

115TH CONGRESS  
1ST SESSION

# H. R. 998

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

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

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## AN ACT

To provide for the establishment of a process for the review  
of rules and sets of rules, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Searching for and Cut-  
3 ting Regulations that are Unnecessarily Burdensome Act”  
4 or as the “SCRUB Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.  
Sec. 2. Table of contents.

TITLE I—RETROSPECTIVE REGULATORY REVIEW COMMISSION

Sec. 101. In general.

TITLE II—REGULATORY CUT-GO

Sec. 201. Cut-go procedures.  
Sec. 202. Applicability.  
Sec. 203. OIRA certification of cost calculations.

TITLE III—RETROSPECTIVE REVIEW OF NEW RULES

Sec. 301. Plan for future review.

TITLE IV—JUDICIAL REVIEW

Sec. 401. Judicial review.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Definitions.  
Sec. 502. Effective date.

6 **TITLE I—RETROSPECTIVE REGU-**  
7 **LATORY REVIEW COMMIS-**  
8 **SION**

9 **SEC. 101. IN GENERAL.**

10 (a) ESTABLISHMENT.—There is established a com-  
11 mission, to be known as the “Retrospective Regulatory Re-  
12 view Commission”, that shall review rules and sets of rules  
13 in accordance with specified criteria to determine if a rule  
14 or set of rules should be repealed to eliminate or reduce  
15 the costs of regulation to the economy. The Commission

1 shall terminate on the date that is 5 years and 180 days  
2 after the date of enactment of this Act or 5 years after  
3 the date by which all Commission members' terms have  
4 commenced, whichever is later.

5 (b) MEMBERSHIP.—

6 (1) NUMBER.—The Commission shall be com-  
7 posed of 9 members who shall be appointed by the  
8 President and confirmed by the Senate. Each mem-  
9 ber shall be appointed not later than 180 days after  
10 the date of enactment of this Act.

11 (2) TERM.—The term of each member shall  
12 commence upon the member's confirmation by the  
13 Senate and shall extend to the date that is 5 years  
14 and 180 days after the date of enactment of this Act  
15 or that is 5 years after the date by which all mem-  
16 bers have been confirmed by the Senate, whichever  
17 is later.

18 (3) APPOINTMENT.—The members of the Com-  
19 mission shall be appointed as follows:

20 (A) CHAIR.—The President shall appoint  
21 as the Chair of the Commission an individual  
22 with expertise and experience in rulemaking,  
23 such as past Administrators of the Office of In-  
24 formation and Regulatory Affairs, past chair-  
25 men of the Administrative Conference of the

1 United States, and other individuals with simi-  
2 lar expertise and experience in rulemaking af-  
3 fairs and the administration of regulatory re-  
4 views.

5 (B) CANDIDATE LIST OF MEMBERS.—The  
6 Speaker of the House of Representatives, the  
7 Minority Leader of the House of Representa-  
8 tives, the Majority Leader of the Senate, and  
9 the Minority Leader of the Senate shall each  
10 present to the President a list of candidates to  
11 be members of the Commission. Such can-  
12 didates shall be individuals learned in rule-  
13 making affairs and, preferably, administration  
14 of regulatory reviews. During the two-year pe-  
15 riod prior to the inclusion of an individual on  
16 a list of candidates under this subparagraph,  
17 the individual may not have been a registered  
18 lobbyist under the Lobbying Disclosure Act of  
19 1995 (2 U.S.C. 1601 et seq.). The President  
20 shall appoint 2 members of the Commission  
21 from each list provided under this subpara-  
22 graph, subject to the provisions of subpara-  
23 graph (C).

24 (C) RESUBMISSION OF CANDIDATE.—The  
25 President may request from the presenter of

1           the list under subparagraph (B) a new list of  
2           one or more candidates if the President—

3                   (i) determines that any candidate on  
4                   the list presented pursuant to subpara-  
5                   graph (B) does not meet the qualifications  
6                   specified in such subparagraph to be a  
7                   member of the Commission; and

8                   (ii) certifies that determination to the  
9                   congressional officials specified in subpara-  
10                  graph (B).

11           (4) FINANCIAL DISCLOSURE REPORTS OF MEM-  
12           BERS.—Each member of the Commission shall file  
13           the financial disclosure reports required under title  
14           I of the Ethics in Government Act of 1978 (5  
15           U.S.C. App.) in accordance with the requirements of  
16           such title.

