

104TH CONGRESS
1ST SESSION

S. 511

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

IN THE SENATE OF THE UNITED STATES

MARCH 7 (legislative day, MARCH 6), 1995

Mr. DOMENICI (for himself and Mr. ABRAHAM) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regulatory Sunset and
5 Review Act of 1995”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

8 (1) To require agencies to regularly review their
9 regulations and make recommendations to termi-

1 nate, continue in effect, modify, or consolidate those
2 regulations.

3 (2) To require agencies to submit those rec-
4 ommendations to the Administrator of the Office of
5 Information and Regulatory Affairs and to the Con-
6 gress.

7 (3) To provide for the automatic termination of
8 regulations that are not continued in effect after
9 such review.

10 (4) To designate a Regulatory Review Officer
11 within each agency, who is responsible for the imple-
12 mentation of this Act by the agency.

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

14 (a) IN GENERAL.—Except as provided in subsection
15 (c), the effectiveness of a regulation issued by an agency
16 shall terminate on the applicable termination date under
17 subsection (b), and the regulation shall have no force or
18 effect after that termination date, unless the head of the
19 agency—

20 (1) reviews the regulation in accordance with
21 section 4;

22 (2) after the review, and at least 120 days be-
23 fore that termination date, submits in accordance
24 with section 5(a) a preliminary report on the find-

1 ings and proposed recommendations of that review
2 in accordance with section 5(a)(2);

3 (3) reviews and considers comments regarding
4 the preliminary report that are transmitted to the
5 agency by the Administrator and appropriate com-
6 mittees of the Congress during the 60-day period be-
7 ginning on the date of submission of the preliminary
8 report; and

9 (4) after the 60-day period beginning on the
10 date of submission of the preliminary report to the
11 Congress, but not later than 60 days before that ter-
12 mination date, submits to the President, the Admin-
13 istrator, and the Congress, and publishes in the Fed-
14 eral Register—

15 (A) a final report on the review under sec-
16 tion 4 in accordance with section 5(a)(3), and

17 (B) a notice extending the effectiveness of
18 the regulation, with or without modifications, as
19 of the end of the 60-day period beginning on
20 the date of that publication.

21 (b) TERMINATION DATES.—For purposes of sub-
22 section (a), the termination date of a regulation is as
23 follows:

24 (1) EXISTING REGULATIONS.—For a regulation
25 in effect on the date of the enactment of the Act,

1 the termination date is the last day of the 7-year pe-
2 riod beginning on the date of the enactment of this
3 Act.

4 (2) NEW REGULATIONS.—For a regulation that
5 first takes effect after the date of the enactment of
6 this Act, the termination date is the last day of the
7 5-year period beginning on the date the regulation
8 takes effect.

9 (3) REGULATIONS CONTINUED IN EFFECT.—
10 For a regulation the effectiveness of which is ex-
11 tended under subsection (a), the termination date is
12 the last day of the 7-year period beginning on the
13 date of publication of a notice under subsection
14 (a)(4) for that extension.

15 (c) TEMPORARY EXTENSION.—The termination date
16 under subsection (b) for a regulation may be delayed by
17 not more than 6 months by the head of the agency that
18 issued the regulation if the agency head submits to the
19 Congress and publishes in the Federal Register a prelimi-
20 nary report that describes modifications that should be
21 made to the regulation.

22 (d) RELATIONSHIP TO OTHER LAW.—Section 553 of
23 title 5, United States Code, shall not apply to the exten-
24 sion or modification of a regulation in accordance with this
25 Act.

1 **SEC. 4. REVIEW OF REGULATIONS BY AGENCY.**

2 (a) IN GENERAL.—The head of each agency shall,
3 under the criteria set forth in subsection (b)—

4 (1) conduct thorough and systematic reviews of
5 all regulations issued by the agency to determine if
6 those regulations are obsolete, inconsistent, or dupli-
7 cative or impede competition; and

8 (2) issue reports on the findings of those re-
9 views, which contain recommendations for—

10 (A) terminating or extending the effective-
11 ness of those regulations;

12 (B) any appropriate modifications to a reg-
13 ulation recommended to be extended; or

14 (C) any appropriate consolidations of regu-
15 lations.

16 (b) CRITERIA FOR REVIEW.—The head of an agency
17 shall review, make recommendations, and terminate or ex-
18 tend the effectiveness of a regulation under this section
19 under the following criteria:

20 (1) The extent to which the regulation is out-
21 dated, obsolete, or unnecessary.

22 (2) The extent to which the regulation or infor-
23 mation required to comply with the regulation dupli-
24 cates, conflicts with, or overlaps requirements under
25 regulations of other agencies.

1 (3) The extent to which the regulation impedes
2 competition.

3 (4) Whether the benefits to society from the
4 regulation exceed the costs to society from the regu-
5 lation.

6 (5) Whether the regulation is based on ade-
7 quate and correct information.

8 (6) Whether the regulation is worded as simply
9 and clearly as possible.

10 (7) Whether the most cost-efficient alternative
11 was chosen in the regulation to achieve the objective
12 of the regulation.

13 (8) The extent to which information require-
14 ments under the regulation can be reduced, particu-
15 larly for small businesses.

16 (9) Whether the regulation is fashioned to
17 maximize net benefits to society.

18 (10) Whether the regulation is clear and certain
19 regarding who is required to comply with the regula-
20 tion.

21 (11) Whether the regulation maximizes the util-
22 ity of market mechanisms to the extent feasible.

23 (12) Whether the condition of the economy and
24 of regulated industries is considered.

