To establish a Congressional Office of Regulatory Analysis, to require the periodic review and automatic termination of Federal regulations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2011

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To establish a Congressional Office of Regulatory Analysis, to require the periodic review and automatic termination of Federal regulations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Congressional Office of Regulatory Analysis Creation and Sunset and Review Act of 2011”.

SEC. 2. TABLE OF CONTENTS.

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1 TITLE I—CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS

2 SEC. 101. ESTABLISHMENT OF OFFICE.

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—There is established a Con-

5 gressional Office of Regulatory Analysis (in this title

6 referred to as the “Office”).

7 (2) DIRECTOR.—The Office shall have a Direc-

8 tor (in this title referred to as the “Director”) who

9 shall be appointed by the Speaker of the House of

10 Representatives and the majority leader of the Sen-

11 ate after considering recommendations received from

12 the Committee on Oversight and Government Re-

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form of the House of Representatives and the Commit-

tee on Homeland Security and Governmental Af-
fairs of the Senate, without regard to political affili-
ation and solely on the basis of the Director’s ability
to perform the duties of the Office.

(3) Term.—

(A) In general.—The term of office of
the Director shall be 4 years, but no Director
shall be permitted to serve more than 3 terms.

(B) Vacancy.—Any individual appointed
as Director to fill a vacancy prior to the expira-
tion of a term shall serve only for the unexpired
portion of that term. An individual serving as
Director at the expiration of that term may
continue to serve until the individual’s successor
is appointed.

(4) Removal.—The Director may be removed
by a concurrent resolution of the Congress.

(5) Compensation.—The Director shall be
paid at a rate equal to the rate of basic pay for level
III of the Executive Schedule in section 5314 of title
5, United States Code.

(b) Personnel.—

(1) In general.—The Director shall appoint
and fix the compensation of such personnel as may
be necessary to carry out the duties and functions of the Office.

(2) APPOINTMENT.—All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties.

(3) DUTIES AND RESPONSIBILITIES.—The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director.

(4) EMPLOYEE STATUS.—For purposes of pay (other than pay of the Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure temporary (not to exceed one year) and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay under the General Schedule of section 5332 of title 5, United States Code.

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—
(1) INFORMATION REQUESTS.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government, including the Office of Management and Budget, and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall promptly furnish the Director any available material which the Director determines to be necessary in the performance of the Director’s duties and functions (other than material the disclosure of which would be a violation of law).

(2) USE OF SERVICES, FACILITIES, AND PERSONNEL.—The Director is authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to use its services, facilities, and personnel with or without reimbursement, and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations
of the Office with those of other congressional agencies
with a view to using most effectively the information, serv-
ces, and capabilities of all such agencies in carrying out
the various responsibilities assigned to each, the Director
is authorized to obtain information, data, estimates, and
statistics developed by the General Accountability Office,
the Congressional Budget Office, and the Congressional
Research Service, and upon agreement with the Compt-
troller General, the Director of the Congressional Budget
Office, or the Director of the Congressional Research
Service to use their services, facilities, and personnel with
or without reimbursement. The Comptroller General and
such Directors are authorized to provide the Office with
the information, data, estimates, and statistics, and the
services, facilities, and personnel, referred to in the pre-
ceding sentence.

(f) ASSISTANCE TO THE CONGRESS.—The Director
shall provide to the Committee on Oversight and Govern-
ment Reform of the House of Representatives and the
Committee on Homeland Security and Governmental Af-
fairs of the Senate, information that will assist the com-
mittee in the discharge of all matters within its jurisdic-
tion, including information with respect to its jurisdictio-
over authorization and oversight of the Office of Informa-
tion and Regulatory Affairs of the Office of Management
and Budget.

(g) INFORMATION.—

(1) FREEDOM OF INFORMATION.—The Office
shall make available information from its activities
in accordance with section 552 of title 5, United
States Code.

(2) PUBLIC DOCKET.—The Office shall main-
tain a publicly available log of information (other
than information which may not be released under
section 552(b) of title 5, United States Code) that
shall contain—

(A) all written communications, regardless
of format, between Office personnel and any
person who is not employed by the Federal Gov-
ernment; and

(B) the dates and names of individuals in-
volved in all substantive oral communications,
including meetings and telephone conversations
between Office personnel and any person not
employed by the Federal Government, and the
subject matter of such communications.

