

104TH CONGRESS
1ST SESSION

S. 1346

To require the periodic review of Federal regulations.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20 (legislative day, OCTOBER 18), 1995

Mr. ABRAHAM (for himself, Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAIG, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To require the periodic review 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 Review Act
5 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
11 with another rule, or allowed to terminate;

1 (2) to require agencies to consider the com-
2 ments of the public, the regulated community, and
3 the Congress regarding the actual costs and burdens
4 of rules being reviewed under this Act, and whether
5 the rules are obsolete, unnecessary, duplicative, con-
6 flicting, or 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 require-
11 ments;

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

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

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

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

24 The effectiveness of a covered rule shall terminate on
25 the applicable termination date specified in section 7(a)

1 or (b), unless the rule is reviewed in accordance with the
2 procedures in section 6 before that termination date and
3 complies with section 5.

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

5 (a) COVERED RULES.—For purposes of this Act, a
6 covered rule is a rule that—

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

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

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

14 (1) has resulted in or is likely to result in an
15 annual effect on the economy of \$100,000,000 or
16 more;

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

20 (3) was issued pursuant to a significant regu-
21 latory action, as that term is defined in Executive
22 Order 12866 (as in effect on the first date that Ex-
23 ecutive order was in effect).

24 (c) PUBLIC PETITIONS.—

1 (1) IN GENERAL.—Any person adversely af-
2 fected by a rule that is not a significant rule may
3 submit a petition to the Administrator requesting
4 that the Administrator designate the rule for sunset
5 review. The Administrator shall designate the rule
6 for sunset review unless the Administrator deter-
7 mines that it would be unreasonable to conduct a
8 sunset review of the rule. In making such determina-
9 tion, the Administrator shall take into account the
10 number and nature of other petitions received on the
11 same rule, whether or not they have already been de-
12 nied.

13 (2) FORM AND CONTENT OF PETITION.—A pe-
14 tition under paragraph (1)—

15 (A) shall be in writing, but is not otherwise
16 required to be in any particular form;

17 (B) shall identify the rule for which sunset
18 review is requested with reasonable specificity
19 and state on its face that the petitioner seeks
20 sunset review or a similar review of the rule;
21 and

22 (C) shall be accompanied by a \$20 process-
23 ing fee.

24 (3) RESPONSE REQUIRED FOR NONCOMPLYING
25 PETITIONS.—If the Administrator determines that a

1 petition does not meet the requirements of this sub-
2 section, the Administrator shall provide a response
3 to the petitioner within 30 days after receiving the
4 petition, notifying the petitioner of the problem and
5 providing information on how to formulate a petition
6 that meets those requirements.

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

14 (5) PETITIONS DEEMED GRANTED FOR SUB-
15 STANTIAL INEXCUSABLE DELAY.—A petition for
16 sunset review of a rule is deemed to have been
17 granted by the Administrator, and the Administrator
18 is deemed to have designated the rule for sunset re-
19 view, if a court finds there is a substantial and inex-
20 cusable delay, beyond the period specified in para-
21 graph (4), in notifying the petitioner of the Adminis-
22 trator's determination to grant or deny the petition.

23 (6) PUBLIC LOG.—The Administrator shall
24 maintain a public log of petitions submitted under

1 this subsection, that includes the status or dispo-
2 tion of each petition.

3 (d) CONGRESSIONAL REQUESTS.—

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

14 (2) NOTICE OF DENIAL.—If the Administrator
15 denies a congressional request under this subsection,
16 the Administrator shall transmit to the congressional
17 committee making the request a notice stating the
18 reasons for the denial.

19 (e) PUBLICATION OF NOTICE OF DESIGNATION FOR
20 SUNSET REVIEW.—After designating a rule under this
21 Act for sunset review, the Administrator shall promptly
22 publish a notice of that designation in the Federal Reg-
23 ister.

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

2 (a) COMPLIANCE WITH OTHER LAWS.—In order to
 3 continue without change, modify, or consolidate any rule
 4 subject to sunset review, the continued, modified, or con-
 5 solidated rule must be authorized by law and meet all ap-
 6 plicable requirements that would apply under other laws
 7 or Executive orders if it were issued as a new rule. For
 8 purposes of this section, applicable requirements include
 9 any requirements for cost/benefit analysis and any re-
 10 quirements for standardized risk analysis and risk assess-
 11 ment.

