

**Union Calendar No. 191**

112th CONGRESS

1st Session

**H. R. 527**

[Report No. 112-289, Parts I and II]

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**

**February 8, 2011**

Mr. SMITH of Texas (for himself, Mr. GRAVES of Missouri, and Mr. COBLE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

**November 16, 2011**

Additional sponsors: Mr. GALLEGLY, Mr. FRANKS of Arizona, Mr. GOWDY, Mr. REED, Mr. ROSS of Florida, Mr. KING of New York, Mr. MANZULLO, Ms. FOXX, Mr. SHUSTER, Mr. DANIEL E. LUNGREN of California, Mr. GRIFFIN of Arkansas, Mr. GIBBS, Mr. GRIMM, Mr. JOHNSON of Ohio, Mr. TURNER of Ohio, Mr. DAVIS of Kentucky, Mr. DUNCAN of Tennessee, Mr. SENSENBRENNER, Mr. GOODLATTE, Mr. POE of Texas, Mr. FRELINGHUYSEN, Mrs. BLACK, Mr. MCKINLEY, and Mr. BROOKS

**November 16, 2011**

Reported from the Committee on the Judiciary with an amendment

**[Strike out all after the enacting clause and insert the part printed in italic]**

**November 16, 2011**

Reported from the Committee on Small Business with an amendment

**[Strike out all after the enacting clause and insert the part printed in boldface roman]**

**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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

*(a) Short Title- This Act may be cited as the `Regulatory Flexibility Improvements Act of 2011'.*

*(b) Table of Contents- The table of contents of this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*Sec. 2. Clarification and expansion of rules covered by the Regulatory Flexibility Act.*

*Sec. 3. Requirements providing for more detailed analyses.*

*Sec. 4. Repeal of waiver and delay authority; additional powers of the Chief Counsel for Advocacy.*

*Sec. 5. Procedures for gathering comments.*

*Sec. 6. Periodic review of rules.*

*Sec. 7. Judicial review of compliance with the requirements of the Regulatory Flexibility Act available after publication of the final rule.*

*Sec. 8. Jurisdiction of court of appeals over rules implementing the Regulatory Flexibility Act.*

*Sec. 9. Clerical amendments.*

**SEC. 2. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.**

*(a) In General- Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:*

*`(2) RULE- The term `rule' has the meaning given such term in section 551(4) of this title, except that such term does not include a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.'.*

*(b) Inclusion of Rules With Indirect Effects- Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:*

*`(9) ECONOMIC IMPACT- The term `economic impact' means, with respect to a proposed or final rule--*

*`(A) any direct economic effect on small entities of such rule; and*

*`(B) any indirect economic effect on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).'*

*(c) Inclusion of Rules With Beneficial Effects-*

*(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (c) of section 603 of title 5, United States Code, is amended by striking the first sentence and inserting `Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.'*

*(2) FINAL REGULATORY FLEXIBILITY ANALYSIS- The first paragraph (6) of section 604(a) of title 5, United States Code, is amended by striking `minimize the significant economic impact' and inserting `minimize the adverse significant economic impact or maximize the beneficial significant economic impact'.*

*(d) Inclusion of Rules Affecting Tribal Organizations- Paragraph (5) of section 601 of title 5, United States Code, is amended by inserting `and tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))),' after `special districts,'.*

*(e) Inclusion of Land Management Plans and Formal Rulemaking-*

*(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (a) of section 603 of title 5, United States Code, is amended in the first sentence--*

*(A) by striking `or' after `proposed rule, '; and*

*(B) by inserting `or publishes a revision or amendment to a land management plan,' after `United States,'.*

*(2) FINAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (a) of section 604 of title 5, United States Code, is amended in the first sentence--*

*(A) by striking `or' after `proposed rulemaking, '; and*

*(B) by inserting `or adopts a revision or amendment to a land management plan,' after `section 603(a),'.*

*(3) LAND MANAGEMENT PLAN DEFINED- Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:*

*`(10) LAND MANAGEMENT PLAN-*

*`(A) IN GENERAL- The term `land management plan' means--*

*`(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and*

*`(ii) any plan developed by the Secretary of Interior under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).*

*`(B) REVISION- The term `revision' means any change to a land management plan which--*

*`(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or*

*`(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-6 of title 43, Code of Federal Regulations (or any successor regulation).*

*`(C) AMENDMENT- The term `amendment' means any change to a land management plan which--*