(h) APPROPRIATIONS.—There are authorized to be
appropriated to the Office such sums as may be necessary
for each of fiscal years 2012 through 2019.
SEC. 102. RESPONSIBILITIES.

(a) Transfer of Functions Under Chapter 8 From GAO to Office.—

(1) Director’s New Authority.—Section 801 of title 5, United States Code, is amended—

(A) by striking “Comptroller General” each place it occurs and inserting “Director of the Office”; and

(B) by striking “the Comptroller General’s report” in subsection (a)(2)(B) and inserting “the report of the Director of the Office”.

(2) Definition.—Section 804 is amended by adding at the end the following:

“(4) The term ‘Director of the Office’ means the Director of the Congressional Office of Regulatory Affairs established by section 101 of the Congressional Office of Regulatory Analysis Creation and Sunset and Review Act of 2011.”.

(3) Major Rules.—Section 801(a)(2)(A) of title 5, United States Code, is amended to read as follows:

“(2)(A) The Director of the Office shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 30 calendar days after the submission or publication date as provided
in section 802(b)(2). The report of the Director shall include—

“(i) an assessment of the compliance by the Federal agency with the requirements in paragraph (1)(B); and

“(ii) an analysis of the rule by the Director, using any relevant data and analyses generated by the Federal agency and any data of the Office, including the following:

“(I) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits.

“(II) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms and the identification of those likely to bear the costs.

“(III) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms.

“(IV) A description of alternative approaches that could achieve the same regulatory goal at a lower cost, together with an analysis
of the potential benefits and costs and a brief
explanation of the legal reasons why such alter-
natives, if proposed, could not be adopted.

“(V) A summary of how these results dif-
fer, if at all, from the results that the promul-
gating agency received when conducting similar
analyses.”.

(4) NONMAJOR RULES.—The Office shall con-
duct an assessment and analysis, as described in
section 801(a)(2)(A) of title 5, United States Code,
of any nonmajor rule, as defined in section 804(3)
of such title, when requested to do so by a com-
mittee of the House of Representatives or the Senate
or by an individual Representative or Senator.

(5) PRIORITIES.—

(A) ASSIGNMENT.—To ensure that anal-
ysis of the most significant regulations occurs,
the Office shall give first priority to, and shall
conduct analyses of, all major rules, as defined
in section 804(2) of title 5, United States Code.
Secondary priority shall be assigned to requests
from committees of the House of Representa-
tives and the Senate. Tertiary priority shall be
assigned to requests from individual Represent-
atives and Senators.
(B) Discretion to director of office.—The Director of the Office shall have the discretion to assign priority among the secondary and tertiary requests.

(b) Transfer of Certain Functions Under the Unfunded Mandates Reform Act of 1995 from CBO to Office.—

(1) Cost of Regulations.—Section 103 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1511) is amended—

(A) in subsection (b), by striking “the Director” and inserting “the Director of the Congressional Office of Regulatory Analysis”; and

(B) in subsection (c), by inserting after “Budget Office” the following: “or the Director of the Congressional Office of Regulatory Analysis”.

(2) Assistance to the Congressional Office of Regulatory Analysis.—Section 206 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1536) is amended—

(A) by amending the section heading to read as follows: “Sec. 206. Assistance to the Congressional Office of Regulatory Analysis.”; and
(B) in paragraph (2), by striking “the Director of the Congressional Budget Office” and inserting “the Director of the Congressional Office of Regulatory Analysis”.

(c) OTHER REPORTS.—In addition to the analyses of major and nonmajor rules described in subsection (a), the Office shall also issue an annual report including estimates of the total costs and benefits of all existing Federal regulations.

SEC. 103. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of the enactment of this Act.

TITLE II—REGULATORY SUNSET AND REVIEW

SEC. 201. PURPOSES.

The purposes of this title are—

(1) to require agencies to regularly review their significant rules to determine whether they should be continued without change, modified, consolidated with another rule, or terminated;

(2) to require agencies to consider the comments of the public, the regulated community, and the Congress regarding the actual costs and burdens of rules being reviewed under this title, and whether
the rules are obsolete, unnecessary, duplicative, con-

flicting, or otherwise inconsistent;

(3) to require that any rules continued in effect
under this title meet all the legal requirements that
would apply to the issuance of a new rule, including
any applicable Federal cost-benefit and risk assess-
ment requirements;

(4) to provide for the review of significant rules
and other rules through a sunset review process and
to provide for the repeal or other change in such
rules in accordance with chapters 5 and 7 of title 5,
United States Code;

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

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

SEC. 202. REVIEW OF REGULATIONS.

