

119TH CONGRESS  
1ST SESSION

# S. 1708

To improve agency rulemaking, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 12, 2025

Mr. LANKFORD (for himself and Mr. JOHNSON) introduced the following bill;  
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## 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”;

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

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

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

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

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

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

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

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

17 “(A) likely to lead to—

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

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

23 “(iii) significant adverse effects on  
24 competition, employment, investment, pro-  
25 ductivity, innovation, public health and

1 safety, or the ability of United States-  
2 based enterprises to compete with foreign-  
3 based enterprises in domestic and export  
4 markets; or

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

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

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

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

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

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

23 “(18) ‘Office of Information and Regulatory Af-  
24 fairs’ means the office established under section

1 3503 of title 44 and any successor to that office;  
 2 and

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

6 **SEC. 3. RULEMAKING.**

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

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

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

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

14 (3) by striking subsections (b) through (e) and  
 15 inserting the following:

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

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

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

1           “(3) Whether existing Federal laws or rules  
2           have created or contributed to the problem the agen-  
3           cy may address with a rule and, if so, whether those  
4           Federal laws or rules could be amended or rescinded  
5           to address the problem in whole or in part.

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

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

14                  “(B) consider not only mandating par-  
15                  ticular conduct or manners of compliance, but  
16                  also—

17                           “(i) specifying performance objectives;

18                           “(ii) establishing economic incentives,  
19                           including marketable permits, to encourage  
20                           desired behavior;

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

1           “(iv) adopting other means of meeting  
2           the objectives of the statutory provision on  
3           which the rulemaking relies without man-  
4           dating particular conduct or manners of  
5           compliance.

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

11           “(A) the direct costs and benefits, with  
12           costs and benefits measured over equal time pe-  
13           riods;

14           “(B) the nature and degree of risks ad-  
15           dressed by the rule and the countervailing risks  
16           that might be posed by agency action; and

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

24          “(c) NOTICE OF PROPOSED RULEMAKING.—

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

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

6           “(B) refrain from publishing the notice  
7 until the Administrator concludes the review  
8 under subparagraph (A); and

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

13           “(i) a statement of the time, place,  
14 and nature of any public rulemaking pro-  
15 ceedings;

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

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

21           “(iv) a summary of information  
22 known to the agency concerning the con-  
23 siderations described in subsection (b); and

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

1 “(I) a reasoned preliminary ex-  
2 planation regarding how—

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

7 “(bb) the benefits of the  
8 proposed rule justify the costs;

9 “(II) a discussion of—

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

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

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

23 “(III) a solicitation of public  
24 comment, including on all issues and  
25 alternatives discussed under sub-

1 clauses (I) and (II) and subsection  
2 (k)(1)(A).

3 “(2) ACCESSIBILITY.—

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

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

21 “(i) placed in the docket through cita-  
22 tion or incorporation by reference, includ-  
23 ing a specification of the identity of the  
24 nongovernmental person who holds a legal  
25 right to prohibit or limit reproduction, dis-

1           tribution, or public display of the informa-  
2           tion and the means by which a member of  
3           the public may request a full copy of the  
4           information from that holder; and

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

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

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

1           “(B) to the maximum extent practicable,  
2 use that information in compliance with the  
3 guidelines issued under section 515 of the  
4 Treasury and General Government Appropria-  
5 tions Act, 2001 (Public Law 106–554; 114  
6 Stat. 2763A–154).

7           “(4) PUBLIC COMMENT.—

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

18           “(B) TIMELINE.—

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

1           “(ii) ADEQUATE REVIEW PERIOD.—If  
2           a proposed rule relies on information  
3           placed in the docket through citation or in-  
4           corporation by reference as described in  
5           paragraph (3)(B), the comment period re-  
6           quired under clause (i) shall be adequate  
7           to allow interested persons to receive and  
8           review that information to inform their  
9           submission.

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

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

1           “(5) CHANGE OF CLASSIFICATION AFTER PUB-  
2           LICATION OF NOTICE.—If, after an agency submits  
3           for review and publishes the notice of proposed rule-  
4           making required under paragraph (1), a proposed  
5           rule is determined to be a major rule, the agency  
6           shall—

7                   “(A) publish a notice in the Federal Reg-  
8                   ister with respect to the change of the classi-  
9                   fication of the rule; and

10                   “(B) allow interested persons an additional  
11                   opportunity of not less than 30 days to com-  
12                   ment on—

13                           “(i) the rule; and

14                           “(ii) the change of the classification of  
15                   the rule.

16           “(6) REQUIREMENTS FOR CERTAIN COMMU-  
17           NICATIONS.—

18                   “(A) PROHIBITION.—Except as provided  
19                   in subparagraph (C), after an agency publishes  
20                   a notice of proposed rulemaking required under  
21                   paragraph (1), or after an agency publishes a  
22                   notice of initiation of rulemaking under sub-  
23                   section (d)(1)(B), the agency, and any indi-  
24                   vidual acting in an official capacity on behalf of  
25                   the agency, may not communicate, and a person

1 who receives Federal funds from the agency  
2 may not use those funds to communicate,  
3 through written, oral, electronic, or other  
4 means, to the public with respect to the pro-  
5 posed rule in a manner that—

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

10 “(ii) appeals to the public, or solicits  
11 a third party, to undertake advocacy in  
12 support of or against the proposed rule; or

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

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

23 “(C) EXCEPTION.—The prohibition under  
24 subparagraph (A) shall not apply to a commu-  
25 nication that requests comments on, or provides

1 information regarding, a proposed rule in an  
2 impartial manner.

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

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

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

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

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

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

24 “(iii) invite interested persons to pro-  
25 pose alternatives and other ideas regarding

1           how best to accomplish the objectives of  
2           the agency in the most effective manner;

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

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

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

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

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

22                 “(B) is exempt from disclosure under sec-  
23                 tion 552(b).

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

4                   “(A) the alternatives and other ideas are  
5           for the benefit of—

6                           “(i) the agency receiving the alter-  
7                           natives and other ideas; and

8                           “(ii) the public; and

9                   “(B) the agency receiving the alternatives  
10           and other ideas may respond to the alternatives  
11           and other ideas.

12           “(4) TIMETABLE.—

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

19                           “(i) contains intermediate completion  
20                           dates for actions of the agency, includ-  
21                           ing—

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

1                   “(II) the duration of the com-  
2                   ment period required under subsection  
3                   (c)(4), including the date on which the  
4                   comment period shall end; and

5                   “(ii) includes a final completion date  
6                   for actions by the agency.

