

115TH CONGRESS
1ST SESSION

H. R. 2623

To provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2017

Mr. MEADOWS 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 provide for a method by which the economic costs of significant regulatory actions may be offset by the repeal of other regulatory actions, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Lessening Regulatory Costs and Establishing a Federal
6 Regulatory Budget Act of 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of Congress; purpose.
- Sec. 3. Regulatory reform officers.
- Sec. 4. Regulatory reform task forces.
- Sec. 5. Accountability.
- Sec. 6. Regulatory cap.
- Sec. 7. Annual regulatory cost submission to the Office of Management and Budget.
- Sec. 8. Waiver.
- Sec. 9. Definitions.

1 SEC. 2. SENSE OF CONGRESS; PURPOSE.

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
 3 gress that the Federal Government should be prudent and
 4 financially responsible in the expenditure of funds, from
 5 both public and private sources. In addition to the man-
 6 agement of the direct expenditure of taxpayer dollars
 7 through the budgeting process, it is essential to manage
 8 the costs associated with the governmental imposition of
 9 private expenditures required to comply with Federal reg-
 10 ulations.

11 (b) PURPOSE.—The purpose of this Act is—

12 (1) to remove unnecessary and outdated regula-
 13 tions when a new significant regulation is issued;
 14 and

15 (2) to prudently manage and control the cost of
 16 planned regulations through an annual budgeting
 17 process.

18 SEC. 3. REGULATORY REFORM OFFICERS.

19 (a) IN GENERAL.—Except as provided for under sec-
 20 tion 8, not later than 60 days after the date of the enact-

1 ment of this Act, the head of each agency shall designate
2 an employee or officer of the agency as the Regulatory
3 Reform Officer (in this Act referred to as the “agency
4 RRO”). Each RRO shall oversee the implementation of
5 regulatory reform initiatives and policies for the agency
6 to ensure that the agency effectively carries out regulatory
7 reforms, consistent with applicable law. These initiatives
8 and policies include the following:

9 (1) Executive Order 13771 (82 Fed. Reg. 9339;
10 relating to reducing regulation and controlling regu-
11 latory costs), regarding offsetting the number and
12 cost of new regulations.

13 (2) Executive Order 12866 (5 U.S.C. 601 note;
14 relating to regulatory planning and review), regard-
15 ing regulatory planning and review.

16 (3) Executive Order 13563 (5 U.S.C. 601 note;
17 relating to improving regulation and regulatory re-
18 view), regarding retrospective review.

19 (4) The termination, consistent with applicable
20 law, of programs and activities that derive from or
21 implement Executive orders, guidance documents,
22 policy memoranda, rule interpretations, and similar
23 documents, or relevant portions thereof, that have
24 been repealed or rescinded.

1 (b) CONSULTATION REQUIRED.—Each agency RRO
2 shall periodically report to the head of the agency and reg-
3 ularly consult with agency leadership.

4 **SEC. 4. REGULATORY REFORM TASK FORCES.**

5 (a) IN GENERAL.—The head of each agency shall es-
6 tablish a Regulatory Reform Task Force composed of the
7 following:

8 (1) The agency RRO.

9 (2) The agency Regulatory Policy Officer des-
10 igned under section 6(a)(2) of Executive Order
11 12866.

12 (3) A representative from the agency’s central
13 policy office or equivalent central office.

14 (4) For each agency listed in section 901(b)(1)
15 of title 31, United States Code, at least three addi-
16 tional senior agency officials involved in the develop-
17 ment of rulemaking at the agency as determined by
18 the head of the agency.

19 (b) CHAIR.—Unless otherwise designated by the head
20 of the agency, the agency RRO shall chair the Regulatory
21 Reform Task Force of the agency.

22 (c) JOINT TASK FORCES.—Each Federal regulatory
23 entity staffed by officials of multiple agencies, such as the
24 Chief Acquisition Officers Council, shall form a joint regu-
25 latory reform task force composed of at least one official

1 described in subsection (a) from each constituent agency's
2 Regulatory Reform Task Force. Joint regulatory reform
3 task forces shall implement this Act in coordination with
4 the regulatory reform task forces of their members' re-
5 spective agencies.

6 (d) TASKS.—Each Regulatory Reform Task Force
7 shall evaluate existing regulations and make recommenda-
8 tions to the head of the agency regarding repeal, replace-
9 ment, or amendment, consistent with applicable law. The
10 task force shall complete a review of each regulation issued
11 by the agency not later than 5 years after the establish-
12 ment of the task force. For each regulation reviewed, the
13 task force shall estimate the cost savings that would be
14 achieved if the agency followed the recommendation from
15 the task force. Each regulatory reform task force shall
16 identify regulations that—

- 17 (1) eliminate jobs or inhibit job creation;
- 18 (2) are outdated, unnecessary, or ineffective;
- 19 (3) impose costs that exceed benefits;
- 20 (4) create a serious inconsistency or otherwise
21 interfere with regulatory reform initiatives and poli-
22 cies;
- 23 (5) are inconsistent with the requirements of
24 section 515 of the Treasury and General Govern-
25 ment Appropriations Act, 2001 (Public Law 106–

1 554; 44 U.S.C. 3516 note), or the guidance issued
2 pursuant to that section, including any rule that re-
3 lies in whole or in part on data, information, or
4 methods that are not publicly available or that are
5 insufficiently transparent to meet the standard for
6 reproducibility; or

7 (6) were made pursuant to or to implement Ex-
8 ecutive orders or other Presidential directives that
9 have been subsequently rescinded or substantially
10 modified.