12 (b) GOVERNING LAW.—If there is an irreconcilable
 13 conflict between such applicable requirements and an Act
 14 under which a rule was issued, the conflict shall be re-
 15 solved in the same manner as such conflict would be re-
 16 solved if the agency were issuing a new rule.

17 **SEC. 6. SUNSET REVIEW PROCEDURES.**

18 (a) FUNCTIONS OF THE ADMINISTRATOR.—

19 (1) NOTICE OF RULES SUBJECT TO REVIEW.—

20 (A) INVENTORY AND FIRST LIST.—Within
 21 6 months after the date of the enactment of
 22 this Act, the Administrator shall conduct an in-
 23 ventory of existing rules and publish a first list
 24 of covered rules. The list shall—

25 (i) specify the particular group to
 26 which each significant rule is assigned

1 under paragraph (2), and state the termi-
2 nation date for all significant rules in each
3 such group; and

4 (ii) include other rules subject to sun-
5 set review for any other reason, and state
6 the termination date for each such rule.

7 (B) SUBSEQUENT LISTS.—After publica-
8 tion of the first list under subparagraph (A),
9 the Administrator shall publish an updated list
10 of covered rules at least annually, specifying the
11 termination date for each rule on the list.

12 (2) GROUPING OF SIGNIFICANT RULES IN FIRST
13 LIST.—

14 (A) STAGGERED REVIEW.—The Adminis-
15 trator shall assign each significant rule in effect
16 on the date of enactment of this Act to one of
17 4 groups established by the Administrator to
18 permit orderly and prioritized sunset reviews,
19 and specify for each group a termination date
20 in accordance with section 7(a)(1).

21 (B) PRIORITIZATIONS.—In determining
22 which rules shall be given priority in time in
23 that assignment, the Administrator shall con-
24 sult with appropriate agencies, and shall
25 prioritize rules based on—

1 (i) the grouping of related rules in ac-
2 cordance with paragraph (3);

3 (ii) the extent of the cost of each rule
4 on the regulated community and the pub-
5 lic, with priority in time given to those
6 rules that impose the greatest cost;

7 (iii) consideration of the views of reg-
8 ulated persons, including State and local
9 governments;

10 (iv) whether a particular rule has re-
11 cently been subject to cost/benefit analysis
12 and risk assessment, with priority in time
13 given to those rules that have not been
14 subject to such analysis and assessment;

15 (v) whether a particular rule was is-
16 sued under a statutory provision that pro-
17 vides relatively greater discretion to an of-
18 ficial in issuing the rule, with priority in
19 time given to those rules that were issued
20 under provisions that provide relatively
21 greater discretion;

22 (vi) the burden of reviewing each rule
23 on the reviewing agency; and

1 (vii) the need for orderly processing
2 and the timely completion of the sunset re-
3 views of existing rules.

4 (3) GROUPING OF RELATED RULES.—The Ad-
5 ministrator shall group related rules (and designate
6 other rules) for simultaneous sunset review based
7 upon their subject matter similarity, functional
8 interrelationships, and other relevant factors to en-
9 sure comprehensive and coordinated review of redun-
10 dant, overlapping, and conflicting rules and require-
11 ments. The Administrator shall ensure simultaneous
12 sunset reviews of covered rules without regard to
13 whether they were issued by the same agency, and
14 shall designate any other rule for sunset review that
15 is necessary for a comprehensive sunset review
16 whether or not such other rule is otherwise a covered
17 rule under this Act.

18 (4) GUIDANCE.—The Administrator shall pro-
19 vide timely guidance to agencies on the conduct of
20 sunset reviews and the preparation of sunset review
21 notices and reports required by this Act to ensure
22 uniform, complete, and timely sunset reviews and to
23 ensure notice and opportunity for public comment.

