

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1155

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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 of 2016” or as the “SCRUB Act of 2016”.

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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14 or set of rules should be repealed to eliminate or reduce  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. The President shall ap-  
15 point 2 members of the Commission from each  
16 list provided under this subparagraph, subject  
17 to the provisions of subparagraph (C).

18 (C) RESUBMISSION OF CANDIDATE.—The  
19 President may request from the presenter of  
20 the list under subparagraph (B) a new list of  
21 one or more candidates if the President—

22 (i) determines that any candidate on  
23 the list presented pursuant to subpara-  
24 graph (B) does not meet the qualifications

1 specified in such subparagraph to be a  
2 member of the Commission; and

3 (ii) certifies that determination to the  
4 congressional officials specified in subpara-  
5 graph (B).

6 (c) POWERS AND AUTHORITIES OF THE COMMIS-  
7 SION.—

8 (1) MEETINGS.—The Commission may meet  
9 when, where, and as often as the Commission deter-  
10 mines appropriate, except that the Commission shall  
11 hold public meetings not less than twice each year.  
12 All meetings of the Commission shall be open to the  
13 public.

14 (2) HEARINGS.—In addition to meetings held  
15 under paragraph (1), the Commission may hold  
16 hearings to consider issues of fact or law relevant to  
17 the Commission's work. Any hearing held by the  
18 Commission shall be open to the public.

19 (3) ACCESS TO INFORMATION.—The Commis-  
20 sion may secure directly from any agency informa-  
21 tion and documents necessary to enable the Commis-  
22 sion to carry out this Act. Upon request of the Chair  
23 of the Commission, the head of that agency shall  
24 furnish that information or document to the Com-

1 mission as soon as possible, but not later than two  
2 weeks after the date on which the request was made.

3 (4) SUBPOENAS.—

4 (A) IN GENERAL.—The Commission may  
5 issue subpoenas requiring the attendance and  
6 testimony of witnesses and the production of  
7 any evidence relating to the duties of the Com-  
8 mission. The attendance of witnesses and the  
9 production of evidence may be required from  
10 any place within the United States at any des-  
11 ignated place of hearing within the United  
12 States.

13 (B) FAILURE TO OBEY A SUBPOENA.—If a  
14 person refuses to obey a subpoena issued under  
15 subparagraph (A), the Commission may apply  
16 to a United States district court for an order  
17 requiring that person to appear before the Com-  
18 mission to give testimony, produce evidence, or  
19 both, relating to the matter under investigation.  
20 The application may be made within the judicial  
21 district where the hearing is conducted or where  
22 that person is found, resides, or transacts busi-  
23 ness. Any failure to obey the order of the court  
24 may be punished by the court as civil contempt.

1           (C) SERVICE OF SUBPOENAS.—The sub-  
2           poenas of the Commission shall be served in the  
3           manner provided for subpoenas issued by a  
4           United States district court under the Federal  
5           Rules of Civil Procedure for the United States  
6           district courts.

7           (D) SERVICE OF PROCESS.—All process of  
8           any court to which application is made under  
9           subparagraph (B) may be served in the judicial  
10          district in which the person required to be  
11          served resides or may be found.

12       (d) PAY AND TRAVEL EXPENSES.—

13           (1) PAY.—

14           (A) MEMBERS.—Each member, other than  
15           the Chair of the Commission, shall be paid at  
16           a rate equal to the daily equivalent of the min-  
17           imum annual rate of basic pay payable for level  
18           IV of the Executive Schedule under section  
19           5315 of title 5, United States Code, for each  
20           day (including travel time) during which the  
21           member is engaged in the actual performance of  
22           duties vested in the Commission.

23           (B) CHAIR.—The Chair shall be paid for  
24           each day referred to in subparagraph (A) at a  
25           rate equal to the daily equivalent of the min-

1           imum annual rate of basic pay payable for level  
2           III of the Executive Schedule under section  
3           5314 of title 5, United States Code.

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

8           (e) DIRECTOR OF STAFF.—

9           (1) IN GENERAL.—The Commission shall ap-  
10          point a Director.

