

112TH CONGRESS
1ST SESSION

H. R. 213

To establish a moratorium on regulatory rulemaking actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2011

Mr. YOUNG of Alaska (for himself, Mrs. MYRICK, and Mr. BURTON of Indiana) 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

A BILL

To establish 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 “Regulation Audit Re-
5 vive Economy Act of 2011” or the “RARE Act of 2011”.

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

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

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

7 (a) IN GENERAL.—Any deadline for, relating to, or
8 involving any action dependent upon any regulatory rule-
9 making actions authorized or required to be taken before
10 the end of the moratorium period is extended for 5 months
11 or until the end of the moratorium period, whichever is
12 later.

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

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

23 **SEC. 4. EMERGENCY EXCEPTIONS; EXCLUSIONS.**

24 (a) EMERGENCY EXCEPTION.—Section 2 or 3(a), or
25 both, shall not apply to a regulatory rulemaking action
26 if—

1 (1) the head of a Federal agency otherwise au-
2 thorized to take the action submits a written request
3 to the Administrator of the Office of Information
4 and Regulatory Affairs within the Office of Manage-
5 ment and Budget and submits a copy of such re-
6 quest to the Congress;

7 (2) the Administrator of the Office of Informa-
8 tion and Regulatory Affairs within the Office of
9 Management and Budget finds in writing that a
10 waiver for the action is—

11 (A) necessary because of an imminent
12 threat to health or safety or other emergency;
13 or

14 (B) necessary for the enforcement of crimi-
15 nal laws; and

16 (3) the head of the Federal agency publishes
17 the finding and waiver in the Federal Register.

18 (b) EXCLUSIONS.—The head of an agency shall pub-
19 lish in the Federal Register any action excluded because
20 of a certification under section 6(4)(B).

21 (c) CIVIL RIGHTS EXCEPTION.—Section 2 or 3(a),
22 or both, shall not apply to a regulatory rulemaking action
23 to establish or enforce any statutory rights against dis-
24 crimination on the basis of age, race, religion, gender, na-
25 tional origin, or handicapped or disability status except

1 such rulemaking actions that establish, lead to, or other-
2 wise rely on the use of a quota or preference based on
3 age, race, religion, gender, national origin, or handicapped
4 or disability status.

5 **SEC. 5. REVIEW OF RULES.**

6 (a) REVIEW AND REPORT REQUIRED.—In accord-
7 ance with this section and as soon as practicable after the
8 date of the enactment of this Act, the Director of the Of-
9 fice of Management and Budget shall—

10 (1) conduct a review of each rule that is being
11 enforced as of the date of the enactment of this Act;
12 and

13 (2) submit to Congress and make available to
14 the public a report on such review.

15 (b) MATTERS COVERED.—The report under sub-
16 section (a) shall include the following:

17 (1) An estimate of the total annual costs and
18 benefits (including quantifiable and nonquantifiable
19 effects) of each rule covered by the review, to the ex-
20 tent feasible.

21 (2) Where applicable, recommendations for re-
22 form of an existing major rule.

23 (3) The total number of minor and major rules
24 that are being enforced as of the date of the enact-
25 ment of this Act.

1 (c) UNIFORM STANDARD.—The Director of Office of
2 Management and Budget shall apply a uniform standard
3 for figures and cost summaries in the report required
4 under subsection (a).

5 **SEC. 6. DEFINITIONS.**

6 For purposes of this Act:

7 (1) FEDERAL AGENCY.—The term “Federal
8 agency” means any agency as that term is defined
9 in section 551(1) of title 5, United States Code.

10 (2) MAJOR RULE.—The term “major rule” has
11 the meaning given that term in section 804 of title
12 5, United States Code.

13 (3) MORATORIUM PERIOD.—The term “morato-
14 rium period” means the period of time—

15 (A) beginning 30 days after the date of the
16 enactment of this Act; and

17 (B) ending on the later of—

18 (i) 14 days after the day on which the
19 Director of the Office of Management and
20 Budget publishes the report pursuant to
21 section 5; or

22 (ii) two years after the date of the en-
23 actment of this Act.