A covered rule shall be subject to review in accord-
ance with this title. Upon completion of such review, the
agency which has jurisdiction over such rule shall—
(1) issue a final report under section 207(c)(2) continuing such rule; or

(2) conduct a rulemaking in accordance with section 207(d) to modify, consolidate with another rule, or terminate such rule.

SEC. 203. COVERED RULES.

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

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

(2) is any other rule designated by the agency which has jurisdiction over such rule or by the Administrator under this title for sunset review.

(b) SIGNIFICANT RULES.—For purposes of this title, a significant rule is a rule that the Administrator determines—

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

(2) is a major rule, as defined in section 804(2) of title 5, United States Code; or

(3) was issued pursuant to a significant regulatory action, as that term is defined in Executive Order 12866 (5 U.S.C. 601 note; relating to regulatory planning and review).
(c) Public Petitions.—

(1) In general.—Any person adversely affected by a rule that is not a significant rule may submit a petition to the agency which has jurisdiction over the rule requesting that such agency designate the rule for sunset review. Such agency shall designate the rule for sunset review unless such agency determines that it would not be in the public interest to conduct a sunset review of the rule. In making such determination, such agency shall take into account the number and nature of other petitions received on the same rule, whether or not they have already been denied.

(2) Form and content of petition.—A petition under paragraph (1)—

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

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

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

(3) Response required for noncomplying petitions.—If such agency determines that a peti-
tion does not meet the requirements of this subsection, such agency shall provide a response to the petitioner within 30 days after receiving the petition, notifying the petitioner of the problem and providing information on how to formulate a petition that meets those requirements.

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

(5) PETITIONS DEEMED GRANTED FOR SUBSTANTIAL INEXCUSABLE DELAY.—A petition for sunset review of a rule is deemed to have been granted by such agency, and such agency is deemed to have designated the rule for sunset review, if a court finds there is a substantial and inexcusable delay, beyond the period specified in paragraph (4), in notifying the petitioner of such agency’s determination to grant or deny the petition.

(6) PUBLIC LOG.—Such agency shall maintain a public log of petitions submitted under this sub-
section, that includes the status or disposition of
each petition.

(d) CONGRESSIONAL REQUESTS.—

(1) IN GENERAL.—An appropriate committee of
the Congress, or a majority of the majority party
members or a majority of nonmajority party mem-
bers of such a committee, may request in writing
that the Administrator designate any rule that is not
a significant rule for sunset review. The Adminis-
trator shall designate such rule for sunset review
within 30 days after receipt of such a request unless
the Administrator determines that it would not be in
the public interest to conduct a sunset review of
such rule.

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

(e) PUBLICATION OF NOTICE OF DESIGNATION FOR
SUNSET REVIEW.—After designating a rule under sub-
section (c) or (d) for sunset review, the agency or the Ad-
ministrator shall promptly publish a notice of that des-
ignation in the Federal Register.
SEC. 204. CRITERIA FOR SUNSET REVIEW.

(a) Compliance With Other Laws.—In order for any rule subject to sunset review to continue without change or to be modified or consolidated in accordance with this title, such rule must be authorized by law and meet all applicable requirements that would apply if it were issued as a new rule pursuant to section 553 of title 5, United States Code, or other statutory rulemaking procedures required for that rule. For purposes of this section, the term “applicable requirements” includes any requirement for cost-benefit analysis and any requirement for standardized risk analysis and risk assessment.

(b) Governing Law.—If there is a conflict between such applicable requirements and an Act under which a rule was issued, the conflict shall be resolved in the same manner as such conflict would be resolved if the agency were issuing a new rule.

SEC. 205. SUNSET REVIEW PROCEDURES.

(a) Functions of the Administrator.—

(1) Notice of Rules Subject to Review.—

(A) Inventory and First List.—Within one year after the date of the enactment of this Act, the Administrator shall conduct an inventory of existing rules and publish a first list of covered rules. The list shall—
1. (i) specify the particular group to which each significant rule is assigned under paragraph (2), and state the review deadline for all significant rules in each such group; and

(ii) include other rules subject to sunset review for any other reason, and state the review deadline for each such rule.

(B) Subsequent Lists.—After publica-

tion of the first list under subparagraph (A), the Administrator shall publish an updated list of covered rules at least annually, specifying the review deadline for each rule on the list.

