 formation developed or relied upon by the agen-
11 cy, and actions taken by the agency to obtain
12 that information, in connection with the deter-
13 mination of the agency to finalize the rule that
14 is the subject of the rulemaking shall be placed
15 in the docket for the rule and made accessible
16 to the public.

17 “(B) INFORMATION CONTROLLED BY NON-
18 GOVERNMENTAL PERSON.—With respect to any
19 information to which a nongovernmental person
20 holds a legal right to prohibit or limit reproduc-
21 tion, distribution, or public display, the infor-
22 mation shall be—

23 “(i) placed in the docket through cita-
24 tion or incorporation by reference, includ-
25 ing a specification of the identity of the

1 nongovernmental person who holds a legal
2 right to prohibit or limit reproduction, dis-
3 tribution, or public display of the informa-
4 tion and the means by which a member of
5 the public may request a full copy of the
6 information from that holder; and

7 “(ii) considered made accessible to the
8 public after a placement described in
9 clause (i), provided that the nongovern-
10 mental person who holds a legal right to
11 prohibit or limit reproduction, distribution,
12 or public display of the information makes
13 the information reasonably available upon
14 request in a timely manner.

15 “(C) EXCEPTION.—Subparagraphs (A)
16 and (B) shall not apply with respect to informa-
17 tion that is exempt from disclosure under sec-
18 tion 552(b).

19 “(5) RULES ADOPTED AT THE END OF A PRESI-
20 DENTIAL ADMINISTRATION.—

21 “(A) IN GENERAL.—During the 60-day pe-
22 riod beginning on a transitional inauguration
23 day (as defined in section 3349a), with respect
24 to any final rule that had been placed on file
25 for public inspection by the Office of the Fed-

1 eral Register or published in the Federal Reg-
2 ister as of the date of the inauguration, but
3 which had not become effective by the date of
4 the transitional inauguration day, the agency
5 issuing the rule may, by order, delay the effec-
6 tive date of the rule for not more than 90 days
7 for the purpose of obtaining public comment on
8 whether—

9 “(i) the rule should be amended or re-
10 scinded; or

11 “(ii) the effective date of the rule
12 should be further delayed.

13 “(B) OPPORTUNITY FOR COMMENT.—If an
14 agency delays the effective date of a rule under
15 subparagraph (A), the agency shall give the
16 public not less than 30 days to submit com-
17 ments.

18 “(C) CITATION TO CONGRESSIONAL
19 RECORD.—Not later than 30 days after a final
20 rule described in subparagraph (A) goes into ef-
21 fect, or, in the case of a final rule described in
22 subparagraph (A) that is a major rule, not later
23 than the date on which the final rule goes into
24 effect, the agency promulgating the rule shall
25 publish in the Federal Register a citation to the

1 Congressional Record for the submission re-
2 quired under section 801(a)(1)(A) of this title
3 with respect to the final rule.

4 “(f) APPLICABILITY.—

5 “(1) PRIMACY OF CERTAIN RULEMAKING CON-
6 siderations and procedures in other Federal
7 laws.—

8 “(A) CONSIDERATIONS.—If a rulemaking
9 is authorized under a Federal law that requires
10 an agency to consider, or prohibits an agency
11 from considering, a factor in a manner that is
12 inconsistent with, or that conflicts with, the re-
13 quirements under this section, for the purposes
14 of this section, the requirement or prohibition,
15 as applicable, in that other Federal law shall
16 apply to the agency in the rulemaking.

17 “(B) PROCEDURAL REQUIREMENTS.—If a
18 rulemaking is authorized under a Federal law
19 that requires an agency to follow or use, or pro-
20 hibits an agency from following or using, a pro-
21 cedure in a manner that is duplicative of, or
22 that conflicts with, a procedural requirement
23 under this section, for the purposes of this sec-
24 tion, the requirement or prohibition, as applica-

1 ble, in that other Federal law shall apply to the
2 agency in the rulemaking.

3 “(2) GUIDANCE AND RULES OF ORGANIZA-
4 TION.—Except as otherwise provided by law, this
5 section shall not apply to guidance or rules of agen-
6 cy organization, procedure, or practice.

7 “(3) EXCEPTIONS FOR GOOD CAUSE.—

8 “(A) FINDING OF GOOD CAUSE.—

9 “(i) IN GENERAL.—If an agency for
10 good cause finds that compliance with sub-
11 section (c), (d), or (e)(2)(B) before issuing
12 a final rule is unnecessary, impracticable,
13 or contrary to the public interest, that sub-
14 section shall not apply and the agency may
15 issue the final rule or an interim final rule,
16 as applicable, under subparagraph (B) or
17 (C).

18 “(ii) INCORPORATION OF GOOD CAUSE
19 FINDING.—If an agency makes a finding
20 under clause (i), the agency shall include
21 that finding and a detailed statement with
22 respect to the reasons for that finding in
23 the final rule or interim final rule, as ap-
24 plicable, issued by the agency.

25 “(B) DIRECT FINAL RULES.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), if an agency makes a
3 finding under subparagraph (A)(i) that
4 compliance with subsection (c), (d), or
5 (e)(2)(B) before issuing a final rule is un-
6 necessary, the agency shall, before issuing
7 the final rule—

8 “(I) publish in the Federal Reg-
9 ister the text of the final rule, the
10 brief statement required under sub-
11 paragraph (A)(ii), and a notice of op-
12 portunity for public comment;

13 “(II) establish a comment period
14 of not less than 30 days for any inter-
15 ested person to submit written mate-
16 rial, data, views, or arguments with
17 respect to the final rule; and

18 “(III) provide notice of the date
19 on which the rule will take effect.

20 “(ii) EXCEPTION.—An agency that
21 made a finding described in clause (i) may
22 choose not to follow the requirements
23 under that clause if the agency determines
24 that following the requirements would not
25 expedite the issuance of the final rule.

1 “(iii) ADVERSE COMMENTS.—If an
2 agency receives significant adverse com-
3 ments with respect to a rule during the
4 comment period established under clause
5 (i)(II), the agency shall—

6 “(I) withdraw the notice of final
7 rulemaking published by the agency
8 with respect to the rule; and

9 “(II) complete rulemaking in ac-
10 cordance with subsections (c) through
11 (e), as applicable.

12 “(C) INTERIM FINAL RULES.—

13 “(i) IN GENERAL.—If an agency for
14 good cause finds that compliance with sub-
15 section (c), (d), or (e)(2)(B) before issuing
16 a final rule is impracticable or contrary to
17 the public interest, the agency shall issue
18 an interim final rule by—

19 “(I) publishing the interim final
20 rule and a request for public comment
21 in the portion of the Federal Register
22 relating to final rules; and

23 “(II) providing a cross-reference
24 in the portion of the Federal Register
25 relating to proposed rules that re-

1 quests public comment with respect to
2 the rule not later than 60 days after
3 the rule is published under subclause
4 (I).

5 “(ii) INTERIM PERIOD.—

6 “(I) IN GENERAL.—Not later
7 than 180 days after the date on which
8 an agency issues an interim final rule
9 under clause (i), the agency shall—

10 “(aa) rescind the interim
11 rule;

12 “(bb) initiate rulemaking in
13 accordance with subsections (c)
14 through (e); or

15 “(cc) take final action to
16 adopt a final rule.

