



January 26, 2015

The Honorable Bob Goodlatte  
Chairman  
House of Representatives  
Judiciary Committee  
Washington, DC 20515

The Honorable John Conyers, Jr.  
Ranking member  
House of Representatives  
Judiciary Committee  
Washington, DC 20515

Markup of the Small Business Regulatory Flexibility Improvements Act

Dear Representative Goodlatte and Representative Conyers,

The Coalition for Sensible Safeguards strongly urges you to oppose the Small Business Regulatory Flexibility Improvements Act of 2015 (SBRFIA). We are an alliance of consumer, small business, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.

The SBRFIA expands the reach and scope of the Regulatory Flexibility Act and would increase unnecessary and lengthy regulatory delays, increase undue influence by regulated industries and encourage convoluted court challenges.

The SBRFIA adds a host of new analytical requirements for agency policy actions – including rulemakings and guidance documents – that might affect a large number of small businesses, even if that effect is “indirect.” Because the bill defines “indirect effects” broadly, it would mandate wasteful new analyses that could be applied to virtually any action an agency attempts to undertake, no matter how tenuous the connection to small business interests. When added to the existing gauntlet of procedural and analytical requirements that agencies must already navigate in order to implement laws, SBRFIA's new requirements would serve only to further “ossify” rulemaking and make it nearly impossible for agencies to fulfill their congressionally mandated mission of protecting the public and responding to emerging health and environmental dangers.

The Small Business Regulatory Flexibility Improvements Act also ties the hands of agencies by forcing them to delay actions until new analyses are completed. Under current law, an agency can continue to promulgate a regulation before it has finished the regulatory flexibility analysis, if the agency head believes its mission or the law calls for more immediate action. The SBRFIA would eliminate these commonsense procedures. Imagine if emergency regulations to protect miners had to be delayed until the agency could finish this onerous and highly speculative analysis – lives could be lost and people could be needlessly injured.

We recognize the need to reform the small business size standards, but feel that as written, this bill will give corporate interests an even greater advantage in the regulatory process than they already enjoy. It would hand to the Chief Counsel of the Small Business Administration's (SBA) Office of Advocacy new, broad authority to determine which entities count as “small businesses” for the purposes of implementing the Regulatory Flexibility Act. Already, the SBA can cover up to 99 percent of all employers. Some oil refineries, for instance, are counted as small businesses. These standards need to cover truly small businesses only – in particular, those that are too small to meaningfully participate in the rulemaking process without the help of the Office of Advocacy.

An investigation by the Center for Effective Government into the Small Business Advocacy Review Process [revealed](#) that Office of Advocacy often represents the interests of large corporations and their trade associations, not small business. The report found that the process has produced recommendations not limited to small business concerns, is duplicative and wasteful of agency resources, and in some cases has resulted in weakened health and safety standards.

Congress should increase oversight of the SBA’s Office of Advocacy and limit its activities and authority. Current law requires only a few select agencies to submit certain draft rules to small business review panels, but the SBRFIA would expand these mandates to all agencies, enlarging the number of regulations that would require such panels. Instead of constraining the Office of Advocacy, the SBRFIA gives it the power to write regulations governing all agencies’ compliance with the Regulatory Flexibility Act and to provide undue authority to comment in court cases, not just on agency analysis of impacts on small entities but also a wider range of agency performance topics far beyond the Office of Advocacy’s expertise.

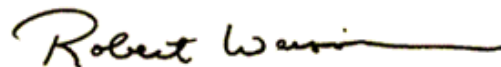
Blocking, weakening, or delaying critical standards and safeguards will result in more foodborne illnesses, more air and water pollution, more injuries on the job that would increase costs to businesses and decrease our nation's productivity, and a greater risk of financial fraud and collapse, both for individuals and the nation as a whole.

Americans deserve untainted food, safe drugs, clean air and water, workplace protections and a stable economy. Government has advanced these goals for decades. Updating these safeguards to protect the public would become even more difficult if the Small Business Regulatory Flexibility Improvements Act was enacted. We urge you to oppose this bill.

Sincerely



Katherine McFate, President and CEO,  
Center for Effective Government  
Co-chair, Coalition for Sensible Safeguards



Robert Weissman, President,  
Public Citizen  
Co-chair, Coalition for Sensible Safeguards

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