17           (c) POWERS AND AUTHORITIES OF THE COMMIS-  
18           SION.—

19                   (1) MEETINGS.—The Commission may meet  
20                   when, where, and as often as the Commission deter-  
21                   mines appropriate, except that the Commission shall  
22                   hold public meetings not less than twice each year.  
23                   All meetings of the Commission shall be open to the  
24                   public.

1           (2) HEARINGS.—In addition to meetings held  
2 under paragraph (1), the Commission may hold  
3 hearings to consider issues of fact or law relevant to  
4 the Commission’s work. Any hearing held by the  
5 Commission shall be open to the public.

6           (3) ACCESS TO INFORMATION.—The Commis-  
7 sion may secure directly from any agency informa-  
8 tion and documents necessary to enable the Commis-  
9 sion to carry out this Act. Upon request of the Chair  
10 of the Commission, the head of that agency shall  
11 furnish that information or document to the Com-  
12 mission as soon as possible, but not later than two  
13 weeks after the date on which the request was made.

14           (4) SUBPOENAS.—

15           (A) IN GENERAL.—The Commission may  
16 issue subpoenas requiring the attendance and  
17 testimony of witnesses and the production of  
18 any evidence relating to the duties of the Com-  
19 mission. The attendance of witnesses and the  
20 production of evidence may be required from  
21 any place within the United States at any des-  
22 ignated place of hearing within the United  
23 States.

24           (B) FAILURE TO OBEY A SUBPOENA.—If a  
25 person refuses to obey a subpoena issued under

1           subparagraph (A), the Commission may apply  
2           to a United States district court for an order  
3           requiring that person to appear before the Com-  
4           mission to give testimony, produce evidence, or  
5           both, relating to the matter under investigation.  
6           The application may be made within the judicial  
7           district where the hearing is conducted or where  
8           that person is found, resides, or transacts busi-  
9           ness. Any failure to obey the order of the court  
10          may be punished by the court as civil contempt.

11           (C) SERVICE OF SUBPOENAS.—The sub-  
12          poenas of the Commission shall be served in the  
13          manner provided for subpoenas issued by a  
14          United States district court under the Federal  
15          Rules of Civil Procedure for the United States  
16          district courts.

17           (D) SERVICE OF PROCESS.—All process of  
18          any court to which application is made under  
19          subparagraph (B) may be served in the judicial  
20          district in which the person required to be  
21          served resides or may be found.

22          (d) PAY AND TRAVEL EXPENSES.—

23           (1) PAY.—

24           (A) MEMBERS.—Each member, other than  
25          the Chair of the Commission, shall be paid at

1 a rate equal to the daily equivalent of the min-  
2 imum annual rate of basic pay payable for level  
3 IV of the Executive Schedule under section  
4 5315 of title 5, United States Code, for each  
5 day (including travel time) during which the  
6 member is engaged in the actual performance of  
7 duties vested in the Commission.

8 (B) CHAIR.—The Chair shall be paid for  
9 each day referred to in subparagraph (A) at a  
10 rate equal to the daily equivalent of the min-  
11 imum annual rate of basic pay payable for level  
12 III of the Executive Schedule under section  
13 5314 of title 5, United States Code.

14 (2) TRAVEL EXPENSES.—Members shall receive  
15 travel expenses, including per diem in lieu of subsist-  
16 ence, in accordance with sections 5702 and 5703 of  
17 title 5, United States Code.

18 (e) DIRECTOR OF STAFF.—

19 (1) IN GENERAL.—The Commission shall ap-  
20 point a Director.

21 (2) PAY.—The Director shall be paid at the  
22 rate of basic pay payable for level V of the Executive  
23 Schedule under section 5316 of title 5, United  
24 States Code.

25 (f) STAFF.—



1           (1) IN GENERAL.—Subject to paragraph (2),  
2           the Director, with the approval of the Commission,  
3           may appoint, fix the pay of, and terminate addi-  
4           tional personnel.

