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## Legislation Would Further Slow Regulatory Process

On Dec. 13, the House Small Business Committee approved H.R. 4458 – the Small Business Regulatory Improvement Act of 2008 (SBRIA). Rep. Brad Ellsworth (D-IN) introduced the bill only one day earlier without consultation with labor, environmental, or public interest organizations. Senior committee Democrats have bragged about the support the bill has received from anti-regulatory lobbyists like the U.S. Chamber of Commerce and the National Association of Manufacturers.

In its current form, the bill would add additional layers of analysis to a regulatory process already thick with prescriptive requirements and would further tilt the regulatory playing field in favor of regulated interests. Among other things, the bill would:

- **Put corporate interests ahead of the public interest.** The SBRIA would codify President Bush's Executive Order 13272 which requires agencies to submit many of their draft rules to the SBA Office of Advocacy before the rules are released to the public. The Office of Advocacy is a politically-charged office which serves as a liaison between the executive branch and industry lobbyists. This would give small business an unfair advantage over others equally affected by the proposed rule. Because the bill also creates a broad definition of "economic impact," virtually all rules may need to be submitted.
- **Waste agency resources on highly speculative analyses.** Under current law, agencies must conduct intensive analyses for rules deemed likely to have an "economic impact on a substantial number of small entities." The SBRIA would create a new definition of "economic impact" that is so vague it could encompass almost any agency regulation. By including "indirect economic effect on small entities" in this new definition, agencies would be paralyzed by constant analysis and unable to get things done to protect the public.
- **Threaten valuable protections.** Expanding Regulatory Flexibility Act analysis to demand more look-backs and analyses of indirect effects could put longstanding protections in jeopardy. The evaluation of existing policy is valuable and can inform future policy decisions. However, as a recent GAO report finds, prescriptive reviews, such as those required by Section 610 of the Regulatory Flexibility Act, are far less useful than reviews conducted at individual agencies' discretion. Agencies are capable of selecting rules to review on their own, but Section 610 removes agencies' discretion and triggers unnecessary reviews that can be duplicative or counterproductive. By expanding the number of rules eligible for such reviews, the SBRIA would exacerbate this problem.

Despite the added analytical burdens outlined above, the bill does not provide the needed resources to handle these new burdens, at the same time President Bush is insisting upon budget cuts in agency programs. Nor does it address the fact that agencies would be forced to stop work on important public protections in order to comply with these new requirements. This comes at a time when the public is increasingly concerned about whether government is doing an adequate job in protecting the public on food safety, toys, drugs, environmental protection, workplace safety, and more.

Although the bill is purported as a measure to help small businesses, it would only serve to further ossify the federal regulatory process. By doing so, the bill would make it more difficult for federal agencies to develop regulations that ensure public health, protect workers, preserve the environment, and level the economic playing field for small businesses.

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