(2) Grouping of Significant Rules in First List.—

(A) Staggered Review.—The Adminis-

trator shall assign each significant rule in effect on the date of enactment of this Act to one of 4 groups established by the Administrator to permit orderly and prioritized sunset reviews, and specify for each group an initial review deadline in accordance with section 206(a)(1).

(B) Prioritizations.—In determining which rules shall be given priority in time in that assignment, the Administrator shall con-
sult with appropriate agencies, and shall
prioritize rule based on—

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

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

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

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

(v) whether a particular rule was
issued under a statutory provision that
provides relatively greater discretion to an
official in issuing the rule, with priority in
time given to those rules that were issued
under provisions that provide relatively
greater discretion;

(vi) the burden of reviewing each rule
on the reviewing agency; and
(vii) the need for orderly processing
and the timely completion of the sunset re-
views of existing rules.

(3) GROUPING OF RELATED RULES.—The Ad-
ministrator shall group related rules under para-
graph (2) (and designate other rules) for simulta-
neous sunset review based upon their subject matter
similarity, functional interrelationships, and other
relevant factors to ensure comprehensive and coordi-
nated review of redundant, overlapping, and con-
flicting rules and requirements. The Administrator
shall ensure simultaneous sunset reviews of covered
rules without regard to whether they were issued by
the same agency, and shall designate any other rule
for sunset review that is necessary for a comprehen-
sive sunset review whether or not such other rule is
otherwise a covered rule under this title.

(4) GUIDANCE.—The Administrator shall pro-
vide timely guidance to agencies on the conduct of
sunset reviews and the preparation of sunset review
notices and reports required by this title to ensure
uniform, complete, and timely sunset reviews and to
ensure notice and opportunity for public comment
consistent with section 207.
(5) **Review and Evaluation of Reports.**—

The Administrator shall review and evaluate each preliminary and final report submitted by the agency pursuant to this section. Within 90 days after receiving a preliminary report, the Administrator shall transmit comments to the head of the agency regarding—

(A) the quality of the analysis in the report, including whether the agency has properly applied section 204;

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

(C) whether the rule should be continued without change, modified, consolidated with another rule, or terminated.

(b) **Agency Sunset Review Procedure.**—

1. **Sunset Review Notice.**—At least 2½ years before the review deadline under section 206(a) for a covered rule issued by an agency, the agency shall—

   (A) publish a sunset review notice in accordance with section 207(a) in the Federal Register and, to the extent reasonable and practicable, in other publications or media that
are designed to reach those persons most affected by the covered rule; and

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

(2) Preliminary report.—In reviewing a covered rule, the agency shall—

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

(B) at least one year before the review deadline under section 206(a) for the covered rule, publish in the Federal Register, in accordance with section 207(b), and transmit to the Administrator and the appropriate committees of the Congress a preliminary report.

(3) Final report.—The agency shall consider the public comments and other recommendations generated by the preliminary report under paragraph (2) for a covered rule, and shall consult with the appropriate committees of the Congress before issuing a final report. At least 90 days before the review deadline of the covered rule, the agency shall publish in the Federal Register, in accordance with
section 207(c)(2) or 207(d), and transmit a final report to the Administrator and the appropriate committees of the Congress.

(4) Open Procedures Regarding Sunset Review.—In any sunset review conducted pursuant to this title, the agency conducting the review shall make a written record describing the subject of all contacts the agency or Administrator made with non-governmental persons outside the agency relating to such review. The written record of such contact shall be made available, upon request, to the public.

(c) Effectiveness of Agency Recommendation.—If a final report under subsection (b)(3) recommends that a covered rule should be continued without change, the covered rule shall be continued. If a final report under subsection (b)(3) recommends that a covered rule should be modified, consolidated with another rule, or terminated, the rule may be modified, so consolidated, or terminated in accordance with section 207(d).

(d) Preservation of Independence of Federal Bank Regulatory Agencies.—The head of any appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the Federal Housing Finance Board, the
National Credit Union Administration, and the Office of Federal Housing Enterprise Oversight shall have the authority with respect to that agency that would otherwise be granted under section 206(a)(2)(B) to the Administrator or other officer designated by the President.

SEC. 206. REVIEW DEADLINES FOR COVERED RULES.

(a) IN GENERAL.—

(1) EXISTING SIGNIFICANT RULES.—For a significant rule in effect on the date of the enactment of this Act, the initial review deadline is the last day of the 4-year, 5-year, 6-year, or 7-year period beginning on the date of the enactment of this Act, as specified by the Administrator under section 205(a)(2)(A). For any significant rule that 6 months after the date of enactment is not assigned to such a group specified under section 205(a)(2)(A), the initial review deadline is the last day of the 4-year period beginning on the date of enactment of this Act.