17 “(II) NO FORCE OR EFFECT.—If,
18 as of the end of the 180-day period
19 described in subclause (I), an agency
20 fails to take an action described in
21 item (aa), (bb), or (cc) of that sub-
22 clause, the interim final rule issued by
23 the agency shall have no force or ef-
24 fect.

1 “(4) EXEMPTION FOR MONETARY POLICY.—

2 This section shall not apply to a rulemaking or to
3 guidance that concerns monetary policy proposed or
4 implemented by the Board of Governors of the Fed-
5 eral Reserve System or the Federal Open Market
6 Committee.

7 “(5) RULE OF CONSTRUCTION.—Nothing in
8 this subsection shall be construed to modify, alter, or
9 abridge exclusive rights held pursuant to title 17.

10 “(g) DATE OF PUBLICATION.—A final rule, a direct
11 final rule described in subsection (f)(3)(B), or an interim
12 final rule described in subsection (f)(3)(C) shall be pub-
13 lished not later than 30 days (or, in the case of a major
14 rule, not later than 60 days) before the effective date of
15 the rule, except—

16 “(1) for guidance; or

17 “(2) as otherwise provided by an agency for
18 good cause and as published with the rule.

19 “(h) RIGHT TO PETITION AND REVIEW OF RULES.—
20 Each agency shall—

21 “(1) give interested persons the right to petition
22 for the issuance, amendment, or repeal of a rule;
23 and

24 “(2) on a continuing basis, invite interested
25 persons to submit, by electronic means, suggestions

1 for rules that warrant retrospective review and pos-
2 sible modification or repeal.

3 “(i) RULEMAKING GUIDELINES.—

4 “(1) ASSESSMENT OF RULES.—

5 “(A) IN GENERAL.—The Administrator
6 shall establish guidelines regarding rulemaking
7 as follows:

8 “(i) IDENTIFICATION OF NEED FOR
9 RULES.—Guidelines setting forth how
10 needs for rulemaking should be identified,
11 including—

12 “(I) whether rulemaking is made
13 necessary by compelling public need,
14 such as material failures of private
15 markets or public institutions to pro-
16 tect or improve the health and safety
17 of the public, the environment, or the
18 well-being of the public; and

19 “(II) whether rulemaking needs
20 could be lessened by reliance on po-
21 tential State, local, Tribal, or regional
22 regulatory action or other responses
23 that could be taken in lieu of agency
24 action.

1 “(ii) ASSESSMENT OF RULES.—Guide-
2 lines setting forth how the assessment, in-
3 cluding the quantitative and qualitative as-
4 sessment, of proposed and final rules
5 should occur, including how to determine—

6 “(I) the costs and benefits of
7 proposed and final rules and alter-
8 natives to them, including quantifiable
9 and non-quantifiable costs and bene-
10 fits;

11 “(II) whether proposed and final
12 rules maximize net benefits;

13 “(III) estimated impacts on jobs,
14 wages, competition, innovation, rural
15 populations, and low-income popu-
16 lations;

17 “(IV) other economic issues that
18 are relevant to rulemaking under this
19 section or other sections of this part;
20 and

21 “(V) risk assessments that are
22 relevant to rulemaking under this sec-
23 tion and other sections of this part.

24 “(iii) NUMBERS OF ALTERNATIVES.—
25 Guidelines regarding when it may be rea-

sonable to consider in a rulemaking more alternatives than the number presumed to be reasonable under subsection (b)(4).

“(iv) ADOPTION OF ALTERNATIVES FOR MAJOR RULES.—Guidelines regarding when it may be appropriate, in a rulemaking for a major rule, to adopt an alternative final rule under subsection (e)(1)(B).

“(v) ADMINISTRATOR REVIEW.—Guidelines regarding the efficient submission and review of proposed and final rules under subsections (c)(1) and (e)(2).

“(B) AGENCY ANALYSIS OF RULES.—

“(i) IN GENERAL.—The rigor of the cost-benefit analysis required or recommended by the guidelines established under subparagraph (A) shall be commensurate, as determined by the Administrator, with the economic impact of a rule.

“(ii) RISK ASSESSMENT GUIDELINES.—Guidelines for a risk assessment described in subparagraph (A)(iv) shall include criteria for—

“(I) selecting studies and models;

1 “(II) evaluating and weighing
2 evidence; and

3 “(III) conducting peer reviews.

4 “(C) UPDATING GUIDELINES.—Not less
5 frequently than once every 10 years, the Ad-
6 ministrator shall update the guidelines estab-
7 lished under subparagraph (A) to enable each
8 agency to use the best available techniques to
9 identify, quantify, and evaluate the need for
10 rulemaking and present and future benefits,
11 costs, other economic issues, and risks as objec-
12 tively and accurately as practicable.

13 “(2) SIMPLIFICATION OF RULES.—

14 “(A) ISSUANCE OF GUIDELINES.—The Ad-
15 ministrator shall issue guidelines to promote co-
16 ordination, simplification, and harmonization of
17 agency rules during the rulemaking process.

18 “(B) REQUIREMENTS.—The guidelines
19 issued by the Administrator under subpara-
20 graph (A) shall advise each agency to—

21 “(i) avoid rules that are inconsistent
22 or incompatible with, or duplicative of,
23 other regulations of the agency and those
24 of other agencies; and

1 “(ii) draft the rules of the agency to
2 be simple and easy to understand, with the
3 goal of minimizing the potential for uncer-
4 tainty and litigation arising from the un-
5 certainty.

6 “(3) CONSISTENCY IN RULEMAKING.—

7 “(A) IN GENERAL.—To promote consist-
8 ency in rulemaking, the Administrator shall
9 issue guidelines to ensure that rulemaking con-
10 ducted in whole or in part under procedures
11 specified in provisions of law other than those
12 under this section conform with the procedures
13 set forth in this section to the fullest extent al-
14 lowed by law.

15 “(B) AGENCY ADOPTION OF REGULA-
16 TIONS.—Each agency shall adopt regulations
17 for the conduct of hearings consistent with the
18 guidelines issued under this paragraph.

19 “(j) AGENCY GUIDANCE; PROCEDURES TO ISSUE
20 MAJOR GUIDANCE; AUTHORITY TO ISSUE GUIDELINES
21 FOR ISSUANCE OF GUIDANCE.—

22 “(1) IN GENERAL.—Agency guidance shall—

23 “(A) not be used by an agency to foreclose
24 consideration of issues as to which the guidance
25 expresses a conclusion;

1 “(B) state that the guidance is not legally
2 binding by including the phrase ‘The contents
3 of this document do not have the force and ef-
4 fect of law and do not, of themselves, bind the
5 public or the agency. This document is intended
6 only to provide clarity to the public regarding
7 existing requirements under the law or agency
8 policies.’ on the first page of the document; and

9 “(C) be published in a single location on
10 an internet website designated by the Director
11 at the time the guidance is issued.

