

116TH CONGRESS
1ST SESSION

S. 442

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2019

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

A BILL

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

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 “Require Evaluation
5 before Implementing Executive Wishlists Act of 2019” or
6 the “REVIEW Act of 2019”.

7 **SEC. 2. RELIEF PENDING REVIEW.**

8 Section 705 of title 5, United States Code, is amend-
9 ed—

1 (1) by striking “When” and inserting the fol-
2 lowing:

3 “(a) IN GENERAL.—When”; and

4 (2) by adding at the end the following:

5 “(b) HIGH-IMPACT RULES.—

6 “(1) DEFINITIONS.—In this subsection—

7 “(A) the term ‘Administrator’ means the
8 Administrator of the Office of Information and
9 Regulatory Affairs of the Office of Management
10 and Budget; and

11 “(B) the term ‘high-impact rule’ means
12 any rule that the Administrator determines may
13 impose an annual cost on the economy of not
14 less than \$1,000,000,000.

15 “(2) IDENTIFICATION.—A final rule may not be
16 published or take effect until—

17 “(A) the agency making the rule submits
18 the rule to the Administrator; and

19 “(B) the Administrator makes a deter-
20 mination as to whether the rule is a high-im-
21 pact rule, which shall be published by the agen-
22 cy with the final rule.

23 “(3) RELIEF.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), an agency shall postpone the

1 effective date of a high-impact rule of the agen-
2 cy until the final disposition of all actions seek-
3 ing judicial review of the rule.

4 “(B) FAILURE TO TIMELY SEEK JUDICIAL
5 REVIEW.—Notwithstanding section 553(d), if
6 no person seeks judicial review of a high-impact
7 rule—

8 “(i) during any period explicitly pro-
9 vided for judicial review under the statute
10 authorizing the making of the rule; or

11 “(ii) if no such period is explicitly pro-
12 vided for, during the 60-day period begin-
13 ning on the date on which the high-impact
14 rule is published in the Federal Register,
15 the high-impact rule may take effect as early as
16 the date on which the applicable period ends.

17 “(4) RULE OF CONSTRUCTION.—Nothing in
18 this subsection may be construed to impose any limi-
19 tation under law on any court against the issuance
20 of any order enjoining the implementation of any
21 rule.”.

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