H. R. 450

AN ACT

- To ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.
 - 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 Transition
 - 5 Act of 1995''.

SEC. 2. FINDING.

- 2 The Congress finds that effective steps for improving
- 3 the efficiency and proper management of Government op-
- 4 erations, including enactment of a new law or laws to re-
- 5 quire (1) that the Federal rulemaking process include
- 6 cost/benefit analysis, including analysis of costs resulting
- 7 from the loss of property rights, and (2) for those Federal
- 8 regulations that are subject to risk analysis and risk as-
- 9 sessment that those regulations undergo standardized risk
- 10 analysis and risk assessment using the best scientific and
- 11 economic procedures, will be promoted if a moratorium on
- 12 new rulemaking actions is imposed and an inventory of
- 13 such action is conducted.

14 SEC. 3. MORATORIUM ON REGULATIONS.

- 15 (a) MORATORIUM.—Until the end of the moratorium
- 16 period, a Federal agency may not take any regulatory
- 17 rulemaking action, unless an exception is provided under
- 18 section 5. Beginning 30 days after the date of the enact-
- 19 ment of this Act, the effectiveness of any regulatory rule-
- 20 making action taken or made effective during the morato-
- 21 rium period but before the date of the enactment shall
- 22 be suspended until the end of the moratorium period, un-
- 23 less an exception is provided under section 5.
- 24 (b) Inventory of Rulemakings.—Not later than
- 25 30 days after the date of the enactment of this Act, the
- 26 President shall conduct an inventory and publish in the

- 1 Federal Register a list of all regulatory rulemaking actions
- 2 covered by subsection (a) taken or made effective during
- 3 the moratorium period but before the date of the enact-
- 4 ment.
- 5 SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND
- 6 **JUDICIAL DEADLINES.**
- 7 (a) IN GENERAL.—Any deadline for, relating to, or
- 8 involving any action dependent upon, any regulatory rule-
- 9 making actions authorized or required to be taken before
- 10 the end of the moratorium period is extended for 5 months
- 11 or until the end of the moratorium period, whichever is
- 12 later.
- 13 (b) Deadline Defined.—The term "deadline"
- 14 means any date certain for fulfilling any obligation or ex-
- 15 ercising any authority established by or under any Federal
- 16 statute or regulation, or by or under any court order im-
- 17 plementing any Federal statute or regulation.
- 18 (c) Identification of Postponed Deadlines.—
- 19 Not later than 30 days after the date of the enactment
- 20 of this Act, the President shall identify and publish in the
- 21 Federal Register a list of deadlines covered by subsection
- 22 (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

- 2 (a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a),
- 3 or both, shall not apply to a regulatory rulemaking action
- 4 if—
- 5 (1) the head of a Federal agency otherwise au-
- 6 thorized to take the action submits a written request
- 7 to the Administrator of the Office of Information
- 8 and Regulatory Affairs within the Office of Manage-
- 9 ment and Budget and submits a copy thereof to the
- appropriate committees of each House of the Con-
- 11 gress;
- 12 (2) the Administrator of the Office of Informa-
- tion and Regulatory Affairs within the Office of
- 14 Management and Budget finds in writing that a
- waiver for the action is (A) necessary because of an
- imminent threat to health or safety or other emer-
- gency, or (B) necessary for the enforcement of
- criminal laws; and
- 19 (3) the Federal agency head publishes the find-
- ing and waiver in the Federal Register.
- 21 (b) EXCLUSIONS.—The head of an agency shall pub-
- 22 lish in the Federal Register any action excluded because
- 23 of a certification under section 6(3)(B).
- 24 (c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a),
- 25 or both, shall not apply to a regulatory rulemaking action
- 26 to establish or enforce any statutory rights against dis-

1	crimination on the basis of age, race, religion, gender, na-
2	tional origin, or handicapped or disability status except
3	such rulemaking actions that establish, lead to, or other-
4	wise rely on the use of a quota or preference based on
5	age, race, religion, gender, national origin, or handicapped
6	or disability status''.
7	SEC. 6. DEFINITIONS.
8	For purposes of this Act:
9	(1) FEDERAL AGENCY.—The term "Federal
10	agency" means any agency as that term is defined
11	in section 551(1) of title 5, United States Code (re-
12	lating to administrative procedure).
13	(2) Moratorium period.—The term "morato-
14	rium period" means the period of time—
15	(A) beginning November 20, 1994; and
16	(B) ending on the earlier of—
17	(i) the first date on which there have
18	been enacted one or more laws that—
19	(I) require that the Federal rule-
20	making process include cost/benefit
21	analysis, including analysis of costs
22	resulting from the loss of property
23	rights; and
24	(II) for those Federal regulations
25	that are subject to risk analysis and

risk assessment, require that those 1 2 regulations undergo standardized risk 3 analysis and risk assessment using the best scientific and economic procedures; or 5 6 (ii) December 31, 1995. except that in the case of a regulatory rulemaking 7 8 action with respect to determining that a species is 9 an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 10 11 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 12 13 1533(a)(3)), the term means the period of time be-14 ginning on the date described in subparagraph (A) 15 and ending on the earlier of the first date on which there has been enacted after the date of the enact-16 17 ment of this Act a law authorizing appropriations to 18 carry out the Endangered Species Act of 1973, or 19 December 31, 1996. 20 (3) Regulatory rulemaking action.— (A) IN GENERAL.—The term "regulatory 21 22 rulemaking action" means any rulemaking on any rule normally published in the Federal Reg-23

