

Union Calendar No. 165

104TH CONGRESS
1ST SESSION

H. R. 994

[Report No. 104-284, Parts I and II]

A BILL

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

NOVEMBER 7, 1995

Reported from the Committee on the Judiciary with an
amendment

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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

OCTOBER 19, 1995

Reported from the Committee on Government Reform and Oversight with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 19, 1995

Referral to the Committee on the Judiciary extended for a period ending not later than November 3, 1995

OCTOBER 26, 1995

The amendment recommended by the Committee on Government Reform and Oversight referred to the Committee on Commerce for a period not to exceed November 3, 1995, for consideration of such provisions of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(e), rule x

NOVEMBER 3, 1995

The Committee on Commerce discharged from further consideration. Referral to the Committee on the Judiciary extended for a period ending not later than November 7, 1995

NOVEMBER 7, 1995

Additional sponsors: Mr. CALVERT, Mr. TANNER, Mr. BENTSEN, Mr. GENE GREEN of Texas, Mr. JOHNSON of South Dakota, Mr. LATHAM, Mr. WILSON, Mr. CUNNINGHAM, Mr. FROST, Mr. INGLIS of South Carolina, Mr. RADANOVICH, Mr. WELLER, Mr. TORKILDSEN, Mr. CANADY of Florida, Mr. EHRLICH, Mr. SCARBOROUGH, Mr. ZELIFF, Mr. DAVIS, Mr. SHADEGG, Mr. BURTON of Indiana, Mr. LAUGHLIN, Mr. HOEKSTRA, Mr. EDWARDS, Mr. CHAMBLISS, Mr. HASTINGS of Washington, Mr. HERGER, Mr. ROYCE, Mr. SOUDER, Mr. SALMON, Mr. LARGENT, Mr. BREWSTER, Mr. MCINTOSH, Mr. PETERSON of Minnesota, Mr. MCHUGH, Mr. FOX of Pennsylvania, Mr. GUTKNECHT, Mr. TATE, Mr. CONDIT, Mr. BONO, Mr. LUCAS of Oklahoma, Mr. SAXTON, Mr. BARTLETT of Maryland, Mr. PICKETT, and Mr. UNDERWOOD

NOVEMBER 7, 1995

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on February 21, 1995]

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—*

8 *(1) to require agencies to regularly review their*
9 *significant rules to determine whether they should be*
10 *continued without change, modified, consolidated with*
11 *another rule, or allowed to terminate;*

1 (2) to require agencies to consider the comments
2 of the public, the regulated community, and the Con-
3 gress regarding the actual costs and burdens of rules
4 being reviewed under this Act, and whether the rules
5 are obsolete, unnecessary, duplicative, conflicting, or
6 otherwise inconsistent;

7 (3) to require that any rules continued in effect
8 meet all the legal requirements that would apply to
9 the issuance of a new rule, including any applicable
10 Federal cost/benefit and risk assessment requirements;

11 (4) to provide for the automatic termination of
12 significant rules that are not continued in effect as a
13 result of sunset reviews;

14 (5) to provide for a petition process that allows
15 the public and appropriate committees of the Congress
16 to request that other rules that are not significant be
17 reviewed in the same manner as significant rules;
18 and

19 (6) to require the Administrator to coordinate
20 and be responsible for sunset reviews conducted by the
21 agencies.

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

23 The effectiveness of a covered rule shall terminate on
24 the applicable termination date specified in section 7 (a)
25 or (b), unless the rule is reviewed in accordance with the

1 *procedures in section 6 before that termination date and*
2 *complies with section 5.*

3 **SEC. 4. RULES COVERED.**

4 *(a) COVERED RULES.—For purposes of this Act, a cov-*
5 *ered rule is a rule that—*

6 *(1) is determined by the Administrator to be a*
7 *significant rule under subsection (b); or*

8 *(2) is any other rule designated by the Adminis-*
9 *trator under this Act for sunset review.*

10 *(b) SIGNIFICANT RULES.—For purposes of this Act, a*
11 *significant rule is a rule that the Administrator deter-*
12 *mines—*

13 *(1) has resulted in or is likely to result in an an-*
14 *nuual effect on the economy of \$100,000,000 or more;*

15 *(2) is a major rule, as that term is defined in*
16 *Executive Order 12291 (as in effect on the first date*
17 *that Executive order was in effect); or*

18 *(3) was issued pursuant to a significant regu-*
19 *latory action, as that term is defined in Executive*
20 *Order 12866 (as in effect on the first date that Execu-*
21 *tive order was in effect).*

22 *(c) PUBLIC PETITIONS.—*

23 *(1) IN GENERAL.—Any person adversely affected*
24 *by a rule that is not a significant rule may submit*
25 *a petition to the Administrator requesting that the*

1 *Administrator designate the rule for sunset review.*
2 *The Administrator shall designate the rule for sunset*
3 *review unless the Administrator determines that it*
4 *would be unreasonable to conduct a sunset review of*
5 *the rule. In making such determination, the Adminis-*
6 *trator shall take into account the number and nature*
7 *of other petitions received on the same rule, whether*
8 *or not they have already been denied.*

9 (2) *FORM AND CONTENT OF PETITION.—A peti-*
10 *tion under paragraph (1)—*

11 (A) *shall be in writing, but is not otherwise*
12 *required to be in any particular form;*

13 (B) *shall identify the rule for which sunset*
14 *review is requested with reasonable specificity*
15 *and state on its face that the petition seeks sun-*
16 *set review or a similar review of the rule; and*

17 (C) *shall be accompanied by a \$20 process-*
18 *ing fee.*

19 (3) *RESPONSE REQUIRED FOR NONCOMPLYING*
20 *PETITIONS.—If the Administrator determines that a*
21 *petition does not meet the requirements of this sub-*
22 *section, the Administrator shall provide a response to*
23 *the petitioner within 30 days after receiving the peti-*
24 *tion, notifying the petitioner of the problem and pro-*

1 *viding information on how to formulate a petition*
2 *that meets those requirements.*

3 (4) *DECISION WITHIN 90 DAYS.*—*Within the 90-*
4 *day period beginning on the date of receiving a peti-*
5 *tion that meets the requirements of this subsection, the*
6 *Administrator shall transmit a response to the peti-*
7 *tioner stating whether the petition was granted or de-*
8 *denied, except that the Administrator may extend such*
9 *period by a total of not more than 30 days.*

10 (5) *PETITIONS DEEMED GRANTED FOR SUBSTAN-*
11 *TIAL INEXCUSABLE DELAY.*—*A petition for sunset re-*
12 *view of a rule is deemed to have been granted by the*
13 *Administrator, and the Administrator is deemed to*
14 *have designated the rule for sunset review, if a court*
15 *finds there is a substantial and inexcusable delay, be-*
16 *yond the period specified in paragraph (4), in notify-*
17 *ing the petitioner of the Administrator's determina-*
18 *tion to grant or deny the petition.*

19 (6) *PUBLIC LOG.*—*The Administrator shall*
20 *maintain a public log of petitions submitted under*
21 *this subsection, that includes the status or disposition*
22 *of each petition.*

23 (d) *CONGRESSIONAL REQUESTS.*—

24 (1) *IN GENERAL.*—*An appropriate committee of*
25 *the Congress, or a majority of the majority party*

1 *members or a majority of nonmajority party members*
2 *of such a committee, may request in writing that the*
3 *Administrator designate any rule that is not a sig-*
4 *nificant rule for sunset review. The Administrator*
5 *shall designate such rule for sunset review within 30*
6 *days after receipt of such a request unless the Admin-*
7 *istrator determines that it would be unreasonable to*
8 *conduct a sunset review of the rule.*

9 *(2) NOTICE OF DENIAL.—If the Administrator*
10 *denies a congressional request under this subsection,*
11 *the Administrator shall transmit to the congressional*
12 *committee making the request a notice stating the*
13 *reasons for the denial.*

14 *(e) PUBLICATION OF NOTICE OF DESIGNATION FOR*
15 *SUNSET REVIEW.—After designating a rule under this Act*
16 *for sunset review, the Administrator shall promptly publish*
17 *a notice of that designation in the Federal Register.*