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

15          (f) STAFF.—

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

20          (2) LIMITATIONS ON APPOINTMENT.—The Di-  
21          rector may make such appointments without regard  
22          to the provisions of title 5, United States Code, gov-  
23          erning appointments in the competitive service, and  
24          any personnel so appointed may be paid without re-  
25          gard to the provisions of chapter 51 and subchapter



1 III of chapter 53 of that title relating to classifica-  
2 tion and General Schedule pay rates, except that an  
3 individual so appointed may not receive pay in ex-  
4 cess of the annual rate of basic pay payable for GS-  
5 15 of the General Schedule.

6 (3) AGENCY ASSISTANCE.—Following consulta-  
7 tion with and upon request of the Chair of the Com-  
8 mission, the head of any agency may detail any of  
9 the personnel of that agency to the Commission to  
10 assist the Commission in carrying out the duties of  
11 the Commission under this Act.

12 (4) GAO AND OIRA ASSISTANCE.—The Comp-  
13 troller General of the United States and the Admin-  
14 istrator of the Office of Information and Regulatory  
15 Affairs shall provide assistance, including the detail-  
16 ing of employees, to the Commission in accordance  
17 with an agreement entered into with the Commis-  
18 sion.

19 (5) ASSISTANCE FROM OTHER PARTIES.—Con-  
20 gress, the States, municipalities, federally recognized  
21 Indian tribes, and local governments may provide as-  
22 sistance, including the detailing of employees, to the  
23 Commission in accordance with an agreement en-  
24 tered into with the Commission.

25 (g) OTHER AUTHORITY.—

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

6           (2) PROPERTY.—The Commission may lease  
7 space and acquire personal property to the extent  
8 funds are available.

9           (h) DUTIES OF THE COMMISSION.—

10           (1) IN GENERAL.—The Commission shall con-  
11 duct a review of the Code of Federal Regulations to  
12 identify rules and sets of rules that collectively im-  
13 plement a regulatory program that should be re-  
14 pealed to lower the cost of regulation to the econ-  
15 omy. The Commission shall give priority in the re-  
16 view to rules or sets of rules that are major rules  
17 or include major rules, have been in effect more than  
18 15 years, impose paperwork burdens or unfunded  
19 mandates that could be reduced substantially with-  
20 out significantly diminishing regulatory effectiveness,  
21 impose disproportionately high costs on entities that  
22 qualify as small entities within the meaning of sec-  
23 tion 601(6) of title 5, United States Code, or could  
24 be strengthened in their effectiveness while reducing  
25 regulatory costs. The Commission shall have as a

1 goal of the Commission to achieve a reduction of at  
2 least 15 percent in the cumulative costs of Federal  
3 regulation with a minimal reduction in the overall ef-  
4 fectiveness of such regulation.

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

9 (A) Whether the original purpose of the  
10 rule or set of rules was achieved, and the rule  
11 or set of rules could be repealed without signifi-  
12 cant recurrence of adverse effects or conduct  
13 that the rule or set of rules was intended to  
14 prevent or reduce.

15 (B) Whether the implementation, compli-  
16 ance, administration, enforcement, imposition of  
17 unfunded mandates, or other costs of the rule  
18 or set of rules to the economy are not justified  
19 by the benefits to society within the United  
20 States produced by the expenditure of those  
21 costs.

22 (C) Whether the rule or set of rules has  
23 been rendered unnecessary or obsolete, taking  
24 into consideration the length of time since the  
25 rule was made and the degree to which tech-

1 nology, economic conditions, market practices,  
2 or other relevant factors have changed in the  
3 subject area affected by the rule or set of rules.

4 (D) Whether the rule or set of rules is in-  
5 effective at achieving the purposes of the rule or  
6 set of rules.

7 (E) Whether the rule or set of rules over-  
8 laps, duplicates, or conflicts with other Federal  
9 rules, and to the extent feasible, with State and  
10 local governmental rules.

11 (F) Whether the rule or set of rules has  
12 excessive compliance costs, imposes unfunded  
13 mandates, or is otherwise excessively burden-  
14 some, as compared to alternatives that—

15 (i) specify performance objectives  
16 rather than conduct or manners of compli-  
17 ance;

18 (ii) establish economic incentives to  
19 encourage desired behavior;

20 (iii) provide information upon which  
21 choices can be made by the public;

22 (iv) incorporate other innovative alter-  
23 natives rather than agency actions that  
24 specify conduct or manners of compliance;  
25 or

1                   (v) could in other ways substantially  
2                   lower costs without significantly under-  
3                   mining effectiveness.

