

114TH CONGRESS
1ST SESSION

H. R. 3328

To require Federal agencies to review certain rules and regulations, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. COLLINS of New York (for himself, Mr. DENHAM, Mr. KATKO, and Mr. HANNA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Small Business, and Oversight and Government Reform, 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 require Federal agencies to review certain rules and
regulations, 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 “Small Business Regu-
5 latory Sunset Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “agency” has the meaning given
2 the term in section 551 of title 5, United States
3 Code;

4 (2) the term “covered rule” means any rule or
5 group of rules—

6 (A) for which an agency is required to pre-
7 pare a regulatory flexibility analysis under sec-
8 tion 603 or 604 of title 5, United States Code;
9 and

10 (B) that is a major rule;

11 (3) the term “major rule” has the meaning
12 given the term in section 804 of title 5, United
13 States Code; and

14 (4) the terms “rule” and “small entity” have
15 the meanings given those terms in section 601 of
16 title 5, United States Code.

17 **SEC. 3. PERIODIC REVIEW OF PREEXISTING SMALL BUSI-**
18 **NESS REGULATIONS.**

19 Section 610 of title 5, United States Code, is amend-
20 ed to read as follows:

21 **“§ 610. Periodic review of rules**

22 “(a)(1) Not later than 180 days after the date of en-
23 actment of the Small Business Regulatory Sunset Act of
24 2015, each agency shall establish a plan for the periodic
25 review of—

1 “(A) each rule issued by the agency that the
2 head of the agency determines has a significant eco-
3 nomic impact on a substantial number of small enti-
4 ties, without regard to whether the agency per-
5 formed an analysis under section 604 with respect to
6 the rule; and

7 “(B) any small entity compliance guide required
8 to be published by the agency under section 212 of
9 the Small Business Regulatory Enforcement Fair-
10 ness Act of 1996 (5 U.S.C. 601 note).

11 “(2) In reviewing rules and small entity compliance
12 guides under paragraph (1), the agency shall determine
13 whether the rules and guides should—

14 “(A) be amended or rescinded, consistent with
15 the stated objectives of applicable statutes, to mini-
16 mize any significant adverse economic impacts on a
17 substantial number of small entities (including an
18 estimate of any adverse impacts on job creation and
19 employment by small entities); or

20 “(B) continue in effect without change.

21 “(3) Each agency shall publish the plan established
22 under paragraph (1) in the Federal Register and on the
23 Web site of the agency.

24 “(4) An agency may amend the plan established
25 under paragraph (1) at any time by publishing the amend-

1 ment in the Federal Register and on the Web site of the
2 agency.

3 “(b) Each plan established under subsection (a) shall
4 provide for—

5 “(1) the review of each rule and small entity
6 compliance guide described in subsection (a)(1) in
7 effect on the date of enactment of the Small Busi-
8 ness Regulatory Sunset Act of 2015—

9 “(A) not later than 9 years after the date
10 of publication of the plan in the Federal Reg-
11 ister; and

12 “(B) every 9 years thereafter; and

13 “(2) the review of each rule adopted and small
14 entity compliance guide described in subsection
15 (a)(1) that is published after the date of enactment
16 of the Small Business Regulatory Sunset Act of
17 2015—

18 “(A) not later than 9 years after the date
19 of publication of the final rule in the Federal
20 Register; and

21 “(B) every 9 years thereafter.

22 “(c) In reviewing rules under the plan required under
23 subsection (a), the agency shall consider—

24 “(1) the continued need for the rule;

1 “(2) the nature of complaints received by the
2 agency from small entities concerning the rule;

3 “(3) comments by the Regulatory Enforcement
4 Ombudsman and the Chief Counsel for Advocacy of
5 the Small Business Administration;

6 “(4) the complexity of the rule;

7 “(5) the extent to which the rule overlaps, du-
8 plicates, or conflicts with other Federal rules and,
9 unless the head of the agency determines it to be in-
10 feasible, State and local rules;

11 “(6) the contribution of the rule to the cumu-
12 lative economic impact of all Federal rules on the
13 class of small entities affected by the rule, unless the
14 head of the agency determines that such a calcula-
15 tion cannot be made;

16 “(7) the length of time since the rule has been
17 evaluated, or the degree to which technology, eco-
18 nomic conditions, or other factors have changed in
19 the area affected by the rule; and

20 “(8) the economic impact of the rule, includ-
21 ing—

22 “(A) the estimated number of small enti-
23 ties to which the rule will apply;

1 “(B) the estimated number of small entity
2 jobs that will be lost or created due to the rule;
3 and

4 “(C) the projected reporting, record-
5 keeping, and other compliance requirements of
6 the proposed rule, including—

7 “(i) an estimate of the classes of small
8 entities that will be subject to the require-
9 ment; and

10 “(ii) the type of professional skills
11 necessary for preparation of the report or
12 record.

