

113TH CONGRESS
1ST SESSION

H. R. 309

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2013

Mr. HULTGREN (for himself, Mr. GARRETT, Mr. RIBBLE, Mr. FRANKS of Arizona, and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regulatory Sunset and
5 Review Act of 2013”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are—

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

5 (2) to require agencies to consider the com-
6 ments of the public, the regulated community, and
7 the Congress regarding the actual costs and burdens
8 of rules being reviewed under this Act, and whether
9 the rules are obsolete, unnecessary, duplicative, con-
10 flicting, or otherwise inconsistent;

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

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

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

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

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

5 A covered rule shall be subject to review in accord-
6 ance with this Act. Upon completion of such review, the
7 agency which has jurisdiction over such rule shall—

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

10 (2) conduct a rulemaking in accordance with
11 section 8(d) to modify, consolidate with another rule,
12 or terminate such rule.

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

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

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

18 (2) is any other rule designated by the agency
19 which has jurisdiction over such rule or the Adminis-
20 trator under this Act for sunset review.

21 (b) SIGNIFICANT RULES.—For purposes of this Act,
22 a significant rule is a rule that the Administrator deter-
23 mines—

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

4 (2) is a major rule; or

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

9 (c) PUBLIC PETITIONS.—

10 (1) IN GENERAL.—Any person adversely af-
11 fected by a rule that is not a significant rule may
12 submit a petition to the agency which has jurisdic-
13 tion over the rule requesting that such agency des-
14 ignate the rule for sunset review. Such agency shall
15 designate the rule for sunset review unless such
16 agency determines that it would not be in the public
17 interest to conduct a sunset review of the rule. In
18 making such determination, such agency shall take
19 into account the number and nature of other peti-
20 tions received on the same rule and whether or not
21 such petitions have been denied.

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

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

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

5 (3) RESPONSE REQUIRED FOR NONCOMPLYING
6 PETITIONS.—If an agency determines that a petition
7 does not meet the requirements of this subsection,
8 the agency shall provide a response to the petitioner
9 within 30 days after receiving the petition, notifying
10 the petitioner of the problem and providing informa-
11 tion on how to formulate a petition that meets those
12 requirements.

13 (4) DECISION WITHIN 90 DAYS.—Within the 90-
14 day period beginning on the date of receiving a peti-
15 tion that meets the requirements of this subsection,
16 the agency shall transmit a response to the peti-
17 tioner stating whether the petition was granted or
18 denied, except that the agency may extend such pe-
19 riod by a total of not more than 30 days.

20 (5) PETITIONS DEEMED GRANTED FOR SUB-
21 STANTIAL INEXCUSABLE DELAY.—A petition for
22 sunset review of a rule is deemed to have been
23 granted by an agency, and such agency is deemed to
24 have designated the rule for sunset review, if a court
25 finds there is a substantial and inexcusable delay,

1 beyond the period specified in paragraph (4), in no-
2 tifying the petitioner of the agency's determination
3 to grant or deny the petition.

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

8 (d) CONGRESSIONAL REQUESTS.—

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

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

24 (e) PUBLICATION OF NOTICE OF DESIGNATION FOR
25 SUNSET REVIEW.—After designating a rule under sub-

1 section (c) or (d) for sunset review, the agency or the Ad-
 2 ministrator shall promptly publish a notice of that des-
 3 ignation in the Federal Register.

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

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

16 (b) GOVERNING LAW.—If there is a conflict between
 17 applicable requirements and an Act under which a rule
 18 was issued, the conflict shall be resolved in the same man-
 19 ner as such conflict would be resolved if the agency were
 20 issuing a new rule.

21 **SEC. 6. SUNSET REVIEW PROCEDURES.**

22 (a) FUNCTIONS OF THE ADMINISTRATOR.—

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

24 (A) INVENTORY AND FIRST LIST.—Within

25 6 months after the date of the enactment of

1 this Act, the Administrator shall conduct an in-
 2 ventory of existing rules and publish a first list
 3 of covered rules. The list shall—

4 (i) specify the particular group to
 5 which each significant rule is assigned
 6 under paragraph (2), and state the review
 7 deadline for all significant rules in each
 8 such group; and

9 (ii) include other rules subject to sun-
 10 set review for any other reason, and state
 11 the review deadline for each such rule.

