

# Union Calendar No. 208

113TH CONGRESS  
1ST SESSION

# H. R. 2542

[Report No. 113–288, 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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2013

Mr. BACHUS (for himself, Mr. GRAVES of Missouri, Mr. BARROW of Georgia, Mr. MATHESON, Mr. SMITH of Texas, Mr. COBLE, and Mr. ROKITA) 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

DECEMBER 11, 2013

Additional sponsors: Mr. DUNCAN of Tennessee, Mr. HANNA, Mr. HUELSKAMP, Ms. HERRERA BEUTLER, Mr. COLLINS of New York, Mr. CRAMER, Mr. CHABOT, Mr. SMITH of Missouri, Mr. ISSA, Mr. TIPTON, Mr. LUETKEMEYER, Mr. LONG, and Mr. SESSIONS

DECEMBER 11, 2013

Reported from the Committee on the Judiciary with an amendment

[Omit the part struck through in roman and insert the part printed in italic]

DECEMBER 11, 2013

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]

[For text of introduced bill, see copy of bill as introduced on June 27, 2013]

# **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.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “Regulatory Flexibility Improvements Act of 2013”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
 7 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. Establishment and approval of small business concern size standards by chief counsel for advocacy.
- Sec. 11. Clerical amendments.
- Sec. 12. Agency preparation of guides.

8 **SEC. 2. CLARIFICATION AND EXPANSION OF RULES COV-**  
 9 **ERED BY THE REGULATORY FLEXIBILITY**  
 10 **ACT.**

11 (a) **IN GENERAL.**—Paragraph (2) of section 601 of  
 12 title 5, United States Code, is amended to read as follows:

13 “(2) **RULE.**—The term ‘rule’ has the meaning  
 14 given such term in section 551(4) of this title, ex-  
 15 cept that such term does not include a rule of par-  
 16 ticular (and not general) applicability relating to  
 17 rates, wages, corporate or financial structures or re-

1 organizations thereof, prices, facilities, appliances,  
2 services, or allowances therefor or to valuations,  
3 costs or accounting, or practices relating to such  
4 rates, wages, structures, prices, appliances, services,  
5 or allowances.”.

6 (b) INCLUSION OF RULES WITH INDIRECT EF-  
7 FECTS.—Section 601 of title 5, United States Code, is  
8 amended by adding at the end the following new para-  
9 graph:

10 “(9) ECONOMIC IMPACT.—The term ‘economic  
11 impact’ means, with respect to a proposed or final  
12 rule—

13 “(A) any direct economic effect on small  
14 entities of such rule; and

15 “(B) any indirect economic effect on small  
16 entities which is reasonably foreseeable and re-  
17 sults from such rule (without regard to whether  
18 small entities will be directly regulated by the  
19 rule).”.

20 (c) INCLUSION OF RULES WITH BENEFICIAL EF-  
21 FECTS.—

22 (1) INITIAL REGULATORY FLEXIBILITY ANAL-  
23 YSIS.—Subsection (c) of section 603 of title 5,  
24 United States Code, is amended by striking the first  
25 sentence and inserting “Each initial regulatory flexi-

1 bility analysis shall also contain a detailed descrip-  
2 tion of alternatives to the proposed rule which mini-  
3 mize any adverse significant economic impact or  
4 maximize any beneficial significant economic impact  
5 on small entities.”.

6 (2) FINAL REGULATORY FLEXIBILITY ANAL-  
7 YSIS.—The first paragraph (6) of section 604(a) of  
8 title 5, United States Code, is amended by striking  
9 “minimize the significant economic impact” and in-  
10 sserting “minimize the adverse significant economic  
11 impact or maximize the beneficial significant eco-  
12 nomic impact”.

13 (d) INCLUSION OF RULES AFFECTING TRIBAL ORGA-  
14 NIZATIONS.—Paragraph (5) of section 601 of title 5,  
15 United States Code, is amended by inserting “and tribal  
16 organizations (as defined in section 4(l) of the Indian Self-  
17 Determination and Education Assistance Act (25 U.S.C.  
18 450b(l))),” after “special districts,”.

19 (e) INCLUSION OF LAND MANAGEMENT PLANS AND  
20 FORMAL RULEMAKING.—

21 (1) INITIAL REGULATORY FLEXIBILITY ANAL-  
22 YSIS.—Subsection (a) of section 603 of title 5,  
23 United States Code, is amended in the first sen-  
24 tence—

1 (A) by striking “or” after “proposed  
2 rule,”; and

3 (B) by inserting “or publishes a revision or  
4 amendment to a land management plan,” after  
5 “United States,”.

6 (2) FINAL REGULATORY FLEXIBILITY ANAL-  
7 YSIS.—Subsection (a) of section 604 of title 5,  
8 United States Code, is amended in the first sen-  
9 tence—

10 (A) by striking “or” after “proposed rule-  
11 making,”; and

12 (B) by inserting “or adopts a revision or  
13 amendment to a land management plan,” after  
14 “section 603(a),”.

15 (3) LAND MANAGEMENT PLAN DEFINED.—Sec-  
16 tion 601 of title 5, United States Code, is amended  
17 by adding at the end the following new paragraph:

18 “(10) LAND MANAGEMENT PLAN.—

19 “(A) IN GENERAL.—The term ‘land man-  
20 agement plan’ means—

21 “(i) any plan developed by the Sec-  
22 retary of Agriculture under section 6 of  
23 the Forest and Rangeland Renewable Re-  
24 sources Planning Act of 1974 (16 U.S.C.  
25 1604); and

1           “(ii) any plan developed by the Sec-  
2           retary of the Interior under section 202 of  
3           the Federal Land Policy and Management  
4           Act of 1976 (43 U.S.C. 1712).

5           “(B) REVISION.—The term ‘revision’  
6           means any change to a land management plan  
7           which—

8                   “(i) in the case of a plan described in  
9                   subparagraph (A)(i), is made under section  
10                  6(f)(5) of the Forest and Rangeland Re-  
11                  newable Resources Planning Act of 1974  
12                  (16 U.S.C. 1604(f)(5)); or

13                   “(ii) in the case of a plan described in  
14                   subparagraph (A)(ii), is made under sec-  
15                  tion 1610.5–6 of title 43, Code of Federal  
16                  Regulations (or any successor regulation).

17           “(C) AMENDMENT.—The term ‘amend-  
18           ment’ means any change to a land management  
19           plan which—

20                   “(i) in the case of a plan described in  
21                   subparagraph (A)(i), is made under section  
22                  6(f)(4) of the Forest and Rangeland Re-  
23                  newable Resources Planning Act of 1974  
24                  (16 U.S.C. 1604(f)(4)) and with respect to  
25                  which the Secretary of Agriculture pre-

1           prepares a statement described in section  
2           102(2)(C) of the National Environmental  
3           Policy Act of 1969 (42 U.S.C.  
4           4332(2)(C)); or

5           “(ii) in the case of a plan described in  
6           subparagraph (A)(ii), is made under sec-  
7           tion 1610.5–5 of title 43, Code of Federal  
8           Regulations (or any successor regulation)  
9           and with respect to which the Secretary of  
10          the Interior prepares a statement described  
11          in section 102(2)(C) of the National Envi-  
12          ronmental Policy Act of 1969 (42 U.S.C.  
13          4332(2)(C)).”.

14          (f) INCLUSION OF CERTAIN INTERPRETIVE RULES  
15 INVOLVING THE INTERNAL REVENUE LAWS.—

16           (1) IN GENERAL.—Subsection (a) of section  
17          603 of title 5, United States Code, is amended by  
18          striking the period at the end and inserting “or a  
19          recordkeeping requirement, and without regard to  
20          whether such requirement is imposed by statute or  
21          regulation.”.

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



1           “(7) COLLECTION OF INFORMATION.—The term  
2           ‘collection of information’ has the meaning given  
3           such term in section 3502(3) of title 44.”.

4           (3) RECORDKEEPING REQUIREMENT.—Para-  
5           graph (8) of section 601 of title 5, United States  
6           Code, is amended to read as follows:

7           “(8) RECORDKEEPING REQUIREMENT.—The  
8           term ‘recordkeeping requirement’ has the meaning  
9           given such term in section 3502(13) of title 44.”.

