

In the House of Representatives, U. S.,

May 17, 1995.

Resolved, That the bill from the Senate (S. 219) entitled “An Act to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause, and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Regulatory Transition*

3 *Act of 1995”.*

1 **SEC. 2. FINDING.**

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

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 rule-*
17 *making action, unless an exception is provided under sec-*
18 *tion 5. Beginning 30 days after the date of the enactment*
19 *of this Act, the effectiveness of any regulatory rulemaking*
20 *action taken or made effective during the moratorium pe-*
21 *riod but before the date of the enactment shall be suspended*
22 *until the end of the moratorium period, unless an exception*
23 *is provided under section 5.*

24 *(b) INVENTORY OF RULEMAKINGS.—Not later than 30*
25 *days after the date of the enactment of this Act, the Presi-*
26 *dent shall conduct an inventory and publish in the Federal*

1 *Register a list of all regulatory rulemaking actions covered*
2 *by subsection (a) taken or made effective during the morato-*
3 *rium period but before the date of the enactment.*

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

6 (a) *IN GENERAL.*—Any deadline for, relating to, or in-
7 volving any action dependent upon, any regulatory rule-
8 making actions authorized or required to be taken before
9 the end of the moratorium period is extended for 5 months
10 or until the end of the moratorium period, whichever is
11 later.

12 (b) *DEADLINE DEFINED.*—The term “deadline” means
13 any date certain for fulfilling any obligation or exercising
14 any authority established by or under any Federal statute
15 or regulation, or by or under any court order implementing
16 any Federal statute or regulation.

17 (c) *IDENTIFICATION OF POSTPONED DEADLINES.*—Not
18 later than 30 days after the date of the enactment of this
19 Act, the President shall identify and publish in the Federal
20 Register a list of deadlines covered by subsection (a).

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

22 (a) *EMERGENCY EXCEPTION.*—Section 3(a) or 4(a), or
23 both, shall not apply to a regulatory rulemaking action if—

24 (1) the head of a Federal agency otherwise au-
25 thorized to take the action submits a written request

1 *to the Administrator of the Office of Information and*
2 *Regulatory Affairs within the Office of Management*
3 *and Budget and submits a copy thereof to the appro-*
4 *priate committees of each House of the Congress;*

5 *(2) the Administrator of the Office of Informa-*
6 *tion and Regulatory Affairs within the Office of Man-*
7 *agement and Budget finds in writing that a waiver*
8 *for the action is (A) necessary because of an immi-*
9 *nent threat to health or safety or other emergency, or*
10 *(B) necessary for the enforcement of criminal laws;*
11 *and*

12 *(3) the Federal agency head publishes the finding*
13 *and waiver in the Federal Register.*

14 *(b) EXCLUSIONS.—The head of an agency shall publish*
15 *in the Federal Register any action excluded because of a*
16 *certification under section 6(3)(B).*

17 *(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a),*
18 *or both, shall not apply to a regulatory rulemaking action*
19 *to establish or enforce any statutory rights against dis-*
20 *crimination on the basis of age, race, religion, gender, na-*
21 *tional origin, or handicapped or disability status except*
22 *such rulemaking actions that establish, lead to, or otherwise*
23 *rely on the use of a quota or preference based on age, race,*
24 *religion, gender, national origin, or handicapped or disabil-*
25 *ity status.*

1 **SEC. 6. DEFINITIONS.**

2 *For purposes of this Act:*

3 (1) *FEDERAL AGENCY.*—*The term “Federal agen-*
4 *cy” means any agency as that term is defined in sec-*
5 *tion 551(1) of title 5, United States Code (relating to*
6 *administrative procedure).*

7 (2) *MORATORIUM PERIOD.*—*The term “morato-*
8 *rium period” means the period of time—*

9 (A) *beginning November 20, 1994; and*

10 (B) *ending on the earlier of—*

11 (i) *the first date on which there have*
12 *been enacted one or more laws that—*

13 (I) *require that the Federal rule-*
14 *making process include cost/benefit*
15 *analysis, including analysis of costs re-*
16 *sulting from the loss of property rights;*
17 *and*

18 (II) *for those Federal regulations*
19 *that are subject to risk analysis and*
20 *risk assessment, require that those reg-*
21 *ulations undergo standardized risk*
22 *analysis and risk assessment using the*
23 *best scientific and economic procedures;*

24 *or*

25 (ii) *December 31, 1995;*

1 *except that in the case of a regulatory rulemaking ac-*
2 *tion with respect to determining that a species is an*
3 *endangered species or a threatened species under sec-*
4 *tion 4(a)(1) of the Endangered Species Act of 1973*
5 *(16 U.S.C. 1533(a)(1)) or designating critical habitat*
6 *under section 4(a)(3) of that Act (16 U.S.C.*
7 *1533(a)(3)), the term means the period of time begin-*
8 *ning on the date described in subparagraph (A) and*
9 *ending on the earlier of the first date on which there*
10 *has been enacted after the date of the enactment of*
11 *this Act a law authorizing appropriations to carry*
12 *out the Endangered Species Act of 1973, or December*
13 *31, 1996.*

