AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

118TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 118–856
Part 1

REGULATORY REVIEW IMPROVEMENT ACT OF 2024

DECEMBER 10, 2024.—Ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 9085]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 9085) to amend title 5, United States Code, to make certain modifications to how agencies conduct periodic reviews of agency rules, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

		Page
I.	Purpose and Bill Summary	2
II.	Need for Legislation	2
III.	Hearings	2
IV.	Committee Consideration	2
V.	Committee Votes	3
VI.	Section-by-Section of H.R. 9085	8
VII.	Congressional Budget Office Cost Estimate	8
VIII.	New Budget Authority, Entitlement Authority, and Tax Expenditures	11
IX.	Oversight Findings & Recommendations	11
X.	Performance Goals and Objectives	11
XI.	Statement of Duplication of Federal Programs	11
XII.	Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	11
XIII.	Federal Mandates Statement	11
XIV.	Federal Advisory Committee Statement	11
XV.	Applicability to Legislative Branch	12
XVI.	Statement of Constitutional Authority	12

59–006

XVII. Changes in Existing Law Made by the Bill, as Reported 12
XVIII. Minority Views 14

I. Purpose and Bill Summary

On July 22, 2024, Rep. Meuser, along with Rep. Hunt introduced H.R. 9085. The purpose of H.R. 9085, the "Regulatory Review Improvement Act of 2024," is to limit agencies' ability to delay the review of rules to only one year as opposed to five and provide an explanation for why they are delaying the review. Further, when reviewing the rule, agencies must offer a comment period for stakeholders to weigh in on the rule's impact. Agencies must also report on the cost and paperwork hours imposed on businesses since the rule took effect.

II. Need for Legislation

Agencies are required to periodically review their rules once they have been in effect for 10 years. Currently, agencies have the option to delay the review for one year up to five times without an explanation.

This legislation limits agencies' ability to delay the review of regulations to only one year as opposed to five and requires an explanation for why they are delaying the review. It is important to hold federal agencies to account for their periodic review of rules, as well as to prevent abuse of their ability to delay a periodic review for a seemingly indefinite timeframe. Further, the bill also requires that when reviewing the rule, agencies must report on cost and paperwork hours imposed on businesses since the rule took effect.

Finally, the bill requires that when reviewing the rule, agencies must offer a comment period for stakeholders to weigh in on the merits and burdens of the rule while it was in effect. The agency must then use this comment period to complete a qualitative and quantitative analysis of the rule's impact when evaluating whether it should stay in place.

Each year there are hundreds of new rules promulgated. These requirements compound each year, and the government should always be looking at what requirements are no longer relevant and can be removed. By ensuring that agencies truly do their due diligence in reviewing rules every 10 years, it will hopefully reduce the compounding impacts of years' worth of regulations.

III. Hearings

In the 118th Congress, the Committee held one hearing examining the issues covered in H.R. 9085. On May 22, 2024, the Committee held a hearing titled "Burdensome Regulations: Examining the Biden Administration's Failure to Consider Small Businesses" which examined the impacts of the Biden Administration's burdensome regulatory landscape and explored ways to support small businesses and overcome agencies' noncompliance with the RFA.

IV. Committee Consideration

The Committee on Small Business met in open session, with a quorum being present, on September 10, 2024 and ordered H.R. 9085 reported to the House of Representatives. During the markup one amendment was offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 9085 to the House of Representatives at 2:40 PM.

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024
Bill: Amendment #1 offered to H.R. 9085 Time of Vote: 2:38 PM

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)			
Mr. Stauber (MN-08)		✓	
Mr. Meuser (PA-09)		✓	
Ms. Van Duyne (TX-24)		✓	
Ms. Salazar (FL-27)		✓	
Mr. Mann (KS-01)		✓	
Mr. Ellzey (TX-06)		✓	
Mr. Molinaro (NY-19)		✓	
Mr. Alford (MO-04)		✓	
Mr. Crane (AZ-02)		✓	
Mr. Bean (FL-04)		✓	
Mr. Hunt (TX-38)			
Mr. Lalota (NY-01)		✓	
Ms. Maloy (UT-02)		✓	
Chairman Williams (TX-25)		✓	
TOTALS:		13	

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024
Bill: Amendment #1 offered to H.R. 9085

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)	✓		
Mr. McGarvey (KY-03)	✓		
Ms. Gluesenkamp Perez (WA-03)	✓		
Ms. Scholten (MI-03)	✓		
Mr. Thanedar (MI-13)	✓		
Ms. Chu (CA-28)	✓		
Ms. Davids (KS-03)	✓		
Mr. Pappas (NH-01)	✓		
Ranking Member Velazquez (NY-07)	✓		
TOTALS:	11		