11 (e) CONSULTATION WITH STAKEHOLDERS.—In per-
12 forming the evaluation described in subsection (d), each
13 Regulatory Reform Task Force shall seek input and other
14 assistance, from entities significantly affected by Federal
15 regulations, including State, local, and Tribal govern-
16 ments, small businesses, consumers, non-governmental or-
17 ganizations, and trade associations. In the discretion of
18 the task force, the task force may incorporate specific sug-
19 gestions from stakeholders in the list of rules to be re-
20 pealed.

21 (f) REPORT.—Not later than 90 days after the date
22 of the enactment of this Act, and not later than April 1
23 of each year thereafter, each Regulatory Reform Task
24 Force shall submit to the head of the agency a report

1 (which shall be posted by such head on a publicly acces-
 2 sible website) on the following:

3 (1) A description of any improvement made to-
 4 ward implementation of regulatory reform initiatives
 5 and policies described under section 3(a).

6 (2) For each regulation reviewed by the task
 7 force, a detailed description of the review.

8 (3) An inventory of each regulation the task
 9 force recommends the agency consider for repeal, re-
 10 placement, or modifications.

11 **SEC. 5. ACCOUNTABILITY.**

12 (a) INCORPORATION IN PERFORMANCE PLANS.—

13 (1) IN GENERAL.—Each agency listed in section
 14 901(b)(1) of title 31, United States Code, shall in-
 15 corporate in the annual performance plan of the
 16 agency (required under section 1115(b) of title 31,
 17 United States Code) performance indicators that
 18 measure progress implementing this Act.

19 (2) OMB GUIDANCE.—Not later than 60 days
 20 after the date of the enactment of this Act, the Di-
 21 rector of the Office of Management and Budget
 22 shall issue guidance regarding the implementation of
 23 this subsection.

24 (b) PERFORMANCE ASSESSMENT.—The head of each
 25 agency shall consider the progress implementing this Act

1 in assessing the performance of the Regulatory Reform
2 Task Force of the agency and those individuals respon-
3 sible for developing and issuing agency rules.

4 **SEC. 6. REGULATORY CAP.**

5 (a) IDENTIFICATION OF RULES.—During fiscal year
6 2018, before an agency may publish a notice of proposed
7 rulemaking under section 553(b) of title 5, United States
8 Code, for a significant regulatory action or otherwise pub-
9 licly propose promulgating a significant regulatory action,
10 the head of the agency, in consultation with the Regu-
11 latory Reform Task Force of the agency, shall identify not
12 less than 2 regulatory actions issued by the agency that
13 are appropriate for repeal. In identifying regulatory ac-
14 tions for repeal, the head of each agency shall prioritize
15 those regulatory actions that the Regulatory Reform Task
16 Force of the agency identified under section (4)(d)(2). For
17 each regulatory action identified, the head of the agency
18 must confirm that the agency can continue to achieve reg-
19 ulatory objectives (such as health or environmental protec-
20 tion) if the identified regulatory actions were to be re-
21 pealed.

22 (b) TOTAL INCREMENTAL COST FOR 2018.—For fis-
23 cal year 2018, the total incremental cost of all new signifi-
24 cant regulatory actions at each agency and any repealed
25 regulatory action, to be finalized in fiscal year 2018 shall

1 be no greater than zero, or consistent with a waiver pro-
2 vided by the Director of the Office of Management and
3 Budget.

4 (c) OFFSET OF NEW INCREMENTAL COSTS.—Any
5 new incremental cost associated with a new significant
6 regulatory action shall be offset by the elimination of exist-
7 ing costs associated with at least two prior regulatory ac-
8 tions. To the extent feasible, the two prior regulatory ac-
9 tions shall be eliminated before or on the same schedule
10 as the new significant regulatory action. Any savings of
11 the two eliminated regulatory actions shall offset the costs
12 of the new significant regulatory action.

13 (d) GUIDANCE BY OMB.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of the enactment of this Act, the Director
16 shall establish and issue guidance on how to comply
17 with the requirements of this section. Such guidance
18 shall include the following:

19 (A) A process for standardizing the meas-
20 urement and estimation of regulatory costs.

21 (B) Standards for determining what quali-
22 fies as new and offsetting regulatory actions.

23 (C) Standards for determining the costs of
24 existing regulatory actions that are considered
25 for elimination.

1 (D) A process for accounting for costs in
2 different fiscal years.

3 (E) Methods to oversee the issuance of sig-
4 nificant regulatory actions with costs offset by
5 savings at different times or different agencies.

6 (F) Emergencies and other circumstances
7 that might justify individual waivers of the re-
8 quirements of this section.

9 (2) UPDATE TO GUIDANCE.—The Director shall
10 update the guidance issued pursuant to this section
11 as necessary.