(2) NEW SIGNIFICANT RULES.—For a significant rule that first takes effect after the date of the enactment of this Act, the initial review deadline is the last day of either—

(A) the 3-year period beginning on the date the rule takes effect; or
(B) if the Administrator determines as part of the rulemaking process that the rule is issued pursuant to negotiated rulemaking procedures or that compliance with the rule requires substantial capital investment, the 7-year period beginning on the date the rule takes effect.

(3) Rules covered pursuant to public petition or congressional request.—For any rule subject to sunset review pursuant to a public petition under section 203(c) or a congressional request under section 203(d), the initial review deadline is the last day of the 3-year period beginning on—

(A) the date the agency or Administrator so designates the rule for review; or

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

(4) Related rule designated for review.—For a rule that the Administrator designates under section 205(a)(3) for sunset review because it is related to another covered rule and that is grouped with that other rule for simultaneous review, the initial review deadline is the same as the review deadline for that other rule.
(b) Temporary Extension.—The review deadline under subsection (a) for a covered rule may be extended by the Administrator for not more than 6 months by publishing notice thereof in the Federal Register that describes reasons why the temporary extension is necessary to respond to or prevent an emergency situation.

(c) Determinations Where Rules Have Been Amended.—For purposes of this title, if various provisions of a covered rule were issued at different times, then the rule as a whole shall be treated as if it were issued on the later of—

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

(2) the date the most recent review and revision of the rule under this title was completed.

SEC. 207. SUNSET REVIEW NOTICES AND AGENCY REPORTS.

(a) Sunset Review Notice.—The sunset review notice under section 205(b)(1) for a rule shall—

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

(2) if applicable, request comments regarding whether the rule meets the applicable Federal cost-benefit and risk assessment criteria; and
(3) solicit comments about the past implementation and effects of the rule, including—

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

   (B) whether the rule as a whole, or any major feature of it, is outdated, obsolete, or unnecessary, whether by change of technology, the marketplace, or otherwise;

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

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

   (E) whether the rule unnecessarily impeded domestic or international competition or
unnecessarily intruded on free market forces, and whether the rule unnecessarily interfered with opportunities or efforts to transfer to the private sector duties carried out by the Government;

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

(G) whether compliance with the rule required substantial capital investment and whether terminating the rule on the next review deadline would create an unfair advantage to those who are not in compliance with it;

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

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

(J) whether the rule created negative unintended consequences;
(K) the extent to which information requirements under the rule can be reduced; and

(L) the extent to which the rule has contributed positive benefits, particularly health or safety or environmental benefits.

(b) Preliminary Reports on Sunset Reviews.—

The preliminary report under section 205(b)(2) on the sunset review of a rule shall request public comments and contain—

(1) specific requests for factual findings and recommended legal conclusions regarding the application of section 204 to the rule, the continued need for the rule, and whether the rule duplicates functions of another rule;

(2) a request for comments on whether the rule should be continued without change, modified, consolidated with another rule, or terminated; and

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

(c) Final Reports on Sunset Reviews.—

(1) In general.—A final report under section 205(b)(3) on the sunset review of a rule shall—

(A) contain the factual findings and legal conclusions of the agency conducting the review

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regarding the application of section 204 to the rule and the agency’s proposed recommendation as to whether the rule should be continued without change, modified, consolidated with another rule, or terminated;

(B) in the case of a rule that the agency proposes to continue without change, so state;

(C) in the case of a rule that the agency proposes to modify or consolidate with another rule, contain—

(i) a notice of proposed rulemaking under section 553 of title 5, United States Code, or under other statutory rulemaking procedures required for that rule; and

(ii) the text of the rule as so modified or consolidated; and

(D) in the case of a rule that the agency proposes to terminate, contain a notice of proposed rulemaking for termination consistent with paragraph (3)(A).

(2) Final report published in the Federal Register.—A final report under section 205(b)(3) shall be published in the Federal Register. (d) Rulemaking.—In the case of a final report on a rule described in subparagraphs (C) or (D) of subsection
(c)(1), the final report shall be published in the Federal Register and its publication shall constitute publication of the notice required by subsection (c)(1)(C)(i). After publication of a final report on a rule described in subparagraphs (C) or (D) of subsection (c)(1) on a sunset review of a rule, the agency which conducted such review shall conduct the rulemaking which is called for in such report.

