

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

(B) **EXCLUSIONS.**—The term "regulatory rulemaking action" does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal 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 granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) **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 SAFETY.**—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.

#### SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

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

(a) **APPLICABILITY.**—This Act shall apply notwithstanding any other provision of law.

(b) **SEVERABILITY.**—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

#### SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVENESS.

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

(1) **CONDITIONAL RELEASE OF TEXTILE IMPORTS.**—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(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 restriction on United States commerce, and a determination that trade action is appropriate and that sanctions 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 to which a notice of determination was published on 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

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

(7) **WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.**—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).

#### SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

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

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

Mr. WARNER. Mr. President, I move that the Senate disagree to the House amendment, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The motion was agreed to, and the Presiding Officer (Mr. THOMAS) appointed Mr. NICKLES, Mr. STEVENS, Mr. THOMPSON, Mr. GRASSLEY, Mr. GLENN, Mr. LEVIN, and Mr. REID conferees on the part of the Senate.

#### ORDERS FOR MONDAY, JUNE 19, 1995

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, June 19, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each; further, that at the hour of 1 o'clock the Senate resume consideration of S. 440, the National Highway System bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the cloture vote on the motion to proceed to the highway bill previously scheduled for 3 p.m. on Monday has been vitiated. Senators should also be aware that no roll-call votes will occur during Monday's

session of the Senate. However, the majority leader fully expects amendments to be offered to the bill and those votes would be postponed until Tuesday to a time to be determined by the two leaders.

ADJOURNMENT UNTIL MONDAY,  
JUNE 19, 1995

Mr. WARNER. If there is no further business to come before the Senate, I now ask unanimous consent that the

Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:09 p.m., adjourned until Monday, June 19, 1995, at 12 noon.