*`(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)) and with respect to which the Secretary of Agriculture prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); or*

*`(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-5 of title 43, Code of Federal Regulations (or any successor regulation) and with respect to which the Secretary of the Interior prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).'*

*(f) Inclusion of Certain Interpretive Rules Involving the Internal Revenue Laws-*

*(1) IN GENERAL- Subsection (a) of section 603 of title 5, United States Code, is amended by striking the period at the end and inserting `or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.'*

*(2) COLLECTION OF INFORMATION- Paragraph (7) of section 601 of title 5, United States Code, is amended to read as follows:*

*`(7) COLLECTION OF INFORMATION- The term `collection of information' has the meaning given such term in section 3502(3) of title 44.'*

*(3) RECORDKEEPING REQUIREMENT- Paragraph (8) of section 601 of title 5, United States Code, is amended to read as follows:*

*`(8) RECORDKEEPING REQUIREMENT- The term `recordkeeping requirement' has the meaning given such term in section 3502(13) of title 44.'*

*(g) Definition of Small Organization- Paragraph (4) of section 601 of title 5, United States Code, is amended to read as follows:*

*`(4) SMALL ORGANIZATION-*

*“(A) IN GENERAL- The term ‘small organization’ means any not-for-profit enterprise which, as of the issuance of the notice of proposed rulemaking--*

*“(i) in the case of an enterprise which is described by a classification code of the North American Industrial Classification System, does not exceed the size standard established by the Administrator of the Small Business Administration pursuant to section 3 of the Small Business Act (15 U.S.C. 632) for small business concerns described by such classification code; and*

*“(ii) in the case of any other enterprise, has a net worth that does not exceed \$7,000,000 and has not more than 500 employees.*

*“(B) LOCAL LABOR ORGANIZATIONS- In the case of any local labor organization, subparagraph (A) shall be applied without regard to any national or international organization of which such local labor organization is a part.*

*“(C) AGENCY DEFINITIONS- Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.’.*

### **SEC. 3. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.**

*(a) Initial Regulatory Flexibility Analysis- Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:*

*“(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement--*

*“(1) describing the reasons why action by the agency is being considered;*

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

*“(3) estimating the number and type of small entities to which the proposed rule will apply;*

*“(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;*

*“(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided;*

*“(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available; and*

*“(7) describing any disproportionate economic impact on small entities or a specific class of small entities.’.*

*(b) Final Regulatory Flexibility Analysis-*

*(1) IN GENERAL- Section 604(a) of title 5, United States Code, is amended--*

*(A) in paragraph (4), by striking 'an explanation' and inserting 'a detailed explanation';*

*(B) in each of paragraphs (4), (5), and the first paragraph (6), by inserting 'detailed' before 'description'; and*

*(C) by adding at the end the following:*

*'(7) describing any disproportionate economic impact on small entities or a specific class of small entities.'*

*(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE- Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting '(or certification of the proposed rule under section 605(b))' after 'initial regulatory flexibility analysis'.*

*(3) PUBLICATION OF ANALYSIS ON WEBSITE- Subsection (b) of section 604 of title 5, United States Code, is amended to read as follows:*

*'(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the agency's website, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.'*

*(c) Cross-References to Other Analyses- Subsection (a) of section 605 of title 5, United States Code, is amended to read as follows:*

*'(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis which is required by any other law and which satisfies such requirement.'*

*(d) Certifications- Subsection (b) of section 605 of title 5, United States Code, is amended--*

*(1) by inserting 'detailed' before 'statement' the first place it appears; and*

*(2) by inserting 'and legal' after 'factual'.*

*(e) Quantification Requirements- Section 607 of title 5, United States Code, is amended to read as follows:*

***'Sec. 607. Quantification requirements***

*'In complying with sections 603 and 604, an agency shall provide--*

*'(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or*

*“(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.”*

## **SEC. 4. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDITIONAL POWERS OF THE CHIEF COUNSEL FOR ADVOCACY.**

*(a) In General- Section 608 is amended to read as follows:*

### **“Sec. 608. Additional powers of Chief Counsel for Advocacy**

*“(a)(1) Not later than 270 days after the date of the enactment of the Regulatory Flexibility Improvements Act of 2011, the Chief Counsel for Advocacy of the Small Business Administration shall, after opportunity for notice and comment under section 553, issue rules governing agency compliance with this chapter. The Chief Counsel may modify or amend such rules after notice and comment under section 553. This chapter (other than this subsection) shall not apply with respect to the issuance, modification, and amendment of rules under this paragraph.*