SEC. 208. DESIGNATION OF AGENCY REGULATORY REVIEW OFFICER.

The head of each agency shall designate an officer of the agency as the Regulatory Review Officer of the agency. The Regulatory Review Officer of an agency shall be responsible for the implementation of this title by the agency and shall report directly to the head of the agency and the Administrator with respect to that responsibility.

SEC. 209. RELATIONSHIP TO OTHER LAW.

Nothing in this title is intended to supersede the provisions of chapters 5, 6, and 7 of title 5, United States Code.

SEC. 210. EFFECT OF TERMINATION OF A COVERED RULE.

(a) Effect of Termination, Generally.—If a covered rule is terminated pursuant to this title—

(1) this title shall not be construed to prevent the President or an agency from exercising any au-
authority that otherwise exists to implement the statute under which the rule was issued;

(2) in an agency proceeding or court action between an agency and a non-agency party, the rule shall be given no conclusive legal effect but may be submitted as evidence of prior agency practice and procedure; and

(3) this title shall not be construed to prevent the continuation or institution of any enforcement action that is based on a violation of the rule that occurred before the effectiveness of the rule terminated.

(b) Effect on Deadlines.—

(1) In general.—Notwithstanding subsection (a), any deadline for, relating to, or involving any action dependent upon, any rule terminated under this title is suspended until the agency that issued the rule issues a new rule on the same matter, unless otherwise provided by a law.

(2) Deadline defined.—In this subsection, the term “deadline” means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal rule, or by or under any court order implementing any Federal rule.
SEC. 211. JUDICIAL REVIEW.

(a) IN GENERAL.—A denial or substantial inexcusable delay in granting or denying a petition under section 203(c) shall be considered final agency action subject to review under section 702 of title 5, United States Code. A denial of a congressional request under section 203(d) shall not be subject to judicial review.

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

(1) in the case of a final agency action denying a public petition under section 203(c) or continuing without change, modifying, consolidating, or terminating a covered rule, more than 30 days after the date of that agency action; or

(2) in the case of an action challenging a delay in deciding on a petition for a rule under section 203(c), more than 1 year after the period applicable to the rule under section 203(c)(4).

(c) AVAILABILITY OF JUDICIAL REVIEW UNAFFECTED.—Except to the extent that there is a direct conflict with the provisions of this title, nothing in this title is intended to affect the availability or standard of judicial review for agency regulatory action.
SEC. 212. DEFINITIONS.

In this title:

(1) Administrator.—The term “Administrator” means the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget.

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

(3) Appropriate committee of the Congress.—The term “appropriate committee of the Congress” means, with respect to a rule, each standing committee of Congress having authority under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

(4) Rule.—

(A) In general.—Subject to subparagraph (B), the term “rule” means any agency statement of general applicability and future effect, including agency guidance documents, designed to implement, interpret, or prescribe law or policy, or describing the procedures or practices of an agency, or intended to assist in such actions, but does not include—
(i) regulations or other agency statements issued in accordance with formal rulemaking provisions of sections 556 and 557 of title 5, United States Code, or in accordance with other statutory formal rulemaking procedures required for such regulations or statements;

(ii) regulations or other agency statements that are limited to agency organization, management, or personnel matters;

(iii) regulations or other agency statements issued with respect to a military or foreign affairs function of the United States;

(iv) regulations, statements, or other agency actions that are reviewed and usually modified each year (or more frequently), or are reviewed regularly and usually modified based on changing economic or seasonal conditions;

(v) regulations or other agency actions that grant an approval, license, permit, registration, or similar authority or that grant or recognize an exemption or relieve a restriction, or any agency action nee-
necessary to permit new or improved applications of technology or to allow the manufacture, distribution, sale, or use of a substance or product; and

(vi) regulations or other agency statements that the Administrator certifies in writing are necessary for the enforcement of the Federal criminal laws.

(B) Scope of a rule.—For purposes of this title, each set of rules designated in the Code of Federal Regulations as a part shall be treated as one rule. Each set of rules that do not appear in the Code of Federal Regulations and that are comparable to a part of that Code under guidelines established by the Administrator shall be treated as one rule.

(5) Sunset review.—The term “sunset review” means a review of a rule under this title.

SEC. 213. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.
SEC. 214. SUNSET OF THIS TITLE.

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