10          (g) DEFINITION OF SMALL ORGANIZATION.—Para-  
11          graph (4) of section 601 of title 5, United States Code,  
12          is amended to read as follows:

13                 “(4) SMALL ORGANIZATION.—

14                         “(A) IN GENERAL.—The term ‘small orga-  
15                         nization’ means any not-for-profit enterprise  
16                         which, as of the issuance of the notice of pro-  
17                         posed rulemaking—

18                                 “(i) in the case of an enterprise which  
19                                 is described by a classification code of the  
20                                 North American Industrial Classification  
21                                 System, does not exceed the size standard  
22                                 established by the Administrator of the  
23                                 Small Business Administration pursuant to  
24                                 section 3 of the Small Business Act (15

1 U.S.C. 632) for small business concerns  
2 described by such classification code; and

3 “(ii) in the case of any other enter-  
4 prise, has a net worth that does not exceed  
5 \$7,000,000 and has not more than 500  
6 employees.

7 “(B) LOCAL LABOR ORGANIZATIONS.—In  
8 the case of any local labor organization, sub-  
9 paragraph (A) shall be applied without regard  
10 to any national or international organization of  
11 which such local labor organization is a part.

12 “(C) AGENCY DEFINITIONS.—Subpara-  
13 graphs (A) and (B) shall not apply to the ex-  
14 tent that an agency, after consultation with the  
15 Office of Advocacy of the Small Business Ad-  
16 ministration and after opportunity for public  
17 comment, establishes one or more definitions  
18 for such term which are appropriate to the ac-  
19 tivities of the agency and publishes such defini-  
20 tions in the Federal Register.”.

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

22 Section 602 of title 5, United States Code, is amend-  
23 ed—

24 (1) in subsection (a)—

1 (A) in paragraph (2), by striking “, and”  
2 at the end and inserting “;”;

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

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

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

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

14 “(c) Each agency shall prominently display a plain  
15 language summary of the information contained in the  
16 regulatory flexibility agenda published under subsection  
17 (a) on its website within 3 days of its publication in the  
18 Federal Register. The Office of Advocacy of the Small  
19 Business Administration shall compile and prominently  
20 display a plain language summary of the regulatory agen-  
21 das referenced in subsection (a) for each agency on its  
22 website within 3 days of their publication in the Federal  
23 Register.”.

1 **SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED**  
2 **ANALYSES.**

3 (a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—  
4 Subsection (b) of section 603 of title 5, United States  
5 Code, is amended to read as follows:

6 “(b) Each initial regulatory flexibility analysis re-  
7 quired under this section shall contain a detailed state-  
8 ment—

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

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

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

15 “(4) describing the projected reporting, record-  
16 keeping, and other compliance requirements of the  
17 proposed rule, including an estimate of the classes of  
18 small entities which will be subject to the require-  
19 ment and the type of professional skills necessary  
20 for preparation of the report and record;

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

25 “(6) estimating the additional cumulative eco-  
26 nomic impact of the proposed rule on small entities

1 beyond that already imposed on the class of small  
2 entities by the agency or why such an estimate is  
3 not available; and

4 “(7) describing any disproportionate economic  
5 impact on small entities or a specific class of small  
6 entities.”.

7 (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

8 (1) IN GENERAL.—Section 604(a) of title 5,  
9 United States Code, is amended—

10 (A) in paragraph (4), by striking “an ex-  
11 planation” and inserting “a detailed expla-  
12 nation”;

13 (B) in each of paragraphs (4), (5), and the  
14 first paragraph (6), by inserting “detailed” be-  
15 fore “description”; and

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

17 “(7) describing any disproportionate economic  
18 impact on small entities or a specific class of small  
19 entities.”.

20 (2) INCLUSION OF RESPONSE TO COMMENTS ON  
21 CERTIFICATION OF PROPOSED RULE.—Paragraph  
22 (2) of section 604(a) of title 5, United States Code,  
23 is amended by inserting “(or certification of the pro-  
24 posed rule under section 605(b))” after “initial reg-  
25 ulatory flexibility analysis”.

1           (3) PUBLICATION OF ANALYSIS ON WEBSITE.—

2           Subsection (b) of section 604 of title 5, United  
3           States Code, is amended to read as follows:

4           “(b) The agency shall make copies of the final regu-  
5           latory flexibility analysis available to the public, including  
6           placement of the entire analysis on the agency’s website,  
7           and shall publish in the Federal Register the final regu-  
8           latory flexibility analysis, or a summary thereof which in-  
9           cludes the telephone number, mailing address, and link to  
10          the website where the complete analysis may be ob-  
11          tained.”.

12          (c) CROSS-REFERENCES TO OTHER ANALYSES.—

13          Subsection (a) of section 605 of title 5, United States  
14          Code, is amended to read as follows:

15          “(a) A Federal agency shall be treated as satisfying  
16          any requirement regarding the content of an agenda or  
17          regulatory flexibility analysis under section 602, 603, or  
18          604, if such agency provides in such agenda or analysis  
19          a cross-reference to the specific portion of another agenda  
20          or analysis which is required by any other law and which  
21          satisfies such requirement.”.

22          (d) CERTIFICATIONS.—Subsection (b) of section 605  
23          of title 5, United States Code, is amended—

24                  (1) by inserting “detailed” before “statement”  
25                  the first place it appears; and

1 (2) by inserting “and legal” after “factual”.

2 (e) QUANTIFICATION REQUIREMENTS.—Section 607  
3 of title 5, United States Code, is amended to read as fol-  
4 lows:

5 **“§ 607. Quantification requirements**

6 “In complying with sections 603 and 604, an agency  
7 shall provide—

8 “(1) a quantifiable or numerical description of  
9 the effects of the proposed or final rule and alter-  
10 natives to the proposed or final rule; or

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

14 **SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDI-**  
15 **TIONAL POWERS OF THE CHIEF COUNSEL**  
16 **FOR ADVOCACY.**

17 (a) IN GENERAL.—Section 608 is amended to read  
18 as follows:

19 **“§ 608. Additional powers of Chief Counsel for Advo-**  
20 **cacy**

21 “(a)(1) Not later than 270 days after the date of the  
22 enactment of the Regulatory Flexibility Improvements Act  
23 of 2013, the Chief Counsel for Advocacy of the Small  
24 Business Administration shall, after opportunity for notice  
25 and comment under section 553, issue rules governing

1 agency compliance with this chapter. The Chief Counsel  
2 may modify or amend such rules after notice and comment  
3 under section 553. This chapter (other than this sub-  
4 section) shall not apply with respect to the issuance, modi-  
5 fication, and amendment of rules under this paragraph.

6 “(2) An agency shall not issue rules which supple-  
7 ment the rules issued under subsection (a) unless such  
8 agency has first consulted with the Chief Counsel for Ad-  
9 vocacy to ensure that such supplemental rules comply with  
10 this chapter and the rules issued under paragraph (1).

11 “(b) Notwithstanding any other law, the Chief Coun-  
12 sel for Advocacy of the Small Business Administration  
13 may intervene in any agency adjudication (unless such  
14 agency is authorized to impose a fine or penalty under  
15 such adjudication), and may inform the agency of the im-  
16 pact that any decision on the record may have on small  
17 entities. The Chief Counsel shall not initiate an appeal  
18 with respect to any adjudication in which the Chief Coun-  
19 sel intervenes under this subsection.

20 “(c) The Chief Counsel for Advocacy may file com-  
21 ments in response to any agency notice requesting com-  
22 ment, regardless of whether the agency is required to file  
23 a general notice of proposed rulemaking under section  
24 553.”.

25 (b) CONFORMING AMENDMENTS.—



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

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

5           (3) Section 611(a)(3) of such title is amend-  
6           ed—

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

8                     (B) by striking “(3)(A) A small entity”

9                     and inserting the following:

10           “(3) A small entity”.