12 “(2) PROCEDURES TO ISSUE MAJOR GUID-
13 ANCE.—Before issuing any major guidance, an agen-
14 cy shall make and document a reasoned determina-
15 tion that—

16 “(A) such guidance is understandable and
17 complies with relevant statutory objectives and
18 regulatory provisions; and

19 “(B) identifies the costs and benefits, in-
20 cluding all costs and benefits to be considered
21 during a rulemaking as required under sub-
22 section (b), of requiring conduct conforming to
23 such guidance and assures that such benefits
24 justify such costs.

25 “(3) ISSUANCE OF UPDATED GUIDANCE.—

1 “(A) IN GENERAL.—The Administrator
2 shall issue updated guidelines for use by agen-
3 cies in the issuance of guidance documents.

4 “(B) REQUIREMENTS.—The guidelines
5 issued by the Administrator under subpara-
6 graph (A) shall advise each agency—

7 “(i) not to issue guidance documents
8 that are inconsistent or incompatible with,
9 or duplicative of, other rules of the agency
10 and those of other agencies;

11 “(ii) to draft the guidance documents
12 of the agency to be simple and easy to un-
13 derstand, with the goal of minimizing the
14 potential for uncertainty and litigation
15 arising from the uncertainty; and

16 “(iii) how to develop and implement a
17 strategy to ensure the proper use of guid-
18 ance by the agency.

19 “(k) MAJOR RULE FRAMEWORKS.—

20 “(1) IN GENERAL.—Beginning on the date that
21 is 180 days after the date of enactment of this sub-
22 section, when an agency publishes in the Federal
23 Register—

24 “(A) a proposed major rule, the agency
25 shall include a potential framework for assess-

1 ing the rule, which shall include a general state-
2 ment of how the agency intends to measure the
3 effectiveness of the rule; or

4 “(B) a final major rule, the agency shall
5 include a framework for assessing the rule
6 under paragraph (2), which shall include—

7 “(i) a clear statement of the regu-
8 latory objectives of the rule, including a
9 summary of the expected and predicted
10 benefits and costs of the rule;

11 “(ii) the methodology by which the
12 agency plans to analyze the rule, including
13 metrics by which the agency can meas-
14 ure—

15 “(I) the effectiveness and bene-
16 fits of the rule in producing the regu-
17 latory objectives of the rule; and

18 “(II) the impacts, including any
19 costs, of the rule on regulated and
20 other impacted entities;

21 “(iii) a plan for gathering data re-
22 garding the metrics described in clause (ii)
23 on an ongoing basis, or at periodic times,
24 including a method by which the agency
25 will invite the public to participate in the

1 review process and seek input from other
2 agencies; and

3 “(iv) a specific timeframe, as appro-
4 priate to measure the full impact of the
5 rule but not more than 10 years after the
6 effective date of the rule, under which the
7 agency shall conduct the assessment of the
8 rule in accordance with paragraph (2)(A).

9 “(2) ASSESSMENT.—

10 “(A) IN GENERAL.—Each agency shall as-
11 sess the data collected under paragraph
12 (1)(B)(iii), using the methodology set forth in
13 paragraph (1)(B)(ii) or any other appropriate
14 methodology developed after the issuance of a
15 final major rule to better determine whether the
16 regulatory objective was achieved, with respect
17 to the rule—

18 “(i) to analyze how the actual benefits
19 and costs of the rule may have varied from
20 those anticipated at the time the rule was
21 issued; and

22 “(ii) to determine whether—

23 “(I) the rule is accomplishing the
24 regulatory objective of the rule;

1 “(II) the rule has been rendered
2 unnecessary, taking into consider-
3 ation—

4 “(aa) changes in the subject
5 area affected by the rule; and

6 “(bb) whether the rule over-
7 laps, duplicates, or conflicts
8 with—

9 “(AA) other rules; or

10 “(BB) to the extent
11 feasible, State and local gov-
12 ernment regulations;

13 “(III) the rule needs to be modi-
14 fied in order to accomplish the regu-
15 latory objective; and

16 “(IV) other alternatives to the
17 rule or modification of the rule could
18 better achieve the regulatory objective
19 while imposing a smaller burden on
20 society or increase cost-effectiveness,
21 taking into consideration any cost al-
22 ready incurred.

23 “(B) DIFFERENT METHODOLOGY.—If an
24 agency uses a methodology other than the
25 methodology under paragraph (1)(B)(ii) to as-

1 sess data under subparagraph (A), the agency
2 shall include as part of the notice required to
3 be published under subparagraph (D) an expla-
4 nation of the changes in circumstances that ne-
5 cessitated the use of that other methodology.

6 “(C) SUBSEQUENT ASSESSMENTS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clause (ii), if, after an assessment
9 of a major rule under subparagraph (A),
10 an agency determines that the rule will re-
11 main in effect with or without modifica-
12 tion, the agency shall—

13 “(I) determine a specific time, as
14 appropriate to the rule and not more
15 than 10 years after the date on which
16 the agency completes the assessment,
17 under which the agency shall conduct
18 another assessment of the rule in ac-
19 cordance with subparagraph (A); and

20 “(II) if the assessment conducted
21 under subclause (I) does not result in
22 a repeal of the rule, periodically assess
23 the rule in accordance with subpara-
24 graph (A) to ensure that the rule con-

1 continues to meet the regulatory objec-
2 tive.

3 “(ii) EXEMPTION.—The Adminis-
4 trator may exempt an agency from con-
5 ducting a subsequent assessment of a rule
6 under clause (i) if the Administrator deter-
7 mines that there is a foreseeable and ap-
8 parent need for the rule beyond the time-
9 frame required under clause (i)(I).

10 “(D) PUBLICATION.—Not later than 180
11 days after the date on which an agency com-
12 pletes an assessment of a major rule under sub-
13 paragraph (A), the agency shall publish a notice
14 of availability of the results of the assessment
15 in the Federal Register, including the specific
16 time for any subsequent assessment of the rule
17 under subparagraph (C)(i), if applicable.

18 “(3) OIRA OVERSIGHT.—The Administrator
19 shall—

20 “(A) issue guidance for agencies regarding
21 the development of the framework under para-
22 graph (1) and the conduct of the assessments
23 under paragraph (2)(A);

24 “(B) oversee the timely compliance of
25 agencies with this subsection;

1 “(C) ensure that the results of each assess-
2 ment conducted under paragraph (2)(A) are—

3 “(i) published promptly on a central-
4 ized Federal website; and

5 “(ii) noticed in the Federal Register
6 in accordance with paragraph (2)(D);

7 “(D) ensure that agencies streamline and
8 coordinate the assessment of major rules with
9 similar or related regulatory objectives;

10 “(E) exempt an agency from including the
11 framework required under paragraph (1)(B)
12 when publishing a final major rule if the Ad-
13 ministrator determines that compliance with
14 paragraph (1)(B) is unnecessary, impracticable,
15 or contrary to the public interest, as described
16 in subsection (f)(3)(A)(i); and

17 “(F) extend the deadline specified by an
18 agency for an assessment of a major rule under
19 paragraph (1)(B)(iv) or paragraph (2)(C)(i)(I)
20 for a period of not more than 90 days if the
21 agency justifies why the agency is unable to
22 complete the assessment by that deadline.