1 (13) Whether the regulation imposes on the pri-
2 vate sector the minimum economic burdens nec-
3 essary to achieve the purposes of the regulation.

4 (14) Whether the total effect of the regulation
5 across agencies has been examined.

6 (15) Whether the regulation is crafted to mini-
7 mize needless litigation.

8 (16) Whether the regulation is necessary to
9 protect the health and safety of the public.

10 (17) Whether the regulation has resulted in un-
11 intended consequences.

12 (18) Whether performance standards or other
13 alternatives were utilized to provide adequate flexi-
14 bility to the regulated industries.

15 (c) REQUIREMENT TO SOLICIT COMMENTS FROM
16 THE PUBLIC AND PRIVATE SECTOR.—In reviewing regu-
17 lations under this section, the head of an agency shall pub-
18 lish in the Federal Register a solicitation of comments
19 from the public (including the private sector) regarding
20 the application of the criteria set forth in subsection (b)
21 to the regulation, and shall consider such comments, be-
22 fore making determinations under this section and sending
23 a report under section 5(a) regarding a regulation.

1 **SEC. 5. AGENCY REPORTS.**

2 (a) PRELIMINARY AND FINAL REPORTS ON REVIEWS
3 OF REGULATIONS.—

4 (1) IN GENERAL.—The head of an agency shall
5 submit to the President, the Administrator, and the
6 Congress and publish in the Federal Register a pre-
7 liminary report and a final report for each review of
8 a regulation under section 4.

9 (2) PRELIMINARY REPORT.—A preliminary re-
10 port shall contain—

11 (A) specific findings of the agency regard-
12 ing—

13 (i) application of the criteria set forth
14 in section 4(b) to the regulation;

15 (ii) the need for the function of the
16 regulation; and

17 (iii) whether the regulation duplicates
18 functions of another regulation; and

19 (B) proposed recommendations on
20 whether—

21 (i) the effectiveness of the regulation
22 should terminate or be extended;

23 (ii) the regulation should be modified;
24 and

25 (iii) the regulation should be consoli-
26 dated with another regulation.

1 (3) FINAL REPORT.—A final report on the find-
2 ings and recommendations of the agency head re-
3 garding extension of the effectiveness of the regula-
4 tion and any appropriate modifications to the regu-
5 lation shall include—

6 (A) a full justification of the decision to
7 extend and, if applicable, modify the regulation;
8 and

9 (B) the basis for all determinations made
10 with respect to that extension or modification
11 under the criteria set forth in section 4(b).

12 (b) REPORT ON SCHEDULE FOR REVIEWING EXIST-
13 ING REGULATIONS.—Not later than 100 days after the
14 date of the enactment of this Act, and on or before March
15 1, annually thereafter, the head of each agency shall sub-
16 mit to the Administrator and the Congress and publish
17 in the Federal Register a report stating a schedule for
18 the review of regulations in accordance with this Act. The
19 schedule shall identify the review actions intended to be
20 conducted during the calendar year in which such report
21 is submitted.

22 **SEC. 6. FUNCTIONS OF ADMINISTRATOR.**

23 (a) IN GENERAL.—The Administrator shall—

1 (1) review and evaluate each report submitted
2 by the head of an agency under section 5(a), regard-
3 ing—

4 (A) the quality of the analysis in the re-
5 ports;

6 (B) whether the agency has properly ap-
7 plied the criteria set forth in section 4(b); and

8 (C) the consistency of the agency action
9 with actions of other agencies; and

10 (2) transmit to the head of the agency the rec-
11 ommendations of the Administrator regarding the
12 report.

13 (b) GUIDANCE.—The Administrator shall provide
14 guidance to agencies on the conduct of reviews and the
15 preparation of reports under this Act.

16 **SEC. 7. DESIGNATION OF AGENCY REGULATORY REVIEW**
17 **OFFICERS.**

18 (a) IN GENERAL.—The head of each agency shall
19 designate an officer of the agency as the Regulatory Re-
20 view Officer of the agency.

21 (b) FUNCTIONS.—The Regulatory Review Officer of
22 an agency shall—

23 (1) be responsible for the implementation of
24 this Act by the agency; and

1 (2) report directly to the head of the agency
2 with respect to that responsibility.

3 **SEC. 8. JUDICIAL REVIEW.**

4 (a) LIMITATION OF ACTION.—Notwithstanding any
5 other provision of law, an action seeking judicial review
6 of an agency action under this Act extending, terminating,
7 modifying, or consolidating a regulation shall not be
8 brought after the 30-day period beginning on the date of
9 the publication of a notice under section 3(a)(4) for that
10 action.

11 (b) SCOPE OF REVIEW.—Agency compliance or non-
12 compliance with the provisions of this Act shall be subject
13 to judicial review only pursuant to section 706(1) of title
14 5, United States Code.

15 **SEC. 9. DEFINITIONS.**

16 For purposes of this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Office.

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 regulation each
25 standing committee of the Congress having authority

1 under the rules of the House of Representatives or
2 the Senate to report a bill to enact or amend the
3 provision of law under which the regulation is
4 issued.

5 (4) OFFICE.—The term “Office” means the Of-
6 fice of Information and Regulatory Affairs in the Of-
7 fice of Management and Budget.

8 (5) REGULATION.—The term “regulation”
9 means the whole or a part of an agency statement
10 of general or particular applicability and future ef-
11 fect designed to implement, interpret, or prescribe
12 law or policy, other than such a statement to carry
13 out a routine administrative function of an agency.

○