24 (5) REVIEW AND EVALUATION OF REPORTS.—
25 The Administrator shall review and evaluate each

1 preliminary and final report submitted by the head
2 of an agency pursuant to this section. Within 90
3 days after receiving a preliminary report, the Admin-
4 istrator shall transmit comments to the head of the
5 agency regarding—

6 (A) the quality of the analysis in the re-
7 port, including whether the agency has properly
8 applied section 5;

9 (B) the consistency of the agency's pro-
10 posed action with actions of other agencies; and

11 (C) whether the rule should be continued
12 without change, modified, consolidated with an-
13 other rule, or allowed to terminate.

14 (b) AGENCY SUNSET REVIEW PROCEDURE.—

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

19 (A) publish a sunset review notice in ac-
20 cordance with section 8(a) in the Federal Reg-
21 ister and, to the extent reasonable and prac-
22 ticable, in other publications or media that are
23 designed to reach those persons most affected
24 by the covered rule; and

1 (B) request the views of the Administrator
2 and the appropriate committees of the Congress
3 on whether to continue without change, modify,
4 consolidate, or terminate the covered rule.

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

7 (A) consider public comments and other
8 recommendations generated by a sunset review
9 notice under paragraph (1); and

10 (B) at least 1 year before the termination
11 date under section 7(a) for the covered rule,
12 publish in the Federal Register and transmit to
13 the Administrator and the appropriate commit-
14 tees of the Congress a preliminary report in ac-
15 cordance with section 8(b).

16 (3) FINAL REPORT.—The head of an agency
17 shall consider the public comments and other rec-
18 ommendations generated by the preliminary report
19 under paragraph (2) for a covered rule, and shall
20 consult with the appropriate committees of the Con-
21 gress before issuing a final report. At least 90 days
22 before the termination date of the covered rule, the
23 head of the agency shall publish in the Federal Reg-
24 ister and transmit to the Administrator and the ap-

1 appropriate committees of the Congress a final report
2 in accordance with section 8(c).

3 (c) EFFECTIVENESS OF AGENCY RECOMMENDA-
4 TION.—If a final report under subsection (b)(3) rec-
5 ommends that a covered rule should be continued without
6 change, modified, or consolidated with another rule, the
7 rule is continued, modified, or consolidated in accordance
8 with the recommendation effective 60 days after publica-
9 tion of the final report, unless the Administrator or an-
10 other officer designated by the President publishes a no-
11 tice within that 60-day period stating that the rule shall
12 not be so continued without change, modified, or consoli-
13 dated. The Administrator or other officer designated by
14 the President shall state in the notice the reasons for such
15 action.

16 (d) REISSUANCE.—If a covered rule terminates for
17 any reason pursuant to this Act, it shall not be reissued
18 in substantially the same form unless the rule complies
19 with section 5 and the Administrator or other officer des-
20 ignated by the President approves the rule.

21 (e) PRESERVATION OF INDEPENDENCE OF FEDERAL
22 BANK REGULATORY AGENCIES.—The head of any appro-
23 priate Federal banking agency (as that term is defined
24 in section 3(q) of the Federal Deposit Insurance Act (12
25 U.S.C. 1813(q)), the Federal Housing Finance Board, the

1 National Credit Union Administration, and the Office of
2 Federal Housing Enterprise Oversight shall have the au-
3 thority with respect to that agency that would otherwise
4 be granted under subsections (c) and (d) of this section,
5 section 7(a)(2)(B), and section 7(c) to the Administrator
6 or other officer designated by the President.

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

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

10 (1) EXISTING SIGNIFICANT RULES.—For a sig-
11 nificant rule in effect on the date of the enactment
12 of this Act, the initial termination date is the last
13 day of the 4-year, 5-year, 6-year, or 7-year period
14 beginning on the date of the enactment of this Act,
15 as specified by the Administrator under section
16 6(a)(2)(A). For any significant rule that 6 months
17 after the date of enactment is not assigned to such
18 a group specified under section 6(a)(2)(A), the ini-
19 tial termination date is the last day of the 4-year pe-
20 riod beginning on the date of enactment of this Act.