5           (2) LIMITATIONS ON APPOINTMENT.—The Di-  
6           rector may make such appointments without regard  
7           to the provisions of title 5, United States Code, gov-  
8           erning appointments in the competitive service, and  
9           any personnel so appointed may be paid without re-  
10          gard to the provisions of chapter 51 and subchapter  
11          III of chapter 53 of that title relating to classifica-  
12          tion and General Schedule pay rates, except that an  
13          individual so appointed may not receive pay in ex-  
14          cess of the annual rate of basic pay payable for GS-  
15          15 of the General Schedule.

16          (3) AGENCY ASSISTANCE.—Following consulta-  
17          tion with and upon request of the Chair of the Com-  
18          mission, the head of any agency may detail any of  
19          the personnel of that agency to the Commission to  
20          assist the Commission in carrying out the duties of  
21          the Commission under this Act.

22          (4) GAO AND OIRA ASSISTANCE.—The Comp-  
23          troller General of the United States and the Admin-  
24          istrator of the Office of Information and Regulatory  
25          Affairs shall provide assistance, including the detail-

1 ing of employees, to the Commission in accordance  
2 with an agreement entered into with the Commis-  
3 sion.

4 (5) ASSISTANCE FROM OTHER PARTIES.—Con-  
5 gress, the States, municipalities, federally recognized  
6 Indian tribes, and local governments may provide as-  
7 sistance, including the detailing of employees, to the  
8 Commission in accordance with an agreement en-  
9 tered into with the Commission.

10 (g) OTHER AUTHORITY.—

11 (1) EXPERTS AND CONSULTANTS.—The Com-  
12 mission may procure by contract, to the extent funds  
13 are available, the temporary or intermittent services  
14 of experts or consultants pursuant to section 3109  
15 of title 5, United States Code.

16 (2) PROPERTY.—The Commission may lease  
17 space and acquire personal property to the extent  
18 funds are available.

19 (h) DUTIES OF THE COMMISSION.—

20 (1) IN GENERAL.—The Commission shall con-  
21 duct a review of the Code of Federal Regulations to  
22 identify rules and sets of rules that collectively im-  
23 plement a regulatory program that should be re-  
24 pealed to lower the cost of regulation to the econ-  
25 omy. The Commission shall give priority in the re-

1 view to rules or sets of rules that are major rules  
2 or include major rules, have been in effect more than  
3 15 years, impose paperwork burdens or unfunded  
4 mandates that could be reduced substantially with-  
5 out significantly diminishing regulatory effectiveness,  
6 impose disproportionately high costs on entities that  
7 qualify as small entities within the meaning of sec-  
8 tion 601(6) of title 5, United States Code, or could  
9 be strengthened in their effectiveness while reducing  
10 regulatory costs. The Commission shall have as a  
11 goal of the Commission to achieve a reduction of at  
12 least 15 percent in the cumulative costs of Federal  
13 regulation with a minimal reduction in the overall ef-  
14 fectiveness of such regulation.

15 (2) NATURE OF REVIEW.—To identify which  
16 rules and sets of rules should be repealed to lower  
17 the cost of regulation to the economy, the Commis-  
18 sion shall apply the following criteria:

19 (A) Whether the original purpose of the  
20 rule or set of rules was achieved, and the rule  
21 or set of rules could be repealed without signifi-  
22 cant recurrence of adverse effects or conduct  
23 that the rule or set of rules was intended to  
24 prevent or reduce.

1           (B) Whether the implementation, compli-  
2           ance, administration, enforcement, imposition of  
3           unfunded mandates, or other costs of the rule  
4           or set of rules to the economy are not justified  
5           by the benefits to society within the United  
6           States produced by the expenditure of those  
7           costs.

8           (C) Whether the rule or set of rules has  
9           been rendered unnecessary or obsolete, taking  
10          into consideration the length of time since the  
11          rule was made and the degree to which tech-  
12          nology, economic conditions, market practices,  
13          or other relevant factors have changed in the  
14          subject area affected by the rule or set of rules.

15          (D) Whether the rule or set of rules is in-  
16          effective at achieving the purposes of the rule or  
17          set of rules.

18          (E) Whether the rule or set of rules over-  
19          laps, duplicates, or conflicts with other Federal  
20          rules, and to the extent feasible, with State and  
21          local governmental rules.

