

104TH CONGRESS  
1ST SESSION

# H. R. 450

**[Report No. 104-39, Part I]**

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1995

Mr. DELAY (for himself, Mr. MCINTOSH, Mr. SMITH of Texas, Mr. BONILLA, Mr. HASTERT, Mr. BOEHNER, Mr. MICA, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. DOOLITTLE, Mr. POMBO, Mr. TALENT, Mr. ZELIFF, Mrs. CUBIN, Mr. HEFLEY, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. SOUDER, Mr. LONGLEY, Mr. TATE, Mr. WAMP, Mr. STOCKMAN, Mr. WELLER, Mrs. MYRICK, Mr. HAYWORTH, Mr. EHRLICH, Mrs. SEASTRAND, Mr. CHABOT, Mr. FOX, Mr. BARR, Mrs. SMITH, Mr. BLILEY, and Mr. EWING) introduced the following bill; which was referred to the Committee on Government Reform and Oversight and, in addition, to the Committee on the Judiciary, 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

JANUARY 23, 1995

Additional sponsors: Ms. DUNN of Washington, Mr. DICKEY, Mr. FORBES, Mr. HANCOCK, Mr. CHRISTENSEN, Mr. FUNDERBURK, Mr. GOODLATTE, Mr. COBURN, Mr. HUNTER, Mr. JONES, Mr. ROHRABACHER, Mr. BURTON of Indiana, Mr. MARTINI, Mr. BONO, Mr. WHITFIELD, Mr. COX of California, Mr. CUNNINGHAM, Mr. LARGENT, Mr. MCHUGH, Mr. CLINGER, Mr. DORNAN, Mr. LAHOOD, Mr. BUNNING of Kentucky, Mr. WICKER, Mr. DREIER, Mr. PETERSON of Minnesota, Mr. BAKER of California, Mr. DAVIS, Mr. BLUTE, Mr. NETHERCUTT, Mr. LINDER, Mr. NEY, Mr. CANADY of Florida, Mr. COMBEST, Mr. ROYCE, Mr. THORNBERRY, Mr. BARCIA, Mr. BARTLETT of Maryland, Mr. GALLEGLY, Mr. HOSTETTLER, Mr. PETE GEREN of Texas, Mr. BAKER of Louisiana, Ms. DANNER, Ms. PRYCE, Mr. INGLIS of South Carolina, Mr. SENSENBRENNER, Mr. SKEEN, and Mr. LATOURETTE

FEBRUARY 16, 1995

Reported from the Committee on Government Reform and Oversight with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 9, 1995]

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## 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”.*

6 **SEC. 2. FINDING.**

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

1 *tions is imposed and an inventory of such action is con-*  
2 *ducted.*

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

4 *(a) MORATORIUM.—Until the end of the moratorium*  
5 *period, a Federal agency may not take any regulatory rule-*  
6 *making action, unless an exception is provided under sec-*  
7 *tion 5. Beginning 30 days after the date of the enactment*  
8 *of this Act, the effectiveness of any regulatory rulemaking*  
9 *action taken or made effective during the moratorium pe-*  
10 *riod but before the date of the enactment shall be suspended*  
11 *until the end of the moratorium period, unless an exception*  
12 *is provided under section 5.*

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

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

21 *(a) IN GENERAL.—Any deadline for, relating to, or in-*  
22 *volving any action dependent upon, any regulatory rule-*  
23 *making actions authorized or required to be taken before*  
24 *the end of the moratorium period is extended for 5 months*

1 *or until the end of the moratorium period, whichever is*  
2 *later.*

3 (b) *DEADLINE DEFINED.*—*The term “deadline” means*  
4 *any date certain for fulfilling any obligation or exercising*  
5 *any authority established by or under any Federal statute*  
6 *or regulation, or by or under any court order implementing*  
7 *any Federal statute or regulation.*

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

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

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

15 (1) *the head of a Federal agency otherwise au-*  
16 *thorized to take the action submits a written request*  
17 *to the Administrator of the Office of Information and*  
18 *Regulatory Affairs within the Office of Management*  
19 *and Budget and submits a copy thereof to the appro-*  
20 *priate committees of each House of the Congress;*

21 (2) *the Administrator of the Office of Informa-*  
22 *tion and Regulatory Affairs within the Office of Man-*  
23 *agement and Budget finds in writing that a waiver*  
24 *for the action is (A) necessary because of an immi-*  
25 *nent threat to health or safety or other emergency, or*

1       (B) necessary for the enforcement of criminal laws;  
2       and

3               (3) the Federal agency head publishes the finding  
4       and waiver in the Federal Register.