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

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

16                         “(i) the size and complexity of the  
17                         rulemaking;

18                         “(ii) the resources available to the  
19                         agency;

20                         “(iii) the national significance of the  
21                         rulemaking; and

22                         “(iv) all statutory requirements that  
23                         govern the timing of the rulemaking.

24                         “(D) REPORT REQUIRED.—

1           “(i) IN GENERAL.—An agency that  
2 fails to meet an intermediate or final com-  
3 pletion date for an action established under  
4 subparagraph (A) shall submit to Congress  
5 and the Director of the Office of Manage-  
6 ment and Budget a report regarding why  
7 the agency failed to meet the completion  
8 date.

9           “(ii) CONTENTS; PUBLICATION IN  
10 FEDERAL REGISTER.—A report submitted  
11 under clause (i) shall—

12                   “(I) include an amended time-  
13 table for the rulemaking; and

14                   “(II) be published—

15                           “(aa) in the Federal Reg-  
16 ister; and

17                           “(bb) in the electronic docket  
18 established under paragraph  
19 (1)(A) with respect to the rule-  
20 making.

21           “(E) CHANGES TO INTERMEDIATE DATES  
22 PUBLISHED IN ELECTRONIC DOCKET.—If an  
23 agency changes an intermediate completion date  
24 for an action of the agency established under  
25 subparagraph (A)(i), the agency shall publish in

1 the electronic docket established under para-  
2 graph (1)(A)—

3 “(i) the updated completion date for  
4 the action; and

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

8 “(5) NOTICE OF DETERMINATION OF OTHER  
9 AGENCY COURSE.—

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

14 “(i) publish a notice of determination  
15 of other agency course; and

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

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

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

1                   “(ii) if the agency intends to issue a  
2                   rule, any information required under sub-  
3                   section (c).

4           “(e) FINAL RULES.—

5                   “(1) NET BENEFITS OF MAJOR RULE.—

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

11                                   “(i) cumulative regulatory cost bur-  
12                                   dens; and

13                                   “(ii) only benefits that arise within  
14                                   the scope of the statutory provision that  
15                                   authorizes the rulemaking.

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

20                                   “(i) the Administrator approves the  
21                                   adoption by the agency of the alternative;  
22                                   and

23                                   “(ii) the alternative is adopted to—

24   “(I) account for costs or benefits  
25   that cannot be quantified, including

1 costs or benefits related to constitu-  
2 tional or civil rights, provided that the  
3 agency identifies all such costs and  
4 benefits and explains why those costs  
5 and benefits justify the adoption of  
6 the alternative; or

7 “(II) achieve additional benefits  
8 or cost reductions, provided that the  
9 agency—

10 “(aa) identifies—

11 “(AA) all such addi-  
12 tional benefits and the asso-  
13 ciated costs of those bene-  
14 fits; and

15 “(BB) all such cost re-  
16 ductions and the associated  
17 benefits of those cost reduc-  
18 tions; and

19 “(bb) explains why—

20 “(AA) the additional  
21 benefits justify the addi-  
22 tional costs; or

23 “(BB) the additional  
24 cost reductions justify any  
25 benefits foregone.

1           “(C) RULE OF CONSTRUCTION.—Nothing  
2           in subparagraph (A) may be construed to pre-  
3           clude an agency from including in an alter-  
4           native adopted pursuant to such subparagraph  
5           changes made as a result of agency analysis or  
6           review performed under chapter 6 of this title.

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

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

19                 “(B) a reasoned determination by the  
20                 agency regarding the considerations described  
21                 in subsection (b);

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

24                 “(D) the internet address of a summary of  
25                 not more than 100 words in length of the pro-

1 posed rule, in plain language, that shall be  
2 posted on the internet website under section  
3 206(d) of the E-Government Act of 2002 (44  
4 U.S.C. 3501 note) (commonly known as regula-  
5 tions.gov); and

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

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

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

18 “(II) the adoption by the agency of a  
19 more costly or less costly rule complies  
20 with paragraph (1)(B).

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

1           “(A) adopt a final rule on the basis of the  
2           best reasonably available scientific, technical, or  
3           economic information; and

4           “(B) to the maximum extent practicable,  
5           use that information in compliance with the  
6           guidelines issued under section 515 of the  
7           Treasury and General Government Appropria-  
8           tions Act, 2001 (Public Law 106–554; 114  
9           Stat. 2763A–154).

10          “(4) ACCESSIBILITY.—

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

22           “(B) INFORMATION CONTROLLED BY NON-  
23           GOVERNMENTAL PERSON.—With respect to any  
24           information to which a nongovernmental person  
25           holds a legal right to prohibit or limit reproduc-

1           tion, distribution, or public display, the infor-  
2           mation shall be—

3                   “(i) placed in the docket through cita-  
4                   tion or incorporation by reference, includ-  
5                   ing a specification of the identity of the  
6                   nongovernmental person who holds a legal  
7                   right to prohibit or limit reproduction, dis-  
8                   tribution, or public display of the informa-  
9                   tion and the means by which a member of  
10                  the public may request a full copy of the  
11                  information from that holder; and

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

20                  “(C) EXCEPTION.—Subparagraphs (A)  
21                  and (B) shall not apply with respect to informa-  
22                  tion that is exempt from disclosure under sec-  
23                  tion 552(b).

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

1           “(A) IN GENERAL.—During the 60-day pe-  
2           riod beginning on a transitional inauguration  
3           day (as defined in section 3349a), with respect  
4           to any final rule that had been placed on file  
5           for public inspection by the Office of the Fed-  
6           eral Register or published in the Federal Reg-  
7           ister as of the date of the inauguration, but  
8           which had not become effective by the date of  
9           the transitional inauguration day, the agency  
10          issuing the rule may, by order, delay the effec-  
11          tive date of the rule for not more than 90 days  
12          for the purpose of obtaining public comment on  
13          whether—

14                 “(i) the rule should be amended or re-  
15                 scinded; or

16                 “(ii) the effective date of the rule  
17                 should be further delayed.

18          “(B) OPPORTUNITY FOR COMMENT.—If an  
19          agency delays the effective date of a rule under  
20          subparagraph (A), the agency shall give the  
21          public not less than 30 days to submit com-  
22          ments.

23          “(C) CITATION TO CONGRESSIONAL  
24          RECORD.—Not later than 30 days after a final  
25          rule described in subparagraph (A) goes into ef-

1           fect, or, in the case of a final rule described in  
2           subparagraph (A) that is a major rule, not later  
3           than the date on which the final rule goes into  
4           effect, the agency promulgating the rule shall  
5           publish in the Federal Register a citation to the  
6           Congressional record for the submission re-  
7           quired under section 801(a)(1)(A) of this title  
8           with respect to the final rule.