23 “(4) RULE OF CONSTRUCTION.—Nothing in
24 this subsection shall be construed to affect—

1 “(A) the authority of an agency to assess
2 or modify a major rule of the agency earlier
3 than the end of the timeframe specified for the
4 rule under paragraph (1)(B)(iv); or

5 “(B) any other provision of law that re-
6 quires an agency to conduct retrospective re-
7 views of rules issued by the agency.

8 “(5) APPLICABILITY.—

9 “(A) IN GENERAL.—This subsection shall
10 not apply to—

11 “(i) a major rule of an agency—

12 “(I) that the Administrator re-
13 viewed before the date of enactment of
14 this subsection;

15 “(II) for which the agency is re-
16 quired to conduct a retrospective re-
17 view under any other provision of law
18 that meets or exceeds the require-
19 ments of this subsection, as deter-
20 mined by the Administrator; or

21 “(III) for which the authorizing
22 statute is subject to periodic reauthor-
23 ization by Congress not less fre-
24 quently than once every 10 years;

25 “(ii) guidance;

1 “(iii) routine and administrative rules;

2 or

3 “(iv) a rule that is reviewed under
4 section 2222 of the Economic Growth and
5 Regulatory Paperwork Reduction Act of
6 1996 (12 U.S.C. 3311).

7 “(B) DIRECT AND INTERIM FINAL MAJOR
8 RULE.—In the case of a major rule of an agen-
9 cy for which the agency is not required to issue
10 a notice of proposed rulemaking in response to
11 an emergency or a statutorily imposed deadline,
12 the agency shall publish the framework required
13 under paragraph (1)(B) in the Federal Register
14 not later than 180 days after the date on which
15 the agency publishes the rule.

16 “(6) RECOMMENDATIONS TO CONGRESS.—If,
17 under an assessment conducted under paragraph
18 (2), an agency determines that a major rule should
19 be modified or repealed, the agency may submit to
20 Congress recommendations for legislation to amend
21 applicable provisions of law if the agency is prohib-
22 ited from modifying or repealing the rule under an-
23 other provision of law.

24 “(7) JUDICIAL REVIEW.—

1 “(A) IN GENERAL.—Judicial review of
2 agency compliance with this subsection is lim-
3 ited to whether an agency—

4 “(i) published the framework for as-
5 sessment of a major rule in accordance
6 with paragraph (1); or

7 “(ii) completed and published the re-
8 quired assessment of a major rule in ac-
9 cordance with subparagraphs (A) and (D)
10 of paragraph (2).

11 “(B) REMEDY AVAILABLE.—In granting
12 relief in an action brought under subparagraph
13 (A), a court may only issue an order remanding
14 the major rule to the agency to comply with
15 paragraph (1) or subparagraph (A) or (D) of
16 paragraph (2), as applicable.

17 “(C) EFFECTIVE DATE OF MAJOR RULE.—
18 If, in an action brought under subparagraph
19 (A)(i), a court determines that the agency did
20 not comply, the major rule shall take effect not-
21 withstanding any order issued by the court.

22 “(l) AUTHORITIES AND RESPONSIBILITIES OF THE
23 OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—

24 “(1) IN GENERAL.—The Administrator shall
25 provide meaningful guidance and oversight, which

1 may include review by the Office of Information and
2 Regulatory Affairs, to ensure that each agency
3 issues rules in accordance with the requirements
4 under this section and other applicable law and do
5 not conflict with the policies or actions of another
6 agency.

7 “(2) NOTIFICATION.—If the Administrator de-
8 termines that a major rule of an agency does not
9 comply with the principles and requirements of this
10 section, is not consistent with other applicable laws,
11 or conflicts with the policies or actions of another
12 agency, the Administrator shall—

13 “(A) identify areas of noncompliance;

14 “(B) notify the agency; and

15 “(C) request that the agency comply before
16 the agency finalizes the major rule concerned.

17 “(3) ANNUAL STATEMENT TO CONGRESS ON
18 AGENCY COMPLIANCE.—The Administrator shall
19 submit to Congress, including the Committee on
20 Homeland Security and Governmental Affairs of the
21 Senate and the Committee on Oversight and Ac-
22 countability of the House of Representatives, an an-
23 nual written report that, for the 1-year period pre-
24 ceding the report—

1 “(A) details compliance by each agency
2 with the requirements of this section that relate
3 to major rules, including activities undertaken
4 at the request of the Administrator to improve
5 compliance; and

6 “(B) contains an appendix detailing com-
7 pliance by each agency.

8 “(m) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to limit the scope of the authority
10 of the Office of Information and Regulatory Affairs under
11 subchapter I of chapter 35 of title 44, section 515 of the
12 Treasury and General Government Appropriations Act,
13 2001 (Public Law 106–554; 114 Stat. 2763A–154), chap-
14 ter 8 of this title, or any other law or Executive Order.”.

15 **SEC. 4. SCOPE OF REVIEW.**

16 Section 706 of title 5, United States Code, is amend-
17 ed—

18 (1) in the first sentence of the matter preceding
19 paragraph (1), by striking “To the extent nec-
20 essary” and inserting the following:

21 “(a) IN GENERAL.—To the extent necessary”; and

22 (2) in subsection (a), as so designated—

23 (A) in paragraph (1), by striking “and” at
24 the end;

1 (B) in paragraph (2), in the matter pre-
2 ceding subparagraph (A), by inserting “, or,
3 when appropriate, remand a matter to an agen-
4 cy without setting aside,” after “set aside”; and

5 (C) by striking the flush text following
6 paragraph (2)(F) and inserting the following:

7 “(b) REVIEW OF ENTIRE RECORD; PREJUDICIAL
8 ERROR.—In making a determination under subsection (a),
9 the court shall review the whole record or those parts of
10 the record cited by a party, and due account shall be taken
11 of the rule of prejudicial error.

12 “(c) PRECLUSION OF REVIEW.—

13 “(1) IN GENERAL.—Any action or inaction of
14 the Administrator under subchapter II of chapter 5,
15 except sections 552 and 552a, shall not be subject
16 to judicial review.

17 “(2) RULE OF CONSTRUCTION.—The preclusion
18 of judicial review under this subsection shall not be
19 construed or used to construe any other provision of
20 law to provide any cause of action against the Ad-
21 ministrator, except as explicitly provided by law.

22 “(d) REVIEW OF CERTAIN GUIDANCE.—Agency guid-
23 ance that does not interpret a statute or rule may be re-
24 viewed only under subsection (a)(2)(D).

25 “(e) AGENCY INTERPRETATION OF RULES.—

1 “(1) STANDARD OF REVIEW.—Unless expressly
 2 required otherwise by statute, the reviewing court
 3 shall decide all questions of law de novo, with due
 4 regard for the views of the agency administering the
 5 statute and any other agency involved in the decision
 6 making process.