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

12           Section 609 of title 5, United States Code, is amend-  
13           ed by striking subsection (b) and all that follows through  
14           the end of the section and inserting the following:

15           “(b)(1) Prior to publication of any proposed rule de-  
16           scribed in subsection (e), an agency making such rule shall  
17           notify the Chief Counsel for Advocacy of the Small Busi-  
18           ness Administration and provide the Chief Counsel with—

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

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

1       “(2) An agency shall not be required under para-  
2 graph (1) to provide the exact language of any draft if  
3 the rule—

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

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

8       “(c) Not later than 15 days after the receipt of such  
9 materials and information under subsection (b), the Chief  
10 Counsel for Advocacy of the Small Business Administra-  
11 tion shall—

12               “(1) identify small entities or representatives of  
13 small entities or a combination of both for the pur-  
14 pose of obtaining advice, input, and recommenda-  
15 tions from those persons about the potential eco-  
16 nomic impacts of the proposed rule and the compli-  
17 ance of the agency with section 603; and

18               “(2) convene a review panel consisting of an  
19 employee from the Office of Advocacy of the Small  
20 Business Administration, an employee from the  
21 agency making the rule, and in the case of an agen-  
22 cy other than an independent regulatory agency (as  
23 defined in section 3502(5) of title 44), an employee  
24 from the Office of Information and Regulatory Af-  
25 fairs of the Office of Management and Budget to re-

1 view the materials and information provided to the  
2 Chief Counsel under subsection (b).

3 “(d)(1) Not later than 60 days after the review panel  
4 described in subsection (c)(2) is convened, the Chief Coun-  
5 sel for Advocacy of the Small Business Administration  
6 shall, after consultation with the members of such panel,  
7 submit a report to the agency and, in the case of an agen-  
8 cy other than an independent regulatory agency (as de-  
9 fined in section 3502(5) of title 44), the Office of Informa-  
10 tion and Regulatory Affairs of the Office of Management  
11 and Budget.

12 “(2) Such report shall include an assessment of the  
13 economic impact of the proposed rule on small entities,  
14 including an assessment of the proposed rule’s impact on  
15 the cost that small entities pay for energy, and a discus-  
16 sion of any alternatives that will minimize adverse signifi-  
17 cant economic impacts or maximize beneficial significant  
18 economic impacts on small entities.

19 “(3) Such report shall become part of the rulemaking  
20 record. In the publication of the proposed rule, the agency  
21 shall explain what actions, if any, the agency took in re-  
22 sponse to such report.

23 “(e) A proposed rule is described by this subsection  
24 if the Administrator of the Office of Information and Reg-  
25 ulatory Affairs of the Office of Management and Budget,

1 the head of the agency (or the delegatee of the head of  
2 the agency), or an independent regulatory agency deter-  
3 mines that the proposed rule is likely to result in—

4 “(1) an annual effect on the economy of  
5 \$100,000,000 or more;

6 “(2) a major increase in costs or prices for con-  
7 sumers, individual industries, Federal, State, or local  
8 governments, tribal organizations, or geographic re-  
9 gions;

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

15 “(4) a significant economic impact on a sub-  
16 stantial number of small entities.

17 “(f) Upon application by the agency, the Chief Coun-  
18 sel for Advocacy of the Small Business Administration  
19 may waive the requirements of subsections (b) through (e)  
20 if the Chief Counsel determines that compliance with the  
21 requirements of such subsections are impracticable, un-  
22 necessary, or contrary to the public interest.”.

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

24 Section 610 of title 5, United States Code, is amend-  
25 ed to read as follows:

1 **“§ 610. Periodic review of rules**

2       “(a) Not later than 180 days after the enactment of  
3 the Regulatory Flexibility Improvements Act of 2013,  
4 each agency shall publish in the Federal Register and  
5 place on its website a plan for the periodic review of rules  
6 issued by the agency which the head of the agency deter-  
7 mines have a significant economic impact on a substantial  
8 number of small entities. Such determination shall be  
9 made without regard to whether the agency performed an  
10 analysis under section 604. The purpose of the review  
11 shall be to determine whether such rules should be contin-  
12 ued without change, or should be amended or rescinded,  
13 consistent with the stated objectives of applicable statutes,  
14 to minimize any adverse significant economic impacts or  
15 maximize any beneficial significant economic impacts on  
16 a substantial number of small entities. Such plan may be  
17 amended by the agency at any time by publishing the revi-  
18 sion in the Federal Register and subsequently placing the  
19 amended plan on the agency’s website.

20       “(b) The plan shall provide for the review of all such  
21 agency rules existing on the date of the enactment of the  
22 Regulatory Flexibility Improvements Act of 2013 within  
23 10 years of the date of publication of the plan in the Fed-  
24 eral Register and for review of rules adopted after the date  
25 of enactment of the Regulatory Flexibility Improvements  
26 Act of 2013 within 10 years after the publication of the

1 final rule in the Federal Register. If the head of the agen-  
2 cy determines that completion of the review of existing  
3 rules is not feasible by the established date, the head of  
4 the agency shall so certify in a statement published in the  
5 Federal Register and may extend the review for not longer  
6 than 2 years after publication of notice of extension in  
7 the Federal Register. Such certification and notice shall  
8 be sent to the Chief Counsel for Advocacy of the Small  
9 Business Administration and the Congress.

10       “(c) The plan shall include a section that details how  
11 an agency will conduct outreach to and meaningfully in-  
12 clude small businesses for the purposes of carrying out  
13 this section. The agency shall include in this section a plan  
14 for how the agency will contact small businesses and gath-  
15 er their input on existing agency rules.

16       “(d) Each agency shall annually submit a report re-  
17 garding the results of its review pursuant to such plan  
18 to the Congress, the Chief Counsel for Advocacy of the  
19 Small Business Administration, and, in the case of agen-  
20 cies other than independent regulatory agencies (as de-  
21 fined in section 3502(5) of title 44) to the Administrator  
22 of the Office of Information and Regulatory Affairs of the  
23 Office of Management and Budget. Such report shall in-  
24 clude the identification of any rule with respect to which  
25 the head of the agency made a determination described

1 in paragraph (5) or (6) of subsection (e) and a detailed  
2 explanation of the reasons for such determination.

3 “(e) In reviewing a rule pursuant to subsections (a)  
4 through (d), the agency shall amend or rescind the rule  
5 to minimize any adverse significant economic impact on  
6 a substantial number of small entities or disproportionate  
7 economic impact on a specific class of small entities, or  
8 maximize any beneficial significant economic impact of the  
9 rule on a substantial number of small entities to the great-  
10 est extent possible, consistent with the stated objectives  
11 of applicable statutes. In amending or rescinding the rule,  
12 the agency shall consider the following factors:

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

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

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

19 “(4) The complexity of the rule.

20 “(5) The extent to which the rule overlaps, du-  
21 plicates, or conflicts with other Federal rules and,  
22 unless the head of the agency determines it to be in-  
23 feasible, State, territorial, and local rules.

24 “(6) The contribution of the rule to the cumu-  
25 lative economic impact of all Federal rules on the

1 class of small entities affected by the rule, unless the  
2 head of the agency determines that such calculations  
3 cannot be made and reports that determination in  
4 the annual report required under subsection (d).

5 “(7) The length of time since the rule has been  
6 evaluated or the degree to which technology, eco-  
7 nomic conditions, or other factors have changed in  
8 the area affected by the rule.

9 “(f) The agency shall publish in the Federal Register  
10 and on its website a list of rules to be reviewed pursuant  
11 to such plan. Such publication shall include a brief de-  
12 scription of the rule, the reason why the agency deter-  
13 mined that it has a significant economic impact on a sub-  
14 stantial number of small entities (without regard to wheth-  
15 er it had prepared a final regulatory flexibility analysis  
16 for the rule), and request comments from the public, the  
17 Chief Counsel for Advocacy of the Small Business Admin-  
18 istration, and the Regulatory Enforcement Ombudsman  
19 concerning the enforcement of the rule.”.



1 **SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE RE-**  
2 **QUIREMENTS OF THE REGULATORY FLEXI-**  
3 **BILITY ACT AVAILABLE AFTER PUBLICATION**  
4 **OF THE FINAL RULE.**

5 (a) **IN GENERAL.**—Paragraph (1) of section 611(a)  
6 of title 5, United States Code, is amended by striking  
7 “final agency action” and inserting “such rule”.