14 (3) *REGULATORY RULEMAKING ACTION.*—

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

19 (i) *the issuance of any substantive rule,*
20 *interpretative rule, statement of agency pol-*
21 *icy, notice of inquiry, advance notice of*
22 *proposed rulemaking, or notice of proposed*
23 *rulemaking, and*

24 (ii) *any other action taken in the*
25 *course of the process of rulemaking (except*

1 *a cost benefit analysis or risk assessment, or*
2 *both).*

3 (B) *EXCLUSIONS.*—*The term “regulatory*
4 *rulemaking action” does not include—*

5 *(i) any agency action that the head of*
6 *the agency and the Administrator of the Of-*
7 *lice of Information and Regulatory Affairs*
8 *within the Office of Management and Budg-*
9 *et certify in writing is limited to repealing,*
10 *narrowing, or streamlining a rule, regula-*
11 *tion, or administrative process or otherwise*
12 *reducing regulatory burdens;*

13 *(ii) any agency action that the head of*
14 *the agency and the Administrator of the Of-*
15 *lice of Information and Regulatory Affairs*
16 *within the Office of Management and Budg-*
17 *et certify in writing is limited to matters*
18 *relating to military or foreign affairs func-*
19 *tions, statutes implementing international*
20 *trade agreements, including all agency ac-*
21 *tions required by the Uruguay Round*
22 *Agreements Act, or agency management,*
23 *personnel, or public property, loans, grants,*
24 *benefits, or contracts;*

1 (iii) any agency action that the head
2 of the agency and the Administrator of the
3 Office of Information and Regulatory Af-
4 fairs within the Office of Management and
5 Budget certify in writing is limited to a
6 routine administrative function of the
7 agency;

8 (iv) any agency action that—

9 (I) is taken by an agency that su-
10 pervises and regulates insured deposi-
11 tory institutions, affiliates of such in-
12 stitutions, credit unions, or government
13 sponsored housing enterprises; and

14 (II) the head of the agency cer-
15 tifies would meet the standards for an
16 exception or exclusion described in this
17 Act; or

18 (v) any agency action that the head of
19 the agency certifies is limited to interpret-
20 ing, implementing, or administering the in-
21 ternal revenue laws of the United States.

22 (4) *RULE.*—The term “rule” means the whole or
23 a part of an agency statement of general or particu-
24 lar applicability and future effect designed to imple-
25 ment, interpret, or prescribe law or policy. Such term

1 *does not include the approval or prescription, on a*
2 *case-by-case or consolidated case basis, for the future*
3 *of rates, wages, corporation, or financial structures or*
4 *reorganizations thereof, prices, facilities, appliances,*
5 *services or allowances therefor, or of valuations, costs,*
6 *or accounting, or practices bearing on any of the fore-*
7 *going, nor does it include any action taken in connec-*
8 *tion with the safety of aviation or any action taken*
9 *in connection with the implementation of monetary*
10 *policy or to ensure the safety and soundness of feder-*
11 *ally insured depository institutions, any affiliate of*
12 *such an institution, credit unions, or government*
13 *sponsored housing enterprises or to protect the Fed-*
14 *eral deposit insurance funds. Such term also does not*
15 *include granting an application for a license, reg-*
16 *istration, or similar authority, granting or recogniz-*
17 *ing an exemption, granting a variance or petition for*
18 *relief from a regulatory requirement, or other action*
19 *relieving a restriction (including any agency action*
20 *which establishes, modifies, or conducts a regulatory*
21 *program for a recreational or subsistence activity, in-*
22 *cluding but not limited to hunting, fishing, and*
23 *camping, if a Federal law prohibits the recreational*
24 *or subsistence activity in the absence of the agency ac-*
25 *tion) or taking any action necessary to permit new*

1 *or improved applications of technology or allow the*
2 *manufacture, distribution, sale, or use of a substance*
3 *or product.*

4 (5) *RULEMAKING.*—*The term “rulemaking”*
5 *means agency process for formulating, amending, or*
6 *repealing a rule.*

7 (6) *LICENSE.*—*The term “license” means the*
8 *whole or part of an agency permit, certificate, ap-*
9 *proval, registration, charter, membership, statutory*
10 *exemption, or other form of permission.*

11 (7) *IMMINENT THREAT TO HEALTH OR SAFE-*
12 *TY.*—*The term “imminent threat to health or safety”*
13 *means the existence of any condition, circumstance, or*
14 *practice reasonably expected to cause death, serious*
15 *illness, or severe injury to humans, or substantial*
16 *endangerment to private property during the morato-*
17 *rium period.*

18 **SEC. 7. LIMITATION ON CIVIL ACTIONS.**

19 *No private right of action may be brought against any*
20 *Federal agency for a violation of this Act. This prohibition*
21 *shall not affect any private right of action or remedy other-*
22 *wise available under any other law.*

23 **SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.**

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

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

6 **SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVE-**
7 **NESS.**

8 Section 3(a) or 4(a), or both, shall not apply to any
9 of the following regulatory rulemaking actions (or any such
10 action relating thereto):

11 (1) *CONDITIONAL RELEASE OF TEXTILE IM-*
12 *PORTS.*—A final rule published on December 2, 1994
13 (59 Fed. Reg. 61798), to provide for the conditional
14 release by the Customs Service of textile imports sus-
15 pected of being imported in violation of United States
16 quotas.