21 (2) NEW SIGNIFICANT RULES.—For a signifi-
22 cant rule that first takes effect after the date of the
23 enactment of this Act, the initial termination date is
24 the last day of either—

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

3 (B) if the Administrator determines as
4 part of the rulemaking process that the rule is
5 issued pursuant to negotiated rulemaking pro-
6 cedures or that compliance with the rule re-
7 quires substantial capital investment, the 7-year
8 period beginning on the date the rule takes ef-
9 fect.

10 (3) RULES COVERED PURSUANT TO PUBLIC PE-
11 TITION OR CONGRESSIONAL REQUEST.—For any rule
12 subject to sunset review pursuant to a public peti-
13 tion under section 4(c) or a congressional request
14 under section 4(d), the initial termination date is the
15 last day of the 3-year period beginning on—

16 (A) the date the Administrator so des-
17 ignates the rule for review; or

18 (B) the date of issuance of a final court
19 order that the Administrator is deemed to have
20 designated the rule for sunset review.

21 (4) RELATED RULE DESIGNATED FOR RE-
22 VIEW.—For a rule that the Administrator designates
23 under section 6(a)(3) for sunset review because it is
24 related to another covered rule and that is grouped
25 with that other rule for simultaneous review, the ini-

1 tial termination date is the same as the termination
2 date for that other rule.

3 (5) RULES EXTENDED IN EFFECTIVENESS.—

4 For a rule the effectiveness of which has been ex-
5 tended under section 3, the next termination date is
6 the last day of the 7-year period beginning on the
7 date the rule would have terminated under section 3
8 if it had not been extended.

9 (b) TEMPORARY EXTENSION.—The termination date
10 under subsection (a) for a covered rule may be extended
11 by the Administrator for not more than 6 months by pub-
12 lishing notice thereof in the Federal Register that de-
13 scribes—

14 (1) modifications that should be made to the
15 rule and the reasons why the modifications cannot
16 be made by the original termination date; or

17 (2) reasons why the temporary extension is nec-
18 essary to respond to or prevent an emergency situa-
19 tion.

20 (c) LIMITATION ON INTERIM REVIEWS.—An agency
21 may not undertake a comprehensive review and significant
22 revision of a covered rule more frequently than required
23 by this section or another law, unless the head of the agen-
24 cy determines, and the Administrator concurs, that the
25 likely benefits from such review and revision outweigh the

1 reasonable expenditures that have been made in reliance
2 on the rule. For purposes of this section, a law may be
3 considered to require a comprehensive review and signifi-
4 cant revision of a rule if it makes significant changes in
5 the Act under which the rule was issued.

6 (d) DETERMINATIONS WHERE RULES HAVE BEEN
7 AMENDED.—For purposes of this Act, if various provi-
8 sions of a covered rule were issued at different times, then
9 the rule as a whole shall be treated as if it were issued
10 on the later of—

11 (1) the date of issuance of the provision of the
12 rule that was issued first; or

13 (2) the date the most recent comprehensive re-
14 view and significant revision of the rule was com-
15 pleted.

16 (e) COMPREHENSIVE REVIEW AND SIGNIFICANT RE-
17 VISION DEFINED.—In this section, the term “comprehen-
18 sive review and significant revision” means—

19 (1) a sunset review, whether or not the rule is
20 revised; or

21 (2) a review and revision of a rule consistent
22 with subsection (c).

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

24 (a) SUNSET REVIEW NOTICES.—The sunset review
25 notice under section 6(b)(1) for a rule shall—

1 (1) request comments regarding whether the
2 rule should be continued without change, modified,
3 consolidated with another rule, or allowed to termi-
4 nate;

5 (2) if applicable, request comments regarding
6 whether the rule meets the applicable Federal cost/
7 benefit and risk assessment criteria; and

8 (3) solicit comments about the past implemen-
9 tation and effects of the rule, including—

10 (A) the direct and indirect costs incurred
11 because of the rule, including the net reduction
12 in the value of private property (whether real,
13 personal, tangible, or intangible), and whether
14 the incremental benefits of the rule exceeded
15 the incremental costs of the rule, both generally
16 and regarding each of the specific industries
17 and sectors it covers;

18 (B) whether the rule as a whole, or any
19 major feature of it, is outdated, obsolete, or un-
20 necessary, whether by change of technology, the
21 marketplace, or otherwise;