18 **SEC. 5. CRITERIA FOR SUNSET REVIEW.**

19 *(a) COMPLIANCE WITH OTHER LAWS.—In order to*
20 *continue without change, modify, or consolidate any rule*
21 *subject to sunset review, the continued, modified, or consoli-*
22 *dated rule must be authorized by law and meet all applica-*
23 *ble requirements that would apply under other laws or Ex-*
24 *ecutive orders if it were issued as a new rule. For purposes*
25 *of this section, applicable requirements include any require-*

1 *ments for cost/benefit analysis and any requirements for*
2 *standardized risk analysis and risk assessment.*

3 *(b) GOVERNING LAW.—If there is an irreconcilable*
4 *conflict between such applicable requirements and an Act*
5 *under which a rule was issued, the conflict shall be resolved*
6 *in the same manner as such conflict would be resolved if*
7 *the agency were issuing a new rule.*

8 **SEC. 6. SUNSET REVIEW PROCEDURES.**

9 *(a) FUNCTIONS OF THE ADMINISTRATOR.—*

10 *(1) NOTICE OF RULES SUBJECT TO REVIEW.—*

11 *(A) INVENTORY AND FIRST LIST.—Within 6*
12 *months after the date of the enactment of this*
13 *Act, the Administrator shall conduct an inven-*
14 *tory of existing rules and publish a first list of*
15 *covered rules. The list shall—*

16 *(i) specify the particular group to*
17 *which each significant rule is assigned*
18 *under paragraph (2), and state the termi-*
19 *nation date for all significant rules in each*
20 *such group; and*

21 *(ii) include other rules subject to sunset*
22 *review for any other reason, and state the*
23 *termination date for each such rule.*

24 *(B) SUBSEQUENT LISTS.—After publication*
25 *of the first list under subparagraph (A), the Ad-*

1 *ministrator shall publish an updated list of cov-*
2 *ered rules at least annually, specifying the ter-*
3 *mination date for each rule on the list.*

4 *(2) GROUPING OF SIGNIFICANT RULES IN FIRST*
5 *LIST.—*

6 *(A) STAGGERED REVIEW.—The Adminis-*
7 *trator shall assign each significant rule in effect*
8 *on the date of enactment of this Act to one of 4*
9 *groups established by the Administrator to per-*
10 *mit orderly and prioritized sunset reviews, and*
11 *specify for each group a termination date in ac-*
12 *cordance with section 7(a)(1).*

13 *(B) PRIORITIZATIONS.—In determining*
14 *which rules shall be given priority in time in*
15 *that assignment, the Administrator shall consult*
16 *with appropriate agencies, and shall prioritize*
17 *rules based on—*

18 *(i) the grouping of related rules in ac-*
19 *cordance with paragraph (3);*

20 *(ii) the extent of the cost of each rule*
21 *on the regulated community and the public,*
22 *with priority in time given to those rules*
23 *that impose the greatest cost;*

1 (iii) consideration of the views of regu-
2 lated persons, including State and local
3 governments;

4 (iv) whether a particular rule has re-
5 cently been subject to cost/benefit analysis
6 and risk assessment, with priority in time
7 given to those rules that have not been sub-
8 ject to such analysis and assessment;

9 (v) whether a particular rule was is-
10 sued under a statutory provision that pro-
11 vides relatively greater discretion to an offi-
12 cial in issuing the rule, with priority in
13 time given to those rules that were issued
14 under provisions that provide relatively
15 greater discretion;

16 (vi) the burden of reviewing each rule
17 on the reviewing agency; and

18 (vii) the need for orderly processing
19 and the timely completion of the sunset re-
20 views of existing rules.

21 (3) *GROUPING OF RELATED RULES.*—The Ad-
22 ministrators shall group related rules (and designate
23 other rules) for simultaneous sunset review based
24 upon their subject matter similarity, functional inter-
25 relationships, and other relevant factors to ensure

1 *comprehensive and coordinated review of redundant,*
2 *overlapping, and conflicting rules and requirements.*
3 *The Administrator shall ensure simultaneous sunset*
4 *reviews of covered rules without regard to whether*
5 *they were issued by the same agency, and shall des-*
6 *ignate any other rule for sunset review that is nec-*
7 *essary for a comprehensive sunset review whether or*
8 *not such other rule is otherwise a covered rule under*
9 *this Act.*

10 *(d) GUIDANCE.—The Administrator shall provide*
11 *timely guidance to agencies on the conduct of sunset reviews*
12 *and the preparation of sunset review notices and reports*
13 *required by this Act to ensure uniform, complete, and time-*
14 *ly sunset reviews and to ensure notice and opportunity for*
15 *public comment.*

16 *(5) REVIEW AND EVALUATION OF REPORTS.—The*
17 *Administrator shall review and evaluate each pre-*
18 *liminary and final report submitted by the head of*
19 *an agency pursuant to this section. Within 90 days*
20 *after receiving a preliminary report, the Adminis-*
21 *trator shall transmit comments to the head of the*
22 *agency regarding—*

23 *(A) the quality of the analysis in the report,*
24 *including whether the agency has properly ap-*
25 *plied section 5;*

1 (B) the consistency of the agency's proposed
2 action with actions of other agencies; and

3 (C) whether the rule should be continued
4 without change, modified, consolidated with an-
5 other rule, or allowed to terminate.

6 (b) AGENCY SUNSET REVIEW PROCEDURE.—

7 (1) SUNSET REVIEW NOTICE.—At least 2½ years
8 before the termination date under section 7(a) for a
9 covered rule issued by an agency, the head of the
10 agency shall—

11 (A) publish a sunset review notice in ac-
12 cordance with section 8(a) in the Federal Reg-
13 ister and, to the extent reasonable and prac-
14 ticable, in other publications or media that are
15 designed to reach those persons most affected by
16 the covered rule; and

17 (B) request the views of the Administrator
18 and the appropriate committees of the Congress
19 on whether to continue without change, modify,
20 consolidate, or terminate the covered rule.

21 (2) PRELIMINARY REPORT.—In reviewing a cov-
22 ered rule, the head of an agency shall—

23 (A) consider public comments and other rec-
24 ommendations generated by a sunset review no-
25 tice under paragraph (1); and

1 (B) at least 1 year before the termination
2 date under section 7(a) for the covered rule, pub-
3 lish in the Federal Register and transmit to the
4 Administrator and the appropriate committees
5 of the Congress a preliminary report in accord-
6 ance with section 8(b).

7 (3) FINAL REPORT.—The head of an agency shall
8 consider the public comments and other recommenda-
9 tions generated by the preliminary report under
10 paragraph (2) for a covered rule, and shall consult
11 with the appropriate committees of the Congress be-
12 fore issuing a final report. At least 90 days before the
13 termination date of the covered rule, the head of the
14 agency shall publish in the Federal Register and
15 transmit to the Administrator and the appropriate
16 committees of the Congress a final report in accord-
17 ance with section 8(c).