9           “(f) APPLICABILITY.—

10           “(1) PRIMACY OF CERTAIN RULEMAKING CON-  
11           SIDERATIONS AND PROCEDURES IN OTHER FEDERAL  
12           LAWS.—

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

22           “(B) PROCEDURAL REQUIREMENTS.—If a  
23           rulemaking is authorized under a Federal law  
24           that requires an agency to follow or use, or pro-  
25           hibits an agency from following or using, a pro-

1           cedure in a manner that is duplicative of, or  
2           that conflicts with, a procedural requirement  
3           under this section, for the purposes of this sec-  
4           tion, the requirement or prohibition, as applica-  
5           ble, in that other Federal law shall apply to the  
6           agency in the rulemaking.

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

11          “(3) EXCEPTIONS FOR GOOD CAUSE.—

12               “(A) FINDING OF GOOD CAUSE.—

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 unnecessary, impracticable,  
17                   or contrary to the public interest, that sub-  
18                   section shall not apply and the agency may  
19                   issue the final rule or an interim final rule,  
20                   as applicable, under subparagraph (B) or  
21                   (C).

22                   “(ii) INCORPORATION OF GOOD CAUSE  
23                   FINDING.—If an agency makes a finding  
24                   under clause (i), the agency shall include  
25                   that finding and a detailed statement with

1 respect to the reasons for that finding in  
2 the final rule or interim final rule, as ap-  
3 plicable, issued by the agency.

4 “(B) DIRECT FINAL RULES.—

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

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

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

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

24 “(ii) EXCEPTION.—An agency that  
25 made a finding described in clause (i) may

1 choose not to follow the requirements  
2 under that clause if the agency determines  
3 that following the requirements would not  
4 expedite the issuance of the final rule.

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

10 “(I) withdraw the notice of final  
11 rulemaking published by the agency  
12 with respect to the rule; and

13 “(II) complete rulemaking in ac-  
14 cordance with subsections (c) through  
15 (e), as applicable.

16 “(C) INTERIM FINAL RULES.—

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

23 “(I) publishing the interim final  
24 rule and a request for public comment

1 in the portion of the Federal Register  
2 relating to final rules; and

3 “(II) providing a cross-reference  
4 in the portion of the Federal Register  
5 relating to proposed rules that re-  
6 quests public comment with respect to  
7 the rule not later than 60 days after  
8 the rule is published under subclause  
9 (I).

10 “(ii) INTERIM PERIOD.—

11 “(I) IN GENERAL.—Not later  
12 than 180 days after the date on which  
13 an agency issues an interim final rule  
14 under clause (i), the agency shall—

15 “(aa) rescind the interim  
16 rule;

17 “(bb) initiate rulemaking in  
18 accordance with subsections (c)  
19 through (e); or

20 “(cc) take final action to  
21 adopt a final rule.

22 “(II) NO FORCE OR EFFECT.—If,  
23 as of the end of the 180-day period  
24 described in subclause (I), an agency  
25 fails to take an action described in

1 item (aa), (bb), or (cc) of that sub-  
2 clause, the interim final rule issued by  
3 the agency shall have no force or ef-  
4 fect.

5 “(4) EXEMPTION FOR MONETARY POLICY.—  
6 This section shall not apply to a rulemaking or to  
7 guidance that concerns monetary policy proposed or  
8 implemented by the Board of Governors of the Fed-  
9 eral Reserve System or the Federal Open Market  
10 Committee.

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

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

20 “(1) for guidance; or

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

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

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

4           “(2) on a continuing basis, invite interested  
5 persons to submit, by electronic means, suggestions  
6 for rules that warrant retrospective review and pos-  
7 sible modification or repeal.

8           “(i) RULEMAKING GUIDELINES.—

9           “(1) ASSESSMENT OF RULES.—

10           “(A) IN GENERAL.—The Administrator  
11 shall establish guidelines regarding rulemaking  
12 as follows:

13           “(i) IDENTIFICATION OF NEED FOR  
14 RULES.—Guidelines setting forth how  
15 needs for rulemaking should be identified,  
16 including—

17           “(I) whether rulemaking is made  
18 necessary by compelling public need,  
19 such as material failures of private  
20 markets or public institutions to pro-  
21 tect or improve the health and safety  
22 of the public, the environment, or the  
23 well-being of the public; and

24           “(II) whether rulemaking needs  
25 could be lessened by reliance on po-

1           tential State, local, Tribal, or regional  
2           regulatory action or other responses  
3           that could be taken in lieu of agency  
4           action.

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

10                   “(I) the costs and benefits of  
11                   proposed and final rules and alter-  
12                   natives to them, including quantifiable  
13                   and non-quantifiable costs and bene-  
14                   fits;

15                   “(II) whether proposed and final  
16                   rules maximize net benefits;

17                   “(III) estimated impacts on jobs,  
18                   wages, competition, innovation, rural  
19                   populations, and low-income popu-  
20                   lations;

21                   “(IV) other economic issues that  
22                   are relevant to rulemaking under this  
23                   section or other sections of this part;  
24                   and

1                   “(V) risk assessments that are  
2                   relevant to rulemaking under this sec-  
3                   tion and other sections of this part.

4                   “(iii) NUMBERS OF ALTERNATIVES.—  
5                   Guidelines regarding when it may be rea-  
6                   sonable to consider in a rulemaking more  
7                   alternatives than the number presumed to  
8                   be reasonable under subsection (b)(4).

9                   “(iv) ADOPTION OF ALTERNATIVES  
10                  FOR MAJOR RULES.—Guidelines regarding  
11                  when it may be appropriate, in a rule-  
12                  making for a major rule, to adopt an alter-  
13                  native final rule under subsection  
14                  (e)(1)(B).

15                  “(v) ADMINISTRATOR REVIEW.—  
16                  Guidelines regarding the efficient submis-  
17                  sion and review of proposed and final rules  
18                  under subsections (c)(1) and (e)(2).

19                  “(B) AGENCY ANALYSIS OF RULES.—

20                  “(i) IN GENERAL.—The rigor of the  
21                  cost-benefit analysis required or rec-  
22                  ommended by the guidelines established  
23                  under subparagraph (A) shall be commen-  
24                  surate, as determined by the Adminis-  
25                  trator, with the economic impact of a rule.