8 (b) **JURISDICTION.**—Paragraph (2) of such section is  
9 amended by inserting “(or which would have such jurisdic-  
10 tion if publication of the final rule constituted final agency  
11 action)” after “provision of law,”.

12 (c) **TIME FOR BRINGING ACTION.**—Paragraph (3) of  
13 such section is amended—

14 (1) by striking “final agency action” and insert-  
15 ing “publication of the final rule”; and

16 (2) by inserting “, in the case of a rule for  
17 which the date of final agency action is the same  
18 date as the publication of the final rule,” after “ex-  
19 cept that”.

20 (d) **INTERVENTION BY CHIEF COUNSEL FOR ADVO-**  
21 **CACY.**—Subsection (b) of section 612 of title 5, United  
22 States Code, is amended by inserting before the first pe-  
23 riod “or agency compliance with section 601, 603, 604,  
24 605(b), 609, or 610”.

1 **SEC. 9. JURISDICTION OF COURT OF APPEALS OVER RULES**  
2 **IMPLEMENTING THE REGULATORY FLEXI-**  
3 **BILITY ACT.**

4 (a) IN GENERAL.—Section 2342 of title 28, United  
5 States Code, is amended—

6 (1) in paragraph (6), by striking “and” at the  
7 end;

8 (2) in paragraph (7), by striking the period at  
9 the end and inserting “; and”; and

10 (3) by inserting after paragraph (7) the fol-  
11 lowing new paragraph:

12 “(8) all final rules under section 608(a) of title  
13 5.”.

14 (b) CONFORMING AMENDMENTS.—Paragraph (3) of  
15 section 2341 of title 28, United States Code, is amended—

16 (1) in subparagraph (D), by striking “and” at  
17 the end;

18 (2) in subparagraph (E), by striking the period  
19 at the end and inserting “; and”; and

20 (3) by adding at the end the following new sub-  
21 paragraph:

22 “(F) the Office of Advocacy of the Small  
23 Business Administration, when the final rule is  
24 under section 608(a) of title 5.”.

25 (c) AUTHORIZATION TO INTERVENE AND COMMENT  
26 ON AGENCY COMPLIANCE WITH ADMINISTRATIVE PROCE-

1 DURE.—Subsection (b) of section 612 of title 5, United  
2 States Code, is amended by inserting “chapter 5, and  
3 chapter 7,” after “this chapter,”.

4 **SEC. 10. ESTABLISHMENT AND APPROVAL OF SMALL BUSI-**  
5 **NESS CONCERN SIZE STANDARDS BY CHIEF**  
6 **COUNSEL FOR ADVOCACY.**

7 (a) IN GENERAL.—Subparagraph (A) of section  
8 3(a)(2) of the Small Business Act (15 U.S.C.  
9 632(a)(2)(A)) is amended to read as follows:

10 “(A) IN GENERAL.—In addition to the cri-  
11 teria specified in paragraph (1)—

12 “(i) the Administrator may specify de-  
13 tailed definitions or standards by which a  
14 business concern may be determined to be  
15 a small business concern for purposes of  
16 this Act or the Small Business Investment  
17 Act of 1958; and

18 “(ii) the Chief Counsel for Advocacy  
19 may specify such definitions or standards  
20 for purposes of any other Act.”.

21 (b) APPROVAL BY CHIEF COUNSEL.—Clause (iii) of  
22 section 3(a)(2)(C) of the Small Business Act (15 U.S.C.  
23 632(a)(2)(C)(iii)) is amended to read as follows:

24 “(iii) except in the case of a size  
25 standard prescribed by the Administrator,

1 is approved by the Chief Counsel for Advo-  
2 cacy.”.

3 (c) INDUSTRY VARIATION.—Paragraph (3) of section  
4 3(a) of the Small Business Act (15 U.S.C. 632(a)(3)) is  
5 amended—

6 (1) by inserting “or Chief Counsel for Advo-  
7 cacy, as appropriate” before “shall ensure”; and

8 (2) by inserting “or Chief Counsel for Advo-  
9 cacy” before the period at the end.

10 (d) JUDICIAL REVIEW OF SIZE STANDARDS AP-  
11 PROVED BY CHIEF COUNSEL.—Section 3(a) of the Small  
12 Business Act (15 U.S.C. 632(a)) is amended by adding  
13 at the end the following new paragraph:

14 “~~(6)~~ (9) JUDICIAL REVIEW OF STANDARDS AP-  
15 PROVED BY CHIEF COUNSEL.—In the case of an ac-  
16 tion for judicial review of a rule which includes a  
17 definition or standard approved by the Chief Counsel  
18 for Advocacy under this subsection, the party seek-  
19 ing such review shall be entitled to join the Chief  
20 Counsel as a party in such action.”.

21 **SEC. 11. CLERICAL AMENDMENTS.**

22 (a) Section 601 of title 5, United States Code, is  
23 amended—

24 (1) in paragraph (1)—

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

3 (B) by striking “(1) the term” and insert-  
4 ing the following:

5 “(1) AGENCY.—The term”;

6 (2) in paragraph (3)—

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

9 (B) by striking “(3) the term” and insert-  
10 ing the following:

11 “(3) SMALL BUSINESS.—The term”;

12 (3) in paragraph (5)—

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

15 (B) by striking “(5) the term” and insert-  
16 ing the following:

17 “(5) SMALL GOVERNMENTAL JURISDICTION.—  
18 The term”; and

19 (4) in paragraph (6)—

20 (A) by striking “; and” and inserting a pe-  
21 riod; and

22 (B) by striking “(6) the term” and insert-  
23 ing the following:

24 “(6) SMALL ENTITY.—The term”.

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

3 **“§ 605. Incorporations by reference and certifi-**  
4 **cations”.**

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

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

“605. Incorporations by reference and certifications.”;

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

“607. Quantification requirements.”;

11 and

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

“608. Additional powers of Chief Counsel for Advocacy.”.

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

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

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

19 **SEC. 12. AGENCY PREPARATION OF GUIDES.**

20 Section 212(a)(5) the Small Business Regulatory En-  
21 forcement Fairness Act of 1996 (5 U.S.C. 601 note) is  
22 amended to read as follows:

1           “(5) AGENCY PREPARATION OF GUIDES.—The  
2           agency shall, in its sole discretion, taking into ac-  
3           count the subject matter of the rule and the lan-  
4           guage of relevant statutes, ensure that the guide is  
5           written using sufficiently plain language likely to be  
6           understood by affected small entities. Agencies may  
7           prepare separate guides covering groups or classes of  
8           similarly affected small entities and may cooperate  
9           with associations of small entities to distribute such  
10          guides. In developing guides, agencies shall solicit  
11          input from affected small entities or associations of  
12          affected small entities. An agency may prepare  
13          guides and apply this section with respect to a rule  
14          or a group of related rules.”.

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

16           **(a) SHORT TITLE.—This Act may be cited as**  
17 **the “Regulatory Flexibility Improvements Act**  
18 **of 2013”.**

19           **(b) TABLE OF CONTENTS.—The table of con-**  
20 **tents 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 pow-  
ers 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 pub-  
lication of the final rule.**

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

**Sec. 10. Establishment and approval of small business concern size standards by Chief Counsel for Advocacy.**

**Sec. 11. Clerical amendments.**

**Sec. 12. Agency preparation of guides.**

**Sec. 13. GAO report.**

1 **SEC. 2. CLARIFICATION AND EXPANSION OF RULES COV-**  
2 **ERED BY THE REGULATORY FLEXIBILITY**  
3 **ACT.**

4 **(a) IN GENERAL.—Paragraph (2) of section**  
5 **601 of title 5, United States Code, is amended**  
6 **to read as follows:**

7 **“(2) RULE.—The term ‘rule’ has the**  
8 **meaning given such term in section**  
9 **551(4) of this title, except that such term**  
10 **does not include a rule pertaining to the**  
11 **protection of the rights of and benefits**  
12 **for veterans or a rule of particular (and**  
13 **not general) applicability relating to**  
14 **rates, wages, corporate or financial struc-**  
15 **tures or reorganizations thereof, prices,**  
16 **facilities, appliances, services, or allow-**  
17 **ances therefor or to valuations, costs or**  
18 **accounting, or practices relating to such**  
19 **rates, wages, structures, prices, appli-**  
20 **ances, services, or allowances.”.**