18 (c) EFFECTIVENESS OF AGENCY RECOMMENDATION.—
19 If a final report under subsection (b)(3) recommends that
20 a covered rule should be continued without change, modi-
21 fied, or consolidated with another rule, the rule is contin-
22 ued, modified, or consolidated in accordance with the rec-
23 ommendation effective 60 days after publication of the final
24 report, unless the Administrator or another officer des-
25 ignated by the President publishes a notice within that 60-

1 *day period stating that the rule shall not be so continued*
2 *without change, modified, or consolidated. The Adminis-*
3 *trator or other officer designated by the President shall state*
4 *in the notice the reasons for such action.*

5 *(d) REISSUANCE.—If a covered rule terminates for any*
6 *reason pursuant to this Act, it shall not be reissued in sub-*
7 *stantially the same form unless the rule complies with sec-*
8 *tion 5 and the Administrator or other officer designated by*
9 *the President approves the rule.*

10 *(e) PRESERVATION OF INDEPENDENCE OF FEDERAL*
11 *BANK REGULATORY AGENCIES.—The head of any appro-*
12 *priate Federal banking agency (as that term is defined in*
13 *section 3(q) of the Federal Deposit Insurance Act (12 U.S.C.*
14 *1813(q)), the Federal Housing Finance Board, the National*
15 *Credit Union Administration, and the Office of Federal*
16 *Housing Enterprise Oversight shall have the authority with*
17 *respect to that agency that would otherwise be granted*
18 *under subsections (c) and (d) of this section, section*
19 *7(a)(2)(B), and section 7(c) to the Administrator or other*
20 *officer designated by the President.*

21 **SEC. 7. TERMINATION DATES FOR COVERED RULES.**

22 *(a) IN GENERAL.—For purposes of section 3, the ter-*
23 *mination date of a covered rule is as follows:*

24 *(1) EXISTING SIGNIFICANT RULES.—For a sig-*
25 *nificant rule in effect on the date of the enactment of*

1 *this Act, the initial termination date is the last day*
2 *of the 4-year, 5-year, 6-year, or 7-year period begin-*
3 *ning on the date of the enactment of this Act, as spec-*
4 *ified by the Administrator under section 6(a)(2)(A).*
5 *For any significant rule that 6 months after the date*
6 *of enactment is not assigned to such a group specified*
7 *under section 6(a)(2)(A), the initial termination date*
8 *is the last day of the 4-year period beginning on the*
9 *date of enactment of this Act.*

10 (2) *NEW SIGNIFICANT RULES.—For a significant*
11 *rule that first takes effect after the date of the enact-*
12 *ment of this Act, the initial termination date is the*
13 *last day of either—*

14 (A) *the 3-year period beginning on the date*
15 *the rule takes effect, or*

16 (B) *if the Administrator determines as part*
17 *of the rulemaking process that the rule is issued*
18 *pursuant to negotiated rulemaking procedures or*
19 *that compliance with the rule requires substan-*
20 *tial capital investment, the 7-year period begin-*
21 *ning on the date the rule takes effect.*

22 (3) *RULES COVERED PURSUANT TO PUBLIC PETI-*
23 *TION OR CONGRESSIONAL REQUEST.—For any rule*
24 *subject to sunset review pursuant to a public petition*
25 *under section 4(c) or a congressional request under*

1 *section 4(d), the initial termination date is the last*
2 *day of the 3-year period beginning on—*

3 *(A) the date the Administrator so designates*
4 *the rule for review; or*

5 *(B) the date of issuance of a final court*
6 *order that the Administrator is deemed to have*
7 *designated the rule for sunset review.*

8 *(4) RELATED RULE DESIGNATED FOR REVIEW.—*
9 *For a rule that the Administrator designates under*
10 *section 6(a)(3) for sunset review because it is related*
11 *to another covered rule and that is grouped with that*
12 *other rule for simultaneous review, the initial termi-*
13 *nation date is the same as the termination date for*
14 *that other rule.*

15 *(5) RULES EXTENDED IN EFFECTIVENESS.—For*
16 *a rule the effectiveness of which has been extended*
17 *under section 3, the next termination date is the last*
18 *day of the 7-year period beginning on the date the*
19 *rule would have terminated under section 3 if it had*
20 *not been extended.*

21 *(b) TEMPORARY EXTENSION.—The termination date*
22 *under subsection (a) for a covered rule may be extended by*
23 *the Administrator for not more than 6 months by publish-*
24 *ing notice thereof in the Federal Register that describes—*

1 (1) *modifications that should be made to the rule*
2 *and the reasons why the modifications cannot be*
3 *made by the original termination date; or*

4 (2) *reasons why the temporary extension is nec-*
5 *essary to respond to or prevent an emergency situa-*
6 *tion.*

7 (c) *LIMITATION ON INTERIM REVIEWS.—An agency*
8 *may not undertake a comprehensive review and significant*
9 *revision of a covered rule more frequently than required by*
10 *this section or another law, unless the head of the agency*
11 *determines, and the Administrator concurs, that the likely*
12 *benefits from such review and revision outweigh the reason-*
13 *able expenditures that have been made in reliance on the*
14 *rule. For purposes of this section, a law may be considered*
15 *to require a comprehensive review and significant revision*
16 *of a rule if it makes significant changes in the Act under*
17 *which the rule was issued.*

18 (d) *DETERMINATIONS WHERE RULES HAVE BEEN*
19 *AMENDED.—For purposes of this Act, if various provisions*
20 *of a covered rule were issued at different times, then the*
21 *rule as a whole shall be treated as if it were issued on the*
22 *later of—*

23 (1) *the date of issuance of the provision of the*
24 *rule that was issued first; or*

1 (2) *the date the most recent comprehensive re-*
2 *view and significant revision of the rule was com-*
3 *pleted.*

4 (e) *COMPREHENSIVE REVIEW AND SIGNIFICANT REVI-*
5 *SION DEFINED.*—*In this section, the term “comprehensive*
6 *review and significant revision” means—*

7 (1) *a sunset review, whether or not the rule is re-*
8 *vised; or*

9 (2) *a review and revision of a rule consistent*
10 *with subsection (c).*

11 ***SEC. 8. SUNSET REVIEW NOTICES AND AGENCY REPORTS.***

12 (a) *SUNSET REVIEW NOTICES.*—*The sunset review no-*
13 *tice under section 6(b)(1) for a rule shall—*

14 (1) *request comments regarding whether the rule*
15 *should be continued without change, modified, consoli-*
16 *dated with another rule, or allowed to terminate;*

17 (2) *if applicable, request comments regarding*
18 *whether the rule meets the applicable Federal cost/ben-*
19 *efit and risk assessment criteria; and*

20 (3) *solicit comments about the past implementa-*
21 *tion and effects of the rule, including—*

22 (A) *the direct and indirect costs incurred*
23 *because of the rule, including the net reduction*
24 *in the value of private property (whether real,*
25 *personal, tangible, or intangible), and whether*

1 *the incremental benefits of the rule exceeded the*
2 *incremental costs of the rule, both generally and*
3 *regarding each of the specific industries and sec-*
4 *tors it covers;*

5 *(B) whether the rule as a whole, or any*
6 *major feature of it, is outdated, obsolete, or un-*
7 *necessary, whether by change of technology, the*
8 *marketplace, or otherwise;*

9 *(C) the extent to which the rule or informa-*
10 *tion required to comply with the rule duplicated,*
11 *conflicted, or overlapped with requirements*
12 *under rules of other agencies;*

13 *(D) in the case of a rule addressing a risk*
14 *to health or safety or the environment, what the*
15 *perceived risk was at the time of issuance and to*
16 *what extent the risk predictions were accurate;*

17 *(E) whether the rule unnecessarily impeded*
18 *domestic or international competition or unnec-*
19 *essarily intruded on free market forces, and*
20 *whether the rule unnecessarily interfered with*
21 *opportunities or efforts to transfer to the private*
22 *sector duties carried out by the Government;*

23 *(F) whether, and to what extent, the rule*
24 *imposed unfunded mandates on, or otherwise af-*
25 *ected, State and local governments;*

1 (G) whether compliance with the rule re-
2 quired substantial capital investment and wheth-
3 er terminating the rule on that next termination
4 date would create an unfair advantage to those
5 who are not in compliance with it;

6 (H) whether the rule constituted the least
7 cost method of achieving its objective consistent
8 with the criteria of the Act under which the rule
9 was issued, and to what extent the rule provided
10 flexibility to those who were subject to it;

11 (I) whether the rule was worded simply and
12 clearly, including clear identification of those
13 who were subject to the rule;

14 (J) whether the rule created negative unin-
15 tended consequences;

16 (K) the extent to which information require-
17 ments under the rule can be reduced; and

18 (L) the extent to which the rule has contrib-
19 uted positive benefits, particularly health or safe-
20 ly or environmental benefits.

