

104TH CONGRESS
1ST SESSION

H. R. 994

To require the periodic review and automatic termination of Federal regulations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1995

Mr. CHAPMAN (for himself, Mr. MICA, Mr. DELAY, Mr. DEAL of Georgia, and Mr. PETE GEREN of Texas) introduced the following bill; which was referred to the Committee on Government Reform and Oversight 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 require the periodic review and automatic termination of Federal regulations.

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 “Regulatory Sunset and
5 Review Act of 1995”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are the following:

1 (1) To require agencies to regularly review their
2 regulations and make recommendations to termi-
3 nate, continue in effect, modify, or consolidate those
4 regulations.

5 (2) To require agencies to submit those rec-
6 ommendations to the Administrator of the Office of
7 Information and Regulatory Affairs and to the Con-
8 gress.

9 (3) To provide for the automatic termination of
10 regulations that are not continued in effect after
11 such review.

12 (4) To designate a Regulatory Review Officer
13 within each agency, who is responsible for the imple-
14 mentation of this Act by the agency.

15 **SEC. 3. REVIEW AND TERMINATION OF REGULATIONS.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (c), the effectiveness of a regulation issued by an agency
18 shall terminate on the applicable termination date under
19 subsection (b), and the regulation shall have no force or
20 effect after that termination date, unless the head of the
21 agency—

22 (1) reviews the regulation in accordance with
23 section 4;

24 (2) after the review, and at least 120 days be-
25 fore that termination date, submits to the Congress

1 and publishes in the Federal Register a preliminary
2 report on the findings and proposed recommenda-
3 tions of that review in accordance with section
4 5(a)(1);

5 (3) reviews and considers comments regarding
6 the preliminary report that are transmitted to the
7 agency by the Administrator and appropriate com-
8 mittees of the Congress during the 60-day period be-
9 ginning on the date of submission of the preliminary
10 report; and

11 (4) after the 60-day period beginning on the
12 date of submission of the preliminary report to the
13 Congress, but not later than 60 days before that ter-
14 mination date, submits to the Congress and pub-
15 lishes in the Federal Register—

16 (A) a final report on the review under sec-
17 tion 4 in accordance with section 5(a)(2), and

18 (B) a notice extending the effectiveness of
19 the regulation, with or without modifications, as
20 of the end of the 60-day period beginning on
21 the date of that publication.

22 (b) TERMINATION DATES.—For purposes of sub-
23 section (a), the termination date of a regulation is as fol-
24 lows:

1 (1) EXISTING REGULATIONS.—For a regulation
2 in effect on the date of the enactment of the Act,
3 the termination date is the last day of the 7-year pe-
4 riod beginning on the date of the enactment of this
5 Act.

6 (2) NEW REGULATIONS.—For a regulation that
7 first takes effect after the date of the enactment of
8 this Act, the termination date is the last day of the
9 3-year period beginning on the date the regulation
10 takes effect.

11 (3) REGULATIONS CONTINUED IN EFFECT.—
12 For a regulation the effectiveness of which is ex-
13 tended under subsection (a), the termination date is
14 the last day of the 7-year period beginning on the
15 date of publication of a notice under subsection
16 (a)(4) for that extension.

17 (c) TEMPORARY EXTENSION.—The termination date
18 under subsection (b) for a regulation may be delayed by
19 not more than 6 months by the head of the agency that
20 issued the regulation if the agency head submits to the
21 Congress and publishes in the Federal Register a prelimi-
22 nary report that describes modifications that should be
23 made to the regulation.

24 (d) RELATIONSHIP TO OTHER LAW.—Section 553 of
25 title 5, United States Code, shall not apply to the exten-

1 sion or modification of a regulation in accordance with this
2 Act.

3 **SEC. 4. REVIEW OF REGULATIONS BY AGENCY.**

4 (a) IN GENERAL.—The head of each agency shall,
5 under the criteria set forth in subsection (b)—

6 (1) conduct thorough and systematic reviews of
7 all regulations issued by the agency to determine if
8 those regulations are obsolete, inconsistent, or dupli-
9 cative or impede competition; and

10 (2) issue reports on the findings of those re-
11 views, which contain recommendations for—

12 (A) terminating or extending the effective-
13 ness of those regulations;

14 (B) any appropriate modifications to a reg-
15 ulation recommended to be extended; or

16 (C) any appropriate consolidations of regu-
17 lations.

