

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 4078  
OFFERED BY MR. ISSA OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Regulatory Freeze for  
3 Jobs Act of 2012”.

**4 SEC. 2. MORATORIUM ON FINAL SIGNIFICANT REGU-  
5 LATORY ACTIONS.**

6       An agency may not take any final significant regu-  
7 latory action during the period beginning on the date of  
8 the enactment of this Act and ending on the date that  
9 is the earlier of—

10           (1) two years after such date of enactment; or

11           (2) the date on which the national unemploy-  
12 ment rate, as published by the Bureau of Labor Sta-  
13 tistics, is first equal to or less than 6.0 percent.

**14 SEC. 3. WAIVERS.**

15       (a) IN GENERAL.—Notwithstanding any other provi-  
16 sion of this Act, an agency may take final significant regu-  
17 latory action only in accordance with either subsection (b)

1 or subsection (c) during the period described in section  
2 2.

3 (b) **PRESIDENTIAL WAIVER.**—An agency may take  
4 final significant regulatory action if the President deter-  
5 mines that the final significant regulatory action is—

6 (1) necessary because of an imminent threat to  
7 health or safety or other emergency;

8 (2) necessary for the enforcement of criminal  
9 laws;

10 (3) necessary for the national security of the  
11 United States; or

12 (4) issued pursuant to any statute imple-  
13 menting an international trade agreement.

14 (c) **DEREGULATORY EXCEPTION.**—An agency may  
15 take a final significant regulatory action if the Adminis-  
16 trator of the Office of Information and Regulatory Affairs  
17 of the Office of Management and Budget certifies in writ-  
18 ing that the final significant regulatory action is limited  
19 to repealing an existing rule.

20 **SEC. 4. DETERMINATION OF MAJOR GUIDANCE.**

21 Before the issuance of any guidance, the head of an  
22 agency shall transmit any proposed guidance to the Ad-  
23 ministrator of the Office of Information and Regulatory  
24 Affairs of the Office of Management and Budget, who

1 shall make a finding as to whether such proposed guidance  
2 is a major guidance.

3 **SEC. 5. JUDICIAL REVIEW.**

4 (a) REVIEW.—Any party adversely affected or ag-  
5 grieved by any rule or guidance resulting from a final sig-  
6 nificant regulatory action taken in violation of this Act  
7 is entitled to judicial review in accordance with chapter  
8 7 of title 5, United States Code. Any determination by  
9 either the President or the Secretary of Labor under this  
10 Act shall be subject to judicial review under such chapter.

11 (b) JURISDICTION.—Each court having jurisdiction  
12 to review any rule or guidance resulting from a final sig-  
13 nificant regulatory action for compliance with any other  
14 provision of law shall have jurisdiction to review all claims  
15 under this Act.

16 (c) RELIEF.—In granting any relief in any civil ac-  
17 tion under this section, the court shall order the agency  
18 to take corrective action consistent with this Act and chap-  
19 ter 7 of title 5, United States Code, including remanding  
20 the rule or guidance resulting from the final significant  
21 regulatory action to the agency and enjoining the applica-  
22 tion or enforcement of that rule or guidance, unless the  
23 court finds by a preponderance of the evidence that appli-  
24 cation or enforcement is required to protect against an

1 imminent and serious threat to the national security of  
2 the United States.

3 (d) REASONABLE ATTORNEY'S FEES FOR SMALL  
4 BUSINESSES.—The court shall award reasonable attor-  
5 ney's fees and costs to a substantially prevailing small  
6 business in any civil action arising under this Act. A small  
7 business may qualify as substantially prevailing even with-  
8 out obtaining a final judgment in its favor if the agency  
9 that took the final significant regulatory action changes  
10 its position after the civil action is filed.

11 (e) LIMITATION ON COMMENCING CIVIL ACTION.—  
12 A party may seek and obtain judicial review during the  
13 1-year period beginning on the date of the challenged  
14 agency action or within 90 days after an enforcement ac-  
15 tion or notice thereof, except that where another provision  
16 of law requires that a civil action be commenced before  
17 the expiration of that 1-year period, such lesser period  
18 shall apply.

19 (f) SMALL BUSINESS DEFINED.—In this section, the  
20 term “small business” means any business, including an  
21 unincorporated business or a sole proprietorship, that em-  
22 ploys not more than 500 employees or that has a net  
23 worth of less than \$7,000,000 on the date a civil action  
24 arising under this Act is filed.

1 **SEC. 6. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “agency” has the  
4 meaning given that term under section 551 of title  
5 5, United States Code, except that such term does  
6 not include—

7 (A) the Federal Election Commission;

8 (B) the Board of Governors of the Federal  
9 Reserve System;

10 (C) the Federal Deposit Insurance Cor-  
11 poration; or

12 (D) the United States Postal Service.

13 (2) FINAL SIGNIFICANT REGULATORY AC-  
14 TION.—The term “final significant regulatory ac-  
15 tion” means the promulgation of any major rule or  
16 the issuance of any major guidance.

17 (3) MAJOR GUIDANCE.—The term “major guid-  
18 ance” means any guidance that the Administrator of  
19 the Office of Information and Regulatory Affairs of  
20 the Office of Management and Budget finds is likely  
21 to result in—

22 (A) an annual effect on the economy of  
23 \$100,000,000 or more;

24 (B) a major increase in costs or prices for  
25 consumers, individual industries, Federal,

1 State, or local government agencies, or geo-  
2 graphic regions; or

3 (C) significant adverse effects on competi-  
4 tion, employment, investment, productivity, in-  
5 novation, or on the ability of United States-  
6 based enterprises to compete with foreign-based  
7 enterprises in domestic and export markets.

8 (4) MAJOR RULE.—The term “major rule”  
9 means any rule that the Administrator of the Office  
10 of Information and Regulatory Affairs of the Office  
11 of Management and Budget finds is likely to result  
12 in—

13 (A) an annual effect on the economy of  
14 \$100,000,000 or more;

15 (B) a major increase in costs or prices for  
16 consumers, individual industries, Federal,  
17 State, or local government agencies, or geo-  
18 graphic regions; or

19 (C) significant adverse effects on competi-  
20 tion, employment, investment, productivity, in-  
21 novation, or on the ability of United States-  
22 based enterprises to compete with foreign-based  
23 enterprises in domestic and export markets.

1           (5) RULE.—The term “rule” has the meaning  
2           given that term under section 551 of title 5, United  
3           States Code.

Amend the title so as to read: “A bill to provide that no agency may take any final significant regulatory action for two years or until the unemployment rate is equal to or less than 6.0 percent, whichever occurs earlier, and for other purposes.”.