21 (b) *PRELIMINARY REPORTS ON SUNSET REVIEWS.*—
22 The preliminary report under section 6(b)(2) on the sunset
23 review of a rule shall request public comments and con-
24 tain—

1 (1) *specific factual findings and legal conclu-*
2 *sions of the head of the agency conducting the review*
3 *regarding the application of section 5 to the rule, the*
4 *continued need for the rule, and whether the rule du-*
5 *plicates functions of another rule;*

6 (2) *a preliminary determination on whether the*
7 *rule should be continued without change, modified,*
8 *consolidated with another rule, or allowed to termi-*
9 *nate; and*

10 (3) *if consolidation or modification of the rule is*
11 *recommended, the proposed text of the consolidated or*
12 *modified rule and other relevant information required*
13 *by law in a notice of proposed rulemaking.*

14 (c) *FINAL REPORTS ON SUNSET REVIEWS.—The final*
15 *report under section 6(b)(3) on the sunset review of a rule*
16 *shall contain—*

17 (1) *the final factual findings and legal conclu-*
18 *sions of the head of the agency conducting the review*
19 *regarding the application of section 5 to the rule and*
20 *whether the rule should be continued without change,*
21 *modified, consolidated with another rule, or allowed*
22 *to terminate; and*

23 (2) *in the case of a rule that is continued with-*
24 *out change, modified, or consolidated with another*
25 *rule, the text of the rule.*

1 **SEC. 9. DESIGNATION OF AGENCY REGULATORY REVIEW**
2 **OFFICERS.**

3 *The head of each agency shall designate an officer of*
4 *the agency as the Regulatory Review Officer of the agency.*
5 *The Regulatory Review Officer of an agency shall be respon-*
6 *sible for the implementation of this Act by the agency and*
7 *shall report directly to the head of the agency and the Ad-*
8 *ministrator with respect to that responsibility.*

9 **SEC. 10. RELATIONSHIP TO OTHER LAW; SEVERABILITY.**

10 (a) *RELATIONSHIP TO APA.*—*Except to the extent that*
11 *there is a direct conflict with the provisions of this Act,*
12 *nothing in this Act is intended to supersede the provisions*
13 *of chapters 5, 6, and 7 of title 5, United States Code.*

14 (b) *SEVERABILITY.*—*If any provision of this Act, or*
15 *the application of any provision of this Act to any person*
16 *or circumstance, is held invalid, the application of such*
17 *provision to other persons or circumstances, and the re-*
18 *mainder of this Act, shall not be affected thereby.*

19 **SEC. 11. EFFECT OF TERMINATION OF A COVERED RULE.**

20 (a) *EFFECT OF TERMINATION, GENERALLY.*—*If the ef-*
21 *fectiveness of a covered rule terminates under section 3—*

22 (1) *this Act shall not be construed to prevent the*
23 *President or an agency from exercising any authority*
24 *that otherwise exists to implement the statute under*
25 *which the rule was issued;*

1 (2) *in an agency proceeding or court action be-*
2 *tween an agency and a non-agency party, the rule*
3 *shall be given no legal effect (subject to paragraph*
4 *(3)) except at the request of the non-agency party;*
5 *and*

6 (3) *notwithstanding section 3, this Act shall not*
7 *be construed to prevent the continuation or institu-*
8 *tion of any enforcement action that is based on a vio-*
9 *lation of the rule that occurred before the effectiveness*
10 *of the rule terminated.*

11 *(b) EFFECT OF DEADLINES.—*

12 (1) *IN GENERAL.—Notwithstanding subsection*
13 *(a), any deadline for, relating to, or involving any*
14 *action dependent upon, any rule terminated under*
15 *this Act is suspended until the agency that issued the*
16 *rule issues a new rule on the same matter, unless oth-*
17 *erwise provided by a law.*

18 (2) *DEADLINE DEFINED.—In this subsection, the*
19 *term “deadline” means any date certain for fulfilling*
20 *any obligation or exercising any authority established*
21 *by or under any Federal rule, or by or under any*
22 *court order implementing any Federal rule.*

23 **SEC. 12. JUDICIAL REVIEW.**

24 (a) *IN GENERAL.—A denial or substantial inexcusable*
25 *delay in granting or denying a petition under section 4(c)*

1 *shall be considered final agency action. A denial of a con-*
2 *gressional request under section 4(d) shall not be subject to*
3 *judicial review.*

4 (b) *TIME LIMITATION OF FILING A CIVIL ACTION.—*
5 *Notwithstanding any other provisions of law, an action*
6 *seeking judicial review of a final agency action under this*
7 *Act may not be brought—*

8 (1) *in the case of a final agency action denying*
9 *a public petition under section 4(c) or continuing*
10 *without change, modifying, or consolidating a covered*
11 *rule, more than 30 days after the effective date of that*
12 *agency action; or*

13 (2) *in the case of an action challenging a delay*
14 *in granting or denying a petition for a rule under*
15 *section 4(c), more than 1 year after the period appli-*
16 *cable to the rule under section 4(c)(4).*

17 (c) *AVAILABILITY OF JUDICIAL REVIEW UNAF-*
18 *FECTED.—Except to the extent that there is a direct conflict*
19 *with the provisions of this Act, nothing in this Act is in-*
20 *tended to affect the availability or standard of judicial re-*
21 *view for agency regulatory action.*

22 **SEC. 13. DEFINITIONS.**

23 *In this Act:*

24 (1) *ADMINISTRATOR.—The term “Adminis-*
25 *trator” means the Administrator of the Office of In-*

1 *formation and Regulatory Affairs in the Office of*
2 *Management and Budget.*

3 (2) *AGENCY.*—*The term “agency” has the mean-*
4 *ing given that term in section 551(1) of title 5,*
5 *United States Code.*

6 (3) *APPROPRIATE COMMITTEE OF THE CON-*
7 *GRESS.*—*The term “appropriate committee of the*
8 *Congress” means, with respect to a rule, each stand-*
9 *ing committee of Congress having authority under the*
10 *rules of the House of Representatives or the Senate to*
11 *report a bill to amend the provision of law under*
12 *which the rule is issued.*

13 (4) *RULE.*—

14 (A) *GENERAL RULE.*—*Subject to subpara-*
15 *graph (B), the term “rule” means any agency*
16 *statement of general applicability and future ef-*
17 *fect, including agency guidance documents, de-*
18 *signed to implement, interpret, or prescribe law*
19 *or policy, or describing the procedures or prac-*
20 *tices of an agency, or intended to assist in such*
21 *actions, but does not include—*

22 (i) *regulations or other agency state-*
23 *ments issued in accordance with formal*
24 *rulemaking provisions of section 556 and*
25 *557 of title 5, United States Code;*

1 (ii) regulations or other agency state-
2 ments that are limited to agency organiza-
3 tion, management, or personnel matters;

4 (iii) regulations or other agency state-
5 ments issued with respect to a military or
6 foreign affairs function of the United States;

7 (iv) regulations, statements, or other
8 agency actions that are reviewed and usu-
9 ally modified each year (or more fre-
10 quently), or are reviewed regularly and usu-
11 ally modified based on changing economic
12 or seasonal conditions;

13 (v) regulations or other agency actions
14 that grant an approval, license, permit, reg-
15 istration, or similar authority or that grant
16 or recognize an exemption or relieve a re-
17 striction, or any agency action necessary to
18 permit new or improved applications of
19 technology or to allow the manufacture, dis-
20 tribution, sale, or use of a substance or
21 product; and

22 (vi) regulations or other agency state-
23 ments that the Administrator certifies in
24 writing are necessary for the enforcement of
25 the Federal criminal laws.

1 (B) *SCOPE OF A RULE.*—For purposes of
2 this Act, each set of rules designated in the Code
3 of Federal Regulations as a part shall be treated
4 as one rule. Each set of rules that do not appear
5 in the Code of Federal Regulations and that are
6 comparable to a part of that Code under guide-
7 lines established by the Administrator shall be
8 treated as one rule.

9 (5) *SUNSET REVIEW.*—The term “sunset review”
10 means a review of a rule under this Act.

11 **SEC. 14. SUNSET OF THIS ACT.**

12 This Act shall have no force or effect after the 10-year
13 period beginning on the date of the enactment of this Act.