4                   (G) Whether the rule or set of rules inhib-  
5                   its innovation in or growth of the United States  
6                   economy, such as by impeding the introduction  
7                   or use of safer or equally safe technology that  
8                   is newer or more efficient than technology re-  
9                   quired by or permissible under the rule or set  
10                  of rules.

11                  (H) Whether or not the rule or set of rules  
12                  harms competition within the United States  
13                  economy or the international economic competi-  
14                  tiveness of enterprises or entities based in the  
15                  United States.

16                  (I) Whether or not the rule or set of rules  
17                  limits or prevents an agency from applying new  
18                  or emerging technologies to improve efficiency  
19                  and effectiveness of government.

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

23                  (K) Such other criteria as the Commission  
24                  devises to identify rules and sets of rules that  
25                  can be repealed to eliminate or reduce unneces-

1           sarily burdensome costs to the United States  
2           economy.

3           (3) **METHODOLOGY FOR REVIEW.**—The Com-  
4           mission shall establish a methodology for conducting  
5           the review (including an overall review and discrete  
6           reviews of portions of the Code of Federal Regula-  
7           tions), identifying rules and sets of rules, and  
8           classifying rules under this subsection and publish  
9           the terms of the methodology in the Federal Reg-  
10          ister and on the website of the Commission. The  
11          Commission may propose and seek public comment  
12          on the methodology before the methodology is estab-  
13          lished.

14          (4) **CLASSIFICATION OF RULES AND SETS OF**  
15          **RULES.**—

16                 (A) **IN GENERAL.**—After completion of any  
17                 review of rules or sets of rules under paragraph  
18                 (2), the Commission shall classify each rule or  
19                 set of rules identified in the review to qualify  
20                 for recommended repeal as either a rule or set  
21                 of rules—

22                         (i) on which immediate action to re-  
23                         peal is recommended; or

1 (ii) that should be eligible for repeal  
2 under regulatory cut-go procedures under  
3 title II.

4 (B) DECISIONS BY MAJORITY.—Each deci-  
5 sion by the Commission to identify a rule or set  
6 of rules for classification under this paragraph,  
7 and each decision whether to classify the rule or  
8 set of rules under clause (i) or (ii) of subpara-  
9 graph (A), shall be made by a simple majority  
10 vote of the Commission. No such vote shall take  
11 place until after all members of the Commission  
12 have been confirmed by the Senate.

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

15 (A) IN GENERAL.—The Commission may  
16 also conduct a review under paragraph (2) of,  
17 and, if appropriate, classify under paragraph  
18 (4), any rule or set of rules that is submitted  
19 for review to the Commission by—

- 20 (i) the President;
- 21 (ii) a Member of Congress;
- 22 (iii) any officer or employee of a Fed-  
23 eral, State, local or tribal government, or  
24 regional governmental body; or
- 25 (iv) any member of the public.

1 (B) FORM OF SUBMISSION.—A submission  
2 to the Commission under this paragraph  
3 shall—

4 (i) identify the specific rule or set of  
5 rules submitted for review;

6 (ii) provide a statement of evidence to  
7 demonstrate that the rule or set of rules  
8 qualifies to be identified for repeal under  
9 the criteria listed in paragraph (2); and

10 (iii) such other information as the  
11 submitter believes may be helpful to the  
12 Commission’s review, including a state-  
13 ment of the submitter’s interest in the  
14 matter.

15 (C) PUBLIC AVAILABILITY.—The Commis-  
16 sion shall make each submission received under  
17 this paragraph available on the website of the  
18 Commission as soon as possible, but not later  
19 than 1 week after the date on which the sub-  
20 mission was received.

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

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



1 (A) notices in advance of all public meet-  
2 ings, hearings, and classifications under sub-  
3 section (h) informing the public of the basis,  
4 purpose, and procedures for the meeting, hear-  
5 ing, or classification; and

6 (B) reports after the conclusion of any  
7 public meeting, hearing, or classification under  
8 subsection (h) summarizing in detail the basis,  
9 purpose, and substance of the meeting, hearing,  
10 or classification.

