

113TH CONGRESS
2^D SESSION

S. 3011

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2014

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Searching for and Cut-
5 ting Regulations that are Unnecessarily Burdensome Act
6 of 2014” or as the “SCRUB Act of 2014”.

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1 **TITLE I—RETROSPECTIVE REGU-**
 2 **LATORY REVIEW COMMIS-**
 3 **SION**

4 **SEC. 101. IN GENERAL.**

5 (a) ESTABLISHMENT.—There is established a com-
 6 mission, to be known as the “Retrospective Regulatory Re-
 7 view Commission”, that shall review rules and sets of rules
 8 in accordance with specified criteria to determine if a rule
 9 or set of rules should be repealed to eliminate or reduce
 10 the costs of regulation to the economy. The Commission
 11 shall terminate on the date that is 5 years and 180 days
 12 after the date of enactment of this Act or 5 years after
 13 the date by which all Commission members’ terms have
 14 commenced, whichever is later.

15 (b) MEMBERSHIP.—

16 (1) NUMBER.—The Commission shall be com-
 17 posed of 9 members who shall be appointed by the
 18 President and confirmed by the Senate. Each mem-

1 ber shall be appointed not later than 180 days after
2 the date of enactment of this Act.

3 (2) TERM.—The term of each member shall
4 commence upon the member’s confirmation by the
5 Senate and shall extend to the date that is 5 years
6 and 180 days after the date of enactment of this Act
7 or that is 5 years after the date by which all mem-
8 bers have been confirmed by the Senate, whichever
9 is later.

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

12 (A) CHAIR.—The President shall appoint
13 as the Chair of the Commission an individual
14 with expertise and experience in rulemaking,
15 such as past Administrators of the Office of In-
16 formation and Regulatory Affairs, past chair-
17 men of the Administrative Conference of the
18 United States, and other individuals with simi-
19 lar expertise and experience in rulemaking af-
20 fairs and the administration of regulatory re-
21 views.

22 (B) CANDIDATE LIST OF MEMBERS.—The
23 Speaker of the House of Representatives, the
24 Minority Leader of the House of Representa-
25 tives, the Majority Leader of the Senate, and

1 the Minority Leader of the Senate shall each
 2 present to the President a list of candidates to
 3 be members of the Commission. Such can-
 4 didates shall be individuals learned in rule-
 5 making affairs and, preferably, administration
 6 of regulatory reviews. The President shall ap-
 7 point 2 members of the Commission from each
 8 list provided under this subparagraph, subject
 9 to the provisions of subparagraph (C).

10 (C) RESUBMISSION OF CANDIDATE.—The
 11 President may request from the presenter of
 12 the list under subparagraph (B) a new list of
 13 one or more candidates if the President—

14 (i) determines that any candidate on
 15 the list presented pursuant to subpara-
 16 graph (B) does not meet the qualifications
 17 specified in such subparagraph to be a
 18 member of the Commission; and

19 (ii) certifies that determination to the
 20 congressional officials specified in subpara-
 21 graph (B).

22 (c) POWERS AND AUTHORITIES OF THE COMMIS-
 23 SION.—

24 (1) MEETINGS.—The Commission may meet
 25 when, where, and as often as the Commission deter-

1 mines appropriate, except that the Commission shall
2 hold public meetings not less than twice each year.
3 All meetings of the Commission shall be open to the
4 public.

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

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

18 (4) SUBPOENAS.—

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

1 ignated place of hearing within the United
2 States.

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

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

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

1 (d) PAY AND TRAVEL EXPENSES.—

2 (1) PAY.—

3 (A) MEMBERS.—Each member, other than
4 the Chair of the Commission, shall be paid at
5 a rate equal to the daily equivalent of the min-
6 imum annual rate of basic pay payable for level
7 IV of the Executive Schedule under section
8 5315 of title 5, United States Code, for each
9 day (including travel time) during which the
10 member is engaged in the actual performance of
11 duties vested in the Commission.

12 (B) CHAIR.—The Chair shall be paid for
13 each day referred to in subparagraph (A) at a
14 rate equal to the daily equivalent of the min-
15 imum annual rate of basic pay payable for level
16 III of the Executive Schedule under section
17 5314 of title 5, United States Code.

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

22 (e) DIRECTOR OF STAFF.—

23 (1) IN GENERAL.—The Commission shall ap-
24 point a Director.

