

AMENDMENT TO H.R. 4078
OFFERED BY MR. GRIFFIN OF ARKANSAS

Strike all that follows 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. DEFINITIONS.

5 In this Act—

6 (1) the terms “agency” and “rule” have the
7 meanings given such terms under section 551 of title
8 5, United States Code;

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

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

1 (A) have an annual cost to the economy of
2 \$100,000,000 or more or adversely affect in a
3 material way the economy, a sector of the econ-
4 omy, productivity, competition, jobs, the envi-
5 ronment, public health or safety, small entities,
6 or State, local, or tribal governments or com-
7 munities;

8 (B) create a serious inconsistency or other-
9 wise interfere with an action taken or planned
10 by another agency;

11 (C) materially alter the budgetary impact
12 of entitlements, grants, user fees, or loan pro-
13 grams or the rights and obligations of recipi-
14 ents thereof; or

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

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

19 **SEC. 3. SIGNIFICANT REGULATORY ACTIONS.**

20 (a) IN GENERAL.—No agency may take any signifi-
21 cant regulatory action during the period beginning on the
22 date of enactment of this Act and ending on the date that
23 the Secretary of Labor submits the report under sub-
24 section (b).

1 (b) DETERMINATION.—The Secretary of Labor shall
2 submit a report to the Director of the Office of Manage-
3 ment and Budget whenever the Secretary determines that
4 the Bureau of Labor Statistics average of monthly unem-
5 ployment rates for any quarter beginning after the date
6 of enactment of this Act is equal to or less than 6.0 per-
7 cent.

8 **SEC. 4. WAIVERS.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of this Act, an agency may take a significant regu-
11 latory action only in accordance with either subsection (b)
12 or subsection (c) during the period described in section
13 3(a).

14 (b) PRESIDENTIAL WAIVER.—An agency may take a
15 significant regulatory action if the President determines
16 by Executive order that the significant regulatory action
17 is—

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

20 (2) necessary for the enforcement of criminal
21 laws;

22 (3) necessary for the national security of the
23 United States; or

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

1 (c) CONGRESSIONAL WAIVERS.—

2 (1) SUBMISSION.—For any significant regu-
3 latory action not eligible for a Presidential waiver
4 pursuant to subsection (b), the President may sub-
5 mit a written request to Congress for a waiver of the
6 application of section 3 to the significant regulatory
7 action.

8 (2) CONTENTS.—A submission by the President
9 under this subsection shall—

10 (A) identify the significant regulatory ac-
11 tion and the scope of the requested waiver;

12 (B) give all reasons why the significant
13 regulatory action is necessary to protect the
14 public health, safety, or welfare; and

15 (C) explain why the significant regulatory
16 action is ineligible for a Presidential waiver pur-
17 suant to subsection (b).

18 (3) CONGRESSIONAL ACTION.—Congress shall
19 give expeditious consideration and take appropriate
20 legislative action with respect to any submission by
21 the President under this subsection.

22 **SEC. 5. JUDICIAL REVIEW.**

23 (a) REVIEW.—Any party adversely affected or ag-
24 grieved by any regulatory action taken in violation of this
25 Act is entitled to judicial review in accordance with chap-

1 ter 7 of title 5, United States Code. Any determination
2 by either the President or the Secretary of Labor under
3 this Act shall be subject to judicial review under such
4 chapter.

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

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

19 (d) REASONABLE ATTORNEY'S FEES FOR SMALL
20 BUSINESSES.—The court shall award reasonable attor-
21 ney's fees and costs to a substantially prevailing small
22 business in any civil action arising under this Act. A small
23 business may qualify as substantially prevailing even with-
24 out obtaining a final judgment in its favor if the agency

1 that took the significant regulatory action changes its po-
2 sition after the civil action is filed.

3 (e) LIMITATION ON COMMENCING CIVIL ACTION.—

4 A party may seek and obtain judicial review during the
5 1-year period beginning on the date of the challenged
6 agency action or within 90 days after an enforcement ac-
7 tion or notice thereof, except that where another provision
8 of law requires that a civil action be commenced before
9 the expiration of that 1-year period, such lesser period
10 shall apply.

11 (f) DEFINITION.—In this section, the term “small
12 business” means any business, including an unincor-
13 porated business or a sole proprietorship, that employs not
14 more than 500 employees or that has a net worth of less
15 than \$7,000,000 on the date a civil action arising under
16 this Act is filed.