*“(2) An agency shall not issue rules which supplement the rules issued under subsection (a) unless such agency has first consulted with the Chief Counsel for Advocacy to ensure that such supplemental rules comply with this chapter and the rules issued under paragraph (1).*

*“(b) Notwithstanding any other law, the Chief Counsel for Advocacy of the Small Business Administration may intervene in any agency adjudication (unless such agency is authorized to impose a fine or penalty under such adjudication), and may inform the agency of the impact that any decision on the record may have on small entities. The Chief Counsel shall not initiate an appeal with respect to any adjudication in which the Chief Counsel intervenes under this subsection.*

*“(c) The Chief Counsel for Advocacy may file comments in response to any agency notice requesting comment, regardless of whether the agency is required to file a general notice of proposed rulemaking under section 553.”*

*(b) Conforming Amendments-*

*(1) Section 611(a)(1) of such title is amended by striking “608(b),”*

*(2) Section 611(a)(2) of such title is amended by striking “608(b),”*

*(3) Section 611(a)(3) of such title is amended--*

*(A) by striking subparagraph (B); and*

*(B) by striking “(3)(A) A small entity” and inserting the following:*

*“(3) A small entity”*

## **SEC. 5. PROCEDURES FOR GATHERING COMMENTS.**

*Section 609 of title 5, United States Code, is amended by striking subsection (b) and all that follows through the end of the section and inserting the following:*

*“(b)(1) Prior to publication of any proposed rule described in subsection (e), an agency making such rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with--*

*“(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule; and*

*“(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.*

*“(2) An agency shall not be required under paragraph (1) to provide the exact language of any draft if the rule--*

*“(A) relates to the internal revenue laws of the United States; or*

*“(B) is proposed by an independent regulatory agency (as defined in section 3502(5) of title 44).*

*“(c) Not later than 15 days after the receipt of such materials and information under subsection (b), the Chief Counsel for Advocacy of the Small Business Administration shall--*

*“(1) identify small entities or representatives of small entities or a combination of both for the purpose of obtaining advice, input, and recommendations from those persons about the potential economic impacts of the proposed rule and the compliance of the agency with section 603; and*

*“(2) convene a review panel consisting of an employee from the Office of Advocacy of the Small Business Administration, an employee from the agency making the rule, and in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget to review the materials and information provided to the Chief Counsel under subsection (b).*

*“(d)(1) Not later than 60 days after the review panel described in subsection (c)(2) is convened, the Chief Counsel for Advocacy of the Small Business Administration shall, after consultation with the members of such panel, submit a report to the agency and, in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), the Office of Information and Regulatory Affairs of the Office of Management and Budget.*

*“(2) Such report shall include an assessment of the economic impact of the proposed rule on small entities and a discussion of any alternatives that will minimize adverse significant economic impacts or maximize beneficial significant economic impacts on small entities.*

*“(3) Such report shall become part of the rulemaking record. In the publication of the proposed rule, the agency shall explain what actions, if any, the agency took in response to such report.*

*“(e) A proposed rule is described by this subsection if the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the head of the agency (or the delegatee of the head of the agency), or an independent regulatory agency determines that the proposed rule is likely to result in--*

*“(1) an annual effect on the economy of \$100,000,000 or more;*

*`(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, tribal organizations, or geographic regions;*

*`(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or*

*`(4) a significant economic impact on a substantial number of small entities.*

*`(f) Upon application by the agency, the Chief Counsel for Advocacy of the Small Business Administration may waive the requirements of subsections (b) through (e) if the Chief Counsel determines that compliance with the requirements of such subsections are impracticable, unnecessary, or contrary to the public interest.'*

## **SEC. 6. PERIODIC REVIEW OF RULES.**

*Section 610 of title 5, United States Code, is amended to read as follows:*

### ***`Sec. 610. Periodic review of rules***

*`(a) Not later than 180 days after the enactment of the Regulatory Flexibility Improvements Act of 2011, each agency shall publish in the Federal Register and place on its website a plan for the periodic review of rules issued by the agency which the head of the agency determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any beneficial significant economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently placing the amended plan on the agency's website.*