1                   “(ii) RISK ASSESSMENT GUIDE-  
2                   LINES.—Guidelines for a risk assessment  
3                   described in subparagraph (A)(iv) shall in-  
4                   clude criteria for—

5                               “(I) selecting studies and models;

6                               “(II) evaluating and weighing  
7                   evidence; and

8                               “(III) conducting peer reviews.

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

18                  “(2) SIMPLIFICATION OF RULES.—

19                               “(A) ISSUANCE OF GUIDELINES.—The Ad-  
20                  ministrator shall issue guidelines to promote co-  
21                  ordination, simplification, and harmonization of  
22                  agency rules during the rulemaking process.

23                               “(B) REQUIREMENTS.—The guidelines  
24                  issued by the Administrator under subpara-  
25                  graph (A) shall advise each agency to—

1           “(i) avoid rules that are inconsistent  
2           or incompatible with, or duplicative of,  
3           other regulations of the agency and those  
4           of other agencies; and

5           “(ii) draft the rules of the agency to  
6           be simple and easy to understand, with the  
7           goal of minimizing the potential for uncer-  
8           tainty and litigation arising from the un-  
9           certainty.

10          “(3) CONSISTENCY IN RULEMAKING.—

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

19           “(B) AGENCY ADOPTION OF REGULA-  
20           TIONS.—Each agency shall adopt regulations  
21           for the conduct of hearings consistent with the  
22           guidelines issued under this paragraph.

23          “(j) AGENCY GUIDANCE; PROCEDURES TO ISSUE  
24          MAJOR GUIDANCE; AUTHORITY TO ISSUE GUIDELINES  
25          FOR ISSUANCE OF GUIDANCE.—

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

2 “(A) not be used by an agency to foreclose  
3 consideration of issues as to which the guidance  
4 expresses a conclusion;

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

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

16 “(2) PROCEDURES TO ISSUE MAJOR GUID-  
17 ANCE.—Before issuing any major guidance, an agen-  
18 cy shall make and document a reasoned determina-  
19 tion that—

20 “(A) such guidance is understandable and  
21 complies with relevant statutory objectives and  
22 regulatory provisions; and

23 “(B) identifies the costs and benefits, in-  
24 cluding all costs and benefits to be considered  
25 during a rulemaking as required under sub-

1 section (b), of requiring conduct conforming to  
2 such guidance and assures that such benefits  
3 justify such costs.

4 “(3) ISSUANCE OF UPDATED GUIDANCE.—

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

8 “(B) REQUIREMENTS.—The guidelines  
9 issued by the Administrator under subpara-  
10 graph (A) shall advise each agency—

11 “(i) not to issue guidance documents  
12 that are inconsistent or incompatible with,  
13 or duplicative of, other rules of the agency  
14 and those of other agencies;

15 “(ii) to draft the guidance documents  
16 of the agency to be simple and easy to un-  
17 derstand, with the goal of minimizing the  
18 potential for uncertainty and litigation  
19 arising from the uncertainty; and

20 “(iii) how to develop and implement a  
21 strategy to ensure the proper use of guid-  
22 ance by the agency.

23 “(k) MAJOR RULE FRAMEWORKS.—

24 “(1) IN GENERAL.—Beginning on the date that  
25 is 180 days after the date of enactment of this sub-

1 section, when an agency publishes in the Federal  
2 Register—

3 “(A) a proposed major rule, the agency  
4 shall include a potential framework for assess-  
5 ing the rule, which shall include a general state-  
6 ment of how the agency intends to measure the  
7 effectiveness of the rule; or

8 “(B) a final major rule, the agency shall  
9 include a framework for assessing the rule  
10 under paragraph (2), which shall include—

11 “(i) a clear statement of the regu-  
12 latory objectives of the rule, including a  
13 summary of the expected and predicted  
14 benefits and costs of the rule;

15 “(ii) the methodology by which the  
16 agency plans to analyze the rule, including  
17 metrics by which the agency can meas-  
18 ure—

19 “(I) the effectiveness and bene-  
20 fits of the rule in producing the regu-  
21 latory objectives of the rule; and

22 “(II) the impacts, including any  
23 costs, of the rule on regulated and  
24 other impacted entities;

1           “(iii) a plan for gathering data re-  
2           garding the metrics described in clause (ii)  
3           on an ongoing basis, or at periodic times,  
4           including a method by which the agency  
5           will invite the public to participate in the  
6           review process and seek input from other  
7           agencies; and

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

14          “(2) ASSESSMENT.—

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

23                         “(i) to analyze how the actual benefits  
24                         and costs of the rule may have varied from

1 those anticipated at the time the rule was  
2 issued; and

3 “(ii) to determine whether—

4 “(I) the rule is accomplishing the  
5 regulatory objective of the rule;

6 “(II) the rule has been rendered  
7 unnecessary, taking into consider-  
8 ation—

9 “(aa) changes in the subject  
10 area affected by the rule; and

11 “(bb) whether the rule over-  
12 laps, duplicates, or conflicts  
13 with—

14 “(AA) other rules; or

15 “(BB) to the extent  
16 feasible, State and local gov-  
17 ernment regulations;

18 “(III) the rule needs to be modi-  
19 fied in order to accomplish the regu-  
20 latory objective; and

21 “(IV) other alternatives to the  
22 rule or modification of the rule could  
23 better achieve the regulatory objective  
24 while imposing a smaller burden on  
25 society or increase cost-effectiveness,

1 taking into consideration any cost al-  
2 ready incurred.

3 “(B) DIFFERENT METHODOLOGY.—If an  
4 agency uses a methodology other than the  
5 methodology under paragraph (1)(B)(ii) to as-  
6 sess data under subparagraph (A), the agency  
7 shall include as part of the notice required to  
8 be published under subparagraph (D) an expla-  
9 nation of the changes in circumstances that ne-  
10 cessitated the use of that other methodology.

11 “(C) SUBSEQUENT ASSESSMENTS.—

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

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

1                   “(II) if the assessment conducted  
2                   under subclause (I) does not result in  
3                   a repeal of the rule, periodically assess  
4                   the rule in accordance with subpara-  
5                   graph (A) to ensure that the rule con-  
6                   tinues to meet the regulatory objec-  
7                   tive.