21 **(b) INCLUSION OF RULES WITH INDIRECT EF-**  
22 **FECTS.—Section 601 of title 5, United States**



1 **Code, is amended by adding at the end the fol-**  
2 **lowing new paragraph:**

3 **“(9) ECONOMIC IMPACT.—The term ‘eco-**  
4 **nom ic impact’ means, with respect to a**  
5 **proposed or final rule—**

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

8 **“(B) any indirect economic effect**  
9 **(including compliance costs and ef-**  
10 **fects on revenue) on small entities**  
11 **which is reasonably foreseeable and**  
12 **results from such rule (without re-**  
13 **gard to whether small entities will be**  
14 **directly regulated by the rule).”.**

15 **(c) INCLUSION OF RULES WITH BENEFICIAL**  
16 **EFFECTS.—**

17 **(1) INITIAL REGULATORY FLEXIBILITY**  
18 **ANALYSIS.—Subsection (c) of section 603 of**  
19 **title 5, United States Code, is amended by**  
20 **striking the first sentence and inserting**  
21 **“Each initial regulatory flexibility anal-**  
22 **ysis shall also contain a detailed descrip-**  
23 **tion of alternatives to the proposed rule**  
24 **which minimize any adverse significant**  
25 **economic impact or maximize any bene-**

1       **fi**cial significant economic impact on  
2       **small entities.”.**

3               **(2) FINAL REGULATORY FLEXIBILITY**  
4       **ANALYSIS.—The first paragraph (6) of sec-**  
5       **tion 604(a) of title 5, United States Code,**  
6       **is amended by striking “minimize the sig-**  
7       **nificant economic impact” and inserting**  
8       **“minimize the adverse significant eco-**  
9       **nomi**c impact or maximize the beneficial  
10       **significant economic impact”.**

11              **(d) INCLUSION OF RULES AFFECTING TRIBAL**  
12       **ORGANIZATIONS.—Paragraph (5) of section 601**  
13       **of title 5, United States Code, is amended by**  
14       **inserting “and tribal organizations (as de-**  
15       **fin**ed in section 4(l) of the Indian Self-Deter-  
16       **mination and Education Assistance Act (25**  
17       **U.S.C. 450b(l)),” after “special districts,”.**

18              **(e) INCLUSION OF LAND MANAGEMENT PLANS**  
19       **AND FORMAL RULEMAKING.—**

20              **(1) INITIAL REGULATORY FLEXIBILITY**  
21       **ANALYSIS.—Subsection (a) of section 603 of**  
22       **title 5, United States Code, is amended in**  
23       **the first sentence—**

24                      **(A) by striking “or” after “pro-**  
25                      **posed rule,”; and**

1           **(B) by inserting “or publishes a**  
2           **revision or amendment to a land**  
3           **management plan,” after “United**  
4           **States,”.**

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

9                   **(A) by striking “or” after “pro-**  
10                   **posed rulemaking,”; and**

11                   **(B) by inserting “or adopts a revi-**  
12                   **sion or amendment to a land manage-**  
13                   **ment plan,” after “section 603(a),”.**

14           **(3) LAND MANAGEMENT PLAN DEFINED.—**  
15           **Section 601 of title 5, United States Code,**  
16           **is amended by adding at the end the fol-**  
17           **lowing new paragraph:**

18                   **“(10) LAND MANAGEMENT PLAN.—**

19                           **“(A) IN GENERAL.—The term ‘land**  
20                           **management plan’ means—**

21                                   **“(i) any plan developed by the**  
22                                   **Secretary of Agriculture under**  
23                                   **section 6 of the Forest and Range-**  
24                                   **land Renewable Resources Plan-**

1           **ning Act of 1974 (16 U.S.C. 1604);**  
2           **and**

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

8           **“(B) REVISION.—The term ‘revi-**  
9           **sion’ means any change to a land**  
10          **management plan which—**

11          **“(i) in the case of a plan de-**  
12          **scribed in subparagraph (A)(i), is**  
13          **made under section 6(f)(5) of the**  
14          **Forest and Rangeland Renewable**  
15          **Resources Planning Act of 1974**  
16          **(16 U.S.C. 1604(f)(5)); or**

17          **“(ii) in the case of a plan de-**  
18          **scribed in subparagraph (A)(ii), is**  
19          **made under section 1610.5–6 of**  
20          **title 43, Code of Federal Regula-**  
21          **tions (or any successor regula-**  
22          **tion).**

23          **“(C) AMENDMENT.—The term**  
24          **‘amendment’ means any change to a**  
25          **land management plan which—**

1           “(i) in the case of a plan de-  
2           scribed in subparagraph (A)(i), is  
3           made under section 6(f)(4) of the  
4           Forest and Rangeland Renewable  
5           Resources Planning Act of 1974  
6           (16 U.S.C. 1604(f)(4)) and with re-  
7           spect to which the Secretary of  
8           Agriculture prepares a statement  
9           described in section 102(2)(C) of  
10          the National Environmental Pol-  
11          icy Act of 1969 (42 U.S.C.  
12          4332(2)(C)); or

13          “(ii) in the case of a plan de-  
14          scribed in subparagraph (A)(ii), is  
15          made under section 1610.5-5 of  
16          title 43, Code of Federal Regula-  
17          tions (or any successor regula-  
18          tion) and with respect to which  
19          the Secretary of the Interior pre-  
20          pares a statement described in  
21          section 102(2)(C) of the National  
22          Environmental Policy Act of 1969  
23          (42 U.S.C. 4332(2)(C)).”.

1       **(f) INCLUSION OF CERTAIN INTERPRETIVE**  
2 **RULES INVOLVING THE INTERNAL REVENUE**  
3 **LAWS.—**

4           **(1) IN GENERAL.—**Subsection (a) of sec-  
5 **tion 603 of title 5, United States Code, is**  
6 **amended by striking the period at the**  
7 **end and inserting “or a recordkeeping re-**  
8 **quirement, and without regard to wheth-**  
9 **er such requirement is imposed by stat-**  
10 **ute or regulation.”.**

11           **(2) COLLECTION OF INFORMATION.—**  
12 **Paragraph (7) of section 601 of title 5,**  
13 **United States Code, is amended to read**  
14 **as follows:**

15           **“(7) COLLECTION OF INFORMATION.—**The  
16 **term ‘collection of information’ has the**  
17 **meaning given such term in section**  
18 **3502(3) of title 44.”.**

19           **(3) RECORDKEEPING REQUIREMENT.—**  
20 **Paragraph (8) of section 601 of title 5,**  
21 **United States Code, is amended to read**  
22 **as follows:**

23           **“(8) RECORDKEEPING REQUIREMENT.—**  
24 **The term ‘recordkeeping requirement’**

1       **has the meaning given such term in sec-**  
2       **tion 3502(13) of title 44.”.**

3       **(g) DEFINITION OF SMALL ORGANIZATION.—**  
4       **Paragraph (4) of section 601 of title 5, United**  
5       **States Code, is amended to read as follows:**

6               **“(4) SMALL ORGANIZATION.—**

7                       **“(A) IN GENERAL.—The term ‘small**  
8                       **organization’ means any not-for-prof-**  
9                       **it enterprise which, as of the issuance**  
10                      **of the notice of proposed rule-**  
11                      **making—**

12                      **“(i) in the case of an enter-**  
13                      **prise which is described by a clas-**  
14                      **sification code of the North Amer-**  
15                      **ican Industrial Classification Sys-**  
16                      **tem, does not exceed the size**  
17                      **standard established by the Ad-**  
18                      **ministrator of the Small Business**  
19                      **Administration pursuant to sec-**  
20                      **tion 3 of the Small Business Act**  
21                      **(15 U.S.C. 632) for small business**  
22                      **concerns described by such classi-**  
23                      **fication code; and**