*`(b) The plan shall provide for the review of all such agency rules existing on the date of the enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years of the date of publication of the plan in the Federal Register and for review of rules adopted after the date of enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years after the publication of the final rule in the Federal Register. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration and the Congress.*

*`(c) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to the Congress, the Chief Counsel for Advocacy of the Small Business Administration, and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination described in paragraph (5) or (6) of subsection*

*(d) and a detailed explanation of the reasons for such determination.*

*“(d) In reviewing a rule pursuant to subsections (a) through (c), the agency shall amend or rescind the rule to minimize any adverse significant economic impact on a substantial number of small entities or disproportionate economic impact on a specific class of small entities, or maximize any beneficial significant economic impact of the rule on a substantial number of small entities to the greatest extent possible, consistent with the stated objectives of applicable statutes. In amending or rescinding the rule, the agency shall consider the following factors:*

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

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

*“(3) Comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration.*

*“(4) The complexity of the rule.*

*“(5) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State, territorial, and local rules.*

*“(6) The contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such calculations cannot be made and reports that determination in the annual report required under subsection (c).*

*“(7) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.*

*“(e) The agency shall publish in the Federal Register and on its website a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.’.*

## **SEC. 7. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE FINAL RULE.**

*(a) In General-* Paragraph (1) of section 611(a) of title 5, United States Code, is amended by striking ‘final agency action’ and inserting ‘such rule’.

*(b) Jurisdiction-* Paragraph (2) of such section is amended by inserting ‘(or which would have such jurisdiction if publication of the final rule constituted final agency action)’ after ‘provision of law,’.

*(c) Time for Bringing Action-* Paragraph (3) of such section is amended--

*(1) by striking ‘final agency action’ and inserting ‘publication of the final rule’; and*

(2) by inserting `, in the case of a rule for which the date of final agency action is the same date as the publication of the final rule,' after `except that'.

(d) *Intervention by Chief Counsel for Advocacy- Subsection (b) of section 612 of title 5, United States Code, is amended by inserting before the first period `or agency compliance with section 601, 603, 604, 605(b), 609, or 610'.*

## **SEC. 8. JURISDICTION OF COURT OF APPEALS OVER RULES IMPLEMENTING THE REGULATORY FLEXIBILITY ACT.**

(a) *In General- Section 2342 of title 28, United States Code, is amended--*

(1) *in paragraph (6), by striking `and' at the end;*

(2) *in paragraph (7), by striking the period at the end and inserting `; and'; and*

(3) *by inserting after paragraph (7) the following new paragraph:*

*`(8) all final rules under section 608(a) of title 5.'*

(b) *Conforming Amendments- Paragraph (3) of section 2341 of title 28, United States Code, is amended--*

(1) *in subparagraph (D), by striking `and' at the end;*

(2) *in subparagraph (E), by striking the period at the end and inserting `; and'; and*

(3) *by adding at the end the following new subparagraph:*

*`(F) the Office of Advocacy of the Small Business Administration, when the final rule is under section 608(a) of title 5.'*

(c) *Authorization To Intervene and Comment on Agency Compliance With Administrative Procedure- Subsection (b) of section 612 of title 5, United States Code, is amended by inserting `chapter 5, and chapter 7,' after `this chapter,'.*

## **SEC. 9. CLERICAL AMENDMENTS.**

(a) *Section 601 of title 5, United States Code, is amended--*

(1) *in paragraph (1)--*

(A) *by striking the semicolon at the end and inserting a period; and*

(B) *by striking `(1) the term' and inserting the following:*

*`(1) AGENCY- The term';*

(2) *in paragraph (3)--*

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking `(3) the term' and inserting the following:

`(3) *SMALL BUSINESS- The term'*;

(3) in paragraph (5)--

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking `(5) the term' and inserting the following:

`(5) *SMALL GOVERNMENTAL JURISDICTION- The term'*; and

(4) in paragraph (6)--

(A) by striking `; and' and inserting a period; and

(B) by striking `(6) the term' and inserting the following:

`(6) *SMALL ENTITY- The term'*.

(b) The heading of section 605 of title 5, United States Code, is amended to read as follows:

***'Sec. 605. Incorporations by reference and certifications'.***

(c) The table of sections for chapter 6 of title 5, United States Code, is amended--

(1) by striking the item relating to section 605 and inserting the following new item:

`605. *Incorporations by reference and certifications.'*;

(2) by striking the item relating to section 607 and inserting the following new item:

`607. *Quantification requirements.'*;

and

(3) by striking the item relating to section 608 and inserting the following:

`608. *Additional powers of Chief Counsel for Advocacy.'*

(d) Chapter 6 of title 5, United States Code, is amended as follows:

(1) In section 603, by striking subsection (d).