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

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

23                  “(3) OIRA OVERSIGHT.—The Administrator  
24                  shall—

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

5           “(B) oversee the timely compliance of  
6           agencies with this subsection;

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

9                   “(i) published promptly on a central-  
10                  ized Federal website; and

11                   “(ii) noticed in the Federal Register  
12                  in accordance with paragraph (2)(D);

13           “(D) ensure that agencies streamline and  
14           coordinate the assessment of major rules with  
15           similar or related regulatory objectives;

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

23           “(F) extend the deadline specified by an  
24           agency for an assessment of a major rule under  
25           paragraph (1)(B)(iv) or paragraph (2)(C)(i)(I)

1 for a period of not more than 90 days if the  
2 agency justifies why the agency is unable to  
3 complete the assessment by that deadline.

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

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

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

13 “(5) APPLICABILITY.—

14 “(A) IN GENERAL.—This subsection shall  
15 not apply to—

16 “(i) a major rule of an agency—

17 “(I) that the Administrator re-  
18 viewed before the date of enactment of  
19 this subsection;

20 “(II) for which the agency is re-  
21 quired to conduct a retrospective re-  
22 view under any other provision of law  
23 that meets or exceeds the require-  
24 ments of this subsection, as deter-  
25 mined by the Administrator; or

1                   “(III) for which the authorizing  
2                   statute is subject to periodic reauthor-  
3                   ization by Congress not less fre-  
4                   quently than once every 10 years;

5                   “(ii) guidance;

6                   “(iii) routine and administrative rules;

7                   or

8                   “(iv) a rule that is reviewed under  
9                   section 2222 of the Economic Growth and  
10                  Regulatory Paperwork Reduction Act of  
11                  1996 (12 U.S.C. 3311).

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

21                  “(6) RECOMMENDATIONS TO CONGRESS.—If,  
22                  under an assessment conducted under paragraph  
23                  (2), an agency determines that a major rule should  
24                  be modified or repealed, the agency may submit to  
25                  Congress recommendations for legislation to amend

1 applicable provisions of law if the agency is prohib-  
2 ited from modifying or repealing the rule under an-  
3 other provision of law.

4 “(7) JUDICIAL REVIEW.—

5 “(A) IN GENERAL.—Judicial review of  
6 agency compliance with this subsection is lim-  
7 ited to whether an agency—

8 “(i) published the framework for as-  
9 sessment of a major rule in accordance  
10 with paragraph (1); or

11 “(ii) completed and published the re-  
12 quired assessment of a major rule in ac-  
13 cordance with subparagraphs (A) and (D)  
14 of paragraph (2).

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

21 “(C) EFFECTIVE DATE OF MAJOR RULE.—

22 If, in an action brought under subparagraph  
23 (A)(i), a court determines that the agency did  
24 not comply, the major rule shall take effect not-  
25 withstanding any order issued by the court.

1       “(1) AUTHORITIES AND RESPONSIBILITIES OF THE  
2 OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—

3           “(1) IN GENERAL.—The Administrator shall  
4 provide meaningful guidance and oversight, which  
5 may include review by the Office of Information and  
6 Regulatory Affairs, to ensure that each agency  
7 issues rules in accordance with the requirements  
8 under this section and other applicable law and do  
9 not conflict with the policies or actions of another  
10 agency.

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

17                   “(A) identify areas of noncompliance;

18                   “(B) notify the agency; and

19                   “(C) request that the agency comply before  
20 the agency finalizes the major rule concerned.

21           “(3) ANNUAL STATEMENT TO CONGRESS ON  
22 AGENCY COMPLIANCE.—The Administrator shall  
23 submit to Congress, including the Committee on  
24 Homeland Security and Governmental Affairs of the  
25 Senate and the Committee on Oversight and Ac-

1       countability of the House of Representatives, an annual  
2       written report that, for the 1-year period preceding  
3       the report—

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

9               “(B) contains an appendix detailing compliance  
10              by each agency.

11       “(m) **RULE OF CONSTRUCTION.**—Nothing in this section  
12       shall be construed to limit the scope of the authority  
13       of the Office of Information and Regulatory Affairs under  
14       subchapter I of chapter 35 of title 44, section 515 of the  
15       Treasury and General Government Appropriations Act,  
16       2001 (Public Law 106–554; 114 Stat. 2763A–154), chapter  
17       8 of this title, or any other law or Executive Order.”.

18       **SEC. 4. SCOPE OF REVIEW.**

19       Section 706 of title 5, United States Code, is amended—  
20       ed—

21               (1) in the first sentence of the matter preceding  
22       paragraph (1), by striking “To the extent necessary”  
23       and inserting the following:

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

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

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

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

7 (C) by striking the flush text following  
8 paragraph (2)(F) and inserting the following:

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

14 “(c) PRECLUSION OF REVIEW.—

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

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

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

4       “(e) AGENCY INTERPRETATION OF RULES.—

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

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

18   **SEC. 5. ADDED DEFINITIONS.**

19      Section 701(b) of title 5, United States Code, is  
20      amended—

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

23              (2) in paragraph (2)—

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

1 (B) by striking the period at the end and  
2 inserting “; and”; and

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

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

8 **SEC. 6. APPLICATION.**

9 The amendments made by this Act to sections 553,  
10 701(b), and 706 of title 5, United States Code, shall not  
11 apply to any rulemaking, as defined in section 551 of title  
12 5, United States Code, as amended by section 2 of this  
13 Act, that is pending or completed as of the date of enact-  
14 ment of this Act.

15 **SEC. 7. RULE OF CONSTRUCTION WITH RESPECT TO COPY-**  
16 **RIGHTS.**

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

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

22 (a) ALASKA NATIONAL INTEREST LANDS CONSERVA-  
23 TION ACT.—Section 1002(g)(2) of the Alaska National In-  
24 terest Lands Conservation Act (16 U.S.C. 3142(g)(2)) is

1 amended, in the third sentence, by striking “section  
2 706(2)(E)” and inserting “section 706(a)(2)(E)”.

3 (b) ANTARCTIC MARINE LIVING RESOURCES CON-  
4 VENTION ACT OF 1984.—The Antarctic Marine Living  
5 Resources Convention Act of 1984 (16 U.S.C. 2431 et  
6 seq.) is amended—

7 (1) in section 307(b)(1) (16 U.S.C.  
8 2436(b)(1)), by striking “subsections (b), (c), and  
9 (d)” and inserting “subsections (c) and (g)”; and

10 (2) in section 308(c), in the third sentence, by  
11 striking “section 706(2)(E)” and inserting “section  
12 706(a)(2)(E)”.

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

18 (d) CARES ACT.—Section 1114 of the CARES Act  
19 (15 U.S.C. 9012) is amended by striking “section 553(b)”  
20 and inserting “section 553(c)”.