22          (F) Whether the rule or set of rules has  
23          excessive compliance costs, imposes unfunded  
24          mandates, or is otherwise excessively burden-  
25          some, as compared to alternatives that—

1 (i) specify performance objectives  
2 rather than conduct or manners of compli-  
3 ance;

4 (ii) establish economic incentives to  
5 encourage desired behavior;

6 (iii) provide information upon which  
7 choices can be made by the public;

8 (iv) incorporate other innovative alter-  
9 natives rather than agency actions that  
10 specify conduct or manners of compliance;

11 or

12 (v) could in other ways substantially  
13 lower costs without significantly under-  
14 mining effectiveness.

15 (G) Whether the rule or set of rules inhib-  
16 its innovation in or growth of the United States  
17 economy, such as by impeding the introduction  
18 or use of safer or equally safe technology that  
19 is newer or more efficient than technology re-  
20 quired by or permissible under the rule or set  
21 of rules.

22 (H) Whether or not the rule or set of rules  
23 harms competition within the United States  
24 economy or the international economic competi-

1           tiveness of enterprises or entities based in the  
2           United States.

3           (I) Whether or not the rule or set of rules  
4           limits or prevents an agency from applying new  
5           or emerging technologies to improve efficiency  
6           and effectiveness of government.

7           (J) Whether the rule or set of rules harms  
8           wage growth, including wage growth for min-  
9           imum wage and part-time workers.

10          (K) Whether the rule or set of rules is in  
11          full compliance with the requirements of section  
12          801(a)(1)(A) of title 5, United States Code.

13          (L) Whether, and the extent to which, the  
14          repeal of the rule or set of rules would impact  
15          public health.

16          (M) Such other criteria as the Commission  
17          devises to identify rules and sets of rules that  
18          can be repealed to eliminate or reduce unneces-  
19          sarily burdensome costs to the United States  
20          economy.

21          (3) **METHODOLOGY FOR REVIEW.**—The Com-  
22          mission shall establish a methodology for conducting  
23          the review (including an overall review and discrete  
24          reviews of portions of the Code of Federal Regula-  
25          tions), identifying rules and sets of rules, and

1 classifying rules under this subsection and publish  
2 the terms of the methodology in the Federal Reg-  
3 ister and on the website of the Commission. The  
4 Commission may propose and seek public comment  
5 on the methodology before the methodology is estab-  
6 lished.

7 (4) CLASSIFICATION OF RULES AND SETS OF  
8 RULES.—

9 (A) IN GENERAL.—After completion of any  
10 review of rules or sets of rules under paragraph  
11 (2), the Commission shall classify each rule or  
12 set of rules identified in the review to qualify  
13 for recommended repeal as either a rule or set  
14 of rules—

15 (i) on which immediate action to re-  
16 peal is recommended; or

17 (ii) that should be eligible for repeal  
18 under regulatory cut-go procedures under  
19 title II.

20 (B) DECISIONS BY MAJORITY.—Each deci-  
21 sion by the Commission to identify a rule or set  
22 of rules for classification under this paragraph,  
23 and each decision whether to classify the rule or  
24 set of rules under clause (i) or (ii) of subpara-  
25 graph (A), shall be made by a simple majority

1           vote of the Commission. No such vote shall take  
2           place until after all members of the Commission  
3           have been confirmed by the Senate.

4           (5) INITIATION OF REVIEW BY OTHER PER-  
5           SONS.—

6                   (A) IN GENERAL.—The Commission may  
7           also conduct a review under paragraph (2) of,  
8           and, if appropriate, classify under paragraph  
9           (4), any rule or set of rules that is submitted  
10          for review to the Commission by—

11                           (i) the President;

12                           (ii) a Member of Congress;

13                           (iii) any officer or employee of a Fed-  
14           eral, State, local or tribal government, or  
15           regional governmental body; or

16                           (iv) any member of the public.

17                   (B) FORM OF SUBMISSION.—A submission  
18           to the Commission under this paragraph  
19           shall—

20                           (i) identify the specific rule or set of  
21           rules submitted for review;

22                           (ii) provide a statement of evidence to  
23           demonstrate that the rule or set of rules  
24           qualifies to be identified for repeal under  
25           the criteria listed in paragraph (2); and



1 (iii) such other information as the  
2 submitter believes may be helpful to the  
3 Commission's review, including a state-  
4 ment of the submitter's interest in the  
5 matter.

