

Minority Views **H.R. 9085, the “Regulatory Review Improvement Act”**

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to develop a plan to review rules that will have a significant economic impact on a substantial number of small entities within 10 years of their issuance. The purpose of the review is to evaluate whether the rules need to be modified to minimize the significant impact on small entities. If an agency determines that completion of the review of existing rules is not feasible by the established date, the agency head must certify in a statement published in the Federal Register and may extend the completion date by one year for a total of not more than five years.¹

Over the past four decades, Presidential candidates have campaigned on the issue that there are too many rules on the books that are obsolete, unworkable, and burdensome. Most recent, President Obama issued Executive Orders 13,563 and 13,579, which reaffirmed the need for agencies to carry out retrospective analysis of existing rules.² Accordingly, “\$37 billion in savings, paperwork reductions were achieved, 70 notable regulatory provisions were removed from the books, and more than 800 retrospective review initiatives were completed.”³ President Trump took an alternative approach with Executive Order 12,771, which required agencies to repeal two regulations for every new one. The Office of Advocacy believes agencies should conduct 610 reviews and set forth guidance for agencies to follow. However, older studies found that agency compliance with 610 requirements have varied considerably since 1980.⁴

While there is little data to determine if agencies are complying with the 610 requirements, this bill is problematic for a number of reasons. First, the requirement that agencies can only delay the retrospective review for one year is not always feasible, particularly in times of a national emergency. For example, the economic relief program stemming from the COVID-19 pandemic increased SBA’s loan portfolio to more than \$1.3 trillion,⁵ and aiding small businesses was SBA’s main priority. A requirement to complete retrospective reviews during this period would have detracted from their efforts to aid small businesses in the midst of an economic crisis. Second, the bill requires agencies to take into consideration the costs and paperwork hours, but it does not require the agencies to consider the benefits of the rules.

Committee Democrats continue to attempt to work in good faith with the Majority to pass common-sense legislation that would make regulations and regulatory processes more accessible to small businesses. To that end, Ms. Davids proposed an amendment in the nature of a substitute to this bill. The Davids amendment would 1 strike most provisions of the bill, with the exception of the requirement for agencies to explain the reason for their delay. To gather more up-to-date data, the amendment would requires agencies to submit a report to the House and Senate Small Business Committees every two years detailing the number of reviews conducted, reasons for delays, and legislative recommendations to improve the 602 process. I support the commonsense amendment offered by Ms. Davids to make the Section 610 process

¹ See the Regulatory Flexibility Act of 1980, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. § 610).

² Exec. Order No. 13,563 § 6, 76 Fed. Reg. 3,821, at 3,822; Exec. Order No. 13,579 § 2, 76 Fed. Reg. 41,587.

³ Howard Shelanski, *Retrospective Review, by the Numbers*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA (Aug. 31, 2016), <https://obamawhitehouse.archives.gov/blog/2016/08/31/retrospective-review-numbers-0>.

⁴ GOVERNMENTAL ACCOUNTABILITY OFF., REEXAMINING REGULATIONS: OPPORTUNITIES EXIST TO IMPROVE EFFECTIVENESS AND TRANSPARENCY OF RETROSPECTIVE REVIEWS (Jul. 16, 2007).

⁵ U.S. SMALL BUS. ADMIN., FY 2025 CONGRESSIONAL BUDGET JUSTIFICATION, FY 2023 ANNUAL PERFORMANCE REPORT (Mar. 11, 2024).

work better, and I oppose H.R. 9085, the “Regulatory Review Improvement Act” as there has been no testimony from agencies or up to date information or data to support the change to the 610 process.

A handwritten signature in blue ink, appearing to read "Nydia M. Velázquez".

Nydia M. Velázquez
Ranking Member