



May 16, 2017

The Honorable Ron Johnson  
Chairman  
U.S. Senate  
Homeland Security & Governmental Affairs  
Washington, DC 20510

The Honorable Claire McCaskill  
Ranking Member  
U.S. Senate  
Homeland Security & Governmental Affairs  
Washington, DC 20510

RE: Committee markup of S. 584, the Small Business Regulatory Flexibility Improvements Act of 2017

Dear Senator:

The Coalition for Sensible Safeguards strongly urges you to oppose S. 584, the Small Business Regulatory Flexibility Improvements Act of 2017 (SBRFIA). We are an alliance of over 150 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, encourage convoluted court challenges, and actually harm real small businesses by increasing the influence that large corporations have over the substance of agency rulemakings.

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, even if no small business was the subject of the rule.

When added to the existing gauntlet of procedural and analytical requirements that agencies must already navigate in order implement laws, SBRFIA's new requirements would serve only to further paralyze a rulemaking process rife with unacceptable delays 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. It would allow large corporations to hold up regulations that affect their businesses by making regulators try to guess indirect impacts on small businesses. This is difficult, if not impossible, and ignores the benefits of the rule – to the public at large and even small business.

The bill 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.

CSS supports the need to reform the small business size standards, but feel that as written, this bill will give large 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. Special advantages that go to 99 percent of businesses, means that “real” small businesses are not given any real advantage. Today, 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.

Separate investigations by the Center for Progressive Reform and Center for Effective Government into the Small Business Advocacy Review Process [each revealed](#) that the Office of Advocacy often represents the interests of large corporations and their trade associations, not small business. The reports 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 massively expand these mandates to all agencies and require the review panels for all "major" rules, not just those that uniquely affect small businesses. This would mean the Office of Advocacy would have to conduct more small business review panels in *one year* than it has conducted in its entire history.

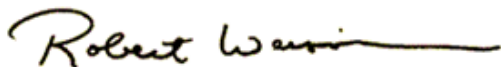
Instead of constraining the Office of Advocacy, the SBRFIA gives it breathtaking new powers to write guidelines governing all agencies' compliance with the Regulatory Flexibility Act and to provide undue authority to comment in court cases, not just on agency analysis of impacts on small entities but also a wider range of agency performance topics far beyond the Office of Advocacy's expertise.

Finally, the SBRFIA would amend the Paperwork Reduction Act (PRA) to significantly undermine agencies' ability to effectively enforce so-called information collection requirements violations committed by small businesses. The PRA is drafted very broadly so that these requirements cover a wide swath of agency actions, including core regulatory requirements that directly contribute to the protection of public health, safety, and the environment. By severely constraining agencies' authority to enforce these requirements, the SBRFIA would allow serious and significant violations to occur without consequence, placing the public and workers at greater risk of harm.

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



Robert Weissman, President  
Public Citizen  
Chair, Coalition for Sensible Safeguards

*The Coalition for Sensible Safeguards is an alliance of consumer, 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.*