6 (C) PUBLIC AVAILABILITY.—The Commis-  
7 sion shall make each submission received under  
8 this paragraph available on the website of the  
9 Commission as soon as possible, but not later  
10 than 1 week after the date on which the sub-  
11 mission was received.

12 (i) NOTICES AND REPORTS OF THE COMMISSION.—

13 (1) NOTICES OF AND REPORTS ON ACTIVI-  
14 TIES.—The Commission shall publish, in the Federal  
15 Register and on the website of the Commission—

16 (A) notices in advance of all public meet-  
17 ings, hearings, and classifications under sub-  
18 section (h) informing the public of the basis,  
19 purpose, and procedures for the meeting, hear-  
20 ing, or classification; and

21 (B) reports after the conclusion of any  
22 public meeting, hearing, or classification under  
23 subsection (h) summarizing in detail the basis,  
24 purpose, and substance of the meeting, hearing,  
25 or classification.

1           (2) ANNUAL REPORTS TO CONGRESS.—Each  
2 year, beginning on the date that is one year after  
3 the date on which all Commission members have  
4 been confirmed by the Senate, the Commission shall  
5 submit a report simultaneously to each House of  
6 Congress detailing the activities of the Commission  
7 for the previous year, and listing all rules and sets  
8 of rules classified under subsection (h) during that  
9 year. For each rule or set of rules so listed, the  
10 Commission shall—

11                   (A) identify the agency that made the rule  
12 or set of rules;

13                   (B) identify the annual cost of the rule or  
14 set of rules to the United States economy and  
15 the basis upon which the Commission identified  
16 that cost;

17                   (C) identify whether the rule or set of rules  
18 was classified under clause (i) or clause (ii) of  
19 subsection (h)(4)(A);

20                   (D) identify the criteria under subsection  
21 (h)(2) that caused the classification of the rule  
22 or set of rules and the basis upon which the  
23 Commission determined that those criteria were  
24 met;

1           (E) for each rule or set of rules listed  
2 under the criteria set forth in subparagraph  
3 (B), (D), (F), (G), (H), or (I) of subsection  
4 (h)(2), or other criteria established by the Com-  
5 mission under subparagraph (I) of such sub-  
6 section under which the Commission evaluated  
7 alternatives to the rule or set of rules that could  
8 lead to lower regulatory costs, identify alter-  
9 natives to the rule or set of rules that the Com-  
10 mission recommends the agency consider as re-  
11 placements for the rule or set of rules and the  
12 basis on which the Commission rests the rec-  
13 ommendations, and, in identifying such alter-  
14 natives, emphasize alternatives that will achieve  
15 regulatory effectiveness at the lowest cost and  
16 with the lowest adverse impacts on jobs;

17           (F) for each rule or set of rules listed  
18 under the criteria set forth in subsection  
19 (h)(2)(E), the other Federal, State, or local  
20 governmental rules that the Commission found  
21 the rule or set of rules to overlap, duplicate, or  
22 conflict with, and the basis for the findings of  
23 the Commission; and

24           (G) in the case of each set of rules so list-  
25 ed, analyze whether Congress should also con-

1           sider repeal of the statutory authority imple-  
2           mented by the set of rules.

3           (3) FINAL REPORT.—Not later than the date  
4           on which the Commission members' appointments  
5           expire, the Commission shall submit a final report  
6           simultaneously to each House of Congress summa-  
7           rizing all activities and recommendations of the  
8           Commission, including a list of all rules or sets of  
9           rules the Commission classified under clause (i) of  
10          subsection (h)(4)(A) for immediate action to repeal,  
11          a separate list of all rules or sets of rules the Com-  
12          mission classified under clause (ii) of subsection  
13          (h)(4)(A) for repeal, and with regard to each rule or  
14          set of rules listed on either list, the information de-  
15          scribed in subparagraphs (A) through (F) of sub-  
16          section (h)(2). This report may be included in the  
17          final annual report of the Commission under para-  
18          graph (2) and may include the Commission's rec-  
19          ommendation whether the Commission should be re-  
20          authorized by Congress.