(2) In section 604(a) by striking the second paragraph (6).

## **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) Short Title- This Act may be cited as the `Regulatory Flexibility Improvements Act of 2011'.

(b) Table of Contents- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Clarification and expansion of rules covered by the Regulatory Flexibility Act.

Sec. 3. Expansion of report of regulatory agenda.

Sec. 4. Requirements providing for more detailed analyses.

Sec. 5. Repeal of waiver and delay authority; Additional powers of the Chief Counsel for Advocacy.

Sec. 6. Procedures for gathering comments.

Sec. 7. Periodic review of rules.

Sec. 8. Judicial review of compliance with the requirements of the Regulatory Flexibility Act available after publication of the final rule.

Sec. 9. Jurisdiction of court of appeals over rules implementing the Regulatory Flexibility Act.

Sec. 10. Clerical amendments.

Sec. 11. Agency preparation of guides.

## **SEC. 2. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.**

(a) In General- Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:

`(2) RULE- The term `rule' has the meaning given such term in section 551(4) of this title, except that such term does not include a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.'.

(b) Inclusion of Rules With Indirect Effects- Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

`(9) ECONOMIC IMPACT- The term `economic impact' means, with respect to a proposed or final rule--

`(A) any direct economic effect on small entities of such rule; and

`(B) any indirect economic effect on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).'

(c) Inclusion of Rules With Beneficial Effects-

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (c) of section 603 of title 5, United States Code, is amended by striking the first sentence and inserting `Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.'

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS- The first paragraph (6) of section 604(a) of title 5, United States Code, is amended by striking `minimize the significant economic impact' and inserting `minimize the adverse significant economic impact or maximize the beneficial significant economic impact'.

(d) Inclusion of Rules Affecting Tribal Organizations- Paragraph (5) of section 601 of title 5, United States Code, is amended by inserting `and tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))),' after `special districts,'.

(e) Inclusion of Land Management Plans and Formal Rule Making-

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (a) of section 603 of title 5, United States Code, is amended in the first sentence--

(A) by striking `or' after `proposed rule,'; and

(B) by inserting `or publishes a revision or amendment to a land management plan,' after `United States,'.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS- Subsection (a) of section 604 of title 5, United States Code, is amended in the first sentence--

(A) by striking `or' after `proposed rulemaking,'; and

(B) by inserting `or adopts a revision or amendment to a land management plan,' after `section 603(a),'.

(3) LAND MANAGEMENT PLAN DEFINED- Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

`(10) LAND MANAGEMENT PLAN-

`(A) IN GENERAL- The term `land management plan' means--

`(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and

`(ii) any plan developed by the Secretary of Interior under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

`(B) REVISION- The term `revision' means any change to a land management plan which--

`(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

`(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-6 of title 43, Code of Federal Regulations (or any successor regulation).

`(C) AMENDMENT- The term `amendment' means any change to a land management plan which--

`(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)) and with respect to which the Secretary of Agriculture prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); or

`(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-5 of title 43, Code of Federal Regulations (or any successor regulation) and with respect to which the Secretary of the Interior prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).'

(f) Inclusion of Certain Interpretive Rules Involving the Internal Revenue Laws-

(1) IN GENERAL- Subsection (a) of section 603 of title 5, United States Code, is amended by striking the period at the end and inserting `or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.'

(2) COLLECTION OF INFORMATION- Paragraph (7) of section 601 of title 5, United States Code, is amended to read as follows:

`(7) COLLECTION OF INFORMATION- The term `collection of information' has the meaning given such term in section 3502(3) of title 44.'

(3) RECORDKEEPING REQUIREMENT- Paragraph (8) of section 601 of title 5, United States Code, is amended to read as follows:

`(8) RECORDKEEPING REQUIREMENT- The term `recordkeeping requirement' has the meaning given such term in section 3502(13) of title 44.'