7 “(2) WEIGHT.—The weight that a reviewing
 8 court gives an interpretation by an agency of a rule
 9 of that agency shall depend on the thoroughness evi-
 10 dent in the consideration of the rule by the agency,
 11 the validity of the reasoning of the agency, and the
 12 consistency of the interpretation with earlier and
 13 later pronouncements.”.

14 **SEC. 5. ADDED DEFINITIONS.**

15 Section 701(b) of title 5, United States Code, is
 16 amended—

17 (1) in paragraph (1)(H), by striking “and” at
 18 the end;

19 (2) in paragraph (2)—

20 (A) by inserting “‘guidance’,” after “‘re-
 21 lief’,”; and

22 (B) by striking the period at the end and
 23 inserting “; and”; and

24 (3) by adding at the end the following:

1 “(3) ‘substantial evidence’ means such relevant
2 evidence, including the quality, as a reasonable mind
3 might accept as adequate to support a conclusion in
4 light of the record considered as a whole.”.

5 **SEC. 6. APPLICATION.**

6 The amendments made by this Act to sections 553,
7 701(b), and 706 of title 5, United States Code, shall not
8 apply to any rulemaking, as defined in section 551 of title
9 5, United States Code, as amended by section 2 of this
10 Act, that is pending or completed as of the date of enact-
11 ment of this Act.

12 **SEC. 7. RULE OF CONSTRUCTION WITH RESPECT TO COPY-**
13 **RIGHTS.**

14 Nothing in this Act, or in the amendments made by
15 this Act, may be construed as altering, modifying, or
16 abridging an exclusive right granted under title 17, United
17 States Code.

18 **SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.**

19 (a) ALASKA NATIONAL INTEREST LANDS CONSERVA-
20 TION ACT.—Section 1002(g)(2) of the Alaska National In-
21 terest Lands Conservation Act (16 U.S.C. 3142(g)(2)) is
22 amended, in the third sentence, by striking “section
23 706(2)(E)” and inserting “section 706(a)(2)(E)”.

24 (b) ANTARCTIC MARINE LIVING RESOURCES CON-
25 VENTION ACT OF 1984.—The Antarctic Marine Living

1 Resources Convention Act of 1984 (16 U.S.C. 2431 et
2 seq.) is amended—

3 (1) in section 307(b)(1) (16 U.S.C.
4 2436(b)(1)), by striking “subsections (b), (c), and
5 (d)” and inserting “subsections (c) and (g)”; and

6 (2) in section 308(c), in the third sentence, by
7 striking “section 706(2)(E)” and inserting “section
8 706(a)(2)(E)”.

9 (c) ATLANTIC TUNAS CONVENTION ACT OF 1975.—
10 Section 6(c)(2)(B) of the Atlantic Tunas Convention Act
11 of 1975 (16 U.S.C. 971d(c)(2)(B)) is amended by striking
12 “subsections (b) and (c) of section 553” and inserting
13 “section 553(c)”.

14 (d) CARES ACT.—Section 1114 of the CARES Act
15 (15 U.S.C. 9012) is amended by striking “section 553(b)”
16 and inserting “section 553(c)”.

17 (e) CLEAN AIR ACT.—Section 307(d)(3) of the Clean
18 Air Act (42 U.S.C. 7607(d)(3)) is amended by striking
19 “section 553(b)” and inserting “section 553(c)”.

20 (f) CONGRESSIONAL ACCOUNTABILITY ACT OF
21 1995.—The Congressional Accountability Act of 1995 (2
22 U.S.C. 1301 et seq.) is amended—

23 (1) in section 303(b) (2 U.S.C. 1383(b)), in the
24 second sentence, by striking “section 553(b)” and
25 inserting “section 553(c)”;

1 (2) in section 304 (2 U.S.C. 1384)—

2 (A) in subsection (b)(1), by striking “sec-
3 tion 553(b)” and inserting “section 553(c)”;

4 (B) in subsection (d)(3), by striking “sec-
5 tion 553(d)(3)” and inserting “section
6 553(g)(2)”; and

7 (C) in subsection (e), by striking “section
8 553(b)(B)” and inserting “section 553(f)”; and
9 (3) in section 409 (2 U.S.C. 1409), in the first
10 sentence—

11 (A) by striking “section 706(2)” and in-
12 serting “section 706(a)(2)”; and

13 (B) by striking “section 706(2)(B)” and
14 inserting “section 706(a)(2)(B)”.

15 (g) CONSUMER PRODUCT SAFETY ACT.—Section 9(i)
16 of the Consumer Product Safety Act (15 U.S.C. 2058(i))
17 is amended, in the first sentence, by striking “section
18 553(e)” and inserting “section 553(h)”.

19 (h) DEEP SEABED HARD MINERAL RESOURCES
20 ACT.—Section 302(b) of the Deep Seabed Hard Mineral
21 Resources Act (30 U.S.C. 1462(b)) is amended, in the
22 third sentence, by striking “section 706(2)(E)” and in-
23 serting “section 706(a)(2)(E)”.

24 (i) DEFENSE PRODUCTION ACT OF 1950.—Section
25 709(b)(1) of the Defense Production Act of 1950 (50

1 U.S.C. 4559(b)(1)) is amended by striking “for not less
2 than 30 days, consistent with the requirements of section
3 553(b)” and inserting “in a manner consistent with the
4 requirements of section 553(c)”.

5 (j) ENDANGERED SPECIES ACT OF 1973.—Section
6 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C.
7 1533(b)(3)) is amended—

8 (1) in subparagraph (A), in the first sentence,
9 by striking “section 553(e)” and inserting “section
10 553(h)”;

11 (2) in subparagraph (D)(i), in the first sen-
12 tence, by striking “section 553(e)” and inserting
13 “section 553(h)”.

14 (k) ENERGY POLICY ACT OF 1992.—Section 106(e)
15 of the Energy Policy Act of 1992 (42 U.S.C. 12712 note)
16 is amended by striking “(b)(B), and (d)(3)” and inserting
17 “(f)(3), and (g)(2)”.

18 (l) EXPEDITED FUNDS AVAILABILITY ACT.—Section
19 609(a) of the Expedited Funds Availability Act (12 U.S.C.
20 4008(a)) is amended, in the matter preceding paragraph
21 (1), by striking “section 553(c)” and inserting “section
22 553”.

23 (m) FAMILY AND MEDICAL LEAVE ACT OF 1993.—
24 Section 110(a)(3) of the Family and Medical Leave Act
25 of 1993 (29 U.S.C. 2620(a)(3)) is amended, in the matter

1 preceding subparagraph (A), by striking “sections
 2 553(b)(B) and section 553(d)(3)” and inserting “sub-
 3 sections (f)(3) and (g)(2) of section 553”.

4 (n) FASTENER QUALITY ACT.—Section 6(b)(3) of
 5 the Fastener Quality Act (15 U.S.C. 5408(b)(3)) is
 6 amended, in the second sentence, by striking “section
 7 706(2)” and inserting “section 706(a)(2)”.

8 (o) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—
 9 Section 912(b) of the Federal Food, Drug, and Cosmetic
 10 Act (21 U.S.C. 387l(b)) is amended, in the second sen-
 11 tence, by striking “section 706(2)(A)” and inserting “sec-
 12 tion 706(a)(2)(A)”.

