

Proposal FAQs

Will regulatory sunsets create an undue burden on regulatory agencies?

No. Whether additional work is required for the agency depends on if the rule is resubmitted for review. Regulatory sunsets can actually reduce the burden on agencies by automating deregulatory processes. If a rule is resubmitted for extension, the same process is followed as a new regulatory proposal. The provision creates an incentive for the agency to draft quality, sensible regulation from the start.

Do sunset provisions increase regulatory capture?

No. A sunset provision with a review requirement does not increase regulatory capture. The long term result is a decrease in outdated, poorly written regulations which are replaced by fewer, but better written ones.

Who will be responsible for collecting the necessary data on regulatory costs and benefits?

While this can vary by state, Cicero recommends that the executive agency responsible for budgeting or the state attorney review regulation to determine if the regulation is achieving its stated goals in a cost-effective manner.

States have passed legislation in the past that removes sunset provisions on specific regulations or legislation. If sunsets can be avoided so easily, how will this system remain an effective review process?

A regulatory sunset serves as a check on executive power. Therefore, if a legislature seeks to protect a section of regulation from sunset, it may do so. Outside of this example, the provision would continue to hold agencies accountable.

By constantly changing enforceable regulations, do sunset provisions in effect increase the difficulty of compliance, especially for small businesses?

Regulatory sunsets will make compliance easier for businesses, as new regulations will have a firm sunset date and the overall regulatory burden will likely be reduced, especially with respect to costly compliance with outdated and inefficient regulation.

Is it an overstatement to say that regulatory sunsets can increase accountability for a body of unelected regulators?

While regulators themselves may not be held directly accountable to the public, the appointing body (the executive leadership) is elected and responsible. Sunsets also serve to force comprehensive review of existing regulation, which gives a voting public information whether their regulatory bodies are achieving their stated goals in a cost-effective method.

Is the (unstated) goal of regulatory sunsets less regulation?

Cicero does not take a political stance on whether there should be more or less regulation. Instead, we seek to increase accountability in government and realign incentives to serve the public best. With this perspective in mind, sunseting costly and ineffective

regulations will increase efficiency and reduce the regulatory burden on entrepreneurs and the general public.

How can a state feasibly introduce sunset legislation while having thousands of regulations already in place? i.e. What is the process for instituting sunset regulation for the existing regulatory codes? Will this overwhelming initial review effectively paralyze the new review bodies?

Cicero recommends that the first five (or ten or fifteen, however long the sunset period) years after introducing a comprehensive sunset policy be dedicated to reviewing existing regulation. The initial burden on reviewing existing regulation may be split in a manner that allows for thorough review. For example, under a five-year sunset policy, a state's regulatory agencies can take the first three years to review regulations over fifteen years old, the fourth year reviewing regulations from the 15-year period before the effective sunset date, and the last year reviewing regulations from the past five years. After this initial transition period, the sixth year will be spent reviewing regulations from the first legislative session after introducing the sunset regulation.

Will agencies be incentivized to justify existing regulations, even if it is inefficient, in order to appear correct and effective?

When combined with a comprehensive sunset review procedure, the sunset process requires agencies (or the dedicated review body) to perform a comprehensive cost-benefit analysis using data collected from the regulation's time in effect, allow for a period of public comment, and justify the existing regulation. With this data being gathered and made public, it is unlikely that an agency attempts to justify ineffective regulation when they can use this data (and mandatory review) to refine the rule to be more effective.

Will the agencies themselves be deciding if the regulation is effective, or will there be an independent body? Would this be an executive or legislative body?

The agency responsible for issuing the rule would ideally not be conducting the review. This would be done by a state OIRA, AG office or otherwise.