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

5 (f) STAFF.—

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

10 (2) LIMITATIONS ON APPOINTMENT.—The Di-
11 rector may make such appointments without regard
12 to the provisions of title 5, United States Code, gov-
13 erning appointments in the competitive service, and
14 any personnel so appointed may be paid without re-
15 gard to the provisions of chapter 51 and subchapter
16 III of chapter 53 of that title relating to classifica-
17 tion and General Schedule pay rates, except that an
18 individual so appointed may not receive pay in ex-
19 cess of the annual rate of basic pay payable for GS-
20 15 of the General Schedule.

21 (3) AGENCY ASSISTANCE.—Following consulta-
22 tion with and upon request of the Chair of the Com-
23 mission, the head of any agency may detail any of
24 the personnel of that agency to the Commission to

1 assist the Commission in carrying out the duties of
2 the Commission under this Act.

3 (4) GAO AND OIRA ASSISTANCE.—The Comp-
4 troller General of the United States and the Admin-
5 istrator of the Office of Information and Regulatory
6 Affairs shall provide assistance, including the detail-
7 ing of employees, to the Commission in accordance
8 with an agreement entered into with the Commis-
9 sion.

10 (5) ASSISTANCE FROM OTHER PARTIES.—Con-
11 gress, the States, municipalities, federally recognized
12 Indian tribes, and local governments may provide as-
13 sistance, including the detailing of employees, to the
14 Commission in accordance with an agreement en-
15 tered into with the Commission.

16 (g) OTHER AUTHORITY.—

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

22 (2) PROPERTY.—The Commission may lease
23 space and acquire personal property to the extent
24 funds are available.

25 (h) DUTIES OF THE COMMISSION.—

1 (1) IN GENERAL.—The Commission shall con-
2 duct a review of the Code of Federal Regulations to
3 identify rules and sets of rules that collectively im-
4 plement a regulatory program that should be re-
5 pealed to lower the cost of regulation to the econ-
6 omy. The Commission shall give priority in the re-
7 view to rules or sets of rules that are major rules
8 or include major rules, have been in effect more than
9 15 years, impose paperwork burdens that could be
10 reduced substantially without significantly dimin-
11 ishing regulatory effectiveness, impose disproportion-
12 ately high costs on entities that qualify as small en-
13 tities within the meaning of section 601(6) of title
14 5, United States Code, or could be strengthened in
15 their effectiveness while reducing regulatory costs.
16 The Commission shall have as a goal of the Commis-
17 sion to achieve a reduction of at least 15 percent in
18 the cumulative costs of Federal regulation with a
19 minimal reduction in the overall effectiveness of such
20 regulation.

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

1 (A) Whether the original purpose of the
2 rule or set of rules was achieved, and the rule
3 or set of rules could be repealed without signifi-
4 cant recurrence of adverse effects or conduct
5 that the rule or set of rules was intended to
6 prevent or reduce.

7 (B) Whether the implementation, compli-
8 ance, administration, enforcement or other costs
9 of the rule or set of rules to the economy are
10 not justified by the benefits to society within
11 the United States produced by the expenditure
12 of those costs.

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

20 (D) Whether the rule or set of rules is in-
21 effective at achieving the purposes of the rule or
22 set of rules.

23 (E) Whether the rule or set of rules over-
24 laps, duplicates, or conflicts with other Federal

1 rules, and to the extent feasible, with State and
2 local governmental rules.

3 (F) Whether the rule or set of rules has
4 excessive compliance costs or is otherwise exces-
5 sively burdensome, as compared to alternatives
6 that—

7 (i) specify performance objectives
8 rather than conduct or manners of compli-
9 ance;

10 (ii) establish economic incentives to
11 encourage desired behavior;

12 (iii) provide information upon which
13 choices can be made by the public;

14 (iv) incorporate other innovative alter-
15 natives rather than agency actions that
16 specify conduct or manners of compliance;
17 or

18 (v) could in other ways substantially
19 lower costs without significantly under-
20 mining effectiveness.

21 (G) Whether the rule or set of rules inhib-
22 its innovation in or growth of the United States
23 economy, such as by impeding the introduction
24 or use of safer or equally safe technology that
25 is newer or more efficient than technology re-

1 required by or permissible under the rule or set
2 of rules.