13 (p) FEDERAL HAZARDOUS SUBSTANCES ACT.—Sec-
 14 tion 3 of the Federal Hazardous Substances Act (15
 15 U.S.C. 1262) is amended—

16 (1) in subsection (e)—

17 (A) in paragraph (1), in the first sentence,
 18 by striking “(other than clause (B) of the last
 19 sentence of subsection (b) of such section) of
 20 title 5 of the United States Code” and inserting
 21 “of title 5, United States Code, other than sub-
 22 section (f)(3) of such section,”; and

23 (B) in paragraph (3)(C), by striking
 24 “paragraph (2) of section 706” and inserting
 25 “section 706(a)(2)”; and

1 (2) in subsection (j), in the first sentence, by
2 striking “section 553(e)” and inserting “section
3 553(h)”.

4 (q) FEDERAL TRADE COMMISSION ACT.—Section
5 18(e) of the Federal Trade Commission Act (15 U.S.C.
6 57a(e)) is amended—

7 (1) in paragraph (3), in the second sentence of
8 the matter preceding subparagraph (A), by striking
9 “section 706(2)” and inserting “section 706(a)(2)”;
10 and

11 (2) in paragraph (5)(C), in the second sentence,
12 by striking “Section 706(2)(E)” and inserting “Sec-
13 tion 706(a)(2)(E)”.

14 (r) FLAMMABLE FABRICS ACT.—The Flammable
15 Fabrics Act (15 U.S.C. 1191 et seq.) is amended—

16 (1) in section 4(k) (15 U.S.C. 1193(k)), in the
17 first sentence, by striking “section 553(e)” and in-
18 serting “section 553(h)”;

19 (2) in section 16(c)(2) (15 U.S.C. 1203(c)(2)),
20 by striking “section 553(b)” and inserting “section
21 553(c)”.

22 (s) GENERAL EDUCATION PROVISIONS ACT.—Sec-
23 tion 411 of the General Education Provisions Act (20
24 U.S.C. 1221e–4) is amended, in the second sentence, by

1 striking “Notwithstanding the exception provided under
2 section 553(b) of title 5, such” and inserting “Such”.

3 (t) HIGH SEAS FISHING COMPLIANCE ACT OF
4 1995.—Section 108(d) of the High Seas Fishing Compli-
5 ance Act of 1995 (16 U.S.C. 5507(d)) is amended, in the
6 third sentence, by striking “section 706(2)” and inserting
7 “section 706(a)(2)”.

8 (u) HIGHER EDUCATION ACT OF 1965.—Section
9 492(b)(2) of the Higher Education Act of 1965 (20
10 U.S.C. 1098a(b)(2)) is amended by striking “section
11 553(b)(3)(B)” and inserting “section 553(f)(3)”.

12 (v) HOUSING AND COMMUNITY DEVELOPMENT ACT
13 OF 1992.—The Housing and Community Development
14 Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

15 (1) in section 643(b)(3) (42 U.S.C.
16 13603(b)(3)), in the first sentence, by striking
17 “(notwithstanding subsections (a)(2), (b)(B), and
18 (d)(3) of such section)” and inserting “(notwith-
19 standing subsections (a)(2), (f)(3), and (g)(2) of
20 such section)”; and

21 (2) in section 685 (42 U.S.C. 13643), in the
22 second sentence, by striking “(notwithstanding sub-
23 sections (a)(2), (b)(B), and (d)(3) of such section)”
24 and inserting “(notwithstanding subsections (a)(2),
25 (f)(3), and (g)(2) of such section)”.

1 (w) INTERCOUNTRY ADOPTION ACT OF 2000.—The
2 Intercounty Adoption Act of 2000 (42 U.S.C. 14901 et
3 seq.) is amended—

4 (1) in section 203(a)(3) (42 U.S.C.
5 14923(a)(3)), by striking “Subsections (b), (c), and
6 (d) of section” and inserting “Section 553”; and

7 (2) in section 401(a)(2) (42 U.S.C.
8 14941(a)(2)), by striking “Subsections (b), (c), and
9 (d) of section” and inserting “Section 553”.

10 (x) INTERNATIONAL BANKING ACT OF 1978.—Sec-
11 tion 7(f)(2) of the International Banking Act of 1978 (12
12 U.S.C. 3105(f)(2)) is amended by striking “paragraph
13 (2)(F)” and inserting “subsection (a)(2)(F)”.

14 (y) MAGNUSON-STEVENSON FISHERY CONSERVATION
15 AND MANAGEMENT ACT.—Section 308(b) of the Magnu-
16 son-Stevens Fishery Conservation and Management Act
17 (16 U.S.C. 1858(b)) is amended, in the third sentence,
18 by striking “section 706(2)” and inserting “section
19 706(a)(2)”.

20 (z) MARINE MAMMAL PROTECTION ACT OF 1972.—
21 Section 109 of the Marine Mammal Protection Act of
22 1972 (16 U.S.C. 1379) is amended—

23 (1) in subsection (c)(4), in the first sentence, by
24 striking “section 706(2)(A) through (E) of Title”

1 and inserting “subparagraphs (A) through (E) of
2 section 706(a)(2) of title”; and

3 (2) in subsection (d)(2), in the second sen-
4 tence—

5 (A) by striking “Title” and inserting
6 “title”; and

7 (B) by striking “subsection (d) of such sec-
8 tion 553” and inserting “subsection (g) of such
9 section 553”.

10 (aa) MCKINNEY-VENTO HOMELESS ASSISTANCE
11 ACT.—Section 433 of the McKinney-Vento Homeless As-
12 sistance Act (42 U.S.C. 11387) is amended, in the second
13 sentence, by striking “(notwithstanding subsections
14 (a)(2), (b)(B), and (d)(3) of such section)” and inserting
15 “(notwithstanding subsections (a)(2), (f)(3), and (g)(2) of
16 such section)”.

17 (bb) MIGRANT AND SEASONAL AGRICULTURAL
18 WORKER PROTECTION ACT.—The Migrant and Seasonal
19 Agricultural Worker Protection Act (29 U.S.C. 1801 et
20 seq.) is amended—

21 (1) in section 103(c) (29 U.S.C. 1813(c)), in
22 the third sentence, by striking “section 706(2)(E)”
23 and inserting “section 706(a)(2)(E)”; and

1 (2) in section 503(c) (29 U.S.C. 1853(c)), in
 2 the third sentence, by striking “section 706(2)(E)”
 3 and inserting “section 706(a)(2)(E)”.

4 (cc) MILWAUKEE RAILROAD RESTRUCTURING
 5 ACT.—The Milwaukee Railroad Restructuring Act (45
 6 U.S.C. 901 et seq.) is amended—

7 (1) in section 5(b)(2) (45 U.S.C. 904(b)(2)), in
 8 the second sentence, by striking “sections 706(2)(A),
 9 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of
 10 the United States Code” and inserting “subpara-
 11 graphs (A), (B), (C), and (D) of section 706(a)(2)
 12 of title 5, United States Code”; and

13 (2) in section 17(45 U.S.C. 915), by striking
 14 “sections 706(2)(A), 706(2)(B), 706(2)(C), and
 15 706(2)(D) of title 5 of the United States Code” each
 16 place it appears and inserting “subparagraphs (A),
 17 (B), (C), and (D) of section 706(a)(2) of title 5,
 18 United States Code”.