21          (j) REPEAL OF REGULATIONS; CONGRESSIONAL  
22          CONSIDERATION OF COMMISSION REPORTS.—

23                 (1) IN GENERAL.—Subject to paragraph (2)—  
24                         (A) the head of each agency with authority  
25                         to repeal a rule or set of rules classified by the

1 Commission under subsection (h)(4)(A)(i) for  
2 immediate action to repeal and newly listed as  
3 such in an annual or final report of the Com-  
4 mission under paragraph (2) or (3) of sub-  
5 section (i) shall repeal the rule or set of rules  
6 as recommended by the Commission within 60  
7 days after the enactment of a joint resolution  
8 under paragraph (2) for approval of the rec-  
9 ommendations of the Commission in the report;  
10 and

11 (B) the head of each agency with authority  
12 to repeal a rule or set of rules classified by the  
13 Commission under subsection (h)(4)(A)(ii) for  
14 repeal and newly listed as such in an annual or  
15 final report of the Commission under paragraph  
16 (2) or (3) of subsection (i) shall repeal the rule  
17 or set of rules as recommended by the Commis-  
18 sion pursuant to section 201, following the en-  
19 actment of a joint resolution under paragraph  
20 (2) for approval of the recommendations of the  
21 Commission in the report.

22 (2) CONGRESSIONAL APPROVAL.—

23 (A) IN GENERAL.—No head of an agency  
24 described in paragraph (1) shall be required by  
25 this Act to carry out a repeal listed by the

1 Commission in a report transmitted to Congress  
2 under paragraph (2) or (3) of subsection (i)  
3 until a joint resolution is enacted, in accordance  
4 with the provisions of subparagraph (B), ap-  
5 proving such recommendations of the Commis-  
6 sion for repeal.

7 (B) TERMS OF THE RESOLUTION.—For  
8 purposes of paragraph (A), the term “joint res-  
9 olution” means only a joint resolution which is  
10 introduced after the date on which the Commis-  
11 sion transmits to the Congress under paragraph  
12 (2) or (3) of subsection (i) the report con-  
13 taining the recommendations to which the reso-  
14 lution pertains, and—

15 (i) which does not have a preamble;

16 (ii) the matter after the resolving  
17 clause of which is only as follows: “That  
18 Congress approves the recommendations  
19 for repeal of the Retrospective Regulatory  
20 Review Commission as submitted by the  
21 Commission on \_\_\_\_\_”, the blank  
22 space being filled in with the appropriate  
23 date; and

24 (iii) the title of which is as follows:

25 “Approving recommendations for repeal of

1           the Retrospective Regulatory Review Com-  
2           mission.”.

3           (3) REISSUANCE OF RULES.—

4           (A) NO SUBSTANTIALLY SIMILAR RULE TO  
5           BE REISSUED.—A rule that is repealed under  
6           paragraph (1) or section 201 may not be re-  
7           issued in substantially the same form, and a  
8           new rule that is substantially the same as such  
9           a rule may not be issued, unless the reissued or  
10          new rule is specifically authorized by a law en-  
11          acted after the date of the joint resolution ap-  
12          proving the Commission’s recommendation to  
13          repeal the original rule.

14          (B) AGENCY TO ENSURE AVOIDANCE OF  
15          SIMILAR DEFECTS.—An agency, in making any  
16          new rule to implement statutory authority pre-  
17          viously implemented by a rule repealed under  
18          paragraph (1) or section 201, shall ensure that  
19          the new rule does not result in the same ad-  
20          verse effects of the repealed rule that caused  
21          the Commission to recommend to Congress the  
22          latter’s repeal and will not result in new adverse  
23          effects of the kind described in the criteria  
24          specified in or under subsection (h).

25          (k) AUTHORIZATION OF APPROPRIATIONS.—

1           (1) IN GENERAL.—There are authorized to be  
2           appropriated such sums as may be necessary to the  
3           Commission to carry out this Act, not to exceed  
4           \$30,000,000.

5           (2) AVAILABILITY.—Any sums appropriated  
6           under the authorization contained in this section  
7           shall remain available, without fiscal year limitation,  
8           until the earlier of the date that such sums are ex-  
9           pended or the date of the termination of the Com-  
10          mission.

11          (1) WEBSITE.—

12           (1) IN GENERAL.—The Commission shall estab-  
13          lish a public website that—

14                   (A) uses current information technology to  
15                   make records available on the website;

16                   (B) provides information in a standard  
17                   data format; and

18                   (C) receives and publishes public com-  
19                   ments.