24                      **“(ii) in the case of any other**  
25                      **enterprise, has a net worth that**

1           **does not exceed \$7,000,000 and**  
2           **has not more than 500 employees.**

3           **“(B) LOCAL LABOR ORGANIZA-**  
4           **TIONS.—In the case of any local labor**  
5           **organization, subparagraph (A) shall**  
6           **be applied without regard to any na-**  
7           **tional or international organization**  
8           **of which such local labor organiza-**  
9           **tion is a part.**

10           **“(C) AGENCY DEFINITIONS.—Sub-**  
11           **paragraphs (A) and (B) shall not**  
12           **apply to the extent that an agency,**  
13           **after consultation with the Office of**  
14           **Advocacy of the Small Business Ad-**  
15           **ministration and after opportunity**  
16           **for public comment, establishes one**  
17           **or more definitions for such term**  
18           **which are appropriate to the activi-**  
19           **ties of the agency and publishes such**  
20           **definitions in the Federal Register.”.**

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

22           **Section 602 of title 5, United States Code,**  
23 **is amended—**

24           **(1) in subsection (a)—**



1           (A) in paragraph (2), by striking “,  
2           and” at the end and inserting “;”;

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

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

7           “(3) a brief description of the sector  
8           of the North American Industrial Classi-  
9           fication System that is primarily affected  
10          by any rule which the agency expects to  
11          propose or promulgate which is likely to  
12          have a significant economic impact on a  
13          substantial number of small entities;  
14          and”;

15          (2) in subsection (c), to read as fol-  
16          lows:

17          “(c) Each agency shall prominently dis-  
18          play a plain language summary of the infor-  
19          mation contained in the regulatory flexibility  
20          agenda published under subsection (a) on its  
21          website within 3 days of its publication in the  
22          Federal Register. The Office of Advocacy of  
23          the Small Business Administration shall com-  
24          pile and prominently display a plain language  
25          summary of the regulatory agendas ref-

1 **erenced in subsection (a) for each agency on**  
2 **its website within 3 days of their publication**  
3 **in the Federal Register.”.**

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

6 **(a) INITIAL REGULATORY FLEXIBILITY ANAL-**  
7 **YSIS.—Subsection (b) of section 603 of title 5,**  
8 **United States Code, is amended to read as fol-**  
9 **lows:**

10 **“(b) Each initial regulatory flexibility**  
11 **analysis required under this section shall con-**  
12 **tain a detailed statement—**

13 **“(1) describing the reasons why ac-**  
14 **tion by the agency is being considered;**

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

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

20 **“(4) describing the projected report-**  
21 **ing, recordkeeping, and other compliance**  
22 **requirements of the proposed rule, in-**  
23 **cluding an estimate of the classes of**  
24 **small entities which will be subject to the**  
25 **requirement and the type of professional**

1 **skills necessary for preparation of the re-**  
2 **port and record;**

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

8 **“(6) estimating the additional cumu-**  
9 **lative economic impact of the proposed**  
10 **rule on small entities beyond that already**  
11 **imposed on the class of small entities by**  
12 **the agency or why such an estimate is**  
13 **not available; and**

14 **“(7) describing any disproportionate**  
15 **economic impact on small entities or a**  
16 **specific class of small entities.”.**

17 **(b) FINAL REGULATORY FLEXIBILITY ANAL-**  
18 **YSIS.—**

19 **(1) IN GENERAL.—Section 604(a) of title**  
20 **5, United States Code, is amended—**

21 **(A) in paragraph (4), by striking**  
22 **“an explanation” and inserting “a de-**  
23 **tailed explanation”;**

24 **(B) in each of paragraphs (4), (5),**  
25 **and the first paragraph (6), by insert-**

1           ing “detailed” before “description”;  
2           and

3                   (C) by adding at the end the fol-  
4           lowing:

5           “(7) describing any disproportionate  
6           economic impact on small entities or a  
7           specific class of small entities.”.

8           (2) INCLUSION OF RESPONSE TO COM-  
9           MENTS ON CERTIFICATION OF PROPOSED  
10          RULE.—Paragraph (2) of section 604(a) of  
11          title 5, United States Code, is amended by  
12          inserting “(or certification of the pro-  
13          posed rule under section 605(b))” after  
14          “initial regulatory flexibility analysis”.

15          (3) PUBLICATION OF ANALYSIS ON  
16          WEBSITE.—Subsection (b) of section 604 of  
17          title 5, United States Code, is amended to  
18          read as follows:

19          “(b) The agency shall make copies of the  
20          final regulatory flexibility analysis available  
21          to the public, including placement of the en-  
22          tire analysis on the agency’s website, and  
23          shall publish in the Federal Register the final  
24          regulatory flexibility analysis, or a summary  
25          thereof which includes the telephone number,

1 mailing address, and link to the website  
2 where the complete analysis may be ob-  
3 tained.”.

4 (c) **CROSS-REFERENCES TO OTHER ANAL-**  
5 **YSES.—**Subsection (a) of section 605 of title 5,  
6 **United States Code, is amended to read as fol-**  
7 **lows:**

8 “(a) A Federal agency shall be treated as  
9 satisfying any requirement regarding the con-  
10 tent of an agenda or regulatory flexibility  
11 analysis under section 602, 603, or 604, if such  
12 agency provides in such agenda or analysis a  
13 cross-reference to the specific portion of an-  
14 other agenda or analysis which is required by  
15 any other law and which satisfies such re-  
16 quirement.”.

17 (d) **CERTIFICATIONS.—**Subsection (b) of sec-  
18 **tion 605 of title 5, United States Code, is**  
19 **amended—**

20 (1) by inserting “detailed” before  
21 “statement” the first place it appears; and

22 (2) by inserting “and legal” after “fac-  
23 tual”.

1       **(e) QUANTIFICATION REQUIREMENTS.—Section**  
2 **tion 607 of title 5, United States Code, is**  
3 **amended to read as follows:**

4 **“§ 607. Quantification requirements**

5       **“In complying with sections 603 and 604,**  
6 **an agency shall provide—**

7           **“(1) a quantifiable or numerical de-**  
8 **scription of the effects of the proposed or**  
9 **final rule and alternatives to the pro-**  
10 **posed or final rule; or**

11           **“(2) a more general descriptive state-**  
12 **ment and a detailed statement explaining**  
13 **why quantification is not practicable or**  
14 **reliable.”.**

15 **SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDI-**  
16 **TIONAL POWERS OF THE CHIEF COUNSEL**  
17 **FOR ADVOCACY.**

18       **(a) IN GENERAL.—Section 608 is amended**  
19 **to read as follows:**

20 **“§ 608. Additional powers of Chief Counsel for Advo-**  
21 **cacy**

22       **“(a)(1) Not later than 270 days after the**  
23 **date of the enactment of the Regulatory Flexi-**  
24 **bility Improvements Act of 2013, the Chief**  
25 **Counsel for Advocacy of the Small Business**

1 **Administration shall, after opportunity for**  
2 **notice and comment under section 553, issue**  
3 **rules governing agency compliance with this**  
4 **chapter. The Chief Counsel may modify or**  
5 **amend such rules after notice and comment**  
6 **under section 553. This chapter (other than**  
7 **this subsection) shall not apply with respect**  
8 **to the issuance, modification, and amendment**  
9 **of rules under this paragraph.**

10 **“(2) An agency shall not issue rules which**  
11 **supplement the rules issued under subsection**  
12 **(a) unless such agency has first consulted**  
13 **with the Chief Counsel for Advocacy to en-**  
14 **sure that such supplemental rules comply**  
15 **with this chapter and the rules issued under**  
16 **paragraph (1).**

17 **“(b) Notwithstanding any other law, the**  
18 **Chief Counsel for Advocacy of the Small Busi-**  
19 **ness Administration may intervene in any**  
20 **agency adjudication (unless such agency is**  
21 **authorized to impose a fine or penalty under**  
22 **such adjudication), and may inform the agen-**  
23 **cy of the impact that any decision on the**  
24 **record may have on small entities. The Chief**  
25 **Counsel shall not initiate an appeal with re-**

1 spect to any adjudication in which the Chief  
2 Counsel intervenes under this subsection.