19 (dd) NATIVE AMERICAN PROGRAMS ACT OF 1974.—
 20 Section 814 of the Native American Programs Act of 1974
 21 (42 U.S.C. 2992b–1) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1), in the matter pre-
 24 ceding subparagraph (A), by striking “Subpara-
 25 graph (A) of the last sentence of section 553(b)

1 of title 5, United States Code, shall not apply
2 with respect to any interpretative rule or gen-
3 eral statement of policy” and inserting “Section
4 553(c) of title 5, United States Code, shall
5 apply with respect to guidance”;

6 (B) in paragraph (2)—

7 (i) in the matter preceding subpara-
8 graph (A), by striking “Subparagraph (B)
9 of the last sentence of section 553(b)” and
10 inserting “Section 553(f)(3)”; and

11 (ii) by striking “an interpretative rule
12 or a general statement of policy” and in-
13 serting “guidance”; and

14 (C) in paragraph (3), in the matter pre-
15 ceding subparagraph (A)—

16 (i) by striking “The first 2 sentences
17 of section 553(b)” and inserting “Section
18 553(c)”; and

19 (ii) by striking “an interpretative rule,
20 a general statement of policy,” and insert-
21 ing “guidance”;

22 (2) in subsection (c)—

23 (A) in the matter preceding paragraph
24 (1)—

1 (i) by striking “section 553(d)” and
2 inserting “section 553(g)”; and

3 (ii) by striking “an interpretative
4 rule) or general statement of policy” and
5 inserting “guidance)”; and

6 (B) in the flush text following paragraph
7 (2), by striking “the first 2 sentences of section
8 553(b)” and inserting “section 553(c)”;

9 (3) in subsection (d), by striking “an interpre-
10 tative rule) and each general statement of policy”
11 and inserting “guidance)”;

12 (4) in subsection (e)—

13 (A) by striking “any interpretative rule) or
14 a general statement of policy” and inserting
15 “guidance)”; and

16 (B) by striking “or such general statement
17 of policy”;

18 (5) in subsection (f)—

19 (A) by striking “an interpretative rule) or
20 a general statement of policy” and inserting
21 “guidance)”; and

22 (B) by striking “or such general statement
23 of policy”; and

24 (6) by adding at the end the following:

1 “(g) In this section, the term ‘guidance’ has the
2 meaning given the term in section 551 of title 5, United
3 States Code.”.

4 (ee) NATURAL GAS POLICY ACT OF 1978.—Section
5 502(b) of the Natural Gas Policy Act of 1978 (15 U.S.C.
6 3412(b)) is amended, in the third sentence, by striking
7 “section 553(d)(3)” and inserting “section 553(g)(2)”.

8 (ff) NOISE CONTROL ACT OF 1972.—Section 6(c)(2)
9 of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2))
10 is amended by striking “the first sentence of section
11 553(c)” and inserting “section 553(c)(4)”.

12 (gg) NORTHEAST RAIL SERVICE ACT OF 1981.—Sec-
13 tion 1152(c) of the Northeast Rail Service Act of 1981
14 (45 U.S.C. 1105(c)) is amended by striking “paragraphs
15 (2) (A), (B), (C), and (D) of section 706, title 5” and
16 inserting “subparagraphs (A) through (D) of section
17 706(a)(2) of title 5”.

18 (hh) NORTHERN PACIFIC HALIBUT ACT OF 1982.—
19 Section 8(b) of the Northern Pacific Halibut Act of 1982
20 (16 U.S.C. 773f(b)) is amended, in the third sentence, by
21 striking “section 706(2)” and inserting “section
22 706(a)(2)”.

23 (ii) OCEAN THERMAL ENERGY CONVERSION ACT OF
24 1980.—Section 302(c)(2) of the Ocean Thermal Energy
25 Conversion Act of 1980 (42 U.S.C. 9152(c)(2)) is amend-

1 ed by striking “section 706(2)” and inserting “section
2 706(a)(2)”.

3 (jj) POISON PREVENTION PACKAGING ACT OF
4 1970.—The Poison Prevention Packaging Act of 1970 (15
5 U.S.C. 1471 et seq.) is amended—

6 (1) in section 5 (15 U.S.C. 1474)—

7 (A) in subsection (a), in the first sentence,
8 by striking “(other than paragraph (3)(B) of
9 the last sentence of subsection (b) of such sec-
10 tion) of title 5 of the United States Code” and
11 inserting “of title 5, United States Code, other
12 than subsection (f)(3) of such section,”; and

13 (B) in subsection (b)—

14 (i) by striking “of the United States
15 Code” each place that term appears and
16 inserting “, United States Code”; and

17 (ii) in paragraph (3), in the first sen-
18 tence, by striking “paragraph (2) of sec-
19 tion 706” and inserting “section
20 706(a)(2)”;

21 (2) in section 7(c)(2) (15 U.S.C. 1476(c)(2)),
22 by striking “section 553(b)” and inserting “section
23 553(c)”.

24 (kk) POULTRY PRODUCTS INSPECTION ACT.—Sec-
25 tion 14(c) of the Poultry Products Inspection Act (21

1 U.S.C. 463(c)) is amended by striking “section 553(c) of
 2 title 5, United States Code” and inserting “section
 3 553(c)(4) of title 5, United States Code,”.

4 (ll) PUBLIC HEALTH SERVICE ACT.—Section
 5 2723(b)(2)(E)(iii) of the Public Health Service Act (42
 6 U.S.C. 300gg-22(b)(2)(E)(iii)) is amended by striking
 7 “section 706(2)(E)” and inserting “section
 8 706(a)(2)(E)”.

9 (mm) RAILWAY LABOR ACT.—Section 10A(b) of the
 10 Railway Labor Act (45 U.S.C. 160a(b)) is amended by
 11 striking “the third sentence of section 553(b)” and insert-
 12 ing “paragraph (2) or (3) of section 553(f)”.

13 (nn) REGIONAL RAIL REORGANIZATION ACT OF
 14 1973.—Section 216(c)(3) of the Regional Rail Reorga-
 15 nization Act of 1973 (45 U.S.C. 726(c)(3)) is amended,
 16 in the fourth sentence, by striking “section 706(2)” and
 17 inserting “section 706(a)(2)”.

18 (oo) REHABILITATION ACT OF 1973.—Section
 19 107(d)(3)(B) of the Rehabilitation Act of 1973 (29 U.S.C.
 20 727(d)(3)(B)) is amended by striking “section 706” and
 21 inserting “section 706(a)”.

22 (pp) REORGANIZATION PLAN NO. 1 OF 1980.—Sec-
 23 tion 1(a)(2) of the Reorganization Plan No. 1 of 1980 (94
 24 Stat. 3585; 5 U.S.C. App.) is amended by striking “sec-

1 tion 553(a)(2) and (b)” and inserting “subsections (a)(2)
2 and (c) of section 553”.