12 **SEC. 7. ANNUAL REGULATORY COST SUBMISSION TO THE**
13 **OFFICE OF MANAGEMENT AND BUDGET.**

14 (a) ANNUAL REGULATORY PLAN.—The head of each
15 agency shall submit an annual regulatory plan to the Di-
16 rector, which shall include a list of the following:

17 (1) Each new regulation to be finalized or pro-
18 posed by the agency during that fiscal year.

19 (2) The incremental cost associated with each
20 regulation to be proposed or finalized by the agency
21 during that fiscal year.

22 (3) For each significant regulatory action to be
23 proposed or finalized by the agency during that fis-
24 cal year—

1 (A) any regulatory action identified for re-
2 peal to offset the incremental cost of such sig-
3 nificant regulatory action pursuant to section
4 4(c);

5 (B) the agency's best approximation of the
6 total cost or savings associated with new signifi-
7 cant regulatory action and regulatory actions
8 recommended for repeal under section 4; and

9 (C) any estimate of the economic effects of
10 the significant regulatory action, including any
11 estimate of the net effect that such action will
12 have on the number of jobs in the United
13 States, that was considered in drafting the ac-
14 tion, or, if such estimate is not available, a
15 statement affirming that no information on the
16 economic effects, including the effect on the
17 number of jobs, of the action has been consid-
18 ered.

19 (b) REGULATIONS APPROVED BY THE DIRECTOR.—
20 Each regulation approved by the Director during the Pres-
21 idential budget process shall be included in the Unified
22 Regulatory Agenda required under Executive Order
23 12866, any successor thereto, or other similar order or
24 directive.

1 (c) NO SIGNIFICANT REGULATORY ACTION TO BE
2 MADE UNLESS INCLUDED IN UNIFIED REGULATORY
3 AGENDA.—Unless otherwise required by law, a significant
4 regulatory action may not be issued by an agency if it was
5 not included on the most recent version or update of the
6 published Unified Regulatory Agenda as required under
7 Executive Order 12866, any successor thereto, or other
8 similar order or directive, unless the issuance of such sig-
9 nificant regulatory action was approved in advance in writ-
10 ing by the Director. The Director’s written approval shall
11 be made publicly available online.

12 (d) INCREMENTAL COST ALLOWANCE.—During the
13 Presidential budget process, the Director shall set a net
14 amount of incremental costs allowed for each agency in
15 issuing new significant regulatory actions and repealing
16 regulatory actions for the next fiscal year. If the Director
17 does not set a net amount of incremental costs allowed
18 for an agency, the net incremental cost allowed shall be
19 zero. No significant regulatory actions exceeding the agen-
20 cy’s total incremental cost allowance may be made in that
21 fiscal year, unless required by law or approved in writing
22 by the Director. If an agency does not exhaust all the in-
23 cremental cost allowance for a fiscal year, that remaining
24 balance may be included in the incremental allowance for
25 the subsequent fiscal year, in addition to the allowance

1 otherwise available for the subsequent fiscal year. An
2 agency's net incremental cost allowance may—

3 (1) require an increase, decrease, or no change
4 to the total regulatory costs;

5 (2) include any existing regulatory action that
6 imposes costs and the repeal or revision of which will
7 produce verified savings; and

8 (3) include meaningful burden reduction
9 through the repeal or streamlining of mandatory re-
10 porting, recordkeeping, or disclosure requirements.

11 (e) GUIDANCE.—Not later than 90 days after the
12 date of the enactment of this Act, the Director shall pro-
13 vide the heads of each agency with additional guidance
14 on the implementation of the requirements in this section,
15 including a reasonable standard or methodology for esti-
16 mating the reduction in incremental cost achieved by re-
17 pealing a regulatory action.

18 **SEC. 8. WAIVER.**

19 Upon the request of an agency head, the Director of
20 the Office of Management and Budget may waive the re-
21 quirements of section 3 or 4, or both, if the Director deter-
22 mines that the agency generally issues very few or no
23 rules. The Director may revoke such a waiver at any time.
24 The Director shall maintain a publicly available list of
25 each agency that is operating under a waiver issued under

1 this section. A waiver is not in effect unless it is available
2 on the publicly available list.

3 **SEC. 9. DEFINITIONS.**

4 In this Act:

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

8 (2) COSTS.—The term “costs” means oppor-
9 tunity cost to society.

10 (3) DIRECTOR.—The term “Director” means
11 the Director of the Office of Management and Budget.
12 et.

13 (4) INCREMENTAL COST.—The term “incre-
14 mental cost” means, in the case of a rule, the dif-
15 ference between the direct incremental economic
16 benefit to business and the direct incremental eco-
17 nomic cost to business.

18 (5) REGULATION; RULE.—The term “regula-
19 tion” or “rule” has the meaning given the term
20 “rule” in section 551 of title 5, United States Code.

21 (6) REGULATORY ACTION; SIGNIFICANT REGU-
22 LATORY ACTION.—The terms “regulatory action”
23 and “significant regulatory action” have the mean-
24 ing given those terms in Executive Order 12866.

○