14 **SECTION 1. SHORT TITLE.**

15 **This Act may be cited as the “Regulatory**
16 **Sunset and Review Act of 1995”.**

17 **SEC. 2. PURPOSE.**

18 **The purposes of this Act are—**

19 **(1) to require agencies to regularly**
20 **review their significant rules to deter-**
21 **mine whether they should be continued**
22 **without change, modified, consolidated**
23 **with another rule, or terminated;**

24 **(2) to require agencies to consider the**
25 **comments of the public, the regulated**

1 **community, and the Congress regarding**
2 **the actual costs and burdens of rules**
3 **being reviewed under this Act, and**
4 **whether the rules are obsolete, unneces-**
5 **sary, duplicative, conflicting, or other-**
6 **wise inconsistent;**

7 **(3) to require that any rules contin-**
8 **ued in effect under this Act meet all the**
9 **legal requirements that would apply to**
10 **the issuance of a new rule, including any**
11 **applicable Federal cost/benefit and risk**
12 **assessment requirements;**

13 **(4) to provide for the review of sig-**
14 **nificant rules and other rules through a**
15 **sunset review process and to provide for**
16 **the repeal or other change in such rules**
17 **in accordance with chapters 5 and 7 of**
18 **title 5, United States Code;**

19 **(5) to provide for a petition process**
20 **that allows the public and appropriate**
21 **committees of the Congress to request**
22 **that other rules that are not significant**
23 **be reviewed in the same manner as sig-**
24 **nificant rules; and**

1 **(6) to require the Administrator to co-**
2 **ordinate and be responsible for sunset re-**
3 **views conducted by the agencies.**

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

5 **A covered rule shall be subject to review**
6 **in accordance with this Act. Upon completion**
7 **of such review, the agency which has jurisdic-**
8 **tion over such rule shall—**

9 **(1) issue a final report under section**
10 **8(c)(2) continuing such rule, or**

11 **(2) conduct a rulemaking in accord-**
12 **ance with section 8(d) to modify, consoli-**
13 **date with another rule, or terminate such**
14 **rule.**

15 **SEC. 4. RULES COVERED.**

16 **(a) COVERED RULES.—For purposes of this**
17 **Act, a covered rule is a rule that—**

18 **(1) is determined by the Adminis-**
19 **trator to be a significant rule under sub-**
20 **section (b); or**

21 **(2) is any other rule designated by**
22 **the agency which has jurisdiction over**
23 **such rule or the Administrator under this**
24 **Act for sunset review.**

1 **(b) SIGNIFICANT RULES.—For purposes of**
2 **this Act, a significant rule is a rule that the**
3 **Administrator determines—**

4 **(1) has resulted in or is likely to re-**
5 **sult in an annual effect on the economy**
6 **of \$100,000,000 or more;**

7 **(2) is a major rule, as that term is de-**
8 **fin ed in Executive Order 12291 (as in ef-**
9 **fect on the first date that Executive order**
10 **was in effect); or**

11 **(3) was issued pursuant to a signifi-**
12 **cant regulatory action, as that term is de-**
13 **fin ed in Executive Order 12866 (as in ef-**
14 **fect on the first date that Executive order**
15 **was in effect).**

16 **(c) PUBLIC PETITIONS.—**

17 **(1) IN GENERAL.—Any person ad-**
18 **versely affected by a rule that is not a**
19 **significant rule may submit a petition to**
20 **the agency which has jurisdiction over**
21 **the rule requesting that such agency des-**
22 **ign ate the rule for sunset review. Such**
23 **agency shall designate the rule for sunset**
24 **review unless such agency determines**
25 **that it would not be in the public interest**

1 to conduct a sunset review of the rule. In
2 making such determination, such agency
3 shall take into account the number and
4 nature of other petitions received on the
5 same rule, whether or not they have al-
6 ready been denied.

7 (2) **FORM AND CONTENT OF PETITION.—A**
8 **petition under paragraph (1)—**

9 (A) shall be in writing, but is not
10 otherwise required to be in any par-
11 ticular form;

12 (B) shall identify the rule for
13 which sunset review is requested
14 with reasonable specificity and state
15 on its face that the petitioner seeks
16 sunset review of the rule; and

17 (C) shall be accompanied by a \$20
18 processing fee.

19 (3) **RESPONSE REQUIRED FOR NON-**
20 **COMPLYING PETITIONS.—If such agency de-**
21 **termines that a petition does not meet**
22 **the requirements of this subsection, such**
23 **agency shall provide a response to the**
24 **petitioner within 30 days after receiving**
25 **the petition, notifying the petitioner of**

1 **the problem and providing information**
2 **on how to formulate a petition that meets**
3 **those requirements.**

4 **(4) DECISION WITHIN 90 DAYS.—Within**
5 **the 90-day period beginning on the date**
6 **of receiving a petition that meets the re-**
7 **quirements of this subsection, such agen-**
8 **cy shall transmit a response to the peti-**
9 **tioner stating whether the petition was**
10 **granted or denied, except that such agen-**
11 **cy may extend such period by a total of**
12 **not more than 30 days.**

13 **(5) PETITIONS DEEMED GRANTED FOR**
14 **SUBSTANTIAL INEXCUSABLE DELAY.—A peti-**
15 **tion for sunset review of a rule is deemed**
16 **to have been granted by such agency, and**
17 **such agency is deemed to have des-**
18 **ignated the rule for sunset review, if a**
19 **court finds there is a substantial and in-**
20 **excusable delay, beyond the period speci-**
21 **fied in paragraph (4), in notifying the pe-**
22 **tioner of such agency’s determination to**
23 **grant or deny the petition.**

24 **(6) PUBLIC LOG.—Such agency shall**
25 **maintain a public log of petitions submit-**

1 **ted under this subsection, that includes**
2 **the status or disposition of each petition.**

3 **(d) CONGRESSIONAL REQUESTS.—**

4 **(1) IN GENERAL.—An appropriate com-**
5 **mittee of the Congress, or a majority of**
6 **the majority party members or a majority**
7 **of nonmajority party members of such a**
8 **committee, may request in writing that**
9 **the Administrator designate any rule that**
10 **is not a significant rule for sunset review.**
11 **The Administrator shall designate such**
12 **rule for sunset review within 30 days**
13 **after receipt of such a request unless the**
14 **Administrator determines that it would**
15 **not be in the public interest to conduct a**
16 **sunset review of such rule.**

17 **(2) NOTICE OF DENIAL.—If the Adminis-**
18 **trator denies a congressional request**
19 **under this subsection, the Administrator**
20 **shall transmit to the congressional com-**
21 **mittee making the request a notice stat-**
22 **ing the reasons for the denial.**

23 **(e) PUBLICATION OF NOTICE OF DESIGNATION**
24 **FOR SUNSET REVIEW.—After designating a rule**
25 **under subsection (c) or (d) for sunset review,**

1 **the agency or the Administrator shall prompt-**
2 **ly publish a notice of that designation in the**
3 **Federal Register.**

4 **SEC. 5. CRITERIA FOR SUNSET REVIEW.**

5 **(a) COMPLIANCE WITH OTHER LAWS.—In**
6 **order for any rule subject to sunset review to**
7 **continue without change or to be modified or**
8 **consolidated in accordance with this Act,**
9 **such rule must be authorized by law and meet**
10 **all applicable requirements that would apply**
11 **if it were issued as a new rule pursuant to sec-**
12 **tion 553 of title 5, United States Code, or other**
13 **statutory rulemaking procedures required for**
14 **that rule. For purposes of this section, the**
15 **term “applicable requirements” includes any**
16 **requirement for cost-benefit analysis and any**
17 **requirement for standardized risk analysis**
18 **and risk assessment.**

19 **(b) GOVERNING LAW.—If there is a conflict**
20 **between such applicable requirements and an**
21 **Act under which a rule was issued, the con-**
22 **flict shall be resolved in the same manner as**
23 **such conflict would be resolved if the agency**
24 **were issuing a new rule.**

1 **SEC. 6. SUNSET REVIEW PROCEDURES.**

2 **(a) FUNCTIONS OF THE ADMINISTRATOR.—**

3 **(1) NOTICE OF RULES SUBJECT TO RE-**
4 **VIEW.—**

5 **(A) INVENTORY AND FIRST LIST.—**

6 **Within 6 months after the date of the**
7 **enactment of this Act, the Adminis-**
8 **trator shall conduct an inventory of**
9 **existing rules and publish a first list**
10 **of covered rules. The list shall—**