3 (H) Whether or not the rule or set of rules
4 harms competition within the United States
5 economy or the international economic competi-
6 tiveness of enterprises or entities based in the
7 United States.

8 (I) Such other criteria as the Commission
9 devises to identify rules and sets of rules that
10 can be repealed to eliminate or reduce unneces-
11 sarily burdensome costs to the United States
12 economy.

13 (3) METHODOLOGY FOR REVIEW.—The Com-
14 mission shall establish a methodology for conducting
15 the review (including an overall review and discrete
16 reviews of portions of the Code of Federal Regula-
17 tions), identifying rules and sets of rules, and
18 classifying rules under this subsection and publish
19 the terms of the methodology in the Federal Reg-
20 ister and on the website of the Commission. The
21 Commission may propose and seek public comment
22 on the methodology before the methodology is estab-
23 lished.

24 (4) CLASSIFICATION OF RULES AND SETS OF
25 RULES.—

1 (A) IN GENERAL.—After completion of any
2 review of rules or sets of rules under paragraph
3 (2), the Commission shall classify each rule or
4 set of rules identified in the review to qualify
5 for recommended repeal as either a rule or set
6 of rules—

7 (i) on which immediate action to re-
8 peel is recommended; or

9 (ii) that should be eligible for repeal
10 under regulatory cut-go procedures under
11 title II.

12 (B) DECISIONS BY MAJORITY.—Each deci-
13 sion by the Commission to identify a rule or set
14 of rules for classification under this paragraph,
15 and each decision whether to classify the rule or
16 set of rules under clause (i) or (ii) of subpara-
17 graph (A), shall be made by a simple majority
18 vote of the Commission. No such vote shall take
19 place until after all members of the Commission
20 have been confirmed by the Senate.

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

23 (A) IN GENERAL.—The Commission may
24 also conduct a review under paragraph (2) of,
25 and, if appropriate, classify under paragraph

1 (4), any rule or set of rules that is submitted
2 for review to the Commission by—

- 3 (i) the President;
4 (ii) a Member of Congress;
5 (iii) any officer or employee of a Fed-
6 eral, State, local or tribal government, or
7 regional governmental body; or
8 (iv) any member of the public.

9 (B) FORM OF SUBMISSION.—A submission
10 to the Commission under this paragraph
11 shall—

- 12 (i) identify the specific rule or set of
13 rules submitted for review;
14 (ii) provide a statement of evidence to
15 demonstrate that the rule or set of rules
16 qualifies to be identified for repeal under
17 the criteria listed in paragraph (2); and
18 (iii) such other information as the
19 submitter believes may be helpful to the
20 Commission's review, including a state-
21 ment of the submitter's interest in the
22 matter.

23 (C) PUBLIC AVAILABILITY.—The Commis-
24 sion shall make each submission received under
25 this paragraph available on the website of the

1 Commission as soon as possible, but not later
2 than 1 week after the date on which the sub-
3 mission was received.

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

5 (1) NOTICES OF AND REPORTS ON ACTIVITIES.—The Commission shall publish, in the Federal
6 Register and on the website of the Commission—

7
8 (A) notices in advance of all public meet-
9 ings, hearings, and classifications under sub-
10 section (h) informing the public of the basis,
11 purpose, and procedures for the meeting, hear-
12 ing, or classification; and

13 (B) reports after the conclusion of any
14 public meeting, hearing, or classification under
15 subsection (h) summarizing in detail the basis,
16 purpose, and substance of the meeting, hearing,
17 or classification.

18 (2) ANNUAL REPORTS TO CONGRESS.—Each
19 year, beginning on the date that is one year after
20 the date on which all Commission members have
21 been confirmed by the Senate, the Commission shall
22 submit a report simultaneously to each House of
23 Congress detailing the activities of the Commission
24 for the previous year, and listing all rules and sets
25 of rules classified under subsection (h) during that

1 year. For each rule or set of rules so listed, the
2 Commission shall—

3 (A) identify the agency that made the rule
4 or set of rules;

5 (B) identify the annual cost of the rule or
6 set of rules to the United States economy and
7 the basis upon which the Commission identified
8 that cost;

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

12 (D) identify the criteria under subsection
13 (h)(2) that caused the classification of the rule
14 or set of rules and the basis upon which the
15 Commission determined that those criteria were
16 met;