11 (2) ANNUAL REPORTS TO CONGRESS.—Each  
12 year, beginning on the date that is one year after  
13 the date on which all Commission members have  
14 been confirmed by the Senate, the Commission shall  
15 submit a report simultaneously to each House of  
16 Congress detailing the activities of the Commission  
17 for the previous year, and listing all rules and sets  
18 of rules classified under subsection (h) during that  
19 year. For each rule or set of rules so listed, the  
20 Commission shall—

21 (A) identify the agency that made the rule  
22 or set of rules;

23 (B) identify the annual cost of the rule or  
24 set of rules to the United States economy and

1 the basis upon which the Commission identified  
2 that cost;

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

6 (D) identify the criteria under subsection  
7 (h)(2) that caused the classification of the rule  
8 or set of rules and the basis upon which the  
9 Commission determined that those criteria were  
10 met;

11 (E) for each rule or set of rules listed  
12 under the criteria set forth in subparagraph  
13 (B), (D), (F), (G), (H), or (I) of subsection  
14 (h)(2), or other criteria established by the Com-  
15 mission under subparagraph (I) of such sub-  
16 section under which the Commission evaluated  
17 alternatives to the rule or set of rules that could  
18 lead to lower regulatory costs, identify alter-  
19 natives to the rule or set of rules that the Com-  
20 mission recommends the agency consider as re-  
21 placements for the rule or set of rules and the  
22 basis on which the Commission rests the rec-  
23 ommendations, and, in identifying such alter-  
24 natives, emphasize alternatives that will achieve

1 regulatory effectiveness at the lowest cost and  
2 with the lowest adverse impacts on jobs;

3 (F) for each rule or set of rules listed  
4 under the criteria set forth in subsection  
5 (h)(2)(E), the other Federal, State, or local  
6 governmental rules that the Commission found  
7 the rule or set of rules to overlap, duplicate, or  
8 conflict with, and the basis for the findings of  
9 the Commission; and

10 (G) in the case of each set of rules so list-  
11 ed, analyze whether Congress should also con-  
12 sider repeal of the statutory authority imple-  
13 mented by the set of rules.

14 (3) FINAL REPORT.—Not later than the date  
15 on which the Commission members' appointments  
16 expire, the Commission shall submit a final report  
17 simultaneously to each House of Congress summa-  
18 rizing all activities and recommendations of the  
19 Commission, including a list of all rules or sets of  
20 rules the Commission classified under clause (i) of  
21 subsection (h)(4)(A) for immediate action to repeal,  
22 a separate list of all rules or sets of rules the Com-  
23 mission classified under clause (ii) of subsection  
24 (h)(4)(A) for repeal, and with regard to each rule or  
25 set of rules listed on either list, the information de-

1       scribed in subparagraphs (A) through (F) of sub-  
2       section (h)(2). This report may be included in the  
3       final annual report of the Commission under para-  
4       graph (2) and may include the Commission's rec-  
5       ommendation whether the Commission should be re-  
6       authorized by Congress.

7       (j) REPEAL OF REGULATIONS; CONGRESSIONAL  
8       CONSIDERATION OF COMMISSION REPORTS.—

9               (1) IN GENERAL.—Subject to paragraph (2)—

10               (A) the head of each agency with authority  
11               to repeal a rule or set of rules classified by the  
12               Commission under subsection (h)(4)(A)(i) for  
13               immediate action to repeal and newly listed as  
14               such in an annual or final report of the Com-  
15               mission under paragraph (2) or (3) of sub-  
16               section (i) shall repeal the rule or set of rules  
17               as recommended by the Commission within 60  
18               days after the enactment of a joint resolution  
19               under paragraph (2) for approval of the rec-  
20               ommendations of the Commission in the report;  
21               and

22               (B) the head of each agency with authority  
23               to repeal a rule or set of rules classified by the  
24               Commission under subsection (h)(4)(A)(ii) for  
25               repeal and newly listed as such in an annual or

1 final report of the Commission under paragraph  
2 (2) or (3) of subsection (i) shall repeal the rule  
3 or set of rules as recommended by the Commis-  
4 sion pursuant to section 201, following the en-  
5 actment of a joint resolution under paragraph  
6 (2) for approval of the recommendations of the  
7 Commission in the report.

8 (2) CONGRESSIONAL APPROVAL.—

9 (A) IN GENERAL.—No head of an agency  
10 described in paragraph (1) shall be required by  
11 this Act to carry out a repeal listed by the  
12 Commission in a report transmitted to Congress  
13 under paragraph (2) or (3) of subsection (i)  
14 until a joint resolution is enacted, in accordance  
15 with the provisions of subparagraph (B), ap-  
16 proving such recommendations of the Commis-  
17 sion for repeal.

