



# H.R. 1155 — Searching for and Cutting Regulations that are Unnecessarily Burdensome Act of 2015 (SCRUB Act) (Rep. Smith, R-MO)

CONTACT: [Jennifer Weinhart](mailto:jennifer.weinhart@rsc.house.gov), 202-226-0706

## FLOOR SCHEDULE:

Scheduled for consideration on January 6, under a structured [rule](#).

## TOPLINE SUMMARY:

[H.R.1155](#) would establish a Retrospective Regulatory Review Commission to identify and recommend to Congress existing Federal regulations that should be repealed in order to reduce regulatory costs for the U.S. government. Regulations eligible for repeal would include those that have achieved their purpose, are outdated, have unreasonable paperwork burdens, are ineffective, impede the implementation of newer, better technology, or impose other unnecessary regulatory burdens. The Commission would have a goal of achieving a 15% reduction in the overall economic cost of regulation, with minimal disruption in effectiveness of Federal regulation.

## COST:

A Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1155 would cost \$30 million over the FY 2016-2020 period to operate the Review Commission.

## CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No. The measure creates a new commission with the ultimate goal of shrinking the Federal government.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

Section 101 would establish the Retrospective Regulatory Review Commission to review regulations for repeal and would establish a termination date that is five and a half years after enactment of the legislation. The Commission would consist of nine members appointed by the President, subject to confirmation by the Senate. These members would be selected from lists of recommendations from House and Senate leadership. The Commission would be able to hold meetings, public hearings, and issue subpoenas. Section 101 also establishes the rate of pay and travel expenses for a Director and staff.

The Commission would be required to review regulations for repeal, prioritizing older regulations, with an ultimate goal of reducing the overall economic cost of regulation by 15%. In review, the Commission would

be required to consider: (1) whether the purpose of the regulation was achieved; (2) whether costs are not justified by the benefits of the regulation; (3) whether the regulation was obsolete; (4) whether the regulation is ineffective; (5) if compliance costs are excessive; (6) whether a regulation inhibits growth; (7) whether the regulation hampers completion; (8) and other considerations to reduce unnecessary costs.

This section would require the Commission to issue notices of meetings and hearings, issue reports for the meetings, and submit an annual report to Congress. It would also provide for Congressional consideration of Commission recommendations. Agencies would be required to repeal regulations, as recommendations are approved by a joint resolution. It would also require that agencies ensure that any new rules made to re-implement statutory authority that underlay repealed rules do not re-impose substantively similar negative effects.

This section would authorize funding for the Commission of up to \$30 million. It would require the Commission to set up a website including information about their meetings and hearings, and would require submission of a report to Congress. It would also clarify that the Federal Advisory Committee Act would apply to the Commission.

Section 201 would require agencies to offset the economic costs of new regulation by repealing regulations identified by the Commission with equal or greater costs to the U.S. economy. Agencies would be allowed to repeal rules before issuing new regulations, to apply those cost savings to new regulations.

Section 202 would require these regulatory cut-go procedures to be applicable to an agency until they have repealed all regulations required per the legislation.

Section 203 would require the Administrator for the Office of Information and Regulatory Affairs to review and certify agency determinations of costs of new regulations issued per section 201.

Section 301 would require agencies, in issuing new rules, to include plans for a decennial review of such rules, and would require new major rules to be reviewed in a similar manner as described in section 101.

Section 401 would subject agency compliance with the repeal provisions to judicial review.

Many have attributed waning job creation and economic growth as the result of overly burdensome, seemingly never ending federal regulations. According to the Committee [report](#), the total federal regulatory burden hovers at greater than \$1.86 trillion annually, amounting to roughly \$15,000 per year, per household. Many of these regulations have completed their purposes, are poorly executed, or are simply unnecessary.

Although since taking office, President Obama has issued three Executive Orders targeted at reviewing existing regulations, they have yet to produce any meaningful or significant results. Instead, on net, the Administration has increased the regulatory burden by \$13.7 billion, according to a January [assessment](#) by the American Action Forum. Further, the administration frequently neglects to consider the costs and benefits of new major regulations.

The House has previously passed several pieces of legislation addressing overly burdensome regulations. The SCRUB Act was [previously](#) introduced in the 113<sup>th</sup> Congress, and was reported out of Committee, though it did not come to the floor for a vote.

## **AMENDMENTS:**

1. [Johnson \(D-GA\)](#) — This amendment would strike Title II of the legislation, eliminating the regulatory “cut-go” process, which requires agencies to eliminate rules identified by the Commission prior to issuing a new rule.

2. [Cicilline \(D-RI\)](#) — This amendment would exempt rules made by the Secretary of Veterans Affairs from the additional rulemaking requirements of this legislation.
3. [Foxy \(R-NC\)](#), [Messer \(R-IN\)](#) — This amendment would add the consideration of unfunded mandates to the Commissions review of rules.
4. [Cummings \(D-MD\)](#), [Connolly \(D-VA\)](#) — This amendment would strike the Judicial Review portion of this legislation (Title IV).
5. [Cummings \(D-MD\)](#), [Connolly \(D-VA\)](#) — This amendment would exempt independent establishments from the requirements of this legislation.
6. [Walberg \(R-MI\)](#) — This amendment would direct the Commission to highlight the role regulations play in wage stagnation and income inequality through the examination of the negative impact of regulations on wages, including minimum-wage and part-time wage workers.
7. [Murphy \(D-FL\)](#) — Substitute Amendment — This amendment would strike the text of the bill and establish a Regulatory Improvement Commission, that would solicit public comment and make recommendations regarding regulatory costs, growth, innovation, and the protection of public safety. The commission would first address regulations over ten years old that haven't yet been updated. It would put an emphasis on regulations that impose high costs, have substantial paperwork burdens, and those that could be more effective. The Commission would engage in outreach, solicit notice and comment, and would submit a report to Congress, which could then be considered by Congress.
8. [Pocan \(D-WI\)](#) — This amendment would exempt rules put forth by the Food and Drug Administration from the requirements of the bill.
9. [Jackson Lee \(D-TX\)](#) — This amendment exempt special rules made by the Secretary of Homeland Security.
10. [Schweikert \(R-AZ\)](#) — This amendment would require the commission to examine rules that are limiting or prohibiting government agencies from adopting technology to improve effectiveness.
11. [DelBene \(D-WA\)](#) — This amendment would exempt special rules made by an agency in response to an emergency.

### **COMMITTEE ACTION:**

H.R. 1155 was introduced on February 27, 2015 and was referred to the House Committee on Oversight and Government Reform, in addition to the House Committee on the Judiciary, where it was reported favorably on July 10, 2015.

### **ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

### **CONSTITUTIONAL AUTHORITY:**

According to the sponsor, Congress has the power to enact this legislation pursuant to: Article I, Section 1 of the United States Constitution, in that the legislation concerns the exercise of legislative powers generally granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Sections 8 and 9 of the United States Constitution, in that the legislation concerns the exercise of specific legislative powers granted to Congress by those sections, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof;" and, Article III, Sections 1 and 2 of the United States Constitution, in that the legislation defines or affects judicial powers and cases that are subject to legislation by Congress.

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