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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Regulation Audit Revive Economy Act of 2011” or the “RARE Act of 2011”.
SEC. 2. MORATORIUM ON REGULATIONS.

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

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

(a) In General.—Any deadline for, relating to, or involving any action dependent upon any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) Deadline Defined.—The term “deadline” means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) Identification of Postponed Deadlines.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 4. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) Emergency Exception.—Section 2 or 3(a), or both, shall not apply to a regulatory rulemaking action if—
(1) the head of a Federal agency otherwise au-
thorized to take the action submits a written request
to the Administrator of the Office of Information
and Regulatory Affairs within the Office of Manage-
ment and Budget and submits a copy of such re-
quest to the Congress;

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

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

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

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

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

(c) CIVIL RIGHTS EXCEPTION.—Section 2 or 3(a),
or both, shall not apply to a regulatory rulemaking action
to establish or enforce any statutory rights against dis-
crimination on the basis of age, race, religion, gender, na-
tional origin, or handicapped or disability status except
such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status.

SEC. 5. REVIEW OF RULES.

(a) Review and Report Required.—In accordance with this section and as soon as practicable after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

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

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

(b) Matters Covered.—The report under subsection (a) shall include the following:

(1) An estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of each rule covered by the review, to the extent feasible.

(2) Where applicable, recommendations for reform of an existing major rule.

(3) The total number of minor and major rules that are being enforced as of the date of the enactment of this Act.
(c) Uniform Standard.—The Director of Office of Management and Budget shall apply a uniform standard for figures and cost summaries in the report required under subsection (a).

SEC. 6. DEFINITIONS.

For purposes of this Act:

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

(2) Major Rule.—The term “major rule” has the meaning given that term in section 804 of title 5, United States Code.

(3) Moratorium Period.—The term “moratorium period” means the period of time—

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

(B) ending on the later of—

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

(ii) two years after the date of the enactment of this Act.

(4) Regulatory Rulemaking Action.—
(A) IN GENERAL.—The term “regulatory rulemaking action” means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(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.

(5) RULE.—The term “rule”—

(A) 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; and

(B) does not include—

(i) 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;

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

(iv) the 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 which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action); or

(v) 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.
(6) **Rulemaking.**—The term “rulemaking” means agency process for formulating, amending, or repealing a rule.

(7) **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.

(8) **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.