

104TH CONGRESS
1ST SESSION

S. 219

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

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 1995

Mr. NICKLES (for himself, Mr. BOND, Mrs. HUTCHISON, Mr. DOLE, Mr. GRASSLEY, Mr. ASHCROFT, Mr. COVERDELL, Mr. ABRAHAM, Mr. THOMPSON, Mr. BURNS, Mr. SHELBY, Mr. MCCONNELL, Mr. FAIRCLOTH, Mr. THOMAS, Mr. SMITH, Mr. MCCAIN, Mr. CRAIG, Mr. COATS, Mr. SANTORUM, Mr. MACK, Mr. GREGG, Mr. MURKOWSKI, Mr. LOTT, Mr. KYL, Mr. THURMOND, Mr. HATCH, Mr. HELMS, Mr. INHOFE, Mr. SIMPSON, Mr. GRAMM, Mr. FRIST, Mr. GRAMS, Mr. BENNETT, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

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”.

1 **SEC. 2. FINDING.**

2 The Congress finds that effective steps for improving
3 the efficiency and proper management of Government op-
4 erations will be promoted if a moratorium on new rule
5 making actions is imposed and an inventory of such ac-
6 tions is conducted.

7 **SEC. 3. MORATORIUM ON REGULATIONS.**

8 (a) MORATORIUM.—During the moratorium period, a
9 Federal agency may not take any regulatory rulemaking
10 action, unless permitted under section 5. Beginning 30
11 days after the date of enactment of this Act, the effective-
12 ness of any regulatory rulemaking action taken during the
13 moratorium period but before the date of the enactment
14 shall be suspended until July 1, 1995, unless an exception
15 is provided under section 5.

16 (b) INVENTORY OF RULEMAKING.—Not later than 30
17 days after the date of enactment of this Act, the President
18 shall conduct an inventory and publish in the Federal Reg-
19 ister a list of all regulatory rulemaking actions covered
20 by subsection (a) and pending on the date of enactment.

21 **SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY AND**
22 **JUDICIAL DEADLINES.**

23 (a) IN GENERAL.—Any deadline for, relating to, or
24 involving any action dependent upon, any regulatory rule-
25 making action authorized or required to be taken before
26 the end of the moratorium period is extended.

1 (b) EXTENSION PERIOD.—Any deadline covered by
2 subsection (a) shall be extended for 5 months or until July
3 1, 1995, whichever is later.

4 (c) DEADLINE DEFINED.—The term “deadline”
5 means any date certain for fulfilling any obligation or ex-
6 ercising any authority established by or under any Federal
7 statute or regulation, or by or under any court order im-
8 plementing any Federal statute or regulation.

9 (d) IDENTIFICATION OF POSTPONED DEADLINES.—
10 Not later than 30 days after the date of enactment of this
11 Act, the President shall identify and publish in the Fed-
12 eral Register a list of deadlines covered by subsection (a).

13 **SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.**

14 (a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a),
15 or both, shall not apply to a regulatory rulemaking action
16 if—

17 (1) the head of a Federal agency otherwise au-
18 thorized to take the action submits a written request
19 to the President, and a copy thereof to the appro-
20 priate committees of each house of the Congress;
21 and

22 (2) the President finds, by Executive Order,
23 that a waiver for the action is—

1 (A) necessary because of an imminent
2 threat to health or safety or other emergency;
3 or

4 (B) necessary for the enforcement of crimi-
5 nal laws; and

6 (3) the Federal agency head publishes the find-
7 ing and waiver in the Federal Register.

8 (b) EXCLUSIONS.—The head of an agency shall pub-
9 lish in the Federal Register any action excluded because
10 of a certification under section 6(3)(B).

11 **SEC. 6. DEFINITIONS.**

12 For purposes of this Act—

13 (1) FEDERAL AGENCY.—The term “Federal
14 agency” means any “agency” as that term is defined
15 in section 551(1) of title 5, United States Code (re-
16 lating to administrative procedure).

17 (2) MORATORIUM PERIOD.—The term “morato-
18 rium period” means that period of time beginning
19 November 9, 1994, and ending June 30, 1995.

20 (3) REGULATORY RULEMAKING ACTION.—

21 (A) IN GENERAL.—The term “regulatory
22 rulemaking action” means any rule making (as
23 defined in section 551(5) of title 5, United
24 States Code) on any rule normally published in
25 the Federal Register, including—

1 (i) the issuance of any substantive
2 rule, interpretative rule, statement of agen-
3 cy policy, notice of inquiry, advance notice
4 of proposed rulemaking, or notice of pro-
5 posed rulemaking, and

6 (ii) any other action taken in the
7 course of the process of rulemaking (except
8 a cost benefit analysis or risk assessment,
9 or both).

10 (B) EXCLUSIONS.—The term “regulatory
11 rulemaking action” does not include—

12 (i) any agency action that the head of
13 the agency certifies is limited to repealing,
14 narrowing, or streamlining a rule, regula-
15 tion, or administrative process, to issuing
16 or promulgating a rule required to make
17 effective tax relief provided by statute, or
18 otherwise reducing regulatory burdens; or

19 (ii) any action that the head of the
20 agency certifies is limited to matters relat-
21 ing to military or foreign affairs functions
22 or agency management, personnel, or pub-
23 lic property, loans, grants, benefits or con-
24 tracts.

1 (4) RULE.—The term “rule” means the whole
2 or a part of an agency statement of general or par-
3 ticular applicability and future effect designed to im-
4 plement, interpret, or prescribe law or policy. Such
5 term does not include the approval or prescription,
6 on a case-by-case or consolidated case basis, for the
7 future of rates, wages, corporate or financial struc-
8 tures or reorganization thereof, prices, facilities, ap-
9 pliances, services or allowances therefor or of valu-
10 ations, costs, or accounting, or practices bearing on
11 any of the foregoing. Such term also does not in-
12 clude the granting of an application for a license,
13 registration, or similar authority, granting or rec-
14 ognizing an exemption, granting a variance or peti-
15 tion for relief from a regulatory requirement, or
16 other action relieving a restriction, or adopting a
17 rule necessary to permit new or improved applica-
18 tions of technology.

19 **SEC. 7. CIVIL ACTION.**

20 In addition to any remedy otherwise available, who-
21 ever is adversely affected by any conduct of a Federal
22 agency in violation of section 3 or 4 may in civil action
23 against that agency obtain appropriate relief. The court
24 may award a prevailing plaintiff in an action under this
25 section reasonable attorney’s fees.

1 **SEC. 8. SEVERABILITY.**

2 (a) **APPLICABILITY.**—This Act shall apply notwith-
3 standing any other provision of law.

4 (b) **SEVERABILITY.**—If any provision of this Act, or
5 the application of any provision of this Act to any person
6 or circumstance, is held invalid, the application of such
7 provision to other persons or circumstances, and the re-
8 mainder of this Act, shall not be affected thereby.

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