12 (B) SUBSEQUENT LISTS.—After publica-
 13 tion of the first list under subparagraph (A),
 14 the Administrator shall publish an updated list
 15 of covered rules at least annually, specifying the
 16 review deadline for each rule on the list.

17 (2) GROUPING OF SIGNIFICANT RULES IN FIRST
 18 LIST.—

19 (A) STAGGERED REVIEW.—The Adminis-
 20 trator shall assign each significant rule in effect
 21 on the date of enactment of this Act to one of
 22 4 groups established by the Administrator to
 23 permit orderly and prioritized sunset reviews,
 24 and specify for each group an initial review
 25 deadline in accordance with section 7(a)(1).

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

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

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

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

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

20 (v) whether a particular rule was
21 issued under a statutory provision that
22 provides relatively greater discretion to an
23 official in issuing the rule, with priority in
24 time given to those rules that were issued

1 under provisions that provide relatively
2 greater discretion;

3 (vi) the burden of reviewing each rule
4 on the reviewing agency; and

5 (vii) the need for orderly processing
6 and the timely completion of the sunset re-
7 views of existing rules.

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

22 (4) GUIDANCE.—The Administrator shall pro-
23 vide timely guidance to agencies on the conduct of
24 sunset reviews and the preparation of sunset review
25 notices and reports required by this Act to ensure

1 uniform, complete, and timely sunset reviews and to
2 ensure notice and opportunity for public comment
3 consistent with section 8.

4 (5) REVIEW AND EVALUATION OF REPORTS.—

5 The Administrator shall review and evaluate each
6 preliminary and final report submitted by the agency
7 pursuant to this section. Within 90 days after re-
8 ceiving a preliminary report, the Administrator shall
9 transmit comments to the head of the agency re-
10 garding—

11 (A) the quality of the analysis in the re-
12 port, including whether the agency has properly
13 applied section 5;

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

16 (C) whether the rule should be continued
17 without change, modified, consolidated with an-
18 other rule, or terminated.

19 (b) AGENCY SUNSET REVIEW PROCEDURE.—

20 (1) SUNSET REVIEW NOTICE.—At least 30
21 months before the review deadline under section 7(a)
22 for a covered rule issued by an agency, the agency
23 shall—

24 (A) publish a sunset review notice in ac-
25 cordance with section 8(a) in the Federal Reg-

1 ister and, to the extent reasonable and prac-
2 ticable, in other publications or media that are
3 designed to reach those persons most affected
4 by the covered rule; and

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

9 (2) PRELIMINARY REPORT.—In reviewing a cov-
10 ered rule, the agency shall—

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

14 (B) at least 1 year before the review dead-
15 line under section 7(a) for the covered rule,
16 publish in the Federal Register, in accordance
17 with section 8(b), and transmit to the Adminis-
18 trator and the appropriate committees of the
19 Congress a preliminary report.

20 (3) FINAL REPORT.—The agency shall consider
21 the public comments and other recommendations
22 generated by the preliminary report under para-
23 graph (2) for a covered rule, and shall consult with
24 the appropriate committees of the Congress before
25 issuing a final report. At least 90 days before the re-

1 view deadline of the covered rule, the agency shall
2 publish in the Federal Register, in accordance with
3 section 8(c)(2) or 8(d), and transmit a final report
4 to the Administrator and the appropriate committees
5 of the Congress.

6 (4) OPEN PROCEDURES REGARDING SUNSET
7 REVIEW.—In any sunset review conducted pursuant
8 to this Act, the agency conducting the review shall
9 make a written record describing the subject of all
10 contacts the agency or Administrator made with
11 non-governmental persons outside the agency relat-
12 ing to such review. The written record of such con-
13 tact shall be made available, upon request, to the
14 public.

15 (c) EFFECTIVENESS OF AGENCY RECOMMENDA-
16 TION.—If a final report under subsection (b)(3) rec-
17 ommends that a covered rule should be continued without
18 change, the covered rule shall be continued. If a final re-
19 port under subsection (b)(3) recommends that a covered
20 rule should be modified, consolidated with another rule,
21 or terminated, the rule may be modified, so consolidated,
22 or terminated in accordance with section 8(d).

23 (d) PRESERVATION OF INDEPENDENCE OF FEDERAL
24 BANK REGULATORY AGENCIES.—The head of any appro-
25 priate Federal banking agency (as that term is defined

1 in section 3(q) of the Federal Deposit Insurance Act (12
2 U.S.C. 1813(q)), the Federal Housing Finance Board, the
3 National Credit Union Administration, and the Office of
4 Federal Housing Enterprise Oversight shall have the au-
5 thority with respect to that agency that would otherwise
6 be granted under section 7(a)(2)(B) to the Administrator
7 or other officer designated by the President.