20          (2) PUBLISHING OF INFORMATION.—Any infor-  
21          mation required to be made available on the website  
22          established pursuant to this Act shall be published  
23          in a timely manner and shall be accessible by the  
24          public on the website at no cost.



1           (3) RECORD OF PUBLIC MEETINGS AND HEAR-  
2           INGS.—All records of public meetings and hearings  
3           shall be published on the website as soon as possible,  
4           but not later than 1 week after the date on which  
5           such public meeting or hearing occurred.

6           (4) PUBLIC COMMENTS.—The Commission shall  
7           publish on the website all public comments and sub-  
8           missions.

9           (5) NOTICES.—The Commission shall publish  
10          on the website notices of all public meetings and  
11          hearings at least one week before the date on which  
12          such public meeting or hearing occurs.

13          (m) APPLICABILITY OF THE FEDERAL ADVISORY  
14          COMMITTEE ACT.—

15               (1) IN GENERAL.—Except as otherwise pro-  
16               vided in this Act, the Commission shall be subject to  
17               the provisions of the Federal Advisory Committee  
18               Act (5 U.S.C. App.).

19               (2) ADVISORY COMMITTEE MANAGEMENT OFFI-  
20               CER.—The Commission shall not be subject to the  
21               control of any Advisory Committee Management Of-  
22               ficer designated under section 8(b)(1) of the Federal  
23               Advisory Committee Act (5 U.S.C. App.).

24               (3) SUBCOMMITTEE.—Any subcommittee of the  
25               Commission shall be treated as the Commission for

1 purposes of the Federal Advisory Committee Act (5  
2 U.S.C. App.).

3 (4) CHARTER.—The enactment of the SCRUB  
4 Act shall be considered to meet the requirements of  
5 the Commission under section 9(c) of the Federal  
6 Advisory Committee Act (5 U.S.C. App.).

7 (n) DEFINITION.—In this section, the term “un-  
8 funded mandate” has the meaning given the term “Fed-  
9 eral mandate” in section 421(6) of the Congressional  
10 Budget Act of 1974 (2 U.S.C. 658(6)).

## 11 **TITLE II—REGULATORY CUT-GO**

### 12 **SEC. 201. CUT-GO PROCEDURES.**

13 (a) IN GENERAL.—Except as provided in section  
14 101(j)(2)(A) or section 202, an agency, when the agency  
15 makes a new rule, shall repeal rules or sets of rules of  
16 that agency classified by the Commission under section  
17 101(h)(4)(A)(ii), such that the annual costs of the new  
18 rule to the United States economy is offset by such re-  
19 peals, in an amount equal to or greater than the cost of  
20 the new rule, based on the regulatory cost reductions of  
21 repeal identified by the Commission.

22 (b) ALTERNATIVE PROCEDURE.—An agency may, al-  
23 ternatively, repeal rules or sets of rules of that agency  
24 classified by the Commission under section  
25 101(h)(4)(A)(ii) prior to the time specified in subsection

1 (a). If the agency so repeals such a rule or set of rules  
2 and thereby reduces the annual, inflation-adjusted cost of  
3 the rule or set of rules to the United States economy, the  
4 agency may thereafter apply the reduction in regulatory  
5 costs, based on the regulatory cost reductions of repeal  
6 identified by the Commission, to meet, in whole or in part,  
7 the regulatory cost reduction required under subsection  
8 (a) of this section to be made at the time the agency pro-  
9 mulgates a new rule.

10 (c) ACHIEVEMENT OF FULL NET COST REDUC-  
11 TIONS.—

12 (1) IN GENERAL.—Subject to the provisions of  
13 paragraph (2), an agency may offset the costs of a  
14 new rule or set of rules by repealing a rule or set  
15 of rules listed by the Commission under section  
16 101(h)(4)(A)(ii) that implement the same statutory  
17 authority as the new rule or set of rules.

18 (2) LIMITATION.—When using the authority  
19 provided in paragraph (1), the agency must achieve  
20 a net reduction in costs imposed by the agency's  
21 body of rules (including the new rule or set of rules)  
22 that is equal to or greater than the cost of the new  
23 rule or set of rules to be promulgated, including,  
24 whenever necessary, by repealing additional rules of

1 the agency listed by the Commission under section  
2 101(h)(4)(A)(ii).

