

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 357**  
**OFFERED BY M .**

Strike all that follows after the enacting clause and insert the following:

1    **SECTION 1. SHORT TITLE.**

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

## 4 SEC. 2. RULEMAKING REQUIREMENTS.

5 (a) APPROVAL REQUIRED.—

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

(2) INITIATION OF RULEMAKING AND REGULATORY AGENDA.—Except as provided in paragraph (3), any rule initiated under section 553 of title 5, United States Code, shall be initiated by a senior appointee.

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

1 (A) determines, on a nondelegable basis,  
2 that compliance with the relevant paragraph  
3 would impede public safety or security;

4 (B) submits to the Administrator a notifi-  
5 cation disclosing the reasons for the exemption;  
6 and

7 (C) publishes such notification, consistent  
8 with public safety, security, and privacy inter-  
9 ests, in the Federal Register.

10 (b) OVERSIGHT.—

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

16 (2) OIRA GUIDANCE AND COMPLIANCE.—The  
17 Administrator shall provide guidance on the imple-  
18 mentation of and shall monitor agency compliance  
19 with this section.

20 (c) RULES OF CONSTRUCTION.—This section may  
21 not be construed to impair or otherwise affect the func-  
22 tions of the Director of the Office of Management and  
23 Budget relating to budgetary, administrative, or legislative  
24 proposals.

25 (d) DEFINITIONS.—In this section:

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

5           (2) AGENCY.—The term “agency” has the  
6           meaning given that term under section 551 of title  
7           5, United States Code.

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

14          (4) SENIOR APPOINTEE.—The term “senior ap-  
15          pointee” means an individual appointed by the  
16          President, or performing the functions and duties of  
17          an office that requires appointment by the Presi-  
18          dent, or a non-career member of the Senior Execu-  
19          tive Service (or equivalent agency system).