22 (C) the extent to which the rule or infor-
23 mation required to comply with the rule dupli-
24 cated, conflicted, or overlapped with require-
25 ments under rules of other agencies;

1 (D) in the case of a rule addressing a risk
2 to health or safety or the environment, what the
3 perceived risk was at the time of issuance and
4 to what extent the risk predictions were accu-
5 rate;

6 (E) whether the rule unnecessarily im-
7 peded domestic or international competition or
8 unnecessarily intruded on free market forces,
9 and whether the rule unnecessarily interfered
10 with opportunities or efforts to transfer to the
11 private sector duties carried out by the Govern-
12 ment;

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

16 (G) whether compliance with the rule re-
17 quired substantial capital investment and
18 whether terminating the rule on the next termi-
19 nation date would create an unfair advantage to
20 those who are not in compliance with it;

21 (H) whether the rule constituted the least
22 cost method of achieving its objective consistent
23 with the criteria of the Act under which the
24 rule was issued, and to what extent the rule

1 provided flexibility to those who were subject to
2 it;

3 (I) whether the rule was worded simply
4 and clearly, including clear identification of
5 those who were subject to the rule;

6 (J) whether the rule created negative unin-
7 tended consequences;

8 (K) the extent to which information re-
9 quirements under the rule can be reduced; and

10 (L) the extent to which the rule has con-
11 tributed positive benefits, particularly health or
12 safety or environmental benefits.

13 (b) PRELIMINARY REPORTS ON SUNSET REVIEWS.—
14 The preliminary report under section 6(b)(2) on the sun-
15 set review of a rule shall request public comments and con-
16 tain—

17 (1) specific factual findings and legal conclu-
18 sions of the head of the agency conducting the re-
19 view regarding the application of section 5 to the
20 rule, the continued need for the rule, and whether
21 the rule duplicates functions of another rule;

22 (2) a preliminary determination on whether the
23 rule should be continued without change, modified,
24 consolidated with another rule, or allowed to termi-
25 nate; and

1 (3) if consolidation or modification of the rule
2 is recommended, the proposed text of the consoli-
3 dated or modified rule and other relevant informa-
4 tion required by law in a notice of proposed rule-
5 making.

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

9 (1) the final factual findings and legal conclu-
10 sions of the head of the agency conducting the re-
11 view regarding the application of section 5 to the
12 rule and whether the rule should be continued with-
13 out change, modified, consolidated with another rule,
14 or allowed to terminate; and

15 (2) in the case of a rule that is continued with-
16 out change, modified, or consolidated with another
17 rule, the text of the rule.

18 **SEC. 9. DESIGNATION OF AGENCY REGULATORY REVIEW**

19 **OFFICERS.**

20 The head of each agency shall designate an officer
21 of the agency as the Regulatory Review Officer of the
22 agency. The Regulatory Review Officer of an agency shall
23 be responsible for the implementation of this Act by the
24 agency and shall report directly to the head of the agency
25 and the Administrator with respect to that responsibility.

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

2 (a) RELATIONSHIP TO APA.—Except to the extent
3 that there is a direct conflict with the provisions of this
4 Act, nothing in this Act is intended to supersede the provi-
5 sions of chapters 5, 6, and 7 of title 5, United States Code.

6 (b) SEVERABILITY.—If any provision of this Act, or
7 the application of any provision of this Act to any person
8 or circumstance, is held invalid, the application of such
9 provision to other persons or circumstances, and the re-
10 mainder of this Act, shall not be affected thereby.

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

12 (a) EFFECT OF TERMINATION, GENERALLY.—If the
13 effectiveness of a covered rule terminates under section
14 3—

15 (1) this Act shall not be construed to prevent
16 the President or an agency from exercising any au-
17 thority that otherwise exists to implement the stat-
18 ute under which the rule was issued;

19 (2) in an agency proceeding or court action be-
20 tween an agency and a non-agency party, the rule
21 shall be given no legal effect (subject to paragraph
22 (3)) except at the request of the non-agency party;
23 and

24 (3) notwithstanding section 3, this Act shall not
25 be construed to prevent the continuation or institu-
26 tion of any enforcement action that is based on a

1 violation of the rule that occurred before the effec-
2 tiveness of the rule terminated.