8 **SEC. 7. REVIEW DEADLINES FOR COVERED RULES.**

9 (a) IN GENERAL.—For purposes of this Act, the re-
10 view deadline of a covered rule is as follows:

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

22 (2) NEW SIGNIFICANT RULES.—For a signifi-
23 cant rule that first takes effect after the date of the
24 enactment of this Act, the initial review deadline is
25 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 review deadline is the
15 last day of the 3-year period beginning on—

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

18 (B) the date of issuance of a final court
19 order that the agency is deemed to have des-
20 ignated 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 review deadline is the same as the review dead-
2 line for that other rule.

3 (b) TEMPORARY EXTENSION.—The review deadline
4 under subsection (a) for a covered rule may be extended
5 by the Administrator for not more than 6 months by pub-
6 lishing notice thereof in the Federal Register that de-
7 scribes reasons why the temporary extension is necessary
8 to respond to or prevent an emergency situation.

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

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

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

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

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

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

1 (2) if applicable, request comments regarding
2 whether the rule meets the applicable Federal cost-
3 benefit and risk assessment criteria; and

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

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

14 (B) whether the rule as a whole, or any
15 major feature of it, is outdated, obsolete, or un-
16 necessary, whether by change of technology, the
17 marketplace, or otherwise;

18 (C) the extent to which the rule or infor-
19 mation required to comply with the rule dupli-
20 cated, conflicted, or overlapped with require-
21 ments under rules of other agencies;

22 (D) in the case of a rule addressing a risk
23 to health or safety or the environment, what the
24 perceived risk was at the time of issuance and

1 to what extent the risk predictions were accu-
2 rate;

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

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

13 (G) whether compliance with the rule re-
14 quired substantial capital investment and
15 whether terminating the rule on the next review
16 deadline would create an unfair advantage to
17 those who are not in compliance with it;

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

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

4 (J) whether the rule created negative unin-
5 tended consequences;

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

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

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

15 (1) specific requests for factual findings and
16 recommended legal conclusions regarding the appli-
17 cation of section 5 to the rule, the continued need
18 for the rule, and whether the rule duplicates func-
19 tions of another rule;

20 (2) a request for comments on whether the rule
21 should be continued without change, modified, con-
22 solidated with another rule, or terminated; and

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

1 (c) FINAL REPORTS ON SUNSET REVIEWS.—The re-
2 port under section 6(b)(3) on the sunset review of a rule
3 shall—

4 (1) contain the factual findings and legal con-
5 clusions of the agency conducting the review regard-
6 ing the application of section 5 to the rule and the
7 agency’s proposed recommendation as to whether
8 the rule should be continued without change, modi-
9 fied, consolidated with another rule, or terminated;

10 (2) in the case of a rule that the agency pro-
11 poses to continue without change, so state;

12 (3) in the case of a rule that the agency pro-
13 poses to modify or consolidate with another rule,
14 contain—

15 (A) a notice of proposed rulemaking under
16 section 553 of title 5, United States Code or
17 under other statutory rulemaking procedures
18 required for that rule, and

19 (B) the text of the rule as so modified or
20 consolidated; and

21 (4) in the case of a rule that the agency pro-
22 poses to terminate, contain a notice of proposed
23 rulemaking for termination consistent with para-
24 graph (3)(A).

1 A final report described in paragraph (2) shall be pub-
2 lished in the Federal Register.

3 (d) RULEMAKING.—The final report under subsection
4 (c)(3) or (c)(4) shall be published in the Federal Register
5 and its publication shall constitute publication of the no-
6 tice required by subsection (c)(3)(A). After publication of
7 the final report under subsection (c)(3) or (c)(4) on a sun-
8 set review of a rule, the agency which conducted such re-
9 view shall conduct the rulemaking which is called for in
10 such report.

11 (e) LEGISLATIVE RECOMMENDATIONS.—In any case
12 in which the head of an agency determines that a rule
13 in a final report under subsection (c)(3) or (c)(4) cannot
14 be changed, modified, or consolidated with another rule
15 without legislative action, such head shall include in such
16 final report a description of what legislative changes are
17 required to implement the recommendations in such final
18 report with regard to such rule.

