



September 18, 2024

The Honorable Jim Jordan  
Chairman  
House Judiciary Committee  
Washington, DC 20515

The Honorable Jerrold Nadler  
Ranking Member  
House Judiciary Committee  
Washington, DC 20515

Dear Chairman Jordan and Ranking Member Nadler:

The [Coalition for Sensible Safeguards](#) (CSS), an alliance of over 200 labor, scientific, research, good government, faith, community, health, environmental, and public interest organizations that represent millions of Americans and advocate for effective regulations to protect the public, strongly urges you to oppose H.R. 358, the Small Business Regulatory Flexibility Improvements Act (SBRFIA).

H.R. 358 would expand the reach and scope of the Regulatory Flexibility Act (RFA) and would cause unnecessary and lengthy regulatory delays, encourage complex court challenges, and harm small businesses by increasing the influence that large corporations have over the substance of agency rulemakings.

When added to the existing procedural and analytical requirements that agencies must already navigate in order to implement laws, the new requirements H.R. 358 would impose risk further impeding agencies' ability to fulfill their congressionally mandated mission of protecting the public and responding to emerging health and environmental dangers. Given that many of the new analytical requirements in H.R. 358 would be impossible to satisfy in practice, large corporations would have endless opportunities to hold up regulations they oppose by challenging agency compliance. For instance, corporate interests would always be able to find some impact that was not adequately quantified or some indirect effect that was not fully considered.

To begin with, H.R. 358 would add 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 only “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 directly impacted by the rule.

The bill would also tie the hands of agencies by forcing them to delay actions until all required analyses have been completed. Currently, the RFA permits an agency to promulgate a regulation before it has finished the regulatory flexibility analysis, if the agency head believes emergency circumstances call for more immediate action. H.R. 358 would eliminate these commonsense procedures.

Finally, the bill would dramatically expand one of the most problematic aspects of the RFA: the Small Business Advocacy Review process. Currently, this process only applies to three agencies, and it has been responsible for significantly delaying their rules. H.R. 358 would massively expand this mandate to all agencies, and it would require them to go through this process for all their “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.

More troubling still, these new and expanded requirements imposed by H.R. 358 would significantly delay needed regulatory actions without appreciably improving the quality agency decision-making.

In addition to increasing the burdens on agencies of complying with RFA, H.R. 358 would also greatly expand the powers of the SBA Office of Advocacy. The bill would give the Office robust new powers to write guidelines governing all agencies’ compliance with the Regulatory Flexibility Act. It would also empower the Chief Counsel of the SBA Office of Advocacy to interfere in more aspects of agency regulatory implementation.

Instead of expanding the SBA Office of Advocacy’s powers, Congress should increase oversight of this problematic agency and consider reforms to limit its activities and authority. An important 2014 audit of the SBA Office of Advocacy by the Government Accountability Office paints a troubling picture of how that agency operates. Among other things, it found that the SBA Office of Advocacy had no procedures for determining what agency rulemakings to intervene in, nor was it able to provide the GAO with any evidence that it actually obtained small business input to inform its comments on agency rules.

In addition, a review of the SBA Office of Advocacy’s website shows that the Biden Administration has thus far completed 23 small business review panels while the previous administration only completed 3 in total.<sup>1</sup> This stark disparity is not only strong evidence that the Biden administration is complying with the RFA to a much greater degree than the previous administration, but is also deeply concerning in that it appears the SBA Office of Advocacy neglected its duty in order to advance the previous Administration’s deregulatory agenda. We encourage Congress to conduct oversight in order to determine whether the Office of Advocacy is implementing its current authority under the RFA in a fair and neutral fashion.

Finally, H.R. 358 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 broadly so that these requirements cover a

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<sup>1</sup> <https://advocacy.sba.gov/resources/reference-library/sbrefa/>

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, H.R. 358 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 the Small Business Regulatory Flexibility Improvements Act.

Sincerely,

A handwritten signature in black ink that reads "Rachel Weintraub". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Rachel Weintraub  
Executive Director  
Coalition for Sensible Safeguards

CC: Members of the House Judiciary Committee