18 (b) CRITERIA FOR REVIEW.—The head of an agency
19 shall review, make recommendations, and terminate or ex-
20 tend the effectiveness of a regulation under this section
21 under the following criteria:

22 (1) The extent to which the regulation is out-
23 dated, obsolete, or unnecessary.

24 (2) The extent to which the regulation or infor-
25 mation required to comply with the regulation dupli-

1 cates, conflicts with, or overlaps requirements under
2 regulations of other agencies.

3 (3) The extent to which the regulation impedes
4 competition.

5 (4) Whether the benefits to society from the
6 regulation exceed the costs to society from the regu-
7 lation.

8 (5) Whether the regulation is based on ade-
9 quate and correct information.

10 (6) Whether the regulation is worded as simply
11 and clearly as possible.

12 (7) Whether the most cost-efficient alternative
13 was chosen in the regulation to achieve the objective
14 of the regulation.

15 (8) The extent to which information require-
16 ments under the regulation can be reduced, particu-
17 larly for small businesses.

18 (9) Whether the regulation is fashioned to
19 maximize net benefits to society.

20 (10) Whether the regulation is clear and certain
21 regarding who is required to comply with the regula-
22 tion.

23 (11) Whether the regulation maximizes the util-
24 ity of market mechanisms to the extent feasible.

1 (12) Whether the condition of the economy and
2 of regulated industries is considered.

3 (13) Whether the regulation imposes on the pri-
4 vate sector the minimum economic burdens nec-
5 essary to achieve the purposes of the regulation.

6 (14) Whether the total effect of the regulation
7 across agencies has been examined.

8 (15) Whether the regulation is crafted to mini-
9 mize needless litigation.

10 (16) Whether the regulation is necessary to
11 protect the health and safety of the public.

12 (17) Whether the regulation has resulted in un-
13 intended consequences.

14 (18) Whether performance standards or other
15 alternatives were utilized to provide adequate flexi-
16 bility to the regulated industries.

17 (c) REQUIREMENT TO SOLICIT COMMENTS FROM
18 THE PUBLIC AND PRIVATE SECTOR.—In reviewing regu-
19 lations under this section, the head of an agency shall so-
20 licit comments from the public (including the private sec-
21 tor) regarding the application of the criteria set forth in
22 subsection (b) to the regulation before making determina-
23 tions under this section and sending a report under section
24 5(a) regarding a regulation.

1 **SEC. 5. AGENCY REPORTS.**

2 (a) PRELIMINARY AND FINAL REPORTS ON REVIEWS
3 OF REGULATIONS.—The head of an agency shall submit
4 to the President, the Administrator, and the Congress and
5 publish in the Federal Register for each review of a regu-
6 lation under section 4—

7 (1) a preliminary report that contains—

8 (A) specific findings of the agency regard-
9 ing—

10 (i) application of the criteria set forth
11 in section 4(b) to the regulation;

12 (ii) the need for the function of the
13 regulation; and

14 (iii) whether the regulation duplicates
15 functions of another regulation; and

16 (B) proposed recommendations on wheth-
17 er—

18 (i) the effectiveness of the regulation
19 should terminate or be extended;

20 (ii) the regulation should be modified;
21 and

22 (iii) the regulation should be consoli-
23 dated with another regulation; and

24 (2) a final report on the findings and rec-
25 ommendations of the agency head regarding exten-
26 sion of the effectiveness of the regulation and any

1 appropriate modifications to the regulation that in-
2 cludes—

3 (A) a full justification of the decision to
4 extend and, if applicable, modify the regulation;
5 and

6 (B) the factual basis for all determinations
7 made with respect to that extension or modi-
8 fication under the criteria set forth in section
9 4(b).