13 “(d)(1) Each agency shall submit an annual report
14 regarding the results of the review required under sub-
15 section (a) to—

16 “(A) Congress; and

17 “(B) in the case of an agency that is not an
18 independent regulatory agency (as defined in section
19 3502(5) of title 44), the Administrator of the Office
20 of Information and Regulatory Affairs of the Office
21 of Management and Budget.

22 “(2) Each report required under paragraph (1) shall
23 include a description of any rule or small entity compli-
24 ance guide with respect to which the agency made a deter-
25 mination of infeasibility under paragraph (5) or (6) of

1 subsection (c), together with a detailed explanation of the
2 reasons for the determination.

3 “(e) Each agency shall publish in the Federal Reg-
4 ister and on the Web site of the agency a list of the rules
5 and small entity compliance guides to be reviewed under
6 the plan required under subsection (a) that includes—

7 “(1) a brief description of each rule or guide;

8 “(2) for each rule, the reason why the head of
9 the agency determined that the rule has a significant
10 economic impact on a substantial number of small
11 entities (without regard to whether the agency had
12 prepared a final regulatory flexibility analysis for the
13 rule); and

14 “(3) a request for comments from the public,
15 the Chief Counsel for Advocacy of the Small Busi-
16 ness Administration, and the Regulatory Enforce-
17 ment Ombudsman concerning the enforcement of the
18 rules or publication of the guides.

19 “(f)(1) Not later than 6 months after each date de-
20 scribed in paragraphs (1) and (2) of subsection (b), the
21 Inspector General for each agency shall—

22 “(A) determine whether the agency has con-
23 ducted the review required under subsection (b) ap-
24 propriately; and

25 “(B) notify the head of the agency of—

1 “(i) the results of the determination under
2 subparagraph (A); and

3 “(ii) any issues preventing the Inspector
4 General from determining that the agency has
5 conducted the review required under subsection
6 (b) appropriately.

7 “(2)(A) Not later than 6 months after the date on
8 which the head of an agency receives a notice under para-
9 graph (1)(B) that the agency has not conducted the review
10 required under subsection (b) appropriately, the agency
11 shall address the issues identified in the notice.

12 “(B) Not later than 30 days after the last day of the
13 6-month period described in subparagraph (A), the In-
14 specter General for an agency that receives a notice de-
15 scribed in subparagraph (A) shall—

16 “(i) determine whether the agency has ad-
17 dressed the issues identified in the notice; and

18 “(ii) notify Congress if the Inspector General
19 determines that the agency has not addressed the
20 issues identified in the notice.

21 “(C) Not later than 30 days after the date on which
22 the Inspector General for an agency transmits a notice
23 under subparagraph (B)(ii), an amount equal to 1 percent
24 of the amount appropriated for the fiscal year to the ap-

1 appropriations account of the agency that is used to pay sal-
2 aries shall be rescinded.

3 “(D) Nothing in this paragraph may be construed to
4 prevent Congress from acting to prevent a rescission
5 under subparagraph (C).”.

6 **SEC. 4. SUNSET OF NEW SMALL BUSINESS REGULATIONS.**

7 (a) IN GENERAL.—Except as provided in subsection
8 (b) and beginning on the date of enactment of this Act,
9 each covered rule promulgated by an agency shall cease
10 to have effect on the date that is 7 years after the date
11 on which the final version of the covered rule is published.

12 (b) EXTENSION OF RULE.—

13 (1) IN GENERAL.—Before the end of the 7-year
14 period described in subsection (a), an agency may
15 take action to renew a covered rule in accordance
16 with the process described in paragraph (2) and if
17 such action is taken, the covered rule shall remain
18 in effect until modified or repealed by the agency ac-
19 tion or statute.

20 (2) RENEWAL PROCESS.—

21 (A) IN GENERAL.—An agency may renew
22 a covered rule by using the notice and comment
23 rulemaking process.

1 (B) REQUIREMENTS.—In conducting a
2 rulemaking to renew a covered rule under sub-
3 paragraph (A), an agency shall—

4 (i) solicit and respond to public com-
5 ment from entities affected by the covered
6 rule;

7 (ii) compare the projected costs of the
8 covered rule to the actual costs realized by
9 implementation of the covered rule and de-
10 termine whether modifications can be made
11 to the covered rule to lower the cost of the
12 covered rule;

13 (iii) consider whether any regulatory
14 alternatives exist that would accomplish
15 the same regulatory objective as the cov-
16 ered rule with less of an impact on affected
17 small entities; and

18 (iv) make modifications to the covered
19 rule, if necessary, to reflect—

20 (I) comments solicited under
21 clause (i);

22 (II) modifications described in
23 clause (ii); and

- 1 (III) any regulatory alternatives
- 2 described in clause (iii).

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