19 **SEC. 9. DESIGNATION OF AGENCY REGULATORY REVIEW**
20 **OFFICERS.**

21 The head of each agency shall designate an officer
22 of the agency as the Regulatory Review Officer of the
23 agency. The Regulatory Review Officer of an agency shall
24 be responsible for the implementation of this Act by the

1 agency and shall report directly to the head of the agency
2 and the Administrator with respect to that responsibility.

3 **SEC. 10. RELATIONSHIP TO THE ADMINISTRATIVE PROCE-**
4 **DURE ACT.**

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

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

9 (a) EFFECT OF TERMINATION, GENERALLY.—If a
10 covered rule is terminated pursuant to this Act—

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

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

20 (3) this Act shall not be construed to prevent
21 the continuation or institution of any enforcement
22 action that is based on a violation of the rule that
23 occurred before the effectiveness of the rule termi-
24 nated.

25 (b) EFFECT ON DEADLINES.—

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

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

13 **SEC. 12. JUDICIAL REVIEW.**

14 (a) IN GENERAL.—A denial or substantial inexcus-
15 able delay in granting or denying a petition under section
16 4(c) shall be considered final agency action subject to re-
17 view under section 702 of title 5, United States Code. A
18 denial of a congressional request under section 4(d) shall
19 not be subject to judicial review.

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

24 (1) in the case of a final agency action denying
25 a public petition under section 4(c) or continuing

1 without change, modifying, consolidating, or termi-
 2 nating a covered rule, more than 30 days after the
 3 date of that agency action; or

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

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

13 **SEC. 13. DEFINITIONS.**

14 In this Act:

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

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

22 (3) APPROPRIATE COMMITTEE OF THE CON-
 23 GRESS.—The term “appropriate committee of the
 24 Congress” means, with respect to a rule, each stand-
 25 ing committee of Congress having authority under

1 the Rules of the House of Representatives or the
2 Senate to report a bill to amend the provision of law
3 under which the rule is issued.

4 (4) MAJOR RULE.—The term “major rule”
5 means any rule that the Administrator of the Office
6 of Information and Regulatory Affairs in the Office
7 of Management and Budget finds has resulted in or
8 is likely to result in—

9 (A) an annual effect on the economy of
10 \$100,000,000 or more;

11 (B) a major increase in costs or prices for
12 consumers, individual industries, Federal,
13 State, or local government agencies, or geo-
14 graphic regions; or

15 (C) significant adverse effects on competi-
16 tion, employment, investment, productivity, in-
17 novation, or on the ability of United States-
18 based enterprises to compete with foreign-based
19 enterprises in domestic and export markets.

20 (5) RULE.—

21 (A) GENERAL RULE.—Subject to subpara-
22 graph (B), the term “rule” means any agency
23 statement of general applicability and future ef-
24 fect, including agency guidance documents, de-
25 signed to implement, interpret, or prescribe law

1 or policy, or describing the procedures or prac-
2 tices of an agency, or intended to assist in such
3 actions, but does not include—

4 (i) regulations or other agency state-
5 ments issued in accordance with formal
6 rulemaking provisions of sections 556 and
7 557 of title 5, United States Code, or in
8 accordance with other statutory formal
9 rulemaking procedures required for such
10 regulations or statements;

11 (ii) regulations or other agency state-
12 ments that are limited to agency organiza-
13 tion, management, or personnel matters;

14 (iii) regulations or other agency state-
15 ments issued with respect to a military or
16 foreign affairs function of the United
17 States;

18 (iv) regulations, statements, or other
19 agency actions that are reviewed and usu-
20 ally modified each year (or more fre-
21 quently), or are reviewed regularly and
22 usually modified based on changing eco-
23 nomic or seasonal conditions;

24 (v) regulations or other agency actions
25 that grant an approval, license, permit,

1 registration, or similar authority or that
2 grant or recognize an exemption or relieve
3 a restriction, or any agency action nec-
4 essary to permit new or improved applica-
5 tions of technology or to allow the manu-
6 facture, distribution, sale, or use of a sub-
7 stance or product; and

8 (vi) regulations or other agency state-
9 ments that the Administrator certifies in
10 writing are necessary for the enforcement
11 of the Federal criminal laws.

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

20 (6) SUNSET REVIEW.—The term “sunset re-
21 view” means a review of the rule under this Act.

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

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