24 (4) REGULATORY RULEMAKING ACTION.—

1 (A) IN GENERAL.—The term “regulatory
2 rulemaking action” means any rulemaking on
3 any rule normally published in the Federal Reg-
4 ister, including—

5 (i) the issuance of any substantive
6 rule, interpretative rule, statement of agen-
7 cy policy, notice of inquiry, advance notice
8 of proposed rulemaking, or notice of pro-
9 posed rulemaking, and

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

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

16 (i) any agency action that the head of
17 the agency and the Administrator of the
18 Office of Information and Regulatory Af-
19 fairs within the Office of Management and
20 Budget certify in writing is limited to re-
21 pealing, narrowing, or streamlining a rule,
22 regulation, or administrative process or
23 otherwise reducing regulatory burdens;

24 (ii) any agency action that the head of
25 the agency and the Administrator of the

1 Office of Information and Regulatory Af-
2 fairs within the Office of Management and
3 Budget certify in writing is limited to mat-
4 ters relating to military or foreign affairs
5 functions, statutes implementing inter-
6 national trade agreements, including all
7 agency actions required by the Uruguay
8 Round Agreements Act, or agency manage-
9 ment, personnel, or public property, loans,
10 grants, benefits, or contracts;

11 (iii) any agency action that the head
12 of the agency and the Administrator of the
13 Office of Information and Regulatory Af-
14 fairs within the Office of Management and
15 Budget certify in writing is limited to a
16 routine administrative function of the
17 agency;

18 (iv) any agency action that—

19 (I) is taken by an agency that su-
20 pervises and regulates insured deposi-
21 tory institutions, affiliates of such in-
22 stitutions, credit unions, or govern-
23 ment sponsored housing enterprises;
24 and

1 (II) the head of the agency cer-
2 tifies would meet the standards for an
3 exception or exclusion described in
4 this Act; or

5 (v) any agency action that the head of
6 the agency certifies is limited to inter-
7 preting, implementing, or administering
8 the internal revenue laws of the United
9 States.

10 (5) RULE.—The term “rule”—

11 (A) means the whole or a part of an agen-
12 cy statement of general or particular applica-
13 bility and future effect designed to implement,
14 interpret, or prescribe law or policy; and

15 (B) does not include—

16 (i) the approval or prescription, on a
17 case-by-case or consolidated case basis, for
18 the future of rates, wages, corporation, or
19 financial structures or reorganizations
20 thereof, prices, facilities, appliances, serv-
21 ices or allowances therefor, or of valu-
22 ations, costs, or accounting, or practices
23 bearing on any of the foregoing;

24 (ii) any action taken in connection
25 with the safety of aviation;

1 (iii) any action taken in connection
2 with the implementation of monetary pol-
3 icy or to ensure the safety and soundness
4 of federally insured depository institutions,
5 any affiliate of such an institution, credit
6 unions, or government sponsored housing
7 enterprises or to protect the Federal de-
8 posit insurance funds;

9 (iv) the granting an application for a
10 license, registration, or similar authority,
11 granting or recognizing an exemption,
12 granting a variance or petition for relief
13 from a regulatory requirement, or other
14 action relieving a restriction (including any
15 agency which establishes, modifies, or con-
16 ducts a regulatory program for a rec-
17 reational or subsistence activity, including
18 hunting, fishing, and camping, if a Federal
19 law prohibits the recreational or subsist-
20 ence activity in the absence of the agency
21 action); or

22 (v) taking any action necessary to per-
23 mit new or improved applications of tech-
24 nology or allow the manufacture, distribu-
25 tion, sale, or use of a substance or product.

1 (6) RULEMAKING.—The term “rulemaking”
2 means agency process for formulating, amending, or
3 repealing a rule.

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

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

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

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

○