3 “(c) The Chief Counsel for Advocacy may  
4 file comments in response to any agency no-  
5 tice requesting comment, regardless of wheth-  
6 er the agency is required to file a general no-  
7 tice of proposed rulemaking under section  
8 553.”.

9 (b) CONFORMING AMENDMENTS.—

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

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

14 (3) Section 611(a)(3) of such title is  
15 amended—

16 (A) by striking subparagraph (B);

17 and

18 (B) by striking “(3)(A) A small en-  
19 tity” and inserting the following:

20 “(3) A small entity”.

21 SEC. 6. PROCEDURES FOR GATHERING COMMENTS.

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



1       **“(b)(1) Prior to publication of any pro-**  
2 **posed rule described in subsection (e), an**  
3 **agency making such rule shall notify the**  
4 **Chief Counsel for Advocacy of the Small Busi-**  
5 **ness Administration and provide the Chief**  
6 **Counsel with—**

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

11           **“(B) information on the potential ad-**  
12 **verse and beneficial economic impacts of**  
13 **the proposed rule on small entities and**  
14 **the type of small entities that might be**  
15 **affected.**

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

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

21           **“(B) is proposed by an independent**  
22 **regulatory agency (as defined in section**  
23 **3502(5) of title 44).**

24       **“(c) Not later than 15 days after the re-**  
25 **ceipt of such materials and information under**

1 subsection (b), the Chief Counsel for Advo-  
2 cacy of the Small Business Administration  
3 shall—

4           “(1) identify small entities or rep-  
5 resentatives of small entities or a com-  
6 bination of both for the purpose of ob-  
7 taining advice, input, and recommenda-  
8 tions from those persons about the poten-  
9 tial economic impacts of the proposed  
10 rule and the compliance of the agency  
11 with section 603; and

12           “(2) convene a review panel con-  
13 sisting of an employee from the Office of  
14 Advocacy of the Small Business Adminis-  
15 tration, an employee from the agency  
16 making the rule, and in the case of an  
17 agency other than an independent regu-  
18 latory agency (as defined in section  
19 3502(5) of title 44), an employee from the  
20 Office of Information and Regulatory Af-  
21 fairs of the Office of Management and  
22 Budget to review the materials and infor-  
23 mation provided to the Chief Counsel  
24 under subsection (b).

1       “(d)(1) Not later than 60 days after the re-  
2 view panel described in subsection (c)(2) is  
3 convened, the Chief Counsel for Advocacy of  
4 the Small Business Administration shall, after  
5 consultation with the members of such panel,  
6 submit a report to the agency and, in the case  
7 of an agency other than an independent regu-  
8 latory agency (as defined in section 3502(5) of  
9 title 44), the Office of Information and Regu-  
10 latory Affairs of the Office of Management  
11 and Budget.

12       “(2) Such report shall include an assess-  
13 ment of the economic impact of the proposed  
14 rule on small entities, including an assess-  
15 ment of the proposed rule’s impact on the cost  
16 that small entities pay for energy, an assess-  
17 ment of the proposed rule’s impact on start-  
18 up costs for small entities, and a discussion of  
19 any alternatives that will minimize adverse  
20 significant economic impacts or maximize  
21 beneficial significant economic impacts on  
22 small entities.

23       “(3) Such report shall become part of the  
24 rulemaking record. In the publication of the  
25 proposed rule, the agency shall explain what

1 actions, if any, the agency took in response to  
2 such report.

3 “(e) A proposed rule is described by this  
4 subsection if the Administrator of the Office  
5 of Information and Regulatory Affairs of the  
6 Office of Management and Budget, the head of  
7 the agency (or the delegatee of the head of the  
8 agency), or an independent regulatory agency  
9 determines that the proposed rule is likely to  
10 result in—

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

13 “(2) a major increase in costs or  
14 prices for consumers, individual indus-  
15 tries, Federal, State, or local govern-  
16 ments, tribal organizations, or geo-  
17 graphic regions;

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

24 “(4) a significant economic impact on  
25 a substantial number of small entities.

1       “(f) Upon application by the agency, the  
2 Chief Counsel for Advocacy of the Small Busi-  
3 ness Administration may waive the require-  
4 ments of subsections (b) through (e) if the  
5 Chief Counsel determines that compliance  
6 with the requirements of such subsections are  
7 impracticable, unnecessary, or contrary to  
8 the public interest.

9       “(g) A small entity or a representative of  
10 a small entity may submit a request that the  
11 agency provide a copy of the report prepared  
12 under subsection (d) and all materials and in-  
13 formation provided to the Chief Counsel for  
14 Advocacy of the Small Business Administra-  
15 tion under subsection (b). The agency receiv-  
16 ing such request shall provide the report, ma-  
17 terials and information to the requesting  
18 small entity or representative of a small enti-  
19 ty not later than 10 business days after receiv-  
20 ing such request, except that the agency shall  
21 not disclose any information that is prohib-  
22 ited from disclosure to the public pursuant to  
23 section 552(b) of this title.”.

1 SEC. 7. PERIODIC REVIEW OF RULES.

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

4 “§ 610. Periodic review of rules

5 “(a) Not later than 180 days after the en-  
6 actment of the Regulatory Flexibility Im-  
7 provements Act of 2013, each agency shall  
8 publish in the Federal Register and place on  
9 its website a plan for the periodic review of  
10 rules issued by the agency which the head of  
11 the agency determines have a significant eco-  
12 nomic impact on a substantial number of  
13 small entities. Such determination shall be  
14 made without regard to whether the agency  
15 performed an analysis under section 604. The  
16 purpose of the review shall be to determine  
17 whether such rules should be continued with-  
18 out change, or should be amended or re-  
19 scinded, consistent with the stated objectives  
20 of applicable statutes, to minimize any ad-  
21 verse significant economic impacts or maxi-  
22 mize any beneficial significant economic im-  
23 pacts on a substantial number of small enti-  
24 ties. Such plan may be amended by the agency  
25 at any time by publishing the revision in the

1 **Federal Register and subsequently placing**  
2 **the amended plan on the agency’s website.**

3 **“(b) The plan shall provide for the review**  
4 **of all such agency rules existing on the date**  
5 **of the enactment of the Regulatory Flexibility**  
6 **Improvements Act of 2013 within 10 years of**  
7 **the date of publication of the plan in the Fed-**  
8 **eral Register and for review of rules adopted**  
9 **after the date of enactment of the Regulatory**  
10 **Flexibility Improvements Act of 2013 within**  
11 **10 years after the publication of the final rule**  
12 **in the Federal Register. If the head of the**  
13 **agency determines that completion of the re-**  
14 **view of existing rules is not feasible by the es-**  
15 **tablished date, the head of the agency shall so**  
16 **certify in a statement published in the Fed-**  
17 **eral Register and may extend the review for**  
18 **not longer than 2 years after publication of**  
19 **notice of extension in the Federal Register.**  
20 **Such certification and notice shall be sent to**  
21 **the Chief Counsel for Advocacy of the Small**  
22 **Business Administration and the Congress.**

23 **“(c) The plan shall include a section that**  
24 **details how an agency will conduct outreach**  
25 **to and meaningfully include small businesses**

1 (including small business concerns owned  
2 and controlled by women, small business con-  
3 cerns owned and controlled by veterans, and  
4 small business concerns owned and con-  
5 trolled by socially and economically disadvan-  
6 taged individuals (as such terms are defined  
7 in the Small Business Act)) for the purposes  
8 of carrying out this section. The agency shall  
9 include in this section a plan for how the  
10 agency will contact small businesses and  
11 gather their input on existing agency rules.