(g) Definition of Small Organization- Paragraph (4) of section 601 of title 5, United States Code, is amended to read as follows:

`(4) SMALL ORGANIZATION-

`(A) IN GENERAL- The term `small organization' means any not-for-profit enterprise which, as of the issuance of the notice of proposed rulemaking--

`(i) in the case of an enterprise which is described by a classification code of the North American Industrial Classification System, does not exceed the size standard established by the Administrator of the Small Business Administration pursuant to section 3 of the Small Business Act (15 U.S.C. 632) for small business concerns described by such classification code; and

`(ii) in the case of any other enterprise, has a net worth that does not exceed \$7,000,000 and has not more than 500 employees.

`(B) LOCAL LABOR ORGANIZATIONS- In the case of any local labor organization, subparagraph (A) shall be applied without regard to any national or international organization of which such local labor organization is a part.

`(C) AGENCY DEFINITIONS- Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.'

### **SEC. 3. EXPANSION OF REPORT OF REGULATORY AGENDA.**

Section 602 of title 5, United States Code, is amended--

(1) in subsection (a)--

(A) in paragraph (2), by striking `, and' at the end and inserting `';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

`(3) a brief description of the sector of the North American Industrial Classification System that is primarily affected by any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities; and'; and

(2) in subsection (c), to read as follows:

`(c) Each agency shall prominently display a plain language summary of the information contained in the regulatory flexibility agenda published under subsection (a) on its website within 3 days of its publication in the Federal Register. The Office of Advocacy of the Small Business Administration shall compile and prominently display a plain language summary of the regulatory agendas referenced in subsection (a) for each agency on its website within 3 days of their publication in the Federal Register.'

### **SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.**

(a) Initial Regulatory Flexibility Analysis- Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

`(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement--

`(1) describing the reasons why action by the agency is being considered;

`(2) describing the objectives of, and legal basis for, the proposed rule;

- `(3) estimating the number and type of small entities to which the proposed rule will apply;
- `(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;
- `(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided;
- `(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available; and
- `(7) describing any disproportionate economic impact on small entities or a specific class of small entities.'

(b) Final Regulatory Flexibility Analysis-

(1) IN GENERAL- Section 604(a) of title 5, United States Code, is amended--

(A) in paragraph (4), by striking 'an explanation' and inserting 'a detailed explanation';

(B) in each of paragraphs (4), (5), and the first paragraph (6), by inserting 'detailed' before 'description'; and

(C) by adding at the end the following:

`(7) describing any disproportionate economic impact on small entities or a specific class of small entities.'

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE- Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting '(or certification of the proposed rule under section 605(b))' after 'initial regulatory flexibility analysis'.

(3) PUBLICATION OF ANALYSIS ON WEBSITE- Subsection (b) of section 604 of title 5, United States Code, is amended to read as follows:

`(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the agency's website, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.'

(c) Cross-references to Other Analyses- Subsection (a) of section 605 of title 5, United States Code, is amended to read as follows:

`(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis which is required by any other law and which satisfies such requirement.'

(d) Certifications- Subsection (b) of section 605 of title 5, United States Code, is amended--

(1) by inserting 'detailed' before 'statement' the first place it appears; and

(2) by inserting 'and legal' after 'factual'.

(e) Quantification Requirements- Section 607 of title 5, United States Code, is amended to read as follows:

**'Sec. 607. Quantification requirements**

'In complying with sections 603 and 604, an agency shall provide--

'(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

'(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.'

**SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITY;  
ADDITIONAL POWERS OF THE CHIEF COUNSEL FOR ADVOCACY.**

(a) In General- Section 608 is amended to read as follows:

**'Sec. 608. Additional powers of Chief Counsel for Advocacy**

'(a)(1) Not later than 270 days after the date of the enactment of the Regulatory Flexibility Improvements Act of 2011, the Chief Counsel for Advocacy of the Small Business Administration shall, after opportunity for notice and comment under section 553, issue rules governing agency compliance with this chapter. The Chief Counsel may modify or amend such rules after notice and comment under section 553. This chapter (other than this subsection) shall not apply with respect to the issuance, modification, and amendment of rules under this paragraph.

'(2) An agency shall not issue rules which supplement the rules issued under subsection (a) unless such agency has first consulted with the Chief Counsel for Advocacy to ensure that such supplemental rules comply with this chapter and the rules issued under paragraph (1).

'(b) Notwithstanding any other law, the Chief Counsel for Advocacy of the Small Business Administration may intervene in any agency adjudication (unless such agency is authorized to impose a fine or penalty under such adjudication), and may inform the agency of the impact that any decision on the record may have on small entities. The Chief Counsel shall not initiate an appeal with respect to any adjudication in which the Chief Counsel intervenes under this subsection.

