

REGULATORY AGENDA CLARITY ACT

DECEMBER 10, 2024.—Ordered to be printed

Mr. WILLIAMS of Texas, from the Committee on Small Business,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 9030]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 9030) to amend chapter 6 of title 5, United States Code (commonly known as the “Regulatory Flexibility Act”), to ensure complete disclosure of an agency’s annual regulatory agenda, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND BILL SUMMARY

On July 15, 2024, Rep. Alford introduced H.R. 9030. The purpose of H.R. 9030, the “Regulatory Agenda Clarity Act,” is to require agencies to include in their annual regulatory agenda the North American Industry Classification System (NAICS) codes of small entities primarily impacted by any rule and a plain language summary within three days of its publication in the Federal Register.

II. NEED FOR LEGISLATION

Agencies publish their regulatory agenda in the Fall and Spring each year which is publicly available on the Office of Information and Regulatory Affairs’ (OIRA) website. This legislation requires agencies to include the North American Industry Classification System (NAICS) codes of small entities primarily impacted by any rule and a plain language summary on the agency’s website within three days of the agenda’s publication in the Federal Register.

Throughout the Committee’s investigation, we repeatedly found that agencies underestimated the number of effected entities as well as industries that will be impacted by regulations. By forcing agencies to take this additional step, it would allow for a more accurate and wholistic view into the businesses that will be forced to comply with a new rule.

This information is important for small businesses to be aware of so they know precisely who is impacted by a proposed rule and might be required to comply with a rule should it become final.

III. HEARINGS

In the 118th Congress, the Committee held one hearing examining the issues covered in H.R. 9030. On May 22, 2024, the Committee held a hearing titled “Burdensome Regulations: Examining the Biden Administration’s Failure to Consider Small Businesses” which examined the impacts of the Biden Administration’s burdensome regulatory landscape and explored ways to support small businesses and overcome agencies’ noncompliance with the RFA.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on September 10, 2024 and ordered H.R. 9030 reported to the House of Representatives. During the markup two amendments were offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted to favorably report H.R. 9030 to the House of Representatives at 2:35 PM.

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024

Bill: Amendment #1 Offered to H.R. 9030

Time of Vote: 2:29 PM

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)			
Mr. Stauber (MN-08)		✓	
Mr. Meuser (PA-09)		✓	
Ms. Van Duyne (TX-24)		✓	
Ms. Salazar (FL-27)		✓	
Mr. Mann (KS-01)		✓	
Mr. Ellzey (TX-06)		✓	
Mr. Molinaro (NY-19)		✓	
Mr. Alford (MO-04)		✓	
Mr. Crane (AZ-02)		✓	
Mr. Bean (FL-04)		✓	
Mr. Hunt (TX-38)			
Mr. Lalota (NY-01)		✓	
Ms. Maloy (UT-02)		✓	
Chairman Williams (TX-25)		✓	
TOTALS:		13	

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024

Bill: Amendment #1 offered to H.R. 9030

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)	✓		
Mr. McGarvey (KY-03)	✓		
Ms. Gluesenkamp Perez (WA-03)	✓		
Ms. Scholten (MI-03)	✓		
Mr. Thanedar (MI-13)	✓		
Ms. Chu (CA-28)	✓		
Ms. Davids (KS-03)	✓		
Mr. Pappas (NH-01)	✓		
Ranking Member Velazquez (NY-07)	✓		
TOTALS:	11		

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024

Bill: Amendment #2 offered to H.R. 9030

Time of Vote: 2:32 PM

Republicans	Aye	Nay	Present
Mr. Luetkemeyer (MO-03)			
Mr. Stauber (MN-08)		✓	
Mr. Meuser (PA-09)		✓	
Ms. Van Duyne (TX-24)		✓	
Ms. Salazar (FL-27)		✓	
Mr. Mann (KS-01)		✓	
Mr. Ellzey (TX-06)		✓	
Mr. Molinaro (NY-19)		✓	
Mr. Alford (MO-04)		✓	
Mr. Crane (AZ-02)		✓	
Mr. Bean (FL-04)		✓	
Mr. Hunt (TX-38)			
Mr. Lalota (NY-01)		✓	
Ms. Maloy (UT-02)		✓	
Chairman Williams (TX-25)		✓	
TOTALS:		13	

