

[COMMITTEE PRINT]110TH CONGRESS
1ST SESSION**H. R.** _____

To amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Regu-
5 latory Improvement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Small businesses are frequently the source
2 of new products, methods and innovations.

3 (2) A vibrant and growing small business sector
4 is critical to creating jobs in a dynamic economy.

5 (3) Regulations designed for application to
6 large-scale entities have been applied uniformly to
7 small businesses and other small entities.

8 (4) Uniform Federal regulatory and reporting
9 requirements in many instances have imposed on
10 small businesses and other small entities dispro-
11 tionately burdensome demands, including legal, ac-
12 counting, and consulting costs.

13 (5) Since 1980, Federal agencies have been re-
14 quired to recognize and take account of the dif-
15 ferences in the scale and resources of regulated enti-
16 ties but have failed to do so.

17 (6) Alternative regulatory approaches that do
18 not conflict with the stated objectives of the statutes
19 the regulations seek to implement may be available
20 and may minimize the significant economic impact
21 of regulations on small businesses and other small
22 entities.

23 (7) Federal agencies have failed to analyze and
24 uncover less costly alternative regulatory approaches,
25 despite the fact that the chapter 6 of title 5, United

1 States Code (commonly known as the Regulatory
2 Flexibility Act), requires them to do so.

3 (8) Federal agencies continue to interpret chap-
4 ter 6 of title 5, United States Code, in a manner
5 that permits them to avoid their analytical respon-
6 sibilities.

7 (9) Significant changes are needed in the meth-
8 ods by which Federal agencies develop and analyze
9 regulations, receive input from affected entities, and
10 develop regulatory alternatives that will lessen the
11 burden or maximize the benefits of final rules to
12 small businesses and other small entities.

13 (10) It is the intention of the Congress to
14 amend chapter 6 of title 5, United States Code, to
15 ensure that all impacts, including foreseeable indi-
16 rect effects, of proposed and final rules are consid-
17 ered by agencies during the rulemaking process and
18 that the agencies assess a full range of alternatives
19 that will limit adverse economic consequences or en-
20 hance economic benefits.

21 (11) Federal agencies should be capable of as-
22 sessing the impact of proposed and final rules with-
23 out delaying the regulatory process or impinging on
24 the ability of Federal agencies to fulfill their statu-
25 tory mandates.

1 **SEC. 3. CLARIFICATION AND EXPANSION OF RULES COV-**
2 **ERED BY THE REGULATORY FLEXIBILITY**
3 **ACT.**

4 Section 601 of title 5, United States Code, is amend-
5 ed by adding at the end the following new paragraph:

6 “(9) **ECONOMIC IMPACT.**—The term ‘economic
7 impact’ means, with respect to a proposed or final
8 rule—

9 “(A) any direct economic effect on small
10 entities of such rule; and

11 “(B) any indirect economic effect on small
12 entities which is reasonably foreseeable and re-
13 sults from such rule (without regard to whether
14 small entities will be directly regulated by the
15 rule).”.

16 **SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED**
17 **ANALYSES.**

18 (a) **INITIAL REGULATORY FLEXIBILITY ANALYSIS.**—
19 Subsection (b) of section 603 of title 5, United States
20 Code, is amended to read as follows:

21 “(b) Each initial regulatory flexibility analysis re-
22 quired under this section shall contain a detailed state-
23 ment describing—

24 “(1) the reasons why the action by the agency
25 is being considered;

1 “(2) the objectives of, and legal basis for, the
2 proposed rule;

3 “(3) the type of small entities to which the pro-
4 posed rule will apply;

5 “(4) the number of small entities to which the
6 proposed rule will apply or why such estimate is not
7 available;

8 “(5) the projected reporting, recordkeeping, and
9 other compliance requirements of the proposed rule,
10 including an estimate of the classes of small entities
11 which will be subject to the requirement, the costs,
12 and the type of professional skills necessary to com-
13 ply with the rule; and

14 “(6) all relevant Federal rules which may dupli-
15 cate, overlap, or conflict with the proposed rule, or
16 the reasons why such a description could not be pro-
17 vided.”.

18 (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

19 (1) Paragraph (1) of section 604(a) of title 5,
20 United States Code, is amended by striking “sue-
21 cinct”.

22 (2) Paragraph (3) of such section is amended
23 by striking “an explanation” and inserting “a de-
24 tailed explanation”.