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

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

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

7 (2) in section 304 (2 U.S.C. 1384)—

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

10 (B) in subsection (d)(3), by striking “sec-  
11 tion 553(d)(3)” and inserting “section  
12 553(g)(2)”;

13 (C) in subsection (e), by striking “section  
14 553(b)(B)” and inserting “section 553(f)”;

15 (3) in section 409 (2 U.S.C. 1409), in the first  
16 sentence—

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

19 (B) by striking “section 706(2)(B)” and  
20 inserting “section 706(a)(2)(B)”.

21 (g) CONSUMER PRODUCT SAFETY ACT.—Section 9(i)  
22 of the Consumer Product Safety Act (15 U.S.C. 2058(i))  
23 is amended, in the first sentence, by striking “section  
24 553(e)” and inserting “section 553(h)”.

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

6 (i) DEFENSE PRODUCTION ACT OF 1950.—Section  
7 709(b)(1) of the Defense Production Act of 1950 (50  
8 U.S.C. 4559(b)(1)) is amended by striking “for not less  
9 than 30 days, consistent with the requirements of section  
10 553(b)” and inserting “in a manner consistent with the  
11 requirements of section 553(e)”.

12 (j) ENDANGERED SPECIES ACT OF 1973.—Section  
13 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C.  
14 1533(b)(3)) is amended—

15 (1) in subparagraph (A), in the first sentence,  
16 by striking “section 553(e)” and inserting “section  
17 553(h)”; and

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

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

1           (l) EXPEDITED FUNDS AVAILABILITY ACT.—Section  
2 609(a) of the Expedited Funds Availability Act (12 U.S.C.  
3 4008(a)) is amended, in the matter preceding paragraph  
4 (1), by striking “section 553(c)” and inserting “section  
5 553”.

6           (m) FAMILY AND MEDICAL LEAVE ACT OF 1993.—  
7 Section 110(a)(3) of the Family and Medical Leave Act  
8 of 1993 (29 U.S.C. 2620(a)(3)) is amended, in the matter  
9 preceding subparagraph (A), by striking “sections  
10 553(b)(B) and section 553(d)(3)” and inserting “sub-  
11 sections (f)(3) and (g)(2) of section 553”.

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

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

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

24                   (1) in subsection (e)—

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

7 (B) in paragraph (3)(C), by striking  
8 “paragraph (2) of section 706” and inserting  
9 “section 706(a)(2)”; and

10 (2) in subsection (j), in the first sentence, by  
11 striking “section 553(e)” and inserting “section  
12 553(h)”.

13 (q) FEDERAL TRADE COMMISSION ACT.—Section  
14 18(e) of the Federal Trade Commission Act (15 U.S.C.  
15 57a(e)) is amended—

16 (1) in paragraph (3), in the second sentence of  
17 the matter preceding subparagraph (A), by striking  
18 “section 706(2)” and inserting “section 706(a)(2)”;  
19 and

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

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

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

4           (2) in section 16(c)(2) (15 U.S.C. 1203(c)(2)),  
5 by striking “section 553(b)” and inserting “section  
6 553(c)”.

7           (s) GENERAL EDUCATION PROVISIONS ACT.—Sec-  
8 tion 411 of the General Education Provisions Act (20  
9 U.S.C. 1221e-4) is amended, in the second sentence, by  
10 striking “Notwithstanding the exception provided under  
11 section 553(b) of title 5, such” and inserting “Such”.

12           (t) HIGH SEAS FISHING COMPLIANCE ACT OF  
13 1995.—Section 108(d) of the High Seas Fishing Compli-  
14 ance Act of 1995 (16 U.S.C. 5507(d)) is amended, in the  
15 third sentence, by striking “section 706(2)” and inserting  
16 “section 706(a)(2)”.

17           (u) HIGHER EDUCATION ACT OF 1965.—Section  
18 492(b)(2) of the Higher Education Act of 1965 (20  
19 U.S.C. 1098a(b)(2)) is amended by striking “section  
20 553(b)(3)(B)” and inserting “section 553(f)(3)”.

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

24           (1) in section 643(b)(3) (42 U.S.C.  
25 13603(b)(3)), in the first sentence, by striking

1 “(notwithstanding subsections (a)(2), (b)(B), and  
2 (d)(3) of such section)” and inserting “(notwith-  
3 standing subsections (a)(2), (f)(3), and (g)(2) of  
4 such section)”; and

5 (2) in section 685 (42 U.S.C. 13643), in the  
6 second sentence, by striking “(notwithstanding sub-  
7 sections (a)(2), (b)(B), and (d)(3) of such section)”  
8 and inserting “(notwithstanding subsections (a)(2),  
9 (f)(3), and (g)(2) of such section)”.

10 (w) INTERCOUNTRY ADOPTION ACT OF 2000.—The  
11 Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et  
12 seq.) is amended—

13 (1) in section 203(a)(3) (42 U.S.C.  
14 14923(a)(3)), by striking “Subsections (b), (c), and  
15 (d) of section” and inserting “Section 553”; and

16 (2) in section 401(a)(2) (42 U.S.C.  
17 14941(a)(2)), by striking “Subsections (b), (c), and  
18 (d) of section” and inserting “Section 553”.

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

23 (y) MAGNUSON-STEVENS FISHERY CONSERVATION  
24 AND MANAGEMENT ACT.—Section 308(b) of the Magnu-  
25 son-Stevens Fishery Conservation and Management Act

1 (16 U.S.C. 1858(b)) is amended, in the third sentence,  
2 by striking “section 706(2)” and inserting “section  
3 706(a)(2)”.

4 (z) MARINE MAMMAL PROTECTION ACT OF 1972.—  
5 Section 109 of the Marine Mammal Protection Act of  
6 1972 (16 U.S.C. 1379) is amended—

7 (1) in subsection (c)(4), in the first sentence, by  
8 striking “section 706(2)(A) through (E) of Title”  
9 and inserting “subparagraphs (A) through (E) of  
10 section 706(a)(2) of title”; and

11 (2) in subsection (d)(2), in the second sen-  
12 tence—

13 (A) by striking “Title” and inserting  
14 “title”; and

15 (B) by striking “subsection (d) of such sec-  
16 tion 553” and inserting “subsection (g) of such  
17 section 553”.

18 (aa) MCKINNEY-VENTO HOMELESS ASSISTANCE  
19 ACT.—Section 433 of the McKinney-Vento Homeless As-  
20 sistance Act (42 U.S.C. 11387) is amended, in the second  
21 sentence, by striking “(notwithstanding subsections  
22 (a)(2), (b)(B), and (d)(3) of such section)” and inserting  
23 “(notwithstanding subsections (a)(2), (f)(3), and (g)(2) of  
24 such section)”.