11 **(i) specify the particular**
12 **group to which each significant**
13 **rule is assigned under paragraph**
14 **(2), and state the review deadline**
15 **for all significant rules in each**
16 **such group; and**

17 **(ii) include other rules subject**
18 **to sunset review for any other**
19 **reason, and state the review dead-**
20 **line for each such rule.**

21 **(B) SUBSEQUENT LISTS.—After pub-**
22 **lication of the first list under sub-**
23 **paragraph (A), the Administrator**
24 **shall publish an updated list of cov-**
25 **ered rules at least annually, specify-**

1 **ing the review deadline for each rule**
2 **on the list.**

3 **(2) GROUPING OF SIGNIFICANT RULES IN**
4 **FIRST LIST.—**

5 **(A) STAGGERED REVIEW.—The Ad-**
6 **ministrator shall assign each signifi-**
7 **cant rule in effect on the date of en-**
8 **actment of this Act to one of 4 groups**
9 **established by the Administrator to**
10 **permit orderly and prioritized sunset**
11 **reviews, and specify for each group**
12 **an initial review deadline in accord-**
13 **ance with section 7(a)(1).**

14 **(B) PRIORITIZATIONS.—In deter-**
15 **mining which rules shall be given pri-**
16 **ority in time in that assignment, the**
17 **Administrator shall consult with ap-**
18 **propriate agencies, and shall**
19 **prioritize rule based on—**

20 **(i) the grouping of related**
21 **rules in accordance with para-**
22 **graph (3);**

23 **(ii) the extent of the cost of**
24 **each rule and on the regulated**
25 **community and the public, with**

1 **priority in time given to those**
2 **rules that impose the greatest**
3 **cost;**

4 **(iii) consideration of the**
5 **views of regulated persons, in-**
6 **cluding State and local govern-**
7 **ments;**

8 **(iv) whether a particular rule**
9 **has recently been subject to cost/**
10 **benefit analysis and risk assess-**
11 **ment, with priority in time given**
12 **to those rules that have not been**
13 **subject to such analysis and as-**
14 **essment;**

15 **(v) whether a particular rule**
16 **was issued under a statutory pro-**
17 **vision that provides relatively**
18 **greater discretion to an official in**
19 **issuing the rule, with priority in**
20 **time given to those rules that**
21 **were issued under provisions that**
22 **provide relatively greater discre-**
23 **tion;**

1 **(vi) the burden of reviewing**
2 **each rule on the reviewing agen-**
3 **cy; and**

4 **(vii) the need for orderly**
5 **processing and the timely comple-**
6 **tion of the sunset reviews of exist-**
7 **ing rules.**

8 **(3) GROUPING OF RELATED RULES.—Ad-**
9 **ministrator shall group related rules**
10 **under paragraph (2) (and designate other**
11 **rules) for simultaneous sunset review**
12 **based upon their subject matter similar-**
13 **ity, functional interrelationships, and**
14 **other relevant factors to ensure com-**
15 **prehensive and coordinated review of re-**
16 **dundant, overlapping, and conflicting**
17 **rules and requirements. The Adminis-**
18 **trator shall ensure simultaneous sunset**
19 **reviews of covered rules without regard**
20 **to whether they were issued by the same**
21 **agency, and shall designate any other**
22 **rule for sunset review that is necessary**
23 **for a comprehensive sunset review**
24 **whether or not such other rule is other-**
25 **wise a covered rule under this Act.**

1 **(4) GUIDANCE.—The Administrator**
2 **shall provide timely guidance to agencies**
3 **on the conduct of sunset reviews and the**
4 **preparation of sunset review notices and**
5 **reports required by this Act to ensure**
6 **uniform, complete, and timely sunset re-**
7 **views and to ensure notice and oppor-**
8 **tunity for public comment consistent**
9 **with section 8.**

10 **(5) REVIEW AND EVALUATION OF RE-**
11 **PORTS.—The Administrator shall review**
12 **and evaluate each preliminary and final**
13 **report submitted by the agency pursuant**
14 **to this section. Within 90 days after re-**
15 **ceiving a preliminary report, the Admin-**
16 **istrator shall transmit comments to the**
17 **head of the agency regarding—**

18 **(A) the quality of the analysis in**
19 **the report, including whether the**
20 **agency has properly applied section**
21 **5;**

22 **(B) the consistency of the agen-**
23 **cy’s proposed action with actions of**
24 **other agencies; and**

1 **(C) whether the rule should be**
2 **continued without change, modified,**
3 **consolidated with another rule, or**
4 **terminated.**

5 **(b) AGENCY SUNSET REVIEW PROCEDURE.—**

6 **(1) SUNSET REVIEW NOTICE.—At least**
7 **2½ years before the review deadline**
8 **under section 7(a) for a covered rule is-**
9 **sued by an agency, the agency shall—**

10 **(A) publish a sunset review notice**
11 **in accordance with section 8(a) in the**
12 **Federal Register and, to the extent**
13 **reasonable and practicable, in other**
14 **publications or media that are de-**
15 **signed to reach those persons most**
16 **affected by the covered rule; and**

17 **(B) request the views of the Ad-**
18 **ministrator and the appropriate com-**
19 **mittees of the Congress on whether to**
20 **continue without change, modify,**
21 **consolidate, or terminate the covered**
22 **rule.**

23 **(2) PRELIMINARY REPORT.—In review-**
24 **ing a covered rule, the agency shall—**

1 **(A) consider public comments and**
2 **other recommendations generated by**
3 **a sunset review notice under para-**
4 **graph (1); and**

5 **(B) at least 1 year before the re-**
6 **view deadline under section 7(a) for**
7 **the covered rule, publish in the Fed-**
8 **eral Register, in accordance with sec-**
9 **tion 8(b), and transmit to the Admin-**
10 **istrator and the appropriate commit-**
11 **tees of the Congress a preliminary re-**
12 **port.**

13 **(3) FINAL REPORT.—The agency shall**
14 **consider the public comments and other**
15 **recommendations generated by the pre-**
16 **liminary report under paragraph (2) for a**
17 **covered rule, and shall consult with the**
18 **appropriate committees of the Congress**
19 **before issuing a final report. At least 90**
20 **days before the review deadline of the**
21 **covered rule, the agency shall publish in**
22 **the Federal Register, in accordance with**
23 **section 8(c)(2) or 8(d), and transmit a**
24 **final report to the Administrator and the**
25 **appropriate committees of the Congress.**

1 **(4) OPEN PROCEDURES REGARDING SUN-**
2 **SET REVIEW.—In any sunset review con-**
3 **ducted pursuant to this Act, the agency**
4 **conducting the review shall make a writ-**
5 **ten record describing the subject of all**
6 **contacts the agency or Administrator**
7 **made with non-governmental persons**
8 **outside the agency relating to such re-**
9 **view. The written record of such contact**
10 **shall be made available, upon request, to**
11 **the public.**

12 **(c) EFFECTIVENESS OF AGENCY REC-**
13 **COMMENDATION.—If a final report under sub-**
14 **section (b)(3) recommends that a covered rule**
15 **should be continued without change, the cov-**
16 **ered rule shall be continued. If a final report**
17 **under subsection (b)(3) recommends that a**
18 **covered rule should be modified, consolidated**
19 **with another rule, or terminated, the rule**
20 **may be modified, so consolidated, or termi-**
21 **nated in accordance with section 8(d).**

22 **(d) PRESERVATION OF INDEPENDENCE OF**
23 **FEDERAL BANK REGULATORY AGENCIES.—The**
24 **head of any appropriate Federal banking**
25 **agency (as that term is defined in section 3(q)**

1 of the Federal Deposit Insurance Act (12
2 U.S.C. 1813(q)), the Federal Housing Finance
3 Board, the National Credit Union Administra-
4 tion, and the Office of Federal Housing Enter-
5 prise Oversight shall have the authority with
6 respect to that agency that would otherwise
7 be granted under section 7(a)(2)(B) to the Ad-
8 ministrator or other officer designated by the
9 President.

