

Rules Committee Print 112-28 (based on the text of H.R. 4078, H.R. 4607, H.R. 3862, H.R. 373, H.R. 4377, H.R. 2308, and H.R. 1840)

Summary of modifications to bills as ordered reported (as provided by the committees of jurisdiction and compiled by the Rules Committee):

Modifications to H.R. 4078 as reported by the Judiciary Committee (Title I of Rules Committee Print 112-28):

- The definition of a “significant regulatory action” has been changed as reflected in the redline below:

“significant regulatory action” means any regulatory action that is likely to result in a rule or guidance that is likely to have—

(A) an annual cost to the economy of \$100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities.;

~~(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;~~

~~(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;~~
~~or~~

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

- Definition of agency:
 - As reported, the bill did not exempt any entities from the definition of agency. Now, the bill exempts the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and the United States Postal Service from the definition of agency.
- Waiver for civil rights laws:
 - As reported, the bill did not allow the President to waive the moratorium for the enforcement of civil rights. Now, the bill allows the President to make such a waiver.
- Role of the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget:
 - As reported, it was not specified who determined if a regulatory action or guidance was significant or major. Now, the bill specifies that OIRA will determine whether a regulatory action or guidance is significant or major (i.e., an annual cost to the economy of \$100,000,000 or more or adversely affect in a material way the economy,

- a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities).
- Additional technical and conforming changes to reflect the structure of the bill as ordered reported by the Oversight and Government Reform Committee.

Modifications to H.R. 4607 as reported by the Oversight and Government Reform Committee (Title II):

- Midnight rules included in the moratorium-Sec. 202:
 - The midnight rules included in the moratorium reflect the redline changes below (Note: this language aligns with H.R. 4078):

During the moratorium period, an agency may not propose or finalize any midnight rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds is likely to result in--

(A) an annual cost to ~~effect on~~ the economy of \$100,000,000 or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities.

~~(A) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or~~

~~(B) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.~~

- Definition of agency-Sec. 205:
 - As reported, the Federal Election Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the United States Postal Service were excluded from the definition of agency. Now, the Board of Governors of the Federal Reserve System, the Federal Open Market Committee, and the United States Postal Service are excluded.
- Definition of small entities-Sec. 205:
 - As reported, “small entities” is not defined because the term was not included in the reported bill. Now, as a result of aligning language with H.R. 4078, it is used to capture midnight rules included in the moratorium period. It is defined as having the meaning given such term under section 601(6) of title 5, United States Code.

Modifications to H.R. 3862 as reported by the Judiciary Committee (Title III):

- Sec. 302(b)(1) has been clarified to specify that the publication requirements set forth in the paragraph (requirements to publish covered complaints, consent decrees, fee awards, etc.) fall upon the defendant agency in the matter;
- Sec. 302(b)(6)(B)(iii), has been revised to specify that the defendant agency is to certify to the court an “index to the administrative record” of the notice and comment proceeding on a proposed consent decree or settlement agreement, as opposed to “the administrative record” of that proceeding; and
- Sec. 302(b)(11) has been revised similarly to specify that the defendant agency is to certify to the court an “index to the hearing record,” as opposed to “the hearing record,” and to conform more closely to parallel language in sections 302(b)(6)(B)(ii)-(iii).

Modifications to H.R. 373 as reported by the Oversight and Government Reform Committee (Title IV):

- Exemption of Federal Reserve System-Sec. 405:
 - As reported, the bill removed the exemption for independent regulatory agencies. The bill still removes that exemption, but now it excludes the Board of Governors of the Federal Reserve System and the Federal Open Market Committee.

Modifications to H.R. 4377 as reported by the Judiciary Committee (Title V):

- Adds the savings clause on pages 65-66. This exempts certain transportation projects, which already are covered by particular streamlining procedures, from the RAPID Act.

No modifications have been made to H.R. 2308 as reported by the Financial Services Committee (Title VI).

No modifications have been made to H.R. 1840 as reported by the Agriculture Committee (Title VII).