'(c) The Chief Counsel for Advocacy may file comments in response to any agency notice requesting comment, regardless of whether the agency is required to file a general notice of proposed rulemaking under section 553.'

(b) Conforming Amendments-

(1) Section 611(a)(1) of such title is amended by striking `608(b),'.

(2) Section 611(a)(2) of such title is amended by striking `608(b),'.

(3) Section 611(a)(3) of such title is amended--

(A) by striking subparagraph (B); and

(B) by striking `(3)(A) A small entity' and inserting the following:

`(3) A small entity'.

## **SEC. 6. PROCEDURES FOR GATHERING COMMENTS.**

Section 609 of title 5, United States Code, is amended by striking subsection (b) and all that follows through the end of the section and inserting the following:

`(b)(1) Prior to publication of any proposed rule described in subsection (e), an agency making such rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with--

`(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule; and

`(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.

`(2) An agency shall not be required under paragraph (1) to provide the exact language of any draft if the rule--

`(A) relates to the internal revenue laws of the United States; or

`(B) is proposed by an independent regulatory agency (as defined in section 3502(5) of title 44).

`(c) Not later than 15 days after the receipt of such materials and information under subsection (b), the Chief Counsel for Advocacy of the Small Business Administration shall--

`(1) identify small entities or representatives of small entities or a combination of both for the purpose of obtaining advice, input, and recommendations from those persons about the potential economic impacts of the proposed rule and the compliance of the agency with section 603; and

`(2) convene a review panel consisting of an employee from the Office of Advocacy of the Small Business Administration, an employee from the agency making the rule, and in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget to review the materials and information provided to the Chief Counsel under subsection (b).

`(d)(1) Not later than 60 days after the review panel described in subsection (c)(2) is convened, the Chief Counsel for Advocacy of the Small Business Administration shall, after consultation with the

members of such panel, submit a report to the agency and, in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), the Office of Information and Regulatory Affairs of the Office of Management and Budget.

`(2) Such report shall include an assessment of the economic impact of the proposed rule on small entities, including an assessment of the proposed rule's impact on the cost that small entities pay for energy, and a discussion of any alternatives that will minimize adverse significant economic impacts or maximize beneficial significant economic impacts on small entities.

`(3) Such report shall become part of the rulemaking record. In the publication of the proposed rule, the agency shall explain what actions, if any, the agency took in response to such report.

`(e) A proposed rule is described by this subsection if the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the head of the agency (or the delegatee of the head of the agency), or an independent regulatory agency determines that the proposed rule is likely to result in--

`(1) an annual effect on the economy of \$100,000,000 or more;

`(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, tribal organizations, or geographic regions;

`(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

`(4) a significant economic impact on a substantial number of small entities.

`(f) Upon application by the agency, the Chief Counsel for Advocacy of the Small Business Administration may waive the requirements of subsections (b) through (e) if the Chief Counsel determines that compliance with the requirements of such subsections are impracticable, unnecessary, or contrary to the public interest.'

## **SEC. 7. PERIODIC REVIEW OF RULES.**

Section 610 of title 5, United States Code, is amended to read as follows:

### **`Sec. 610. Periodic review of rules**

`(a) Not later than 180 days after the enactment of the Regulatory Flexibility Improvements Act of 2011, each agency shall publish in the Federal Register and place on its website a plan for the periodic review of rules issued by the agency which the head of the agency determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any beneficial significant economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently placing the amended plan on the

agency's website.

`(b) The plan shall provide for the review of all such agency rules existing on the date of the enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years of the date of publication of the plan in the Federal Register and for review of rules adopted after the date of enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years after the publication of the final rule in the Federal Register. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration and the Congress.

`(c) The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small businesses for the purposes of carrying out this section. The agency shall include in this section a plan for how the agency will contact small businesses and gather their input on existing agency rules.

`(d) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to the Congress, the Chief Counsel for Advocacy of the Small Business Administration, and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination described in paragraph (5) or (6) of subsection (e) and a detailed explanation of the reasons for such determination.