1 (bb) MIGRANT AND SEASONAL AGRICULTURAL  
2 WORKER PROTECTION ACT.—The Migrant and Seasonal  
3 Agricultural Worker Protection Act (29 U.S.C. 1801 et  
4 seq.) is amended—

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

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

11 (cc) MILWAUKEE RAILROAD RESTRUCTURING  
12 ACT.—The Milwaukee Railroad Restructuring Act (45  
13 U.S.C. 901 et seq.) is amended—

14 (1) in section 5(b)(2) (45 U.S.C. 904(b)(2)), in  
15 the second sentence, by striking “sections 706(2)(A),  
16 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of  
17 the United States Code” and inserting “subpara-  
18 graphs (A), (B), (C), and (D) of section 706(a)(2)  
19 of title 5, United States Code”; and

20 (2) in section 17(45 U.S.C. 915), by striking  
21 “sections 706(2)(A), 706(2)(B), 706(2)(C), and  
22 706(2)(D) of title 5 of the United States Code” each  
23 place it appears and inserting “subparagraphs (A),  
24 (B), (C), and (D) of section 706(a)(2) of title 5,  
25 United States Code”.

1 (dd) NATIVE AMERICAN PROGRAMS ACT OF 1974.—  
2 Section 814 of the Native American Programs Act of 1974  
3 (42 U.S.C. 2992b-1) is amended—

4 (1) in subsection (b)—

5 (A) in paragraph (1), in the matter pre-  
6 ceding subparagraph (A), by striking “Subpara-  
7 graph (A) of the last sentence of section 553(b)  
8 of title 5, United States Code, shall not apply  
9 with respect to any interpretative rule or gen-  
10 eral statement of policy” and inserting “Section  
11 553(c) of title 5, United States Code, shall  
12 apply with respect to guidance”;

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-  
15 graph (A), by striking “Subparagraph (B)  
16 of the last sentence of section 553(b)” and  
17 inserting “Section 553(f)(3)”; and

18 (ii) by striking “an interpretative rule  
19 or a general statement of policy” and in-  
20 serting “guidance”; and

21 (C) in paragraph (3), in the matter pre-  
22 ceding subparagraph (A)—

23 (i) by striking “The first 2 sentences  
24 of section 553(b)” and inserting “Section  
25 553(c)”; and

1 (ii) by striking “an interpretative rule,  
2 a general statement of policy,” and insert-  
3 ing “guidance”;

4 (2) in subsection (c)—

5 (A) in the matter preceding paragraph  
6 (1)—

7 (i) by striking “section 553(d)” and  
8 inserting “section 553(g)”; and

9 (ii) by striking “an interpretative  
10 rule) or general statement of policy” and  
11 inserting “guidance)”; and

12 (B) in the flush text following paragraph  
13 (2), by striking “the first 2 sentences of section  
14 553(b)” and inserting “section 553(c)”;

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

18 (4) in subsection (e)—

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

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

24 (5) in subsection (f)—

1 (A) by striking “an interpretative rule) or  
2 a general statement of policy” and inserting  
3 “guidance”); and

4 (B) by striking “or such general statement  
5 of policy”; and

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

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

10 (ee) NATURAL GAS POLICY ACT OF 1978.—Section  
11 502(b) of the Natural Gas Policy Act of 1978 (15 U.S.C.  
12 3412(b)) is amended, in the third sentence, by striking  
13 “section 553(d)(3)” and inserting “section 553(g)(2)”.

14 (ff) NOISE CONTROL ACT OF 1972.—Section 6(e)(2)  
15 of the Noise Control Act of 1972 (42 U.S.C. 4905(e)(2))  
16 is amended by striking “the first sentence of section  
17 553(e)” and inserting “section 553(e)(4)”.

18 (gg) NORTHEAST RAIL SERVICE ACT OF 1981.—Sec-  
19 tion 1152(c) of the Northeast Rail Service Act of 1981  
20 (45 U.S.C. 1105(c)) is amended by striking “paragraphs  
21 (2) (A), (B), (C), and (D) of section 706, title 5” and  
22 inserting “subparagraphs (A) through (D) of section  
23 706(a)(2) of title 5”.

24 (hh) NORTHERN PACIFIC HALIBUT ACT OF 1982.—  
25 Section 8(b) of the Northern Pacific Halibut Act of 1982

1 (16 U.S.C. 773f(b)) is amended, in the third sentence, by  
2 striking “section 706(2)” and inserting “section  
3 706(a)(2)”.

4 (ii) OCEAN THERMAL ENERGY CONVERSION ACT OF  
5 1980.—Section 302(c)(2) of the Ocean Thermal Energy  
6 Conversion Act of 1980 (42 U.S.C. 9152(c)(2)) is amend-  
7 ed by striking “section 706(2)” and inserting “section  
8 706(a)(2)”.

9 (jj) POISON PREVENTION PACKAGING ACT OF  
10 1970.—The Poison Prevention Packaging Act of 1970 (15  
11 U.S.C. 1471 et seq.) is amended—

12 (1) in section 5 (15 U.S.C. 1474)—

13 (A) in subsection (a), in the first sentence,  
14 by striking “(other than paragraph (3)(B) of  
15 the last sentence of subsection (b) of such sec-  
16 tion) of title 5 of the United States Code” and  
17 inserting “of title 5, United States Code, other  
18 than subsection (f)(3) of such section,”; and

19 (B) in subsection (b)—

20 (i) by striking “of the United States  
21 Code” each place that term appears and  
22 inserting “, United States Code”; and

23 (ii) in paragraph (3), in the first sen-  
24 tence, by striking “paragraph (2) of sec-

1                   tion 706” and inserting “section  
2                   706(a)(2)”; and  
3                   (2) in section 7(c)(2) (15 U.S.C. 1476(c)(2)),  
4           by striking “section 553(b)” and inserting “section  
5           553(c)”.

6           (kk) POULTRY PRODUCTS INSPECTION ACT.—Sec-  
7   tion 14(c) of the Poultry Products Inspection Act (21  
8   U.S.C. 463(c)) is amended by striking “section 553(c) of  
9   title 5, United States Code” and inserting “section  
10 553(c)(4) of title 5, United States Code,”.

11          (ll) PUBLIC HEALTH SERVICE ACT.—Section  
12 2723(b)(2)(E)(iii) of the Public Health Service Act (42  
13 U.S.C. 300gg–22(b)(2)(E)(iii)) is amended by striking  
14 “section 706(2)(E)” and inserting “section  
15 706(a)(2)(E)”.