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024

Bill: Amendment #2 offered to H.R. 9030

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)	✓		
Mr. McGarvey (KY-03)	✓		
Ms. Gluesenkamp Perez (WA-03)	✓		
Ms. Scholten (MI-03)	✓		
Mr. Thanedar (MI-13)	✓		
Ms. Chu (CA-28)	✓		
Ms. Davids (KS-03)	✓		
Mr. Pappas (NH-01)	✓		
Ranking Member Velazquez (NY-07)	✓		
TOTALS:	11		

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET

Bill: H.R. 9030

Time of Vote: 2:35 PM

Republicans

Mr. Luetkemeyer (MO-03)

Mr. Stauber (MN-08)

Mr. Meuser (PA-09)

Ms. Van Duyne (TX-24)

Ms. Salazar (FL-27)

Mr. Mann (KS-01)

Mr. Ellzey (TX-06)

Mr. Molinaro (NY-19)

Mr. Alford (MO-04)

Mr. Crane (AZ-02)

Mr. Bean (FL-04)

Mr. Hunt (TX-38)

Mr. Lalota (NY-01)

Ms. Maloy (UT-02)

Chairman Williams (TX-25)

TOTALS:

Aye	Nay	Present
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
✓		
13		

118th Congress House Committee on Small Business Vote Record

Date: Tuesday, September 10, 2024 at 9:45 AM ET

Bill: H.R. - 9030

Democrats	Aye	Nay	Present
Mr. Golden (ME-02)	✓		
Mr. Phillips (MN-03)	✓		
Mr. Landsman (OH-01)		✓	
Mr. McGarvey (KY-03)		✓	
Ms. Gluesenkamp Perez (WA-03)	✓		
Ms. Scholten (MI-03)		✓	
Mr. Thanedar (MI-13)		✓	
Ms. Chu (CA-28)		✓	
Ms. Davids (KS-03)		✓	
Mr. Pappas (NH-01)	✓		
Ranking Member Velazquez (NY-07)		✓	
TOTALS:	4	7	

VI. SECTION-BY-SECTION OF H.R. 9030

Section 1: Short title

This bill may be cited as the “Regulatory Agenda Clarity Act.”

Section 2: Expansion of report of regulatory agenda

Requires a brief description of the NAICS codes impacted by the rule to be included in the regulatory agenda.

Requires a plain language summary of the rule/regulatory flexibility agenda to be posted in the Federal Register and the agency’s website within 3 days of publishing the rule. The Office of Advocacy must then post the summaries on the SBA’s website.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the House Committee on Small Business during the 118th Congress. The legislation listed in the table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provided information about the legislation’s estimated effects on spending subject to appropriation and on inter-governmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending, 2025–2034	Revenues, 2025–2034	Spending subject to appropriation, 2025–2029	Pay-as-you-go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 9030	Regulatory Agenda Clarity Act	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between –\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
H.R. 9030 would require federal agencies to describe the type of business that would be affected by a proposed rule, explain whether the rule would impose significant economic effects on a substantial number of small entities, and display that information on their website. CBO estimates that enacting H.R. 9030 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9030 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9030 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.											
H.R. 9031	Assurance for Small Business Act of 2024.	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between –\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman
H.R. 9031 would require each rulemaking agency to report to the Congress on how the agency determines whether a rule would impose significant economic effects on a substantial number of small entities. Enacting H.R. 9031 could increase direct spending by some regulatory agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9031 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9031 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.											
H.R. 9033	LABOR Act of 2024	Ordered reported	09/10/24	500	0	0	Not estimated	No	No	No	Margot Berman
H.R. 9033 would require the Department of Labor to convene a small business advocacy review panel before proposing rules that would have significant economic effects on a substantial number of small entities. Under current law, only the Occupational Safety and Health Administration within the Department of Labor is required to do so. CBO estimates that enacting H.R. 9033 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.											
H.R. 9085	Regulatory Review Improvement Act of 2024.	Ordered reported	09/10/24	Multiple functions	Between zero and \$500,000	Between –\$500,000 and zero	Not estimated	Yes	Insignificant	Yes	Margot Berman

H.R. 9085 would expand the information that agencies must include in a 10-year review of a rule's effect on small entities, including the cost for entities to comply with the rule once it goes into effect and an analysis of public comments an agency receives about the rule. The bill also would reduce the time from 5 years to 1 year for an agency to complete a review. CBO estimates that enacting H.R. 9085 could increase direct spending by some agencies, a few of which are allowed to charge fees to cover their operating costs. CBO estimates that the net increase in direct spending would be insignificant. Enacting H.R. 9085 could reduce revenues because costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. However, CBO estimates that any reduction in revenues would be insignificant. CBO has not estimated the bill's effects on spending subject to appropriation. If federal regulators increase annual fees to offset the costs of implementing the bill, H.R. 9085 would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small and would fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee does not believe that there will be any additional costs attributable to this legislation.