3 (b) EFFECT ON DEADLINES.—

4 (1) IN GENERAL.—Notwithstanding subsection
5 (a), any deadline for, relating to, or involving any
6 action dependent upon, any rule terminated under
7 this Act is suspended until the agency that issued
8 the rule issues a new rule on the same matter, un-
9 less otherwise provided by a law.

10 (2) DEADLINE DEFINED.—In this subsection,
11 the term “deadline” means any date certain for ful-
12 filling any obligation or exercising any authority es-
13 tablished by or under any Federal rule, or by or
14 under any court order implementing any Federal
15 rule.

16 **SEC. 12. JUDICIAL REVIEW.**

17 (a) IN GENERAL.—A denial or substantial inexcus-
18 able delay in granting or denying a petition under section
19 4(c) shall be considered final agency action. A denial of
20 a congressional request under section 4(d) shall not be
21 subject to judicial review.

22 (b) TIME LIMITATION ON FILING A CIVIL ACTION.—
23 Notwithstanding any other provisions of law, an action
24 seeking judicial review of a final agency action under this
25 Act may not be brought—

1 (1) in the case of a final agency action denying
2 a public petition under section 4(c) or continuing
3 without change, modifying, or consolidating a cov-
4 ered rule, more than 30 days after the effective date
5 of that agency action; or

6 (2) in the case of an action challenging a delay
7 in granting or denying a petition for a rule under
8 section 4(c), more than 1 year after the period appli-
9 cable to the rule under section 4(c)(4).

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

15 **SEC. 13. DEFINITIONS.**

16 In this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Office of In-
19 formation and Regulatory Affairs in the Office of
20 Management and Budget.

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

24 (3) APPROPRIATE COMMITTEE OF THE CON-
25 GRESS.—The term “appropriate committee of the

1 Congress” means, with respect to a rule, each stand-
2 ing committee of Congress having authority under
3 the rules of the House of Representatives or the
4 Senate to report a bill to amend the provision of law
5 under which the rule is issued.

6 (4) RULE.—

7 (A) GENERAL RULE.—Subject to subpara-
8 graph (B), the term “rule” means any agency
9 statement of general applicability and future ef-
10 fect, including agency guidance documents, de-
11 signed to implement, interpret, or prescribe law
12 or policy, or describing the procedures or prac-
13 tices of an agency, or intended to assist in such
14 actions, but does not include—

15 (i) regulations or other agency state-
16 ments issued in accordance with formal
17 rulemaking provisions of sections 556 and
18 557 of title 5, United States Code;

19 (ii) regulations or other agency state-
20 ments that are limited to agency organiza-
21 tion, management, or personnel matters;

22 (iii) regulations or other agency state-
23 ments issued with respect to a military or
24 foreign affairs function of the United
25 States;

1 (iv) regulations, statements, or other
2 agency actions that are reviewed and usu-
3 ally modified each year (or more fre-
4 quently), or are reviewed regularly and
5 usually modified based on changing eco-
6 nomic or seasonal conditions;

7 (v) regulations or other agency actions
8 that grant an approval, license, permit,
9 registration, or similar authority or that
10 grant or recognize an exemption or relieve
11 a restriction, or any agency action nec-
12 essary to permit new or improved applica-
13 tions of technology or to allow the manu-
14 facture, distribution, sale, or use of a sub-
15 stance or product; and

16 (vi) regulations or other agency state-
17 ments that the Administrator certifies in
18 writing are necessary for the enforcement
19 of the Federal criminal laws.

20 (B) SCOPE OF A RULE.—For purposes of
21 this Act, each set of rules designated in the
22 Code of Federal Regulations as a part shall be
23 treated as one rule. Each set of rules that do
24 not appear in the Code of Federal Regulations
25 and that are comparable to a part of that Code

1 under guidelines established by the Adminis-
2 trator shall be treated as one rule.

3 (5) SUNSET REVIEW.—The term “sunset re-
4 view” means a review of a rule under this Act.

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

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

○

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