

February 4, 2015

Dear Representative,

RE: H.R. 527, the Small Business Regulatory Flexibility Improvements Act

Our organizations strongly urge you to oppose H.R. 527, the Small Business Regulatory Flexibility Improvements Act of 2015 (SBRFIA).

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 legislation 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 extensive procedural and analytical requirements that agencies must already navigate in order implement laws,¹ SBRFIA’s new requirements would further paralyze rulemaking and make it nearly impossible for agencies to fulfill their congressionally mandated mission of providing the public with essential protections.

H.R. 527 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 issue a regulation before it has finished its regulatory flexibility analysis if the agency head believes its mission or the law calls for more immediate action. SBRFIA would eliminate these commonsense procedures. Imagine if emergency regulations to protect miners or consumers from tainted food had to be delayed until an agency could finish this onerous and highly speculative analysis – lives could be lost and people could be needlessly injured.

We recognize the need to consider the impact of regulations on small businesses, but this bill will give corporate interests an even greater advantage in the regulatory process than they already enjoy. It would provide 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. The SBA can already cover up to 99 percent of all employers. Some oil refineries, for instance, are counted as small businesses. These standards need to cover actual 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.

A recent investigation into the Small Business Advocacy Review Process by the Center for Effective Government [revealed](#) that the 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

¹ <https://www.citizen.org/documents/Regulations-Flowchart.pdf>

standards. These findings were backed up by a recent GAO report² that found that the Office of Advocacy could not document that their comments to agencies on proposed rules actually reflected small business concerns.

Congress should increase oversight of the SBA's Office of Advocacy to address ongoing abuses of its authority and curtail their inappropriate activities. Current law requires only three agencies (EPA, OSHA, and CFPB) to submit certain draft rules to small business review panels, but SBRFIA would expand these mandates to all agencies, substantially expanding the number of regulations that would require such panels ten-fold. SBRFIA gives the Office of Advocacy the power to write regulations governing all agencies' compliance with the Regulatory Flexibility Act and provides it with undue authority to comment in court cases on a wide range of agency performance topics far beyond the Office of Advocacy's expertise, not just on agency analysis of impacts on small entities.

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 through the regulatory process. Updating these safeguards to protect the public would become even more difficult if the Small Business Regulatory Flexibility Improvements Act was enacted.

Again, we strongly urge you to vote against H.R. 527, the Small Business Regulatory Flexibility Improvements Act of 2015.

Sincerely,

AFL-CIO
Alliance for a Just Society
American Federation of State, County and Municipal Employees
Americans for Financial Reform
California Reinvestment Coalition
Center for Effective Government
Center for Responsible Lending
Center for Science and Democracy at the Union of Concerned Scientists
Center for Science in the Public Interest
Clean Water Action
Coalition for Sensible Safeguards
Consumer Action
Consumer Federation of America
Consumers Union

² [Office of Advocacy Needs to Improve Controls over Research, Regulatory, and Workforce Planning Activities GAO-14-525; Published: Jul 22, 2014. http://www.gao.gov/products/GAO-14-525](http://www.gao.gov/products/GAO-14-525)

Earthjustice
Friends of the Earth
Housing and Economic Rights Advocates
Labor & Employment Committee of National Lawyers Guild
League of Conservation Voters
Main Street Alliance
National Association of Consumer Advocates
National Consumer Law Center
National Council for Occupational Safety and Health
National Women's Law Center
Natural Resources Defense Council
NETWORK, A National Catholic Social Justice Lobby
New Economy Project
New Jersey Citizen Action
Public Citizen
Public Justice Center
SafeWork Washington
Sierra Club
SustainUS
U.S. PIRG
Woodstock Institute
Worksafe