10 SEC. 7. REVIEW DEADLINES FOR COVERED RULES.

11 (a) IN GENERAL.—For purposes of this Act,
12 the review deadline of a covered rule is as fol-
13 lows:

14 (1) EXISTING SIGNIFICANT RULES.—For a
15 significant rule in effect on the date of
16 the enactment of this Act, the initial re-
17 view deadline is the last day of the 4-
18 year, 5-year, 6-year, or 7-year period be-
19 ginning on the date of the enactment of
20 this Act, as specified by the Adminis-
21 trator under section 6(a)(2)(A). For any
22 significant rule that 6 months after the
23 date of enactment is not assigned to such
24 a group specified under section 6(a)(2)(A),
25 the initial review deadline is the last day

1 of the 4-year period beginning on the
2 date of enactment of this Act.

3 (2) **NEW SIGNIFICANT RULES.**—For a sig-
4 nificant rule that first takes effect after
5 the date of the enactment of this Act, the
6 initial review deadline is the last day of
7 either—

8 (A) the 3-year period beginning
9 on the date the rule takes effect, or

10 (B) if the Administrator deter-
11 mines as part of the rulemaking proc-
12 ess that the rule is issued pursuant to
13 negotiated rulemaking procedures or
14 that compliance with the rule re-
15 quires substantial capital investment,
16 the 7-year period beginning on the
17 date the rule takes effect.

18 (3) **RULES COVERED PURSUANT TO PUB-**
19 **LIC PETITION OR CONGRESSIONAL RE-**
20 **QUEST.**—For any rule subject to sunset re-
21 view pursuant to a public petition under
22 section 4(c) or a congressional request
23 under section 4(d), the initial review
24 deadline is the last day of the 3-year pe-
25 riod beginning on—

1 **(A) the date the agency or Admin-**
2 **istrator so designates the rule for re-**
3 **view; or**

4 **(B) the date of issuance of a final**
5 **court order that the agency is**
6 **deemed to have designated the rule**
7 **for sunset review.**

8 **(4) RELATED RULE DESIGNATED FOR RE-**
9 **VIEW.—For a rule that the Administrator**
10 **designates under section 6(a)(3) for sun-**
11 **set review because it is related to an-**
12 **other covered rule and that is grouped**
13 **with that other rule for simultaneous re-**
14 **view, the initial review deadline is the**
15 **same as the review deadline for that**
16 **other rule.**

17 **(b) TEMPORARY EXTENSION.—The review**
18 **deadline under subsection (a) for a covered**
19 **rule may be extended by the Administrator**
20 **for not more than 6 months by publishing no-**
21 **tice thereof in the Federal Register that de-**
22 **scribes reasons why the temporary extension**
23 **is necessary to respond to or prevent an emer-**
24 **gency situation.**

1 **(c) DETERMINATIONS WHERE RULES HAVE**
2 **BEEN AMENDED.—For purposes of this Act, if**
3 **various provisions of a covered rule were is-**
4 **sued at different times, then the rule as a**
5 **whole shall be treated as if it were issued on**
6 **the later of—**

7 **(1) the date of issuance of the provi-**
8 **sion of the rule that was issued first; or**

9 **(2) the date the most recent review**
10 **and revision of the rule under this Act**
11 **was completed.**

12 **SEC. 8. SUNSET REVIEW NOTICES AND AGENCY REPORTS.**

13 **(a) SUNSET REVIEW NOTICES.—The sunset**
14 **review notice under section 6(b)(1) for a rule**
15 **shall—**

16 **(1) request comments regarding**
17 **whether the rule should be continued**
18 **without change, modified, consolidated**
19 **with another rule, or terminated;**

20 **(2) if applicable, request comments**
21 **regarding whether the rule meets the ap-**
22 **plicable Federal cost/benefit and risk as-**
23 **essment criteria; and**

1 **(3) solicit comments about the past**
2 **implementation and effects of the rule,**
3 **including—**

4 **(A) the direct and indirect costs**
5 **incurred because of the rule, includ-**
6 **ing the net reduction in the value of**
7 **private property (whether real, per-**
8 **sonal, tangible, or intangible), and**
9 **whether the incremental benefits of**
10 **the rule exceeded the incremental**
11 **costs of the rule, both generally and**
12 **regarding each of the specific indus-**
13 **tries and sectors it covers;**

14 **(B) whether the rule as a whole,**
15 **or any major feature of it, is out-**
16 **dated, obsolete, or unnecessary,**
17 **whether by change of technology, the**
18 **marketplace, or otherwise;**

19 **(C) the extent to which the rule**
20 **or information required to comply**
21 **with the rule duplicated, conflicted,**
22 **or overlapped with requirements**
23 **under rules of other agencies;**

24 **(D) in the case of a rule address-**
25 **ing a risk to health or safety or the**

1 **environment, what the perceived risk**
2 **was at the time of issuance and to**
3 **what extent the risk predictions were**
4 **accurate;**

5 **(E) whether the rule unneces-**
6 **sarily impeded domestic or inter-**
7 **national competition or unnecessarily**
8 **intruded on free market forces, and**
9 **whether the rule unnecessarily inter-**
10 **fered with opportunities or efforts to**
11 **transfer to the private sector duties**
12 **carried out by the Government;**

13 **(F) whether, and to what extent,**
14 **the rule imposed unfunded mandates**
15 **on, or otherwise affected, State and**
16 **local governments;**

17 **(G) whether compliance with the**
18 **rule required substantial capital in-**
19 **vestment and whether terminating**
20 **the rule on the next review deadline**
21 **would create an unfair advantage to**
22 **those who are not in compliance with**
23 **it;**

24 **(H) whether the rule constituted**
25 **the least cost method of achieving its**

1 **objective consistent with the criteria**
2 **of the Act under which the rule was**
3 **issued, and to what extent the rule**
4 **provided flexibility to those who were**
5 **subject to it;**

6 **(I) whether the rule was worded**
7 **simply and clearly, including clear**
8 **identification of those who were sub-**
9 **ject to the rule;**

10 **(J) whether the rule created nega-**
11 **tive unintended consequences;**

12 **(K) the extent to which informa-**
13 **tion requirements under the rule can**
14 **be reduced; and**

15 **(L) the extent to which the rule**
16 **has contributed positive benefits, par-**
17 **ticularly health or safety or environ-**
18 **mental benefits.**

19 **(b) PRELIMINARY REPORTS ON SUNSET RE-**
20 **VIEWS.—The preliminary report under section**
21 **6(b)(2) on the sunset review of a rule shall re-**
22 **quest public comments and contain—**

23 **(1) specific requests for factual find-**
24 **ings and recommended legal conclusions**
25 **regarding the application of section 5 to**

1 **the rule, the continued need for the rule,**
2 **and whether the rule duplicates func-**
3 **tions of another rule;**

4 **(2) a request for comments on wheth-**
5 **er the rule should be continued without**
6 **change, modified, consolidated with an-**
7 **other rule, or terminated; and**

8 **(3) if consolidation or modification of**
9 **the rule is recommended, suggestions for**
10 **the proposed text of the consolidated or**
11 **modified rule.**

12 **(c) FINAL REPORTS ON SUNSET REVIEWS.—**
13 **The report under section 6(b)(3) on the sunset**
14 **review of a rule shall—**

15 **(1) contain the factual findings and**
16 **legal conclusions of the agency conduct-**
17 **ing the review regarding the application**
18 **of section 5 to the rule and the agency’s**
19 **proposed recommendation as to whether**
20 **the rule should be continued without**
21 **change, modified, consolidated with an-**
22 **other rule, or terminated;**

23 **(2) on the case of a rule that the agen-**
24 **cy proposes to continue without change,**
25 **so state;**

1 **(3) in the case of a rule that the agen-**
2 **cy proposes to modify or consolidate with**
3 **another rule, contain—**

4 **(A) a notice of proposed rule-**
5 **making under section 553 of title 5,**
6 **United States Code or under other**
7 **statutory rulemaking procedures re-**
8 **quired for that rule, and**

9 **(B) the text of the rule as so modi-**
10 **fied or consolidated; and**

11 **(4) in the case of a rule that the agen-**
12 **cy proposes to terminate, contain a no-**
13 **tice of proposed rulemaking for termi-**
14 **nation consistent with paragraph (3)(A).**