10 (b) REPORT ON SCHEDULE FOR REVIEWING EXIST-
11 ING REGULATIONS.—Not later than 100 days after the
12 date of the enactment of this Act, and annually thereafter,
13 the head of each agency shall submit to the Administrator
14 and the Congress and publish in the Federal Register a
15 report stating a schedule for reviewing in accordance with
16 this Act regulations issued by the agency before the date
17 of that submission. The first schedule shall give priority
18 to reviewing during the 3-year period beginning on the
19 date of the enactment of this Act regulations that have
20 an annual effect on the economy of \$100,000,000 or more
21 or adversely affect in a material way the economy, a sector
22 of the economy, productivity, competition, jobs, the envi-
23 ronment, public health or safety, or State, local, or tribal
24 governments or communities.

1 **SEC. 6. FUNCTIONS OF ADMINISTRATOR.**

2 (a) IN GENERAL.—The Administrator shall—

3 (1) review and evaluate each report submitted
4 by the head of an agency under section 5(a), regard-
5 ing—

6 (A) the quality of the analysis in the re-
7 ports;

8 (B) whether the agency has properly ap-
9 plied the criteria set forth in section 4(b); and

10 (C) the consistency of the agency action
11 with actions of other agencies; and

12 (2) transmit to the head of the agency the rec-
13 ommendations of the Administrator regarding the
14 report.

15 (b) GUIDANCE.—The Administrator shall provide
16 guidance to agencies on the conduct of reviews and the
17 preparation of reports under this Act.

18 **SEC. 7. DESIGNATION OF AGENCY REGULATORY REVIEW**
19 **OFFICERS.**

20 (a) IN GENERAL.—The head of each agency shall
21 designate an officer of the agency as the Regulatory Re-
22 view Officer of the agency.

23 (b) FUNCTIONS.—The Regulatory Review Officer of
24 an agency shall—

25 (1) be responsible for the implementation of
26 this Act by the agency; and

1 (2) report directly to the head of the agency
2 with respect to that responsibility.

3 **SEC. 8. JUDICIAL REVIEW.**

4 Notwithstanding any other provisions of law, an ac-
5 tion seeking judicial review of an agency action under this
6 Act extending, terminating, modifying, or consolidating a
7 regulation may not be brought after the 30-day period be-
8 ginning on the date of the publication of a notice under
9 section 3(a)(4) for that action.

10 **SEC. 9. REQUIREMENT TO PROVIDE CONGRESS NOTICE**
11 **AND OPPORTUNITY TO COMMENT BEFORE**
12 **MODIFYING, EXTENDING, OR TERMINATING**
13 **REGULATION.**

14 An agency may not modify a regulation or terminate
15 or extend the effective period of a regulation, unless the
16 head of the agency—

17 (1) submits to the Congress—

18 (A) notice of the proposal to take that ac-
19 tion, at least 120 days before the effective date
20 of that action; and

21 (B) notice of the final determination to
22 take that action, at least—

23 (i) 60 days after submitting notice
24 under subparagraph (A) for the action;
25 and

1 (ii) 60 days before the effective date
2 of the action; and

3 (2) reviews and considers comments submitted
4 to the agency by appropriate committees of the Con-
5 gress during the 60-day period beginning on the
6 date of submittal of notice under paragraph (1)(A)
7 for the action.

8 **SEC. 10. DEFINITIONS.**

9 In this Act:

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Office.

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

15 (3) APPROPRIATE COMMITTEE OF THE CON-
16 GRESS.—The term “appropriate committee of the
17 Congress” means with respect to a regulation each
18 standing committee of the Congress having authority
19 under the rules of the House of Representatives or
20 the Senate to report a bill to enact or amend the
21 provision of law under which the regulation is is-
22 sued.

23 (4) OFFICE.—The term “Office” means the Of-
24 fice of Information and Regulatory Affairs in the Of-
25 fice of Management and Budget.

1 (5) REGULATION.—The term “regulation”
2 means the whole or a part of an agency statement
3 of general or particular applicability and future ef-
4 fect designed to implement, interpret, or prescribe
5 law or policy, other than such a statement to carry
6 out a routine administrative function of an agency.

○