ister, including—

1 (i) the issuance of any	substantive
2 rule, interpretative rule, stateme	ent of agen-
3 cy policy, notice of inquiry, adv	ance notice
4 of proposed rulemaking, or not	tice of pro-
5 posed rulemaking, and	
6 (ii) any other action tak	ken in the
7 course of the process of rulemak	king (except
8 a cost benefit analysis or risk a	assessment,
9 or both).	
10 (B) Exclusions.—The term	"regulatory
rulemaking action" does not include-	_
12 (i) any agency action that	the head of
the agency and the Administra	ator of the
Office of Information and Reg	gulatory Af-
fairs within the Office of Manag	gement and
Budget certify in writing is lin	nited to re-
pealing, narrowing, or streamling	ning a rule,
regulation, or administrative	process or
otherwise reducing regulatory bu	urdens;
20 (ii) any agency action that	the head of
21 the agency and the Administra	ator of the
Office of Information and Reg	gulatory Af-
fairs within the Office of Manag	gement and
24 Budget certify in writing is limit	ted to mat-
25 ters relating to military or force	eign affairs

1	functions, statutes implementing inter-
2	national trade agreements, including all
3	agency actions required by the Uruguay
4	Round Agreements Act, or agency manage-
5	ment, personnel, or public property, loans,
6	grants, benefits, or contracts;
7	(iii) any agency action that the head
8	of the agency and the Administrator of the
9	Office of Information and Regulatory Af-
10	fairs within the Office of Management and
11	Budget certify in writing is limited to a
12	routine administrative function of the
13	agency;
14	(iv) any agency action that—
15	(I) is taken by an agency that su-
16	pervises and regulates insured deposi-
17	tory institutions, affiliates of such in-
18	stitutions, credit unions, or govern-
19	ment sponsored housing enterprises;
20	and
21	(II) the head of the agency cer-
22	tifies would meet the standards for an
23	exception or exclusion described in
24	this Act; or

- 1 (v) any agency action that the head of 2 the agency certifies is limited to interpret-3 ing, implementing, or administering the in-4 ternal revenue laws of the United States.
 - (4) RULE.—The term "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, grant-

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- ing a variance or petition for relief from a regulatory 1 2 requirement, or other action relieving a restriction (including any agency which establishes, modifies, or 3 conducts a regulatory program for a recreational or subsistence activity, including but not limited to 5 6 hunting, fishing, and camping, if a Federal law pro-7 hibits the recreational or subsistence activity in the absence of the agency action) or taking any action 8 9 necessary to permit new or improved applications of technology or allow the manufacture, distribution, 10 sale, or use of a substance or product.
 - RULEMAKING.—The term "rulemaking" means agency process for formulating, amending, or repealing a rule.
 - (6) LICENSE.—The term "license" means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.
 - (7) IMMINENT THREAT TO HEALTH OR SAFE-TY.—The term "imminent threat to health or safety" means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

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1 SEC. 7. LIMITATION ON CIVIL ACTIONS.

- 2 No private right of action may be brought against
- 3 any Federal agency for a violation of this Act. This prohi-
- 4 bition shall not affect any private right of action or remedy
- 5 otherwise available under any other law.

6 SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

- 7 (a) APPLICABILITY.—This Act shall apply notwith-
- 8 standing any other provision of law.
- 9 (b) SEVERABILITY.—If any provision of this Act, or
- 10 the application of any provision of this Act to any person
- 11 or circumstance, is held invalid, the application of such
- 12 provision to other persons or circumstances, and the re-
- 13 mainder of this Act, shall not be affected thereby.
- 14 SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVE-
- 15 NESS.
- Section 3(a) or 4(a), or both, shall not apply to any
- 17 of the following regulatory rulemaking actions (or any
- 18 such action relating thereto):
- 19 (1) CONDITIONAL RELEASE OF TEXTILE IM-
- 20 PORTS.—A final rule published on December 2,
- 21 1994 (59 Fed. Reg. 61798), to provide for the con-
- ditional release by the Customs Service of textile im-
- ports suspected of being imported in violation of
- 24 United States quotas.
- 25 (2) TEXTILE IMPORTS.—Any action which the
- head of the relevant agency and the Administrator

- of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.
 - (3) Customs Modernization.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).
 - (4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restric-

- tion on United States commerce, and a determina-1 2 tion that trade action is appropriate and that sanc-3 tions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect 5 6 to which a notice of determination was published on 7 February 7, 1995 (60 Fed. Reg. 7230).
 - (5) Transfer of spectrum.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.
 - (6) Personal communications services licenses.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—
 - (A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

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- 1 (B) taken under sections 3(n) and 332 of 2 the Communications Act and with respect to 3 which a final rule was published on December 4 2, 1994 (59 Fed. Reg. 61828).
- (7) WIDE-AREA SPECIALIZED MOBILE RADIO LI-CENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).
 - (8) Improved trading opportunities for Regional exchanges.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).
- 21 SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RE-
- 22 SPECT TO SMALL BUSINESSES.
- 23 (a) DELAY EFFECTIVENESS.—For any rule resulting 24 from a regulatory rulemaking action that is suspended or 25 prohibited by this Act, the effective date of the rule with

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- 1 respect to small businesses may not occur before six
- 2 months after the end of the moratorium period.
- 3 (b) SMALL BUSINESS DEFINED.—In this section, the
- 4 term "small business" means any business with 100 or
- 5 fewer employees.

Passed the House of Representatives February 24, 1995.

Attest:

Clerk.

104TH CONGRESS H. R. 450

AN ACT

To ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.