15 **A final report described in paragraph (2) shall**
16 **be published in the Federal Register.**

17 **(d) RULEMAKING.—The final report under**
18 **subsection (c)(3) or (c)(4) shall be published in**
19 **the Federal Register and its publication shall**
20 **constitute publication of the notice required**
21 **by subsection (c)(3)(A). After publication of**
22 **the final report under subsection (c)(3) or**
23 **(c)(4) on a sunset review of a rule, the agency**
24 **which conducted such review shall conduct**

1 **the rulemaking which is called for in such re-**
2 **port.**

3 **SEC. 9. DESIGNATION OF AGENCY REGULATORY REVIEW**
4 **OFFICERS.**

5 **The head of each agency shall designate**
6 **an officer of the agency as the Regulatory Re-**
7 **view Officer of the agency. The Regulatory**
8 **Review Officer of an agency shall be respon-**
9 **sible for the implementation of this Act by the**
10 **agency and shall report directly to the head**
11 **of the agency and the Administrator with re-**
12 **spect to that responsibility.**

13 **SEC. 10. RELATIONSHIP TO OTHER LAW; SEVERABILITY.**

14 **(a) RELATIONSHIP TO APA.—Nothing in this**
15 **Act is intended to supersede the provisions of**
16 **chapters 5, 6, and 7 of title 5, United States**
17 **Code.**

18 **(b) SEVERABILITY.—If any provision of this**
19 **Act, or the application of any provision of this**
20 **Act to any person or circumstance, is held in-**
21 **valid, the application of such provision to**
22 **other persons or circumstances, and the re-**
23 **mainder of this Act, shall not be affected**
24 **thereby.**

1 **SEC. 11. EFFECT OF TERMINATION OF A COVERED RULE.**

2 **(a) EFFECT OF TERMINATION, GENERALLY.—**

3 **If a covered rule is terminated pursuant to**
4 **this Act—**

5 **(1) this Act shall not be construed to**
6 **prevent the President or an agency from**
7 **exercising any authority that otherwise**
8 **exists to implement the statute under**
9 **which the rule was issued;**

10 **(2) in an agency proceeding or court**
11 **action between an agency and a non-**
12 **agency party, the rule shall be given no**
13 **conclusive legal effect but may be submit-**
14 **ted as evidence of prior agency practice**
15 **and procedure; and**

16 **(3) this Act shall not be construed to**
17 **prevent the continuation or institution of**
18 **any enforcement action that is based on a**
19 **violation of the rule that occurred before**
20 **the effectiveness of the rule terminated.**

21 **(b) EFFECT ON DEADLINES.—**

22 **(1) IN GENERAL.—Notwithstanding**
23 **subsection (a), any deadline for, relating**
24 **to, or involving any action dependent**
25 **upon, any rule terminated under this Act**
26 **is suspended until the agency that issued**

1 **the rule issues a new rule on the same**
2 **matter, unless otherwise provided by a**
3 **law.**

4 **(2) DEADLINE DEFINED.—In this sub-**
5 **section, the term “deadline” means any**
6 **date certain for fulfilling any obligation**
7 **or exercising any authority established**
8 **by or under any Federal rule, or by or**
9 **under any court order implementing any**
10 **Federal rule.**

11 **SEC. 12. JUDICIAL REVIEW.**

12 **(a) IN GENERAL.—A denial or substantial**
13 **inexcusable delay in granting or denying a pe-**
14 **tition under section 4(c) shall be considered**
15 **final agency action subject to review under**
16 **section 702 of title 5, United States Code. A de-**
17 **denial of a congressional request under section**
18 **4(d) shall not be subject to judicial review.**

19 **(b) TIME LIMITATION ON FILING A CIVIL AC-**
20 **TION.—Notwithstanding any other provisions**
21 **of law, an action seeking judicial review of a**
22 **final agency action under this Act may not be**
23 **brought—**

24 **(1) in the case of a final agency action**
25 **denying a public petition under section**

1 **4(c) or continuing without change, modi-**
2 **fyng, consolidating, or terminating a**
3 **covered rule, more than 30 days after the**
4 **date of that agency action; or**

5 **(2) in the case of an action challeng-**
6 **ing a delay in deciding on a petition for**
7 **a rule under section 4(c), more than 1**
8 **year after the period applicable to the**
9 **rule under section 4(c)(4).**

10 **(c) AVAILABILITY OF JUDICIAL REVIEW UNAF-**
11 **FECTED.—Except to the extent that there is a**
12 **direct conflict with the provisions of this Act,**
13 **nothing in this Act is intended to affect the**
14 **availability or standard of judicial review for**
15 **agency regulatory action.**

16 **SEC. 13. DEFINITIONS.**

17 **In this Act:**

18 **(1) ADMINISTRATOR.—The term “Ad-**
19 **ministrator” means the Administrator of**
20 **the Office of Information and Regulatory**
21 **Affairs in the Office of Management and**
22 **Budget.**

23 **(2) AGENCY.—The term “agency” has**
24 **the meaning given that term in section**
25 **551(1) of title 5, United States Code.**

1 **(3) APPROPRIATE COMMITTEE OF THE**
2 **CONGRESS.—The term “appropriate com-**
3 **mittee of the Congress” means, with re-**
4 **spect to a rule, each standing committee**
5 **of Congress having authority under the**
6 **rules of the House of Representatives or**
7 **the Senate to report a bill to amend the**
8 **provision of law under which the rule is**
9 **issued.**

10 **(4) RULE.—**

11 **(A) GENERAL RULE.—Subject to**
12 **subparagraph (B), the term “rule”**
13 **means any agency statement of gen-**
14 **eral applicability and future effect,**
15 **including agency guidance docu-**
16 **ments, designed to implement, inter-**
17 **pret, or prescribe law or policy, or de-**
18 **scribing the procedures or practices**
19 **of an agency, or intended to assist in**
20 **such actions, but does not include—**

21 **(i) regulations or other agen-**
22 **cy statements issued in accord-**
23 **ance with formal rulemaking pro-**
24 **visions of sections 556 and 557 of**
25 **title 5, United States Code, or in**

1 **accordance with other statutory**
2 **formal rulemaking procedures re-**
3 **quired for such regulations or**
4 **statements;**

5 **(ii) regulations or other agen-**
6 **cy statements that are limited to**
7 **agency organization, manage-**
8 **ment, or personnel matters;**

9 **(iii) regulations or other agen-**
10 **cy statements issued with respect**
11 **to a military or foreign affairs**
12 **function of the United States;**

13 **(iv) regulations, statements,**
14 **or other agency actions that are**
15 **reviewed and usually modified**
16 **each year (or more frequently), or**
17 **are reviewed regularly and usu-**
18 **ally modified based on changing**
19 **economic or seasonal conditions;**

20 **(v) regulations or other agen-**
21 **cy actions that grant an approval,**
22 **license, permit, registration, or**
23 **similar authority or that grant or**
24 **recognize an exemption or relieve**
25 **a restriction, or any agency ac-**

1 **tion necessary to permit new or**
2 **improved applications of tech-**
3 **nology or to allow the manufac-**
4 **ture, distribution, sale, or use of a**
5 **substance or product; and**

6 **(vi) regulations or other agen-**
7 **cy statements that the Adminis-**
8 **trator certifies in writing are nec-**
9 **essary for the enforcement of the**
10 **Federal criminal laws.**

11 **(B) SCOPE OF A RULE.—For pur-**
12 **poses of this Act, each set of rules**
13 **designated in the Code of Federal**
14 **Regulations as a part shall be treated**
15 **as one rule. Each set of rules that do**
16 **not appear in the Code of Federal**
17 **Regulations and that are comparable**
18 **to a part of that Code under guide-**
19 **lines established by the Adminis-**
20 **trator shall be treated as one rule.**

21 **(5) SUNSET REVIEW.—The term “sunset**
22 **review” means a review of the rule under**
23 **this Act.**

1 SEC. 14. SUNSET OF THIS ACT.

2 **This Act shall have no force or effect after**
3 **the 10-year period beginning on the date of**
4 **the enactment of this Act.**

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