17 (2) *TEXTILE IMPORTS.*—Any action which the
18 head of the relevant agency and the Administrator of
19 the Office of Information and Regulatory Affairs cer-
20 tify in writing is a substantive rule, interpretive rule,
21 statement of agency policy, or notice of proposed rule-
22 making to interpret, implement, or administer laws
23 pertaining to the import of textiles and apparel in-
24 cluding section 334 of the Uruguay Round Agree-

1 *ments Act (P.L. 103–465), relating to textile rules of*
2 *origin.*

3 (3) *CUSTOMS MODERNIZATION.*—Any action
4 *which the head of the relevant agency and the Admin-*
5 *istrator of the Office of Information and Regulatory*
6 *Affairs certify in writing is a substantive rule, inter-*
7 *pretive rule, statement of agency policy, or notice of*
8 *proposed rulemaking to interpret, implement, or ad-*
9 *minister laws pertaining to the customs moderniza-*
10 *tion provisions contained in title VI of the North*
11 *American Free Trade Agreement Implementation Act*
12 *(P.L. 103–182).*

13 (4) *ACTIONS WITH RESPECT TO CHINA REGARD-*
14 *ING INTELLECTUAL PROPERTY PROTECTION AND MAR-*
15 *KET ACCESS.*—A regulatory rulemaking action pro-
16 *viding notice of a determination that the People’s Re-*
17 *public of China’s failure to enforce intellectual prop-*
18 *erty rights and to provide market access is unreason-*
19 *able and constitutes a burden or restriction on United*
20 *States commerce, and a determination that trade ac-*
21 *tion is appropriate and that sanctions are appro-*
22 *priate, taken under section 304(a)(1)(A)(ii), section*
23 *304(a)(1)(B), and section 301(b) of the Trade Act of*
24 *1974 and with respect to which a notice of determina-*

1 *tion was published on February 7, 1995 (60 Fed. Reg.*
2 *7230).*

3 (5) *TRANSFER OF SPECTRUM.*—A regulatory
4 *rulemaking action by the Federal Communications*
5 *Commission to transfer 50 megahertz of spectrum*
6 *below 5 GHz from government use to private use,*
7 *taken under the Omnibus Budget Reconciliation Act*
8 *of 1993 and with respect to which notice of proposed*
9 *rulemaking was published at 59 Federal Register*
10 *59393.*

11 (6) *PERSONAL COMMUNICATIONS SERVICES LI-*
12 *CENSES.*—A regulatory rulemaking action by the Fed-
13 *eral Communications Commission to establish criteria*
14 *and procedures for issuing licenses utilizing competi-*
15 *tive bidding procedures to provide personal commu-*
16 *nications services—*

17 (A) *taken under section 309(j) of the Com-*
18 *munications Act and with respect to which a*
19 *final rule was published on December 7, 1994*
20 *(59 Fed. Reg. 63210); or*

21 (B) *taken under sections 3(n) and 332 of*
22 *the Communications Act and with respect to*
23 *which a final rule was published on December 2,*
24 *1994 (59 Fed. Reg. 61828).*

1 (7) *WIDE-AREA SPECIALIZED MOBILE RADIO LI-*
2 *CENSES.*—A regulatory rulemaking action by the Fed-
3 *eral Communications Commission to provide for com-*
4 *petitive bidding for wide-area specialized mobile*
5 *radio licenses, taken under section 309(j) of the Com-*
6 *munications Act and with respect to which a pro-*
7 *posed rule was published on February 14, 1995 (60*
8 *Fed. Reg. 8341).*

9 (8) *IMPROVED TRADING OPPORTUNITIES FOR RE-*
10 *GIONAL EXCHANGES.*—A regulatory rulemaking ac-
11 *tion by the Securities and Exchange Commission to*
12 *provide for increased competition among the stock ex-*
13 *changes, taken under the Unlisted Trading Privileges*
14 *Act of 1994 and with respect to which proposed rule-*
15 *making was published on February 9, 1995 (60 Fed.*
16 *Reg. 7718).*

17 **SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RE-**
18 **SPECT TO SMALL BUSINESSES.**

19 (a) *DELAY EFFECTIVENESS.*—For any rule resulting
20 *from a regulatory rulemaking action that is suspended or*
21 *prohibited by this Act, the effective date of the rule with*
22 *respect to small businesses may not occur before six months*
23 *after the end of the moratorium period.*

1 (b) *SMALL BUSINESS DEFINED.*—*In this section, the*
2 *term “small business” means any business with 100 or*
3 *fewer employees.*

Attest:

Clerk.

104TH CONGRESS
1ST SESSION

S. 219

AMENDMENT