AMENDMENT TO THE RULES COMMITTEE PRINT
FOR H.R. 1735
OFFERED BY MR. BOST OF ILLINOIS AND MR.
CONNOLLY OF VIRGINIA

At the end of subtitle D of title VIII, add the following new section:

SEC. 8. ESTABLISHMENT OF AN OFFICE OF HEARINGS AND APPEALS IN THE SMALL BUSINESS ADMINISTRATION; PETITIONS FOR RECONSIDERATION OF SIZE STANDARDS.

(a) Establishment of an Office of Hearings and Appeals in the Small Business Administration.—

(1) In general.—Section 5 of the Small Business Act (15 U.S.C. 634) is amended by adding at the end the following new subsection:

“(i) Office of Hearings and Appeals.—

“(1) Establishment.—

“(A) Office.—There is established in the Administration an Office of Hearings and Appeals—
“(i) to impartially decide matters relating to program decisions of the Administrator—

“(I) for which Congress requires a hearing on the record; or

“(II) that the Administrator designates for hearing by regulation; and

“(ii) which shall contain the office of the Administration that handles requests submitted pursuant to sections 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’) and maintains records pursuant to section 552a of title 5, United States Code (commonly referred to as the ‘Privacy Act of 1974’).

“(B) JURISDICTION.—The Office of Hearings and Appeals shall only hear appeals of matters as described in this Act, the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.), and title 13 of the Code of Federal Regulations.

“(C) ASSOCIATE ADMINISTRATOR.—The head of the Office of Hearings and Appeals shall be the Chief Hearing Officer appointed
under section 4(b)(1), who shall be responsible
to the Administrator.

“(2) CHIEF HEARING OFFICER DUTIES.—

“(A) IN GENERAL.—The Chief Hearing
Officer shall—

“(i) be a career appointee in the Sen-
ior Executive Service and an attorney li-
censed by a State, commonwealth, territory
or possession of the United States, or the
District of Columbia; and

“(ii) be responsible for the operation
and management of the Office of Hearings
and Appeals.

“(B) ALTERNATIVE DISPUTE RESOLU-
tION.—The Chief Hearing Officer may assign a
matter for mediation or other means of alter-
native dispute resolution.

“(3) HEARING OFFICERS.—

“(A) IN GENERAL.—The Office of Hear-
ings and Appeals shall appoint Hearing Officers
to carry out the duties described in paragraph
(1)(A)(i).

“(B) CONDITIONS OF EMPLOYMENT.—A
Hearing Officer appointed under this para-
graph—
“(i) shall serve in the excepted service as an employee of the Administration under section 2103 of title 5, United States Code, and under the supervision of the Chief Hearing Officer;

“(ii) shall be classified at a position to which section 5376 of title 5, United States Code, applies; and

“(iii) shall be compensated at a rate not exceeding the maximum rate payable under such section.

“(C) Authority; Powers.—Notwithstanding section 556(b) of title 5, United States Code, a Hearing Officer—

“(i) shall have the authority to hear claims arising under section 554 of such title;

“(ii) shall have the powers described in section 556(c) of such title; and

“(iii) shall conduct hearings and issue decisions in the manner described under sections 555, 556, and 557 of such title, as applicable.

“(D) Treatment of Current Personnel.—An individual serving as a Judge in
the Office of Hearings and Appeals (as that position and office are designated in section 134.101 of title 13, Code of Federal Regulations) on the effective date of this subsection shall be considered as qualified to be, and redesignated as, a Hearing Officer.

“(4) HEARING OFFICER DEFINED.—In this subsection, the term ‘Hearing Officer’ means an individual appointed or redesignated under this subsection who is an attorney licensed by a State, commonwealth, territory or possession of the United States, or the District of Columbia.”.

(2) ASSOCIATE ADMINISTRATOR AS CHIEF HEARING OFFICER.—Section 4(b)(1) of such Act (15 U.S.C. 633(b)) is amended by adding at the end the following: “One such Associate Administrator shall be the Chief Hearing Officer, who shall administer the Office of Hearings and Appeals established under section 5(i).”.

(3) REPEAL OF REGULATION.—Section 134.102(t) of title 13, Code of Federal Regulations, as in effect on January 1, 2015, (relating to types of hearings within the jurisdiction of the Office of Hearings and Appeals) shall have no force or effect.
(b) Petitions for Reconsideration of Size Standards for Small Business Concerns.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

“(9) Petitions for reconsideration of size standards.—

“(A) In general.—A person may file a petition for reconsideration with the Office of Hearings and Appeals (as established under section 5(i)) of a size standard revised, modified, or established by the Administrator pursuant to this subsection.

“(B) Time limit.—A person filing a petition for reconsideration described in subparagraph (A) shall file such petition not later than 30 days after the publication in the Federal Register of the notice of final rule to revise, modify, or establish size standards described in paragraph (6).

“(C) Process for agency review.—The Office of Hearings and Appeals shall use the same process it uses to decide challenges to the size of a small business concern to decide a petition for review pursuant to this paragraph.
“(D) JUDICIAL REVIEW.—The publication of a final rule in the Federal Register described in subparagraph (B) shall be considered final agency action for purposes of seeking judicial review. Filing a petition for reconsideration under subparagraph (A) shall not be a condition precedent to judicial review of any such size standard.”.