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET
Bill: H.R. - 9085

Time of Vote: 2:40 PM

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)			
Mr. Stauber (MN-08)	✓		
Mr. Meuser (PA-09)	✓		
Ms. Van Duyne (TX-24)	✓		
Ms. Salazar (FL-27)	✓		
Mr. Mann (KS-01)	✓		
Mr. Ellzey (TX-06)	✓		
Mr. Molinaro (NY-19)	✓		
Mr. Alford (MO-04)	✓		
Mr. Crane (AZ-02)	✓		
Mr. Bean (FL-04)	✓		
Mr. Hunt (TX-38)			
Mr. Lalota (NY-01)	✓		
Ms. Maloy (UT-02)	✓		
Chairman Williams (TX-25)	✓		
TOTALS:	13		

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET
Bill: H.R. - 9085

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)		✓	
Mr. Phillips (MN-03)		✓	
Mr. Landsman (OH-01)		✓	
Mr. McGarvey (KY-03)		✓	
Ms. Gluesenkamp Perez (WA-03)		✓	
Ms. Scholten (MI-03)		✓	
Mr. Thanedar (MI-13)		✓	
Ms. Chu (CA-28)		✓	
Ms. Davids (KS-03)		✓	
Mr. Pappas (NH-01)		✓	
Ranking Member Velazquez (NY-07)		✓	
TOTALS:		11	

VI. SECTION-BY-SECTION OF H.R. 9085

Section 1: Short title

This bill may be cited as the "Regulatory Review Improvement Act."

Section 2: Changes to periodic review of rules

When reviewing rules, agencies have the option to delay the review for one year and must provide an explanation for why they need the extension. Further, when reviewing a rule, the agency must:

- Solicit public comments on whether the rule shall remain in effect.
- Produce a qualitative and quantitative summary of the public comments and the agency's economic analysis of the rule.
- Include the cost of compliance and paperwork hours required of businesses since the rule took effect.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the House Committee on Small Business during the 118th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill Number	Title	Status	Last action	Budget function	Direct spending, 2025–2034	Revenues, 2025–2034	Spending subject to appropriation, 2025–2029	Pay-As-You-Go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 9030	Regulatory Agenda Clarity Act	Ordered reported	09/10/24	Multiple functions	Between zero and $500,000	Between $500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
	H.R. 9030 would require federal agencies to describe the type of business that would be affected by a proposed rule, explain whether the rule would impose significant economic effects on a substantial number of small entities, and display that information on their website. CBO estimates that enacting H.R. 9030 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9030 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9030 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates ($200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.										
H.R. 9031	Assurance for Small Business Act of 2024.	Ordered reported	09/10/24	Multiple functions	Between zero and $500,000	Between 12 −$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
	H.R. 9031 would require each rulemaking agency to report to the Congress on how the agency determines whether a rule would impose significant economic effects on a substantial number of small entities. Enacting H.R. 9031 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9031 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9031 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates ($200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.										
H.R. 9033	LABOR Act of 2024	Ordered reported	09/10/24	500	0	0	Not estimated	No	No	No	Margot Berman
	H.R. 9033 would require the Department of Labor to convene a small business advocacy review panel before proposing rules that would have significant economic effects on a substantial number of small entities. Under current law, only the Occupational Safety and Health Administration within the Department of Labor is required to do so. CBO estimates that enacting H.R. 9033 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.										
H.R. 9085	Regulatory Review Improvement Act of 2024.	Ordered reported	09/10/24	Multiple functions	Between zero and $500,000	Between −$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION—Continued

Bill Number	Title	Status	Last action	Budget function	Direct spending, 2025–2034	Revenues, 2025–2034	Spending subject to appropriation, 2025–2029	Pay-As-You-Go procedures apply?	Budgetary effects after 2034	Mandates	Contact
	H.R. 9085 would expand the information that agencies must include in a 10-year review of a rule's effect on small entities, including the cost for entities to comply with the rule once it goes into effect and an analysis of public comments an agency receives about the rule. The bill also would reduce the time from 5 years to 1 year for an agency to complete a review. CBO estimates that enacting H.R. 9085 could increase direct spending by some agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9085 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9085 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates ($200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.										

VIII. New Budget Authority, Entitlement Authority, and Tax Expenditures

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 9085 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. Oversight Findings & Recommendations

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 9085 are incorporated into the descriptive portions of this report.

X. Performance Goals and Objectives

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 9085 are to require an annual report from OCRM to Congress on the performance, cost, and risk associated with 7(a) loans generated through loan agent activity.

XI. Statement of Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 9085 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XII. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. Federal Mandates Statement

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XIV. Federal Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. Statement of Constitutional Authority

Pursuant to clause 7 of Rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl.1 of the Constitution of the United States.

