

112TH CONGRESS  
1ST SESSION

# H. R. 1281

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2011

Mr. RIBBLE (for himself, Mr. STUTZMAN, Mr. KINGSTON, Mr. BENISHEK, Mr. DESJARLAIS, Mr. MULVANEY, Mr. FLORES, Mr. GIBBS, Mr. FINCHER, Mr. DUNCAN of South Carolina, Mr. NUGENT, and Mr. RIGELL) 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 ensure economy and efficiency of Federal Government operations by establishing a moratorium on 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 “Restoring Economic  
5 Certainty Act of 2011”.

1 **SEC. 2. MORATORIUM ON REGULATIONS AND RULES.**

2       Until the end of the moratorium period, a Federal  
3 agency may not take any rulemaking action unless an ex-  
4 ception is provided under section 5.

5 **SEC. 3. REQUIREMENTS RELATING TO ECONOMIC IMPACT**  
6 **STATEMENTS.**

7       (a) **ECONOMIC IMPACT STATEMENTS ON PENDING**  
8 **RULEMAKING ACTIONS.**—Not later than 30 days after the  
9 date of the enactment of this Act, each Federal agency  
10 shall begin to prepare an economic impact statement on  
11 each rulemaking action of the agency that was proposed  
12 but not promulgated before the start of the moratorium  
13 period. Not later than 12 months after the start of the  
14 moratorium period, each Federal agency shall submit to  
15 the appropriate Congressional committees the economic  
16 impact statements relating to all such pending rulemaking  
17 actions of the agency.

18       (b) **ECONOMIC IMPACT STATEMENTS ON RULE-**  
19 **MAKING ACTIONS FOLLOWING MORATORIUM.**—After the  
20 moratorium period, any rulemaking action shall include an  
21 economic impact statement.

22       (c) **DEFINITION.**—In this Act, the term “economic  
23 impact statement” means a statement from a Federal  
24 agency, certified by the Director of the Office of Manage-  
25 ment and Budget, that contains a detailed estimate of the  
26 total annual costs and benefits of a regulation or rule, in-

1 cluding the anticipated net impact of the regulation or rule  
2 on employment.

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

5 (a) IN GENERAL.—Any deadline for, relating to, or  
6 involving any action dependent upon, any rulemaking ac-  
7 tions authorized or required to be taken before the end  
8 of the moratorium period is extended for 5 months or until  
9 the end of the moratorium period, whichever is later.

10 (b) DEADLINE DEFINED.—The term “deadline”  
11 means any date certain for fulfilling any obligation or ex-  
12 ercising any authority established by or under any Federal  
13 statute or regulation or rule, or by or under any court  
14 order implementing any Federal statute or regulation or  
15 rule.

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

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

22 (a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a),  
23 or both, shall not apply to a 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  
2 and Regulatory Affairs within the Office of Manage-  
3 ment and Budget and submits a copy thereof to the  
4 appropriate committees of each House of the Con-  
5 gress;

6 (2) the Administrator of the Office of Informa-  
7 tion and Regulatory Affairs within the Office of  
8 Management and Budget finds in writing that a  
9 waiver for the action is (A) necessary because of an  
10 imminent threat to health or safety or other emer-  
11 gency, or (B) necessary for the enforcement of  
12 criminal laws; and

13 (3) the Federal agency head publishes the find-  
14 ing and waiver in the Federal Register.

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

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

1 gender, national origin, or handicapped or disability sta-  
2 tus.

3 **SEC. 6. DEFINITIONS.**

4 In this Act:

5 (1) FEDERAL AGENCY.—The term “Federal  
6 agency” means any executive department, military  
7 department, Government corporation, Government-  
8 controlled corporation, or other establishment in the  
9 executive branch of the Government (including the  
10 Executive Office of the President), or any inde-  
11 pendent regulatory agency, but does not include—

12 (A) the General Accounting Office;

13 (B) the Federal Election Commission;

14 (C) the governments of the District of Co-  
15 lumbia and of the territories and possessions of  
16 the United States, and their various subdivi-  
17 sions;

18 (D) Government-owned contractor-oper-  
19 ated facilities, including laboratories engaged in  
20 national defense research and production activi-  
21 ties;

22 (E) the Board of Governors of the Federal  
23 Reserve System; or

24 (F) the Federal Deposit Insurance Cor-  
25 poration.

1           (2) MORATORIUM PERIOD.—The term “morato-  
2           rium period” means the two-year period beginning  
3           on the date occurring 30 days after the date of the  
4           enactment of this Act.

5           (3) REGULATION OR RULE.—

6           (A) IN GENERAL.—Except as provided in  
7           subparagraph (B), the term “regulation or  
8           rule” means an agency statement of general ap-  
9           plicability and future effect, which the agency  
10          intends to have the force and effect of law, that  
11          is designed to implement, interpret, or prescribe  
12          law or policy or to describe the procedure or  
13          practice requirements of an agency.

14          (B) EXCEPTIONS.—The term “regulation  
15          or rule” does not include any of the following:

16               (i) Regulations or rules that pertain  
17               to a military or foreign affairs function of  
18               the United States other than procurement  
19               regulations and regulations involving the  
20               import or export of non-defense articles  
21               and services.

22               (ii) Regulations or rules that are lim-  
23               ited to agency organization, management,  
24               or personnel matters.

1 (iii) Regulations or rules that the Ad-  
2 ministrator of the Office of Information  
3 and Regulatory Affairs within the Office of  
4 Management and Budget certifies in writ-  
5 ing are limited to repealing an existing  
6 regulation or rule.

7 (iv) Regulations or rules that pertain  
8 to aviation safety.

9 (v) Regulations or rules that grant an  
10 application for licenses, registrations, or  
11 similar authorities; grant or recognize ex-  
12 emptions; grant a variance or petition for  
13 relief from a regulatory requirement or  
14 other action relieving a restriction; or any  
15 action necessary to permit new or im-  
16 proved applications of technology or allow  
17 the manufacture, distribution, sale, or use  
18 of a substance or product.

19 (4) RULEMAKING ACTION.—The term “rule-  
20 making action” means the formulation, amendment,  
21 or repeal of a regulation or rule by a Federal agen-  
22 cy.

23 (5) LICENSE.—The term “license” means the  
24 whole or part of an agency permit, certificate, ap-

1       proval, registration, charter, membership, statutory  
2       exemption, or other form of permission.

3               (6) IMMIDENT THREAT TO HEALTH OR SAFE-  
4       TY.—The term “imminent threat to health or safe-  
5       ty” means the existence of any condition, cir-  
6       cumstance, or practice reasonably expected to cause  
7       death, serious illness, or severe injury to humans, or  
8       substantial endangerment to private property during  
9       the moratorium period.

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

11       No private right of action may be brought against  
12 any Federal agency for a violation of this Act. This prohi-  
13 bition shall not affect any private right of action or remedy  
14 otherwise available under any other law.

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