

112TH CONGRESS  
1ST SESSION

# H. R. 3068

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2011

Mr. HULTGREN 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

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## 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 2011”.

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

1 continued without change, modified, consolidated  
2 with another rule, or terminated;

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

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

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

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

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