XVII. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * * * *

PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

* * * * * * *

§ 610. Periodic review of rules

(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date

[and for the review], *for the review* of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule*, and for the solicitation of public comments on whether each such final rule should remain in effect*. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement *that includes an explanation for the delay* published in the Federal Register and may extend the completion date [by one year at a time for a total of not more than five years] *by not more than one year*.

(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors—

(1) the continued need for the rule;

(2) the nature of complaints or comments received concerning the rule from the public*, including any analyses or summaries conducted by the agency under subsection (c)*;

(3) the complexity of the rule;

(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; [and]

(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule[.]*; and*

(6) the cost of compliance and the number of paperwork hours the rule has required since the rule took effect.

(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule [and the need for], *the need for* and legal basis of such rule*, and an economic analysis of such rule,* and shall invite public comment upon the rule. *Before conducting a review under this section, each agency shall produce a qualitative and quantitative summary of such comments that includes an analysis of such comments by the agency.*

* * * * * * *

XVIII. MINORITY VIEWS

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to develop a plan to review rules that will have a significant economic impact on a substantial number of small entities within 10 years of their issuance. The purpose of the review is to evaluate whether the rules need to be modified to minimize the significant impact on small entities. If an agency determines that completion of the review of existing rules is not feasible by the established date, the agency head must certify in a statement published in the Federal Register and may extend the completion date by one year for a total of not more than five years.[1]

Over the past four decades, Presidential candidates have campaigned on the issue that there are too many rules on the books that are obsolete, unworkable, and burdensome. Most recent, President Obama issued Executive Orders 13,563 and 13,579, which reaffirmed the need for agencies to carry out retrospective analysis of existing rules.[2] Accordingly, "$37 billion in savings, paperwork reductions were achieved, 70 notable regulatory provisions were removed from the books, and more than 800 retrospective review initiatives were completed."[3] President Trump took an alternative approach with Executive Order 12,771, which required agencies to repeal two regulations for every new one. The Office of Advocacy believes agencies should conduct 610 reviews and set forth guidance for agencies to follow. However, older studies found that agency compliance with 610 requirements have varied considerably since 1980.[4]

While there is little data to determine if agencies are complying with the 610 requirements, this bill is problematic for a number of reasons. First, the requirement that agencies can only delay the retrospective review for one year is not always feasible, particularly in times of a national emergency. For example, the economic relief program stemming from the COVID–19 pandemic increased SBA's loan portfolio to more than $1.3 trillion,[5] and aiding small businesses was SBA's main priority. A requirement to complete retrospective reviews during this period would have detracted from their efforts to aid small businesses in the midst of an economic crisis. Second, the bill requires agencies to take into consideration the

[1] *See* the Regulatory Flexibility Act of 1980, Pub. L. No. 96–354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. § 610).

[2] Exec. Order No. 13,563 § 6, 76 Fed. Reg. 3,821, at 3,822; Exec. Order No. 13,579 § 2, 76 Fed. Reg. 41,587.

[3] Howard Shelanski, *Retrospective Review, by the Numbers*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA (Aug. 31, 2016), https://obamawhitehouse.archives.gov/blog/2016/08/31/retrospective-review-numbers-0.

[4] GOVERNMENTAL ACCOUNTABILITY OFF., REEXAMINING REGULATIONS: OPPORTUNITIES EXIST TO IMPROVE EFFECTIVENESS AND TRANSPARENCY OF RETROSPECTIVE REVIEWS (Jul. 16, 2007).

[5] U.S. SMALL BUS. ADMIN., FY 2025 CONGRESSIONAL BUDGET JUSTIFICATION, FY 2023 ANNUAL PERFORMANCE REPORT (Mar. 11, 2024).

costs and paperwork hours, but it does not require the agencies to consider the benefits of the rules.

Committee Democrats continue to attempt to work in good faith with the Majority to pass common-sense legislation that would make regulations and regulatory processes more accessible to small businesses. To that end, Ms. Davids proposed an amendment in the nature of a substitute to this bill. The Davids amendment would 1 strike most provisions of the bill, with the exception of the requirement for agencies to explain the reason for their delay. To gather more up-to-date data, the amendment would requires agencies to submit a report to the House and Senate Small Business Committees every two years detailing the number of reviews conducted, reasons for delays, and legislative recommendations to improve the 602 process. I support the commonsense amendment offered by Ms. Davids to make the Section 610 process work better, and I oppose H.R. 9085, the "Regulatory Review Improvement Act" as there has been no testimony from agencies or up to date information or data to support the change to the 610 process.

NYDIA M. VELÁZQUEZ,
Ranking Member.

○