17 (E) for each rule or set of rules listed
18 under the criteria set forth in subparagraphs
19 (B), (D), (F), (G), or (H) of subsection (h)(2),
20 or other criteria established by the Commission
21 under subparagraph (I) of such subsection
22 under which the Commission evaluated alter-
23 natives to the rule or set of rules that could
24 lead to lower regulatory costs, identify alter-
25 natives to the rule or set of rules that the Com-

1 mission recommends the agency consider as re-
2 placements for the rule or set of rules and the
3 basis on which the Commission rests the rec-
4 ommendations, and, in identifying such alter-
5 natives, emphasize alternatives that will achieve
6 regulatory effectiveness at the lowest cost and
7 with the lowest adverse impacts on jobs;

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

15 (G) in the case of each set of rules so list-
16 ed, analyze whether Congress should also con-
17 sider repeal of the statutory authority imple-
18 mented by the set of rules.

19 (3) FINAL REPORT.—Not later than the date
20 on which the Commission members' appointments
21 expire, the Commission shall submit a final report
22 simultaneously to each House of Congress summa-
23 rizing all activities and recommendations of the
24 Commission, including a list of all rules or sets of
25 rules the Commission classified under clause (i) of

1 subsection (h)(4)(A) for immediate action to repeal,
2 a separate list of all rules or sets of rules the Com-
3 mission classified under clause (ii) of subsection
4 (h)(4)(A) for repeal, and with regard to each rule or
5 set of rules listed on either list, the information de-
6 scribed in subparagraphs (A) through (F) of sub-
7 section (h)(2). This report may be included in the
8 final annual report of the Commission under para-
9 graph (2) and may include the Commission's rec-
10 ommendation whether the Commission should be re-
11 authorized by Congress.

12 (j) REPEAL OF REGULATIONS; CONGRESSIONAL
13 CONSIDERATION OF COMMISSION REPORTS.—

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

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

1 ommendations of the Commission in the report;
2 and

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

14 (2) CONGRESSIONAL APPROVAL.—

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

24 (B) TERMS OF THE RESOLUTION.—For
25 purposes of paragraph (A), the term “joint res-

1 olution” means only a joint resolution which is
 2 introduced after the date on which the Commis-
 3 sion transmits to the Congress under paragraph
 4 (2) or (3) of subsection (i) the report con-
 5 taining the recommendations to which the reso-
 6 lution pertains, and—

7 (i) which does not have a preamble;

8 (ii) the matter after the resolving
 9 clause of which is only as follows: “That
 10 Congress approves the recommendations
 11 for repeal of the Retrospective Regulatory
 12 Review Commission as submitted by the
 13 Commission on _____”, the blank
 14 space being filled in with the appropriate
 15 date; and

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

17 “Approving recommendations for repeal of
 18 the Retrospective Regulatory Review Com-
 19 mission.”

20 (k) TRANSFER OF FUNDS FROM REGULATORY
 21 AGENCIES.—Of the unobligated amounts made available
 22 in future fiscal years for each agency that makes rules
 23 subject to review by the Commission, not more than
 24 \$30,000,000 shall be available for the Commission.

1 (l) CONSULTATION BETWEEN THE CHAIR AND THE
2 DIRECTOR.—The Chair of the Commission shall consult
3 with the Director of the Office of Management and Budget
4 before making requests for agency funds under subsection
5 (k).

6 (m) WEBSITE.—

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

9 (A) uses current information technology to
10 make records available on the website;

11 (B) provides information in a standard
12 data format; and

13 (C) receives and publishes public com-
14 ments.

15 (2) PUBLISHING OF INFORMATION.—Any infor-
16 mation required to be made available on the website
17 established pursuant to this Act shall be published
18 in a timely manner and shall be accessible by the
19 public on the website at no cost.

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

1 (4) PUBLIC COMMENTS.—The Commission shall
2 publish on the website all public comments and sub-
3 missions.

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

8 (n) APPLICABILITY OF THE FEDERAL ADVISORY
9 COMMITTEE ACT.—

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

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

19 (3) SUBCOMMITTEE.—Any subcommittee of the
20 Commission shall be treated as the Commission for
21 purposes of the Federal Advisory Committee Act (5
22 U.S.C. App.).