H.R. 9030 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. OVERSIGHT FINDINGS & RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 9030 are incorporated into the descriptive portions of this report.

X. PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 9030 are to require agencies to include in their annual regulatory agenda the North American Industry Classification System (NAICS) codes of small entities primarily impacted by any rule and a plain language summary within three days of its publication in the federal register.

XI. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 9030 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of rule XII of the Rules of the House, the Committee finds that the authority for this legislation in Art. I, § 8, cl.1 of the Constitution of the United States.

XVII. CHANGES IN EXISTING LAW, MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART I—THE AGENCIES GENERALLY

* * * * *

CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

* * * * *

§ 602. Regulatory agenda

(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

(1) a brief description of the subject area of 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;

(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking[, and];

(3) a brief description of each 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

[(3)] (4) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

[(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.]

(c) Not later than 3 days after the date on which an agency publishes a regulatory flexibility agenda in the Federal Register under subsection (a)—

(1) such agency shall prominently display on the website of such agency a plain language summary of the information contained in the regulatory flexibility agenda;

(2) the Chief Counsel for Advocacy shall compile, by agency, and prominently display on the website of the Small Business Administration a plain language summary of each such regulatory flexibility agenda.

(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

* * * * *

XVIII. MINORITY VIEWS

Section 602 of the Regulatory Flexibility Act (RFA) requires federal agencies to publish a regulatory flexibility agenda in the Federal Register during the months of April and October every year. Each agency is required to list all rules it expects to propose or promulgate that are likely to have a significant economic impact on a substantial number of small entities, (SEISNSE). The regulatory agenda must include:

- A brief description of the subject area of any rule the agency expects to propose or promulgate that is likely to have a significant economic impact on a substantial number of small entities.
- A summary of the nature of each such rule under consideration, the objectives and the legal basis for issuing each rule, and an approximate schedule for completing action on any rule for which an agency has issued a general notice of proposed rulemaking.
- The name and telephone number of an agency official knowledgeable about the rule.¹

In addition, the regulatory flexibility agenda is published on *Regulations.gov* with links to all the relevant information.

The Majority is concerned that agencies are not taking the 602 requirements seriously, and only providing links on their websites to regulations.gov website. Their bill would require (1) each federal agency to post a plain language summary of the information contained in the regulatory flexibility agenda prominently on their websites, (2) The Office of Advocacy (Advocacy) to post the summaries on its website, and (3) each federal agency to provide a brief description of the sector, by NAICS code, that is affected by the rule.

I have concerns with the requirement for each federal agency to provide a brief description of the sector, by NAICS code. The regulatory flexibility agenda is a comprehensive collection of rules the agencies are considering or currently working on. Agencies do not always move forward with every rule. Requiring more detailed information at this pre-planning stage, like NAICS code, may lead agencies to exclude rules from the regulatory flexibility agenda, unless they are certain to move forward with the rulemaking process. This, in turn, would hurt small businesses because they would not be able to weigh in during the initial stages.

Committee Democrats offered common-sense legislation to make regulations and regulatory processes more accessible to small businesses. To that end, Mr. Thanedar and Ms. Chu each proposed amendments in the nature of a substitute to this bill. Mr.

¹ OFF. OF ADVOCACY, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, U.S. SMALL BUS. ADMIN. (Aug. 2017), <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf>.

Thanedar's common sense amendment would require agencies to publish their brief description of rules under consideration that may have a significant economic impact on a substantial number of small entities (SEISNSE) in plain language and require that they publish the information on their website within five days of the publication of the regulatory flexibility agenda.

Ms. Chu's amendment would strike provisions in the text and require agencies to conduct comprehensive outreach to small businesses when developing their regulatory flexibility agendas. The types of outreach include: community-based outreach; outreach to organizations that work with small entities; agency field offices; and the use of alternative platforms and media for engaging with small entities. The Chu amendment will encourage agencies to get out of the Capital beltway and connect directly with small businesses. This is a far better solution.

NYDIA M. VELÁZQUEZ,
Ranking Member.

