

September 5, 2024

The Honorable Roger Williams
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nydia Velazquez
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Williams and Ranking Member Velazquez,

On behalf of millions of small businesses across the country, we write to thank you for prioritizing legislation to provide regulatory relief and reduce red tape for small businesses. We urge the Committee to advance legislation to strengthen the Regulatory Flexibility Act (RFA) and ensure the intent of the law is fulfilled.

Small businesses are concerned with the unprecedented pace of regulations coming from Washington. Over the last three and a half years, more than \$1.6 trillion in new regulatory costs and almost 300 million new paperwork hours have been imposed on the private sector.¹ These new burdens fall disproportionately on small businesses that do not have lawyers and compliance officers to navigate complex regulatory issues.

In 1980, President Carter and Congress recognized the disproportionate impact of federal regulations on small businesses and unanimously approved the Regulatory Flexibility Act (RFA). The RFA sought to minimize the burdens on small businesses. However, in the 40-plus years since the RFA became law, agencies have found ways to disregard or avoid many of the requirements. In 2023, NFIB analyzed the Small Business Administration (SBA) Office of Advocacy's comment letters to federal agencies from January 2021 to January 2023 and found significant noncompliance with the RFA.² Advocacy highlighted 28 instances where agencies failed to adequately examine the economic costs of regulations.³ Advocacy noted that agencies often improperly certify that rules will not have a significant economic impact on a substantial number of small entities.⁴ By doing so, agencies disregard the intent of the RFA, leaving small businesses subject to the one-size-fits-all regulatory environment the RFA sought to remedy.

¹ Dan Goldbeck, *A June Swoon*, American Action Forum, June 24, 2024, <https://www.americanactionforum.org/week-in-regulation/a-june-swoon/>.

² Rob Smith, *The Regulatory Flexibility Act: Turning a Paper Tiger Into a Legitimate Constraint on One-Size-Fits-All Agency Rulemaking*, National Federation of Independent Business Small Business Legal Center, May 2023, <https://strgnfibcom.blob.core.windows.net/nfibcom/NFIB-RFA-White-paper.pdf>.

³ *Id.*

⁴ *Id.*

The House Committee on Small Business recently issued a staff report examining agency compliance with the RFA. The Committee found that most agencies are failing to properly comply with the RFA's requirements and live up to the spirit of the law.⁵ These findings mirror the conclusions of NFIB's 2023 White Paper and highlight the need to close loopholes to ensure the intent of the RFA is fulfilled.

In response to these findings, the Committee has prioritized several legislative proposals to strengthen the RFA. One proposal, the bipartisan *Prove It Act*, would increase small business input in the regulatory process and ensure agencies are fully accounting for the impact of regulations on small businesses. Other proposals would increase the transparency and accountability of the regulatory process for small businesses.

On behalf of millions of small businesses, thank you for your attention to the disproportionate impact of regulations on small entities. We appreciate the Committee's focus on ensuring the intent of the RFA is fulfilled through legislation like H.R. 7198, the *Prove It Act*. We urge Congress to take swift action to reduce red tape for small businesses.

Sincerely,

Alliance for Chemical Distribution
American Bakers Association
American Bankers Association
American Chemistry Council
American Craft Spirits Association
American Exploration & Mining Association
American Hotel & Lodging Association
American Farm Bureau Federation
American Road & Transportation Builders Association
American Short Line and Regional Railroad Association
American Waterways Operators
Associated Builders and Contractors
Associated Equipment Distributors
Associated General Contractors of America
Can Manufacturers Institute
Energy Workforce & Technology Council
Independent Community Bankers of America
International Franchise Association
International Wood Products Association
Job Creators Network
National Asphalt Pavement Association

⁵ House Committee on Small Business Staff Report 2024, *Regulatory Flexibility Act (RFA) Report: Agencies' Noncompliance with the RFA*, May 2024, https://smallbusiness.house.gov/uploadedfiles/05.22.2024_-_house_committee_on_small_business_rfa_report.pdf.

National Association of Convenience Stores
National Association of Insurance and Financial Advisors
National Association of Manufacturers
National Association of Realtors
National Association of Wholesaler-Distributors
National Cattlemen's Beef Association
National Federation of Independent Business
National Fisheries Institute
National Funeral Directors Association
National Grocers Association
National Lumber & Building Material Dealers Association
National Mining Association
National Pork Producers Council
National Propane Gas Association
National Retail Federation
National Roofing Contractors Association
National Rural Electric Cooperative Association
National Small Business Association
National Stone Sand & Gravel Association
North American Association of Food Equipment Manufacturers
Owner-Operator Independent Drivers Association
Plumbing-Heating-Cooling Contractors—National Association
Precision Machined Products Association
PRINTING United Alliance
The Meat Institute
The Toy Association
Treated Wood Council
U.S. Chamber of Commerce
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