1 (3) Paragraph (4) of such section is amended
2 to read as follows:

3 “(4) a description of the projected reporting,
4 recordkeeping, and other compliance requirements of
5 the rule, including an estimate of the classes of
6 small entities which will be subject to the require-
7 ment, the costs, and the type of professional skills
8 necessary to comply with the rule; and”.

9 (c) CERTIFICATION OF NO IMPACT.—Subsection (b)
10 of section 605 of title 5, United States Code, is amended
11 by inserting “detailed” before “statement” both places
12 such term appears.

13 **SEC. 5. PERIODIC REVIEW OF RULES.**

14 Section 610 of title 5, United States Code, is amend-
15 ed to read as follows:

16 **“§ 610. Periodic review of rules**

17 “(a) Not later than 180 days after the enactment of
18 the Small Business Regulatory Improvement Act, each
19 agency shall publish in the Federal Register and place on
20 its website a plan for the periodic review of rules issued
21 by the agency which the head of the agency determines
22 have a significant economic impact on a substantial num-
23 ber of small entities. Such determination shall be made
24 without regard to whether the agency performed an anal-
25 ysis under section 604. The purpose of the review shall

1 be to determine whether such rules should be continued
2 without change, or should be amended or rescinded, con-
3 sistent with the stated objectives of applicable statutes, to
4 minimize significant economic impacts on a substantial
5 number of small entities. Such plan may be amended by
6 the agency at any time by publishing the revision in the
7 Federal Register and subsequently placing the amended
8 plan on the agency's website.

9 “(b) The plan shall provide for the review of all such
10 agency rules existing on the date of the enactment of the
11 Small Business Regulatory Improvement Act within 10
12 years of the date of publication of the plan in the Federal
13 Register and for review of rules adopted after the date
14 of enactment of the Small Business Regulatory Improve-
15 ment Act within 10 years after the publication of the final
16 rule in the Federal Register. If the head of the agency
17 determines that completion of the review of existing rules
18 is not feasible by the established date, the head of the
19 agency shall so certify in a statement published in the
20 Federal Register and may extend the review for not longer
21 than 2 years after publication of notice of extension in
22 the Federal Register. Such certification and notice shall
23 be sent to the Chief Counsel for Advocacy and the Con-
24 gress.

1 “(c) Each agency shall annually submit a report re-
2 garding the results of its review pursuant to such plan
3 to the Congress and, in the case of agencies other than
4 independent regulatory agencies (as defined in section
5 3502(5) of title 44, United States Code) to the Adminis-
6 trator of the Office of Information and Regulatory Affairs
7 of the Office of Management and Budget. Such report
8 shall include the identification of any rule with respect to
9 which the head of the agency made a determination de-
10 scribed in paragraph (5) or (6) of subsection (d) and a
11 detailed explanation of the reasons for such determination.

12 “(d) In reviewing rules under such plan, the agency
13 shall consider the following factors:

14 “(1) The continued need for the rule.

15 “(2) The nature of complaints received by the
16 agency from small entities concerning the rule.

17 “(3) Comments by the Regulatory Enforcement
18 Ombudsman and the Chief Counsel for Advocacy.

19 “(4) The complexity of the rule.

20 “(5) The extent to which the rule overlaps, du-
21 plicates, or conflicts with other Federal rules and,
22 unless the head of the agency determines it to be in-
23 feasible, State and local rules.

24 “(6) The length of time since the rule has been
25 evaluated or the degree to which technology, eco-

1 the Office of Management and Budget, if submission
2 is required; or

3 “(2) if no submission to the Office of Informa-
4 tion and Regulatory Affairs is so required, at a rea-
5 sonable time prior to publication of the rule by the
6 agency.”.

7 (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

8 (1) INCLUSION OF RESPONSE TO COMMENTS ON
9 CERTIFICATION OF PROPOSED RULE.—Paragraph
10 (2) of section 604(a) of title 5, United States Code,
11 is amended by inserting after “initial regulatory
12 flexibility analysis” the following: “(or certification
13 of the proposed rule under section 605(b))”.

14 (2) INCLUSION OF RESPONSE TO COMMENTS
15 FILED BY CHIEF COUNSEL FOR ADVOCACY.—Sub-
16 section (a) of section 604 of title 5, United States
17 Code, is amended by redesignating paragraphs (3)
18 through (5) as (4) through (6), respectively, and by
19 inserting after paragraph (2) the following:

20 “(3) the agency’s response to any comments
21 filed by the Chief Counsel for Advocacy of the Small
22 Business Administration in response to the proposed
23 rule, and a detailed statement of any changes made
24 to the proposed rule in the final rule as a result of
25 such comments;”.