



June 27, 2013

The Honorable Spencer Bachus
Chairman
House of Representatives Committee on the
Judiciary
Subcommittee on Regulatory Reform
Commercial and Antitrust Law
Washington, DC 20515

The Honorable Steve Cohen
Ranking Member
House of Representatives Committee on the
Judiciary
Subcommittee on Regulatory Reform
Commercial and Antitrust Law
Washington, DC 20515

RE: The Regulatory Flexibility Improvements Act

Dear Representative Bachus and Representative Cohen,

The Coalition for Sensible Safeguards strongly urges you to oppose the Regulatory Flexibility Improvements Act (RFIA). 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 Regulatory Flexibility Improvements Act 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 RFIA 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, this bill 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, RFIA'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 Regulatory Flexibility Improvements Act also ties the hands of agencies by forcing them to hold up 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 RFIA would eliminate these commonsense procedures, instead forcing agencies to delay needed protections until the analysis is finished. 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.

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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 be set at a level so they cover only truly small businesses – in particular, those that are too small to participate meaningfully in the rulemaking process without the help of the Office of Advocacy.

An investigation by the Center for Effective Government into the Office of Advocacy [revealed](#) that it often represents the interests of large corporations and their trade associations, not small business. It has no policies and procedures in place to identify what the small business interest is in a particular regulatory issue; when that issue will be adequately represented without the Office of Advocacy's involvement; and how to determine what position to take when various small businesses have competing interests in a regulatory decision.

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 RFIA would expand these preview opportunities to all agencies, enlarging the number of regulations that would require these panels. Instead of constraining the Office of Advocacy, the RFIA 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.

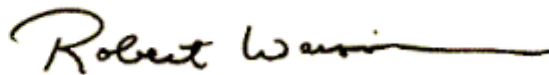
Blocking, weakening, or delaying critical standards and safeguards will result in more foodborne illnesses, more air and water pollution, more injuries on the job that would increase costs to businesses and decrease our nation's productivity, and a greater risk of financial fraud and collapse, both for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