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

20          (nn) REGIONAL RAIL REORGANIZATION ACT OF  
21 1973.—Section 216(c)(3) of the Regional Rail Reorga-  
22 nization Act of 1973 (45 U.S.C. 726(c)(3)) is amended,  
23 in the fourth sentence, by striking “section 706(2)” and  
24 inserting “section 706(a)(2)”.

1       (oo) REHABILITATION ACT OF 1973.—Section  
2 107(d)(3)(B) of the Rehabilitation Act of 1973 (29 U.S.C.  
3 727(d)(3)(B)) is amended by striking “section 706” and  
4 inserting “section 706(a)”.

5       (pp) REORGANIZATION PLAN NO. 1 OF 1980.—Sec-  
6 tion 1(a)(2) of the Reorganization Plan No. 1 of 1980 (94  
7 Stat. 3585; 5 U.S.C. App.) is amended by striking “sec-  
8 tion 553(a)(2) and (b)” and inserting “subsections (a)(2)  
9 and (c) of section 553”.

10       (qq) RURAL DEVELOPMENT ACT OF 1972.—Section  
11 608(a) of the Rural Development Act of 1972 (7 U.S.C.  
12 2204b–2) is amended by striking “section 553(b)(3)(B)”  
13 and inserting “section 553(f)(3)”.

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

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

1           (2) in section 410(c)(2) (42 U.S.C. 610(c)(2)),  
2           by striking “section 706(2)” and inserting “section  
3           706(a)(2)”;

4           (3) in section 1871(b)(2) (42 U.S.C.  
5           1395hh(b)(2)), by striking subparagraph (C) and in-  
6           serting the following:

7                   “(C) subsection (c) of section 553 of title  
8                   5, United States Code, does not apply pursuant  
9                   to subsection (f)(3) of such section.”.

10          (ss) SOUTH PACIFIC TUNA ACT OF 1988.—Section  
11          8(b) of the South Pacific Tuna Act of 1988 (16 U.S.C.  
12          973f(b)) is amended, in the third sentence, by striking  
13          “section 706(2)” and inserting “section 706(a)(2)”.

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

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

20                   (1) in section 552a—

21                           (A) in subsection (j)—

22                                   (i) in the matter preceding paragraph  
23                                   (1), by striking “sections 553(b)(1), (2),  
24                                   and (3), (c), and (e)” and inserting  
25                                   “clauses (i), (ii), and (iii) of section

1 553(c)(1)(C), section 553(c)(4), and sec-  
2 tion 553(h)”; and

3 (ii) in the matter following paragraph  
4 (2), by striking “section 553(c)” and in-  
5 serting “section 553(c)(4)”; and  
6 (B) in subsection (k)—

7 (i) in the matter preceding paragraph  
8 (1), by striking “sections 553(b)(1), (2),  
9 and (3), (c), and (e)” and inserting  
10 “clauses (i), (ii), and (iii) of section  
11 553(c)(1)(C), section 553(c)(4), and sec-  
12 tion 553(h)”; and

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

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

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

21 (4) in section 562(11), by striking “means ‘rule  
22 making’ as that term is defined in section 551(5)”  
23 and inserting “has the meaning given the term in  
24 section 551”;

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

3           (6) in section 1103(b)(1), by striking “section  
4       553(b)(1), (2), and (3)” and inserting “section  
5       553(c)”; and

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

9       (vv) TITLE 11, UNITED STATES CODE.—Section  
10   1172(b) of title 11, United States Code, is amended, in  
11   the second sentence, by striking “sections 706(2)(A),  
12   706(2)(B), 706(2)(C), and 706(2)(D) of title 5” and in-  
13   serting “subparagraphs (A), (B), (C), and (D) of section  
14   706(a)(2) of title 5”.

15       (ww) TITLE 14, UNITED STATES CODE.—Section  
16   2507(b)(2)(A) of title 14, United States Code, is amended  
17   by striking “section 706(1)” and inserting “section  
18   706(a)(1)”.

19       (xx) TITLE 28, UNITED STATES CODE.—Section  
20   3902 of title 28, United States Code, is amended, in the  
21   first sentence, by striking “section 706(2)” and inserting  
22   “section 706(a)(2)”.

23       (yy) TITLE 41, UNITED STATES CODE.—Section  
24   8503(a)(2) of title 41, United States Code, is amended

1 by striking “section 553(b) to (e)” and inserting “section  
2 553”.

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

5 (1) in section 14104(b), in the second sentence,  
6 by striking “shall be considered to be an interpretive  
7 regulation for purposes of section 553 of title 5” and  
8 inserting “shall be subject to section 553 of title 5”;  
9 and

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

13 (aaa) TITLE 49, UNITED STATES CODE.—Section  
14 60102(b)(6)(C) of title 49, United States Code, is amend-  
15 ed by striking “section 553(b)(3)(B)” and inserting “sec-  
16 tion 553(f)(3)”.

17 (bbb) TOXIC SUBSTANCES CONTROL ACT.—Section  
18 19(c)(1)(B) of the Toxic Substances Control Act (15  
19 U.S.C. 2618(c)(1)(B)) is amended—

20 (1) in clause (i)—

21 (A) in subclause (I), by striking “para-  
22 graph (2)(E)” and inserting “subsection  
23 (a)(2)(E)”; and

1 (B) in subclause (II), by striking “para-  
2 graph (2)(E)” and inserting “subsection  
3 (a)(2)(E)”; and  
4 (2) in clause (ii), by striking “section 553(c)”  
5 and inserting “section 553(e)(2)”.

6 (ccc) UNFUNDED MANDATES REFORM ACT OF  
7 1995.—Section 401(a)(2)(A) of the Unfunded Mandates  
8 Reform Act of 1995 (2 U.S.C. 1571(a)(2)(A)) is amended  
9 by striking “section 706(1)” and inserting “section  
10 706(a)(1)”.

11 (ddd) UNITED STATES HOUSING ACT OF 1937.—  
12 Section 31(d) of the United States Housing Act of 1937  
13 (42 U.S.C. 1437z–3(d)) is amended by striking “(b)(B),  
14 and (d)(3)” and inserting “(f)(3), and (g)(2)”.

15 (eee) UNITED STATES WAREHOUSE ACT.—Section  
16 13(d)(2) of the United States Warehouse Act (7 U.S.C.  
17 252(d)(2)) is amended by striking “section 706(2)” and  
18 inserting “section 706(a)(2)”.

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