

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 839

To establish a moratorium on regulatory rulemaking actions respecting small business.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1995

Mr. TATE (for himself, Mr. METCALF, Mr. HASTINGS of Washington, Ms. DUNN of Washington, Mrs. SMITH of Washington, Mr. MCINTOSH, Mr. WHITE, Mr. STOCKMAN, Mr. SCARBOROUGH, and Mr. FOX of California) introduced the following bill; which was referred to the Committee on Government Reform and Oversight and, in addition, to the Committee on Small Business, 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 establish a moratorium on regulatory rulemaking actions respecting small business.

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 “Stop Regulating our  
5 Small Businesses Act of 1995”.

1 **SEC. 2. MORATORIUM ON REGULATIONS.**

2 (a) MORATORIUM.—Until the end of the moratorium  
3 period, a Federal agency may not take any regulatory  
4 rulemaking action respecting small business, unless an ex-  
5 ception is provided under section 4. Beginning 30 days  
6 after the date of the enactment of this Act, the effective-  
7 ness of any regulatory rulemaking action respecting small  
8 business taken or made effective during the moratorium  
9 period but before the date of the enactment shall be sus-  
10 pended until February 1, 1996, unless an exception is pro-  
11 vided under section 4.

12 (b) INVENTORY OF RULEMAKINGS.—Not later than  
13 30 days after the date of the enactment of this Act, the  
14 President shall conduct an inventory and publish in the  
15 Federal Register a list of all regulatory rulemaking actions  
16 covered by subsection (a) taken or made effective during  
17 the moratorium period but before the date of the enact-  
18 ment.

19 **SEC. 3. SPECIAL RULE ON STATUTORY, REGULATORY, AND**  
20 **JUDICIAL DEADLINES.**

21 (a) IN GENERAL.—Any deadline for, relating to, or  
22 involving any action dependent upon, any regulatory rule-  
23 making actions respecting small business authorized or re-  
24 quired to be taken before the end of the moratorium pe-  
25 riod is extended until February 1, 1996.

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

6 (c) IDENTIFICATION OF POSTPONED DEADLINES.—  
7 Not later than 30 days after the date of the enactment  
8 of this Act, the President shall identify and publish in the  
9 Federal Register a list of deadlines covered by subsection  
10 (a).

11 **SEC. 4. EMERGENCY EXCEPTIONS; EXCLUSIONS.**

12 (a) EMERGENCY EXCEPTION.—Section 2(a) or 3(a),  
13 or both, shall not apply to a regulatory rulemaking action  
14 if—

15 (1) the head of a Federal agency otherwise au-  
16 thorized to take the action submits a written request  
17 to the President and a copy thereof to the appro-  
18 priate committees of each House of the Congress;

19 (2) the President finds, by Executive order,  
20 that a waiver for the action is (A) necessary because  
21 of an imminent threat to health or safety or other  
22 emergency, or (B) necessary for the enforcement of  
23 criminal laws; and

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

1 (b) EXCLUSIONS.—The head of an agency shall pub-  
2 lish in the Federal Register any action excluded because  
3 of a certification under section 5(4)(B).

4 **SEC. 5. DEFINITIONS.**

5 For purposes of this Act:

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

10 (2) MORATORIUM PERIOD.—The term “morato-  
11 rium period” means that period of time beginning  
12 February 3, 1995, and ending January 31, 1996.

13 (3) SMALL BUSINESS.—The term ‘small busi-  
14 ness’ means a business which has 100 or fewer em-  
15 ployees.

16 (4) REGULATORY RULEMAKING ACTION.—

17 (A) IN GENERAL.—The term “regulatory  
18 rulemaking action” means any rulemaking on  
19 any rule normally published in the Federal Reg-  
20 ister, including—

21 (i) the issuance of any substantive  
22 rule, interpretative rule, statement of agen-  
23 cy policy, notice of inquiry, advance notice  
24 of proposed rulemaking, or notice of pro-  
25 posed rulemaking, and

1 (ii) any other action taken in the  
2 course of the process of rulemaking (except  
3 a cost benefit analysis or risk assessment,  
4 or both).

5 (B) EXCLUSIONS.—The term “regulatory  
6 rulemaking” does not include—

7 (i) any agency action that the head of  
8 the agency certifies is limited to repealing,  
9 narrowing, or streamlining a rule, regula-  
10 tion, or administrative process or otherwise  
11 reducing regulatory burdens; or

12 (ii) any action that the head of the  
13 agency certifies is limited to matters relat-  
14 ing to military or foreign affairs functions,  
15 statutes implementing international trade  
16 agreements, or agency management, per-  
17 sonnel, or public property, loans, grants,  
18 benefits, or contracts.

19 (5) RULE.—The term “rule” means the whole  
20 or a part of an agency statement of general or par-  
21 ticular applicability and future effect designed to im-  
22 plement, interpret, or prescribe law or policy. Such  
23 term does not include the approval or prescription,  
24 on a case-by-case or consolidated case basis, for the  
25 future of rates, wages, corporation, or financial

1 structures or reorganizations thereof, prices, facili-  
2 ties, appliances, services or allowances therefor, or of  
3 valuations, costs, or accounting, or practices bearing  
4 on any of the foregoing. Such term also does not in-  
5 clude the granting an application for a license, reg-  
6 istration, or similar authority, granting or recogniz-  
7 ing an exemption, granting a variance or petition for  
8 relief from a regulatory requirement, or other action  
9 relieving a restriction or taking any action necessary  
10 to permit new or improved applications of tech-  
11 nology.

12 (6) RULEMAKING.—The term “rulemaking”  
13 means agency process for formulating, amending, or  
14 repealing a rule.

15 (7) LICENSE.—The term “license” means the  
16 whole or part of an agency permit, certificate, ap-  
17 proval, registration, charter, membership, statutory  
18 exemption, or other form of permission.

19 **SEC. 6. 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 2 or 3 may obtain appro-  
23 priate relief in a civil action against that agency. The court  
24 may award a prevailing plaintiff in an action under this  
25 section reasonable attorney’s fees.

1 **SEC. 7. RELATIONSHIP TO OTHER LAW; 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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