

115TH CONGRESS  
1ST SESSION

# H. R. 4309

To codify Executive Order 13771, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2017

Mr. MESSER introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To codify Executive Order 13771, 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 Relief Act  
5       of 2017”.

6       **SEC. 2. PURPOSE.**

7       It is the policy of the executive branch to be prudent  
8       and financially responsible in the expenditure of funds,  
9       from both public and private sources. In addition to the  
10       management of the direct expenditure of taxpayer dollars

1 through the budgeting process, it is essential to manage  
2 the costs associated with the governmental imposition of  
3 private expenditures required to comply with Federal reg-  
4 ulations. Toward that end, it is important that for every  
5 one new regulation issued, at least two prior regulations  
6 be identified for elimination, and that the cost of planned  
7 regulations be prudently managed and controlled through  
8 a budgeting process.

9 **SEC. 3. REGULATORY CAP.**

10 (a) IN GENERAL.—Unless prohibited by law, when-  
11 ever an agency publicly proposes for notice and comment  
12 or otherwise promulgates a new rule, it shall identify at  
13 least two existing rules to be repealed.

14 (b) INCREMENTAL COST.—For each fiscal year, the  
15 head of each agency is directed that the total incremental  
16 cost of all new rules, including repealed rules, to be final-  
17 ized that fiscal year shall be no greater than zero, unless  
18 otherwise required by law or consistent with advice pro-  
19 vided in writing by the Director of the Office of Manage-  
20 ment and Budget.

21 (c) OFFSET OF NEW INCREMENTAL COSTS.—In fur-  
22 therance of the requirement of subsection (a) of this sec-  
23 tion, any new incremental costs associated with new rules  
24 shall, to the extent permitted by law, be offset by the elimi-  
25 nation of existing costs associated with at least two prior

1 rules. Any agency eliminating existing costs associated  
2 with prior rules under this subsection shall do so in ac-  
3 cordance with subchapter II of chapter 5 of title 5, United  
4 States Code, and other applicable law.

5 (d) GUIDANCE.—The Director shall provide the  
6 heads of agencies with guidance on the implementation of  
7 this section. Such guidance shall address, among other  
8 things, processes for standardizing the measurement and  
9 estimation of regulatory costs; standards for determining  
10 what qualifies as new and offsetting rules; standards for  
11 determining the costs of existing rules that are considered  
12 for elimination; processes for accounting for costs in dif-  
13 ferent fiscal years; methods to oversee the issuance of  
14 rules with costs offset by savings at different times or dif-  
15 ferent agencies; and emergencies and other circumstances  
16 that might justify individual waivers of the requirements  
17 of this section. The Director shall consider phasing in and  
18 updating these requirements.

19 **SEC. 4. ANNUAL REGULATORY COST SUBMISSIONS TO THE**  
20 **OFFICE OF MANAGEMENT AND BUDGET.**

21 (a) IN GENERAL.—Beginning with the Regulatory  
22 Plans (required under Executive Order 12866 of Sep-  
23 tember 30, 1993, as amended, or any successor order) for  
24 fiscal year 2018, and for each fiscal year thereafter, the  
25 head of each agency shall identify, for each rule that in-

1 creases incremental cost, the offsetting rules described in  
2 section 2(c), and provide the agency's best approximation  
3 of the total costs or savings associated with each new rule  
4 or repealed rule.

5 (b) INCLUSION IN THE UNIFIED REGULATORY AGEN-  
6 DA.—Each rule approved by the Director during the Pres-  
7 idential budget process shall be included in the Unified  
8 Regulatory Agenda required under Executive Order  
9 12866, as amended, or any successor order.

10 (c) LIMITATION ON ISSUANCE.—Unless otherwise re-  
11 quired by law, no rule shall be issued by an agency if it  
12 was not included on the most recent version or update of  
13 the published Unified Regulatory Agenda as required  
14 under Executive Order 12866, as amended, or any suc-  
15 cessor order, unless the issuance of such rule was ap-  
16 proved in advance in writing by the Director.

17 (d) TOTAL INCREMENTAL COST.—During the Presi-  
18 dential budget process, the Director shall identify to agen-  
19 cies a total amount of incremental costs that will be al-  
20 lowed for each agency in issuing new rules and repealing  
21 rules for the next fiscal year. No rules exceeding the agen-  
22 cy's total incremental cost allowance will be permitted in  
23 that fiscal year, unless required by law or approved in  
24 writing by the Director. The total incremental cost allow-

1   ance may allow an increase or require a reduction in total  
2   regulatory cost.

3       (e) GUIDANCE.—The Director shall provide the heads  
4   of agencies with guidance on the implementation of the  
5   requirements in this section.

6   **SEC. 5. DEFINITION.**

7       For purposes of this Act the term “rule” has the  
8   meaning given such term in section 551 of title 5, United  
9   States Code, but does not include—

10           (1) any rule made with respect to a military,  
11   national security, or foreign affairs function of the  
12   United States;

13           (2) any rule related to agency organization,  
14   management, or personnel; or

15           (3) any other category of rule exempted by the  
16   Director.

17   **SEC. 6. GENERAL PROVISIONS.**

18       (a) RULE OF CONSTRUCTION.—Nothing in this Act  
19   shall be construed to impair or otherwise affect—

20           (1) the authority granted by law to an agency,  
21   or the head thereof; or

22           (2) the functions of the Director of the Office  
23   of Management and Budget relating to budgetary,  
24   administrative, or legislative proposals.

1           (b) NO SUBSTANTIVE RIGHT CONFERRED.—This  
2 Act is not intended to, and does not, create any right or  
3 benefit, substantive or procedural, enforceable at law or  
4 in equity by any party against the United States, its de-  
5 partments, agencies, or entities, its officers, employees, or  
6 agents, or any other person.

○