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

8       **SEC. 6. DEFINITIONS.**

9       For purposes of this Act:

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

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

16                       (A) beginning November 20, 1994; and

17                       (B) ending on the earlier of—

18                               (i) the first date on which there have  
19       been enacted one or more laws that—

20                                       (I) require that the Federal rule-  
21       making process include cost/benefit  
22       analysis, including analysis of costs re-  
23       sulting from the loss of property rights;  
24       and

1                   (ii) for those Federal regulations  
2                   that are subject to risk analysis and  
3                   risk assessment, require that those reg-  
4                   ulations undergo standardized risk  
5                   analysis and risk assessment using the  
6                   best scientific and economic procedures;  
7                   or

8                   (ii) December 31, 1995.

9                   (3) REGULATORY RULEMAKING ACTION.—

10                   (A) IN GENERAL.—The term “regulatory  
11                   rulemaking action” means any rulemaking on  
12                   any rule normally published in the Federal Reg-  
13                   ister, including—

14                   (i) the issuance of any substantive rule,  
15                   interpretative rule, statement of agency pol-  
16                   icy, notice of inquiry, advance notice of  
17                   proposed rulemaking, or notice of proposed  
18                   rulemaking, and

19                   (ii) any other action taken in the  
20                   course of the process of rulemaking (except  
21                   a cost benefit analysis or risk assessment, or  
22                   both).

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

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

9           (ii) any agency action that the head of  
10          the agency and the Administrator of the Of-  
11          fice of Information and Regulatory Affairs  
12          within the Office of Management and Budg-  
13          et certify in writing is limited to matters  
14          relating to military or foreign affairs func-  
15          tions, statutes implementing international  
16          trade agreements, or agency management,  
17          personnel, or public property, loans, grants,  
18          benefits, or contracts;

19          (iii) any agency action that the head  
20          of the agency and the Administrator of the  
21          Office of Information and Regulatory Af-  
22          fairs within the Office of Management and  
23          Budget certify in writing is limited to a  
24          routine administrative function of the  
25          agency;

1                   (iv) any agency action that—

2                               (I) is taken by an agency that su-  
3                               pervises and regulates insured deposi-  
4                               tory institutions, affiliates of such in-  
5                               stitutions, credit unions, or government  
6                               sponsored housing enterprises; and

7                               (II) the head of the agency cer-  
8                               tifies would meet the standards for an  
9                               exception or exclusion described in this  
10                              Act; or

11                             (v) any agency action that the head of  
12                             the agency certifies is limited to interpret-  
13                             ing, implementing, or administering the in-  
14                             ternal revenue laws of the United States.

15                   (4) *RULE.*—The term “rule” means the whole or  
16                   a part of an agency statement of general or particu-  
17                   lar applicability and future effect designed to imple-  
18                   ment, interpret, or prescribe law or policy. Such term  
19                   does not include the approval or prescription, on a  
20                   case-by-case or consolidated case basis, for the future  
21                   of rates, wages, corporation, or financial structures or  
22                   reorganizations thereof, prices, facilities, appliances,  
23                   services or allowances therefor, or of valuations, costs,  
24                   or accounting, or practices bearing on any of the fore-  
25                   going, nor does it include any action taken in connec-

1        *tion with the implementation of monetary policy or*  
2        *to ensure the safety and soundness of federally insured*  
3        *depository institutions, any affiliate of such an insti-*  
4        *tution, credit unions, or government sponsored hous-*  
5        *ing enterprises or to protect the Federal deposit insur-*  
6        *ance funds. Such term also does not include the*  
7        *granting an application for a license, registration, or*  
8        *similar authority, granting or recognizing an exemp-*  
9        *tion, granting a variance or petition for relief from*  
10       *a regulatory requirement, or other action relieving a*  
11       *restriction or taking any action necessary to permit*  
12       *new or improved applications of technology or allow*  
13       *the manufacture, distribution, sale, or use of a sub-*  
14       *stance or product.*

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

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

22            (7) *IMMINENT THREAT TO HEALTH OR SAFE-*  
23        *TY.*—*The term “imminent threat to health or safety”*  
24        *means the existence of any condition, circumstance, or*  
25        *practice reasonably expected to cause death, serious*

1 *illness, or severe injury to humans, or substantial*  
2 *endangerment to private property during the morato-*  
3 *rium period.*

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

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

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

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

12 *(b) SEVERABILITY.—If any provision of this Act, or*  
13 *the application of any provision of this Act to any person*  
14 *or circumstance, is held invalid, the application of such*  
15 *provision to other persons or circumstances, and the re-*  
16 *mainder of this Act, shall not be affected thereby.*

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