

103D CONGRESS
1ST SESSION

H. R. 830

To amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. EWING (for himself, Mrs. MEYERS of Kansas, Mr. LAFALCE, Mr. SKELTON, Mr. COMBEST, Mr. GOODLING, Mr. RAMSTAD, Mr. SHAYS, Mr. DOOLITTLE, Mr. MONTGOMERY, Mr. PENNY, Mr. BAKER of Louisiana, Mr. KYL, Mr. LIGHTFOOT, Mr. LEHMAN, Mr. BEREUTER, Mr. FLAKE, Mr. ZELIFF, Mr. PETE GEREN of Texas, Mr. POSHARD, Mr. GILMAN, Mr. DANNER, Mr. SAM JOHNSON of Texas, Mr. MACHTLEY, Mr. DORNAN, Mr. DELAY, Mr. TORKILDSSEN, Mr. PORTER, Mr. BURTON of Indiana, Mr. HEFLEY, and Mr. SISISKY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, 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 “Regulatory Flexibility
5 Amendments Act of 1993”.

1 **SEC. 2. JUDICIAL REVIEW.**

2 (a) IN GENERAL.—Section 611 of title 5, United
3 States Code, is repealed.

4 (b) CONFORMING AMENDMENT.—The table of sec-
5 tions at the beginning of chapter 6 of title 5, United
6 States Code, is amended by striking the item relating to
7 section 611.

8 **SEC. 3. CONSIDERATION OF DIRECT AND INDIRECT EF-**
9 **FECTS OF RULES.**

10 (a) IN GENERAL.—Title 5, United States Code, is
11 amended by inserting after section 610 the following new
12 section:

13 **“§ 611. Consideration of direct and indirect effects of**
14 **rules**

15 “In determining under this chapter whether or not
16 a rule is likely to have a significant impact on a substan-
17 tial number of small entities, an agency shall consider both
18 the direct and indirect effects of the rule.”.

19 (b) CONFORMING AMENDMENT.—The table of sec-
20 tions at the beginning of chapter 6 of title 5, United
21 States Code, is amended by inserting after the item relat-
22 ing to section 610 the following:

“611. Consideration of direct and indirect effects of rules.”.

1 **SEC. 4. RULES OPPOSED BY SBA CHIEF COUNSEL FOR AD-**
2 **VOCACY.**

3 (a) IN GENERAL.—Section 612 of title 5, United
4 States Code, is amended by adding at the end the follow-
5 ing new subsection:

6 “(d) STATEMENT OF OPPOSITION.—

7 “(1) TRANSMITTAL OF PROPOSED RULES AND
8 INITIAL REGULATORY FLEXIBILITY ANALYSIS TO
9 SBA CHIEF COUNSEL FOR ADVOCACY.—On or before
10 the 30th day preceding the date of publication by an
11 agency of general notice of proposed rulemaking for
12 a rule, the agency shall transmit to the Chief Coun-
13 sel for Advocacy of the Small Business Administra-
14 tion—

15 “(A) a copy of the proposed rule; and

16 “(B)(i) a copy of the initial regulatory
17 flexibility analysis for the rule if required under
18 section 603; or

19 “(ii) a determination by the agency that an
20 initial regulatory flexibility analysis is not re-
21 quired for the proposed rule under section 603
22 and an explanation for the determination.

23 “(2) STATEMENT OF OPPOSITION.—On or be-
24 fore the 15th day following receipt of a proposed
25 rule and initial regulatory flexibility analysis from an
26 agency under paragraph (1), the Chief Counsel for

1 Advocacy may transmit to the agency a written
2 statement of opposition of the proposed rule.

3 “(3) RESPONSE.—If the Chief Counsel for Ad-
4 vocacy transmits to an agency a statement of opposi-
5 tion to a proposed rule in accordance with para-
6 graph (2), the agency shall publish the statement,
7 together with the response of the agency to the
8 statement, in the Federal Register at the time of
9 publication of general notice of proposed rulemaking
10 for the rule.”.

11 (b) CONFORMING AMENDMENT.—Section 603(a) of
12 title 5, United States Code, is amended by inserting “in
13 accordance with section 612(d)” before the period at the
14 end of the last sentence.

15 **SEC. 5. SENSE OF CONGRESS REGARDING SBA CHIEF**
16 **COUNSEL FOR ADVOCACY.**

17 It is the sense of Congress that the Chief Counsel
18 for Advocacy of the Small Business Administration should
19 be permitted to appear as amicus curiae in any action or
20 case brought in a court of the United States for the pur-
21 pose of reviewing a rule.

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