

112TH CONGRESS  
2D SESSION

# H. R. 4078

To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2012

Mr. GRIFFIN of Arkansas (for himself, Mr. SMITH of Texas, Mr. COBLE, Mr. GALLEGLY, Mr. CHABOT, Mr. FRANKS of Arizona, Mr. POE of Texas, Mr. CHAFFETZ, Mr. MARINO, Mr. GOWDY, Mr. ROSS of Florida, Mrs. ADAMS, Mr. QUAYLE, Mr. AMODEI, and Mr. CARTER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, 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

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## A BILL

To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent.

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 Freeze for  
5 Jobs Act of 2012”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the terms “agency” and “rule” have the  
4 meanings given such terms under section 551 of title  
5 5, United States Code;

6 (2) the term “regulatory action” means any  
7 substantive action by an agency that promulgates or  
8 is expected to lead to the promulgation of a final  
9 rule or regulation, including notices of inquiry, ad-  
10 vance notices of proposed rulemaking, and notices of  
11 proposed rulemaking, but not including any sub-  
12 stantive action by an agency for repealing a rule;

13 (3) the term “significant regulatory action”  
14 means any regulatory action that is likely to result  
15 in a rule or guidance that may—

16 (A) have an annual cost to the economy of  
17 \$100,000,000 or more or adversely affect in a  
18 material way the economy, a sector of the econ-  
19 omy, productivity, competition, jobs, the envi-  
20 ronment, public health or safety, small entities,  
21 or State, local, or tribal governments or com-  
22 munities;

23 (B) create a serious inconsistency or other-  
24 wise interfere with an action taken or planned  
25 by another agency;

1 (C) materially alter the budgetary impact  
2 of entitlements, grants, user fees, or loan pro-  
3 grams or the rights and obligations of recipi-  
4 ents thereof; or

5 (D) raise novel legal or policy issues; and

6 (4) the term “small entities” has the meaning  
7 given such term under section 601(6) of title 5,  
8 United States Code.

9 **SEC. 3. SIGNIFICANT REGULATORY ACTIONS.**

10 (a) IN GENERAL.—No agency may take any signifi-  
11 cant regulatory action, until the Bureau of Labor Statis-  
12 tics average of monthly unemployment rates for any quar-  
13 ter beginning after the date of enactment of this Act is  
14 equal to or less than 6.0 percent.

15 (b) DETERMINATION.—The Secretary of Labor shall  
16 submit a report to the Director of the Office of Manage-  
17 ment and Budget whenever the Secretary determines that  
18 the Bureau of Labor Statistics average of monthly unem-  
19 ployment rates for any quarter beginning after the date  
20 of enactment of this Act is equal to or less than 6.0 per-  
21 cent.

22 **SEC. 4. WAIVERS.**

23 (a) IN GENERAL.—Notwithstanding any other provi-  
24 sion of this Act, an agency may take a significant regu-  
25 latory action if the President makes a determination under

1 subsection (b) and submits written notice of such deter-  
2 mination to the Congress.

3 (b) DETERMINATION BY THE PRESIDENT.—Sub-  
4 section (a) applies to a determination made by the Presi-  
5 dent by Executive order that an agency should take the  
6 significant regulatory action because such significant reg-  
7 ulatory action is—

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

10 (2) necessary for the enforcement of criminal  
11 laws;

12 (3) necessary for the national security of the  
13 United States; or

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

16 **SEC. 5. JUDICIAL REVIEW.**

17 (a) DEFINITION.—In this section, the term “small  
18 business” means any business, including an unincor-  
19 porated business or a sole proprietorship, that employs not  
20 more than 500 employees or that has a net worth of less  
21 than \$7,000,000 on the date a civil action arising under  
22 this Act is filed.

23 (b) REVIEW.—Any person who is adversely affected  
24 or aggrieved by any significant regulatory action in viola-  
25 tion of this Act is entitled to judicial review in accordance

1 with chapter 7 of title 5, United States Code. Any deter-  
2 mination by the President under this Act shall be subject  
3 to judicial review under such chapter.

4 (c) JURISDICTION.—Each court having jurisdiction  
5 to review any significant regulatory action for compliance  
6 with any other provision of law shall have jurisdiction to  
7 review all claims under this Act.

8 (d) RELIEF.—In granting any relief in any civil ac-  
9 tion under this section, the court shall order the agency  
10 to take corrective action consistent with this Act and chap-  
11 ter 7 of title 5, United States Code, including remanding  
12 the significant regulatory action to the agency and enjoin-  
13 ing the application or enforcement of that significant regu-  
14 latory action, unless the court finds by a preponderance  
15 of the evidence that application or enforcement is required  
16 to protect against an imminent and serious threat to the  
17 national security of the United States.

18 (e) REASONABLE ATTORNEY'S FEES FOR SMALL  
19 BUSINESSES.—The court shall award reasonable attor-  
20 ney's fees and costs to a substantially prevailing small  
21 business in any civil action arising under this Act. A party  
22 qualifies as substantially prevailing even without obtaining  
23 a final judgment in its favor if the agency that took the  
24 significant regulatory action changes its position after the  
25 civil action is filed.

1       (f) LIMITATION ON COMMENCING CIVIL ACTION.—  
2 A person may seek and obtain judicial review during the  
3 1-year period beginning on the date of the challenged  
4 agency action or within 90 days after an enforcement ac-  
5 tion or notice thereof, except that where another provision  
6 of law requires that a civil action be commenced before  
7 the expiration of that 1-year period, such lesser period  
8 shall apply.

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