18 (B) TERMS OF THE RESOLUTION.—For  
19 purposes of paragraph (A), the term “joint res-  
20 olution” means only a joint resolution which is  
21 introduced after the date on which the Commis-  
22 sion transmits to the Congress under paragraph  
23 (2) or (3) of subsection (i) the report con-  
24 taining the recommendations to which the reso-  
25 lution pertains, and—

- 1 (i) which does not have a preamble;
- 2 (ii) the matter after the resolving  
3 clause of which is only as follows: “That  
4 Congress approves the recommendations  
5 for repeal of the Retrospective Regulatory  
6 Review Commission as submitted by the  
7 Commission on \_\_\_\_\_”, the blank  
8 space being filled in with the appropriate  
9 date; and
- 10 (iii) the title of which is as follows:  
11 “Approving recommendations for repeal of  
12 the Retrospective Regulatory Review Com-  
13 mission.”.

14 (3) REISSUANCE OF RULES.—

15 (A) NO SUBSTANTIALLY SIMILAR RULE TO  
16 BE REISSUED.—A rule that is repealed under  
17 paragraph (1) or section 201 may not be re-  
18 issued in substantially the same form, and a  
19 new rule that is substantially the same as such  
20 a rule may not be issued, unless the reissued or  
21 new rule is specifically authorized by a law en-  
22 acted after the date of the joint resolution ap-  
23 proving the Commission’s recommendation to  
24 repeal the original rule.

1           (B) AGENCY TO ENSURE AVOIDANCE OF  
2           SIMILAR DEFECTS.—An agency, in making any  
3           new rule to implement statutory authority pre-  
4           viously implemented by a rule repealed under  
5           paragraph (1) or section 201, shall ensure that  
6           the new rule does not result in the same ad-  
7           verse effects of the repealed rule that caused  
8           the Commission to recommend to Congress the  
9           latter’s repeal and will not result in new adverse  
10          effects of the kind described in the criteria  
11          specified in or under subsection (h).

12          (k) AUTHORIZATION OF APPROPRIATIONS.—

13           (1) IN GENERAL.—There are authorized to be  
14           appropriated such sums as may be necessary to the  
15           Commission to carry out this Act, not to exceed  
16           \$30,000,000.

17           (2) AVAILABILITY.—Any sums appropriated  
18           under the authorization contained in this section  
19           shall remain available, without fiscal year limitation,  
20           until the earlier of the date that such sums are ex-  
21           pended or the date of the termination of the Com-  
22           mission.

23          (l) WEBSITE.—

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

1 (A) uses current information technology to  
2 make records available on the website;

3 (B) provides information in a standard  
4 data format; and

5 (C) receives and publishes public com-  
6 ments.

7 (2) PUBLISHING OF INFORMATION.—Any infor-  
8 mation required to be made available on the website  
9 established pursuant to this Act shall be published  
10 in a timely manner and shall be accessible by the  
11 public on the website at no cost.

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

17 (4) PUBLIC COMMENTS.—The Commission shall  
18 publish on the website all public comments and sub-  
19 missions.

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

24 (m) APPLICABILITY OF THE FEDERAL ADVISORY  
25 COMMITTEE ACT.—



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

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

10          (3) SUBCOMMITTEE.—Any subcommittee of the  
11          Commission shall be treated as the Commission for  
12          purposes of the Federal Advisory Committee Act (5  
13          U.S.C. App.).

14          (4) CHARTER.—The enactment of the SCRUB  
15          Act of 2016 shall be considered to meet the require-  
16          ments of the Commission under section 9(c) of the  
17          Federal Advisory Committee Act (5 U.S.C. App.).

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

## 22   **TITLE II—REGULATORY CUT-GO**

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

24          (a) IN GENERAL.—Except as provided in section  
25          101(j)(2)(A) or section 202, an agency, when the agency

1 makes a new rule, shall repeal rules or sets of rules of  
2 that agency classified by the Commission under section  
3 101(h)(4)(A)(ii), such that the annual costs of the new  
4 rule to the United States economy is offset by such re-  
5 peals, in an amount equal to or greater than the cost of  
6 the new rule, based on the regulatory cost reductions of  
7 repeal identified by the Commission.