3 (qq) RURAL DEVELOPMENT ACT OF 1972.—Section
4 608(a) of the Rural Development Act of 1972 (7 U.S.C.
5 2204b–2) is amended by striking “section 553(b)(3)(B)”
6 and inserting “section 553(f)(3)”.

7 (rr) SOCIAL SECURITY ACT.—The Social Security
8 Act (42 U.S.C. 301 et seq.) is amended—

9 (1) in section 221(j) (42 U.S.C. 421(j)), in the
10 flush text following paragraph (3), by striking “in
11 accordance with section 553(b)(A) of title 5, United
12 States Code” and all that follows through “and
13 statements” and inserting “in accordance with sec-
14 tion 553(f)(2) of title 5, United States Code, of
15 guidance or rules of agency organization, procedure,
16 or practice relating to consultative examinations if
17 such guidance and rules”;

18 (2) in section 410(c)(2) (42 U.S.C. 610(c)(2)),
19 by striking “section 706(2)” and inserting “section
20 706(a)(2)”;

21 (3) in section 1871(b)(2) (42 U.S.C.
22 1395hh(b)(2)), by striking subparagraph (C) and in-
23 serting the following:

1 “(C) subsection (c) of section 553 of title
2 5, United States Code, does not apply pursuant
3 to subsection (f)(3) of such section.”.

4 (ss) SOUTH PACIFIC TUNA ACT OF 1988.—Section
5 8(b) of the South Pacific Tuna Act of 1988 (16 U.S.C.
6 973f(b)) is amended, in the third sentence, by striking
7 “section 706(2)” and inserting “section 706(a)(2)”.

8 (tt) TARIFF ACT OF 1930.—Section 777(f)(5) of the
9 Tariff Act of 1930 (19 U.S.C. 1677f(f)(5)) is amended,
10 in the third sentence, by striking “section 706(2)” and
11 inserting “section 706(a)(2)”.

12 (uu) TITLE 5, UNITED STATES CODE.—Title 5,
13 United States Code, is amended—

14 (1) in section 552a—

15 (A) in subsection (j)—

16 (i) in the matter preceding paragraph
17 (1), by striking “sections 553(b)(1), (2),
18 and (3), (c), and (e)” and inserting
19 “clauses (i), (ii), and (iii) of section
20 553(c)(1)(C), section 553(c)(4), and sec-
21 tion 553(h)”;

22 (ii) in the matter following paragraph
23 (2), by striking “section 553(c)” and in-
24 serting “section 553(c)(4)”;

25 (B) in subsection (k)—

1 (i) in the matter preceding paragraph
2 (1), by striking “sections 553(b)(1), (2),
3 and (3), (c), and (e)” and inserting
4 “clauses (i), (ii), and (iii) of section
5 553(c)(1)(C), section 553(c)(4), and sec-
6 tion 553(h)”;

7 (ii) in the matter following paragraph
8 (7), by striking “section 553(c)” and in-
9 serting “section 553(c)(4)”;

10 (2) in section 556(d), in the sixth sentence, by
11 striking “rule making” and inserting “rulemaking”;

12 (3) in section 557(b), in the fourth sentence of
13 the matter preceding paragraph (1), by striking
14 “rule making” and inserting “rulemaking”;

15 (4) in section 562(11), by striking “means ‘rule
16 making’ as that term is defined in section 551(5)”
17 and inserting “has the meaning given the term in
18 section 551”;

19 (5) in section 601(2), by striking “section
20 553(b)” and inserting “section 553(c)”;

21 (6) in section 1103(b)(1), by striking “section
22 553(b)(1), (2), and (3)” and inserting “section
23 553(c)”;

1 (7) in section 1105, by striking “subsections
2 (b), (c), and (d)” and inserting “subsections (b)
3 through (g) and (i)”.

4 (vv) TITLE 11, UNITED STATES CODE.—Section
5 1172(b) of title 11, United States Code, is amended, in
6 the second sentence, by striking “sections 706(2)(A),
7 706(2)(B), 706(2)(C), and 706(2)(D) of title 5” and in-
8 serting “subparagraphs (A), (B), (C), and (D) of section
9 706(a)(2) of title 5”.

10 (wv) TITLE 14, UNITED STATES CODE.—Section
11 2507(b)(2)(A) of title 14, United States Code, is amended
12 by striking “section 706(1)” and inserting “section
13 706(a)(1)”.

14 (xx) TITLE 28, UNITED STATES CODE.—Section
15 3902 of title 28, United States Code, is amended, in the
16 first sentence, by striking “section 706(2)” and inserting
17 “section 706(a)(2)”.

18 (yy) TITLE 41, UNITED STATES CODE.—Section
19 8503(a)(2) of title 41, United States Code, is amended
20 by striking “section 553(b) to (e)” and inserting “section
21 553”.

22 (zz) TITLE 46, UNITED STATES CODE.—Title 46,
23 United States Code, is amended—

24 (1) in section 14104(b), in the second sentence,
25 by striking “shall be considered to be an interpretive

1 regulation for purposes of section 553 of title 5” and
2 inserting “shall be subject to section 553 of title 5”;
3 and

4 (2) in section 70105(c)(3)(B), in the second
5 sentence, by striking “section 706(2)(E)” and in-
6 serting “section 706(a)(2)(E)”.

7 (aaa) TITLE 49, UNITED STATES CODE.—Section
8 60102(b)(6)(C) of title 49, United States Code, is amend-
9 ed by striking “section 553(b)(3)(B)” and inserting “sec-
10 tion 553(f)(3)”.

11 (bbb) TOXIC SUBSTANCES CONTROL ACT.—Section
12 19(c)(1)(B) of the Toxic Substances Control Act (15
13 U.S.C. 2618(c)(1)(B)) is amended—

14 (1) in clause (i)—

15 (A) in subclause (I), by striking “para-
16 graph (2)(E)” and inserting “subsection
17 (a)(2)(E)”;

18 (B) in subclause (II), by striking “para-
19 graph (2)(E)” and inserting “subsection
20 (a)(2)(E)”;

21 (2) in clause (ii), by striking “section 553(c)”
22 and inserting “section 553(e)(2)”.

23 (ccc) UNFUNDED MANDATES REFORM ACT OF
24 1995.—Section 401(a)(2)(A) of the Unfunded Mandates
25 Reform Act of 1995 (2 U.S.C. 1571(a)(2)(A)) is amended

1 by striking “section 706(1)” and inserting “section
2 706(a)(1)”.

3 (ddd) UNITED STATES HOUSING ACT OF 1937.—
4 Section 31(d) of the United States Housing Act of 1937
5 (42 U.S.C. 1437z-3(d)) is amended by striking “(b)(B),
6 and (d)(3)” and inserting “(f)(3), and (g)(2)”.

7 (eee) UNITED STATES WAREHOUSE ACT.—Section
8 13(d)(2) of the United States Warehouse Act (7 U.S.C.
9 252(d)(2)) is amended by striking “section 706(2)” and
10 inserting “section 706(a)(2)”.

○