`(e) In reviewing a rule pursuant to subsections (a) through (d), the agency shall amend or rescind the rule to minimize any adverse significant economic impact on a substantial number of small entities or disproportionate economic impact on a specific class of small entities, or maximize any beneficial significant economic impact of the rule on a substantial number of small entities to the greatest extent possible, consistent with the stated objectives of applicable statutes. In amending or rescinding the rule, the agency shall consider the following factors:

`(1) The continued need for the rule.

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

`(3) Comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration.

`(4) The complexity of the rule.

`(5) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules.

`(6) The contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such calculations cannot be made and reports that determination in the annual report required under subsection (d).

(7) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

(f) The agency shall publish in the Federal Register and on its website a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.

## **SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE FINAL RULE.**

(a) In General- Paragraph (1) of section 611(a) of title 5, United States Code, is amended by striking 'final agency action' and inserting 'such rule'.

(b) Jurisdiction- Paragraph (2) of such section is amended by inserting '(or which would have such jurisdiction if publication of the final rule constituted final agency action)' after 'provision of law'.

(c) Time for Bringing Action- Paragraph (3) of such section is amended--

(1) by striking 'final agency action' and inserting 'publication of the final rule'; and

(2) by inserting ', in the case of a rule for which the date of final agency action is the same date as the publication of the final rule,' after 'except that'.

(d) Intervention by Chief Counsel for Advocacy- Subsection (b) of section 612 of title 5, United States Code, is amended by inserting before the first period 'or agency compliance with section 601, 603, 604, 605(b), 609, or 610'.

## **SEC. 9. JURISDICTION OF COURT OF APPEALS OVER RULES IMPLEMENTING THE REGULATORY FLEXIBILITY ACT.**

(a) In General- Section 2342 of title 28, United States Code, is amended--

(1) in paragraph (6), by striking 'and' at the end;

(2) in paragraph (7), by striking the period at the end and inserting '; and'; and

(3) by inserting after paragraph (7) the following new paragraph:

(8) all final rules under section 608(a) of title 5.

(b) Conforming Amendments- Paragraph (3) of section 2341 of title 28, United States Code, is amended--

(1) in subparagraph (D), by striking `and' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting `; and'; and

(3) by adding at the end the following new subparagraph:

`(F) the Office of Advocacy of the Small Business Administration, when the final rule is under section 608(a) of title 5.'

(c) Authorization to Intervene and Comment on Agency Compliance With Administrative Procedure- Subsection (b) of section 612 of title 5, United States Code, is amended by inserting `chapter 5, and chapter 7,' after `this chapter,'.

## **SEC. 10. CLERICAL AMENDMENTS.**

(a) Section 601 of title 5, United States Code, is amended--

(1) in paragraph (1)--

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking `(1) the term' and inserting the following:

`(1) AGENCY- The term';

(2) in paragraph (3)--

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking `(3) the term' and inserting the following:

`(3) SMALL BUSINESS- The term';

(3) in paragraph (5)--

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking `(5) the term' and inserting the following:

`(5) SMALL GOVERNMENTAL JURISDICTION- The term'; and

(4) in paragraph (6)--

(A) by striking `; and' and inserting a period; and

(B) by striking `(6) the term' and inserting the following:

`(6) SMALL ENTITY- The term'.

(b) The heading of section 605 of title 5, United States Code, is amended to read as follows:

**`Sec. 605. Incorporations by reference and certifications'.**

(c) The table of sections for chapter 6 of title 5, United States Code, is amended--

(1) by striking the item relating to section 605 and inserting the following new item:

`605. Incorporations by reference and certifications.';

(2) by striking the item relating to section 607 and inserting the following new item:

`607. Quantification requirements.'; and

(3) by striking the item relating to section 608 and inserting the following:

`608. Additional powers of Chief Counsel for Advocacy.'.

(d) Chapter 6 of title 5, United States Code, is amended as follows:

(1) In section 603, by striking subsection (d).

(2) In section 604(a) by striking the second paragraph (6).

**SEC. 11. AGENCY PREPARATION OF GUIDES.**

Section 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended to read as follows:

`(5) AGENCY PREPARATION OF GUIDES- The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to distribute such guides. In developing guides, agencies shall solicit input from affected small entities or associations of affected small entities. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.'.

Union Calendar No. 191

112th CONGRESS

1st Session

**H. R. 527**

**[Report No. 112-289, Parts I and II]**

**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.

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**November 16, 2011**

**Reported from the Committee on the Judiciary with an amendment**

**November 16, 2011**

**Reported from the Committee on Small Business with an amendment**

*END*