23 (4) CHARTER.—The enactment of the SCRUB
24 Act of 2014 shall be considered to meet the require-

1 ments of the Commission under section 9(c) of the
2 Federal Advisory Committee Act (5 U.S.C. App.).

3 **TITLE II—REGULATORY CUT-GO**

4 **SEC. 201. CUT-GO PROCEDURES.**

5 (a) IN GENERAL.—Except as provided in section
6 101(j)(2)(A) or section 202, an agency, when the agency
7 makes a new rule, shall repeal rules or sets of rules of
8 that agency classified by the Commission under section
9 101(h)(4)(A)(ii), such that the annual costs of the new
10 rule to the United States economy is offset by such re-
11 peals, in an amount equal to or greater than the cost of
12 the new rule, based on the regulatory cost reductions of
13 repeal identified by the Commission.

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

1 (a) of this section to be made at the time the agency pro-
2 mulgates a new rule.

3 (c) ACHIEVEMENT OF FULL NET COST REDUC-
4 TIONS.—

5 (1) IN GENERAL.—Subject to the provisions of
6 paragraph (2), an agency may offset the costs of a
7 new rule or set of rules by repealing a rule or set
8 of rules listed by the Commission under section
9 101(h)(4)(A)(ii) that implement the same statutory
10 authority as the new rule or set of rules.

11 (2) LIMITATION.—When using the authority
12 provided in paragraph (1), the agency must achieve
13 a net reduction in costs imposed by the agency's
14 body of rules (including the new rule or set of rules)
15 that is equal to or greater than the cost of the new
16 rule or set of rules to be promulgated, including,
17 whenever necessary, by repealing additional rules of
18 the agency listed by the Commission under section
19 101(h)(4)(A)(ii).

20 **SEC. 202. APPLICABILITY.**

21 An agency shall no longer be subject to the require-
22 ments of sections 201 and 203 beginning on the date that
23 there is no rule or set of rules of the agency classified
24 by the Commission under section 101(h)(4)(A)(ii) that has
25 not been repealed such that all regulatory cost reductions

1 identified by the Commission to be achievable through re-
2 peal have been achieved.

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

4 The Administrator of the Office of Information and
5 Regulatory Affairs of the Office of Management and
6 Budget shall review and certify the accuracy of agency de-
7 terminations of the costs of new rules under section 201.
8 The certification shall be included in the administrative
9 record of the relevant rulemaking by the agency promul-
10 gating the rule, and the Administrator shall transmit a
11 copy of the certification to Congress when it transmits the
12 certification to the agency.

13 **TITLE III—RETROSPECTIVE**
14 **REVIEW OF NEW RULES**

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

16 When an agency makes a rule, the agency shall in-
17 clude in the final issuance of such rule a plan for the re-
18 view of such rule by not later than 10 years after the date
19 such rule is made. Such a review, in the case of a major
20 rule, shall be substantially similar to the review by the
21 Commission under section 101(h). In the case of a rule
22 other than a major rule, the agency's plan for review shall
23 include other procedures and standards to enable the
24 agency to determine whether to repeal or amend the rule
25 to eliminate unnecessary regulatory costs to the economy.

1 Whenever feasible, the agency shall include a proposed
2 plan for review of a proposed rule in its notice of proposed
3 rulemaking and shall receive public comment on the plan.

4 **TITLE IV—JUDICIAL REVIEW**

5 **SEC. 401. JUDICIAL REVIEW.**

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

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

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

15 **TITLE V—MISCELLANEOUS** 16 **PROVISIONS**

17 **SEC. 501. DEFINITIONS.**

18 In this Act:

19 (1) AGENCY.—The term “agency” has the
20 meaning given that term in section 551 of title 5,
21 United States Code.

22 (2) COMMISSION.—The term “Commission”
23 means the Retrospective Regulatory Review Commis-
24 sion established under section 101.

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

5 (A) an annual cost on the economy of
6 \$100,000,000 or more, adjusted annually for
7 inflation;

8 (B) a major increase in costs or prices for
9 consumers, individual industries, Federal,
10 State, local, or tribal government agencies, or
11 geographic regions;

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

17 (D) significant impacts on multiple sectors
18 of the economy.

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

22 (5) SET OF RULES.—The term “set of rules”
23 means a set of rules that collectively implements a
24 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.

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