3 **SEC. 202. APPLICABILITY.**

4 An agency shall no longer be subject to the require-  
5 ments of sections 201 and 203 beginning on the date that  
6 there is no rule or set of rules of the agency classified  
7 by the Commission under section 101(h)(4)(A)(ii) that has  
8 not been repealed such that all regulatory cost reductions  
9 identified by the Commission to be achievable through re-  
10 peal have been achieved.

11 **SEC. 203. OIRA CERTIFICATION OF COST CALCULATIONS.**

12 The Administrator of the Office of Information and  
13 Regulatory Affairs of the Office of Management and  
14 Budget shall review and certify the accuracy of agency de-  
15 terminations of the costs of new rules under section 201.  
16 The certification shall be included in the administrative  
17 record of the relevant rulemaking by the agency promul-  
18 gating the rule, and the Administrator shall transmit a  
19 copy of the certification to Congress when it transmits the  
20 certification to the agency.

21 **TITLE III—RETROSPECTIVE**  
22 **REVIEW OF NEW RULES**

23 **SEC. 301. PLAN FOR FUTURE REVIEW.**

24 When an agency makes a rule, the agency shall in-  
25 clude in the final issuance of such rule a plan for the re-

1 view of such rule by not later than 10 years after the date  
2 such rule is made. Such a review, in the case of a major  
3 rule, shall be substantially similar to the review by the  
4 Commission under section 101(h). In the case of a rule  
5 other than a major rule, the agency's plan for review shall  
6 include other procedures and standards to enable the  
7 agency to determine whether to repeal or amend the rule  
8 to eliminate unnecessary regulatory costs to the economy.  
9 Whenever feasible, the agency shall include a proposed  
10 plan for review of a proposed rule in its notice of proposed  
11 rulemaking and shall receive public comment on the plan.

## 12 **TITLE IV—JUDICIAL REVIEW**

### 13 **SEC. 401. JUDICIAL REVIEW.**

14 (a) IMMEDIATE REPEALS.—Agency compliance with  
15 section 101(j) of this Act shall be subject to judicial review  
16 under chapter 7 of title 5, United States Code.

17 (b) CUT-GO PROCEDURES.—Agency compliance with  
18 title II of this Act shall be subject to judicial review under  
19 chapter 7 of title 5, United States Code.

20 (c) PLANS FOR FUTURE REVIEW.—Agency compli-  
21 ance with section 301 shall be subject to judicial review  
22 under chapter 7 of title 5, United States Code.

1           **TITLE V—MISCELLANEOUS**  
2                           **PROVISIONS**

3 **SEC. 501. DEFINITIONS.**

4           In this Act:

5                   (1) **AGENCY.**—The term “agency” has the  
6           meaning given such term in section 551 of title 5,  
7           United States Code.

8                   (2) **COMMISSION.**—The term “Commission”  
9           means the Retrospective Regulatory Review Commis-  
10          sion established under section 101.

11                   (3) **MAJOR RULE.**—The term “major rule”  
12          means any rule that the Administrator of the Office  
13          of Information and Regulatory Affairs determines is  
14          likely to impose—

15                           (A) an annual cost on the economy of  
16                           \$100,000,000 or more, adjusted annually for  
17                           inflation;

18                           (B) a major increase in costs or prices for  
19                           consumers, individual industries, Federal,  
20                           State, local, or tribal government agencies, or  
21                           geographic regions;

22                           (C) significant adverse effects on competi-  
23                           tion, employment, investment, productivity, in-  
24                           novation, or on the ability of United States-

1 based enterprises to compete with foreign-based  
2 enterprises in domestic and export markets; or  
3 (D) significant impacts on multiple sectors  
4 of the economy.

5 (4) RULE.—The term “rule” has the meaning  
6 given that term in section 551 of title 5, United  
7 States Code.

8 (5) SET OF RULES.—The term “set of rules”  
9 means a set of rules that collectively implements a  
10 regulatory authority of an agency.

11 **SEC. 502. EFFECTIVE DATE.**

12 This Act and the amendments made by this Act shall  
13 take effect beginning on the date of the enactment of this  
14 Act.

Passed the House of Representatives March 1,  
2017.

Attest:

KAREN L. HAAS,

*Clerk.*