8 (b) ALTERNATIVE PROCEDURE.—An agency may, al-  
9 ternatively, repeal rules or sets of rules of that agency  
10 classified by the Commission under section  
11 101(h)(4)(A)(ii) prior to the time specified in subsection  
12 (a). If the agency so repeals such a rule or set of rules  
13 and thereby reduces the annual, inflation-adjusted cost of  
14 the rule or set of rules to the United States economy, the  
15 agency may thereafter apply the reduction in regulatory  
16 costs, based on the regulatory cost reductions of repeal  
17 identified by the Commission, to meet, in whole or in part,  
18 the regulatory cost reduction required under subsection  
19 (a) of this section to be made at the time the agency pro-  
20 mulgates a new rule.

21 (c) ACHIEVEMENT OF FULL NET COST REDUC-  
22 TIONS.—

23 (1) IN GENERAL.—Subject to the provisions of  
24 paragraph (2), an agency may offset the costs of a  
25 new rule or set of rules by repealing a rule or set

1 of rules listed by the Commission under section  
2 101(h)(4)(A)(ii) that implement the same statutory  
3 authority as the new rule or set of rules.

4 (2) LIMITATION.—When using the authority  
5 provided in paragraph (1), the agency must achieve  
6 a net reduction in costs imposed by the agency’s  
7 body of rules (including the new rule or set of rules)  
8 that is equal to or greater than the cost of the new  
9 rule or set of rules to be promulgated, including,  
10 whenever necessary, by repealing additional rules of  
11 the agency listed by the Commission under section  
12 101(h)(4)(A)(ii).

13 **SEC. 202. APPLICABILITY.**

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

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

22 The Administrator of the Office of Information and  
23 Regulatory Affairs of the Office of Management and  
24 Budget shall review and certify the accuracy of agency de-  
25 terminations of the costs of new rules under section 201.

1 The certification shall be included in the administrative  
2 record of the relevant rulemaking by the agency promul-  
3 gating the rule, and the Administrator shall transmit a  
4 copy of the certification to Congress when it transmits the  
5 certification to the agency.

6 **TITLE III—RETROSPECTIVE**  
7 **REVIEW OF NEW RULES**

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

9 When an agency makes a rule, the agency shall in-  
10 clude in the final issuance of such rule a plan for the re-  
11 view of such rule by not later than 10 years after the date  
12 such rule is made. Such a review, in the case of a major  
13 rule, shall be substantially similar to the review by the  
14 Commission under section 101(h). In the case of a rule  
15 other than a major rule, the agency's plan for review shall  
16 include other procedures and standards to enable the  
17 agency to determine whether to repeal or amend the rule  
18 to eliminate unnecessary regulatory costs to the economy.  
19 Whenever feasible, the agency shall include a proposed  
20 plan for review of a proposed rule in its notice of proposed  
21 rulemaking and shall receive public comment on the plan.

## 1       **TITLE IV—JUDICIAL REVIEW**

### 2       **SEC. 401. JUDICIAL REVIEW.**

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

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

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

## 12       **TITLE V—MISCELLANEOUS** 13                                       **PROVISIONS**

### 14       **SEC. 501. DEFINITIONS.**

15           In this Act:

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

19           (2) COMMISSION.—The term “Commission”  
20 means the Retrospective Regulatory Review Commis-  
21 sion established under section 101.

22           (3) MAJOR RULE.—The term “major rule”  
23 means any rule that the Administrator of the Office  
24 of Information and Regulatory Affairs determines is  
25 likely to impose—

1           (A) an annual cost on the economy of  
2           \$100,000,000 or more, adjusted annually for  
3           inflation;

4           (B) a major increase in costs or prices for  
5           consumers, individual industries, Federal,  
6           State, local, or tribal government agencies, or  
7           geographic regions;

8           (C) significant adverse effects on competi-  
9           tion, employment, investment, productivity, in-  
10          novation, or on the ability of United States-  
11          based enterprises to compete with foreign-based  
12          enterprises in domestic and export markets; or

13          (D) significant impacts on multiple sectors  
14          of the economy.

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

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

1 **SEC. 502. EFFECTIVE DATE.**

2       This Act and the amendments made by this Act shall  
3 take effect beginning on the date of the enactment of this  
4 Act.

      Passed the House of Representatives January 7,  
2016.

Attest:

*Clerk.*

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1155

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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.