12       “(d) Each agency shall annually submit a  
13 report regarding the results of its review pur-  
14 suant to such plan to the Congress, the Chief  
15 Counsel for Advocacy of the Small Business  
16 Administration, and, in the case of agencies  
17 other than independent regulatory agencies  
18 (as defined in section 3502(5) of title 44) to the  
19 Administrator of the Office of Information  
20 and Regulatory Affairs of the Office of Man-  
21 agement and Budget. Such report shall in-  
22 clude the identification of any rule with re-  
23 spect to which the head of the agency made  
24 a determination described in paragraph (5) or



1 **(6) of subsection (e) and a detailed expla-**  
2 **nation of the reasons for such determination.**

3 **“(e) In reviewing a rule pursuant to sub-**  
4 **sections (a) through (d), the agency shall**  
5 **amend or rescind the rule to minimize any ad-**  
6 **verse significant economic impact on a sub-**  
7 **stantial number of small entities or dispropor-**  
8 **tionate economic impact on a specific class of**  
9 **small entities, or maximize any beneficial sig-**  
10 **nificant economic impact of the rule on a sub-**  
11 **stantial number of small entities to the great-**  
12 **est extent possible, consistent with the stated**  
13 **objectives of applicable statutes. In amending**  
14 **or rescinding the rule, the agency shall con-**  
15 **sider the following factors:**

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

17 **“(2) The nature of complaints re-**  
18 **ceived by the agency from small entities**  
19 **concerning the rule.**

20 **“(3) Comments by the Regulatory En-**  
21 **forcement Ombudsman and the Chief**  
22 **Counsel for Advocacy of the Small Busi-**  
23 **ness Administration.**

24 **“(4) The complexity of the rule.**

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

6           **“(6) The contribution of the rule to**  
7           **the cumulative economic impact of all**  
8           **Federal rules on the class of small enti-**  
9           **ties affected by the rule, unless the head**  
10          **of the agency determines that such cal-**  
11          **culations cannot be made and reports**  
12          **that determination in the annual report**  
13          **required under subsection (d).**

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

19          **“(f) The agency shall publish in the Fed-**  
20          **eral Register and on its website a list of rules**  
21          **to be reviewed pursuant to such plan. The**  
22          **agency shall include in the publication a so-**  
23          **licitation of public comments on any further**  
24          **inclusions or exclusions of rules from the list,**  
25          **and shall respond to such comments. Such**

1 **publication shall include a brief description**  
2 **of the rule, the reason why the agency deter-**  
3 **mined that it has a significant economic im-**  
4  **pact on a substantial number of small entities**  
5 **(without regard to whether it had prepared a**  
6  **final regulatory flexibility analysis for the**  
7  **rule), and request comments from the public,**  
8  **the Chief Counsel for Advocacy of the Small**  
9  **Business Administration, and the Regulatory**  
10  **Enforcement Ombudsman concerning the en-**  
11 **forcement of the rule.”.**

12 **SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE RE-**  
13 **QUIREMENTS OF THE REGULATORY FLEXI-**  
14 **BILITY ACT AVAILABLE AFTER PUBLICATION**  
15 **OF THE FINAL RULE.**

16 **(a) IN GENERAL.—Paragraph (1) of section**  
17 **611(a) of title 5, United States Code, is amend-**  
18 **ed by striking “final agency action” and in-**  
19 **serting “such rule”.**

20 **(b) JURISDICTION.—Paragraph (2) of such**  
21 **section is amended by inserting “(or which**  
22 **would have such jurisdiction if publication of**  
23 **the final rule constituted final agency action)”**  
24 **after “provision of law,”.**

1       **(c) TIME FOR BRINGING ACTION.—**Para-  
2 **graph (3) of such section is amended—**

3           **(1) by striking “final agency action”**  
4 **and inserting “publication of the final**  
5 **rule”; and**

6           **(2) by inserting “, in the case of a rule**  
7 **for which the date of final agency action**  
8 **is the same date as the publication of the**  
9 **final rule,” after “except that”.**

10       **(d) INTERVENTION BY CHIEF COUNSEL FOR**  
11 **ADVOCACY.—**Subsection (b) of section 612 of  
12 **title 5, United States Code, is amended by in-**  
13 **serting before the first period “or agency com-**  
14 **pliance with section 601, 603, 604, 605(b), 609,**  
15 **or 610”.**

16 **SEC. 9. JURISDICTION OF COURT OF APPEALS OVER RULES**  
17 **IMPLEMENTING THE REGULATORY FLEXI-**  
18 **BILITY ACT.**

19       **(a) IN GENERAL.—**Section 2342 of title 28,  
20 **United States Code, is amended—**

21           **(1) in paragraph (6), by striking “and”**  
22 **at the end;**

23           **(2) in paragraph (7), by striking the**  
24 **period at the end and inserting “; and”;**  
25 **and**

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

3           **“(8) all final rules under section**  
4           **608(a) of title 5.”.**

5           **(b) CONFORMING AMENDMENTS.—Paragraph**  
6           **(3) of section 2341 of title 28, United States**  
7           **Code, is amended—**

8           **(1) in subparagraph (D), by striking**  
9           **“and” at the end;**

10           **(2) in subparagraph (E), by striking**  
11           **the period at the end and inserting “;**  
12           **and”;** and

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

15           **“(F) the Office of Advocacy of the**  
16           **Small Business Administration, when**  
17           **the final rule is under section 608(a)**  
18           **of title 5.”.**

19           **(c) AUTHORIZATION TO INTERVENE AND COM-**  
20           **MENT ON AGENCY COMPLIANCE WITH ADMINIS-**  
21           **TRATIVE PROCEDURE.—Subsection (b) of sec-**  
22           **tion 612 of title 5, United States Code, is**  
23           **amended by inserting “chapter 5, and chapter**  
24           **7,” after “this chapter,”.**

1 SEC. 10. ESTABLISHMENT AND APPROVAL OF SMALL BUSI-  
2 NESS CONCERN SIZE STANDARDS BY CHIEF  
3 COUNSEL FOR ADVOCACY.

4 (a) **IN GENERAL.**—Subparagraph (A) of sec-  
5 tion 3(a)(2) of the Small Business Act (15  
6 U.S.C. 632(a)(2)(A)) is amended to read as fol-  
7 lows:

8 “(A) **IN GENERAL.**—In addition to  
9 the criteria specified in paragraph  
10 (1)—

11 “(i) the Administrator may  
12 specify detailed definitions or  
13 standards by which a business  
14 concern may be determined to be  
15 a small business concern for pur-  
16 poses of this Act or the Small  
17 Business Investment Act of 1958;  
18 and

19 “(ii) the Chief Counsel for Ad-  
20 vocacy may specify such defini-  
21 tions or standards for purposes of  
22 any other Act.”.

23 (b) **APPROVAL BY CHIEF COUNSEL.**—Clause  
24 (iii) of section 3(a)(2)(C) of the Small Business  
25 Act (15 U.S.C. 632(a)(2)(C)(iii)) is amended to  
26 read as follows:

1           “(iii) except in the case of a  
2           size standard prescribed by the  
3           Administrator, is approved by the  
4           Chief Counsel for Advocacy.”.

5           (c) **INDUSTRY VARIATION.**—Paragraph (3) of  
6 section 3(a) of the Small Business Act (15  
7 U.S.C. 632(a)(3)) is amended—

8           (1) by inserting “or Chief Counsel for  
9           Advocacy, as appropriate” before “shall  
10          ensure”; and

11          (2) by inserting “or Chief Counsel for  
12          Advocacy” before the period at the end.

13          (d) **JUDICIAL REVIEW OF SIZE STANDARDS**  
14 **APPROVED BY CHIEF COUNSEL.**—Section 3(a) of  
15 the Small Business Act (15 U.S.C. 632(a)) is  
16 amended by adding at the end the following  
17 new paragraph:

18           “(9) **JUDICIAL REVIEW OF STANDARDS AP-**  
19 **PROVED BY CHIEF COUNSEL.**—In the case of  
20 an action for judicial review of a rule  
21 which includes a definition or standard  
22 approved by the Chief Counsel for Advoca-  
23 cy under this subsection, the party  
24 seeking such review shall be entitled to

1       **join the Chief Counsel as a party in such**  
2       **action.”.**

3       **SEC. 11. CLERICAL AMENDMENTS.**

4       **(a) DEFINITIONS.—Section 601 of title 5,**  
5       **United States Code, is amended—**

6               **(1) in paragraph (1)—**

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

9                       **(B) by striking “(1) the term” and**  
10                      **inserting the following:**

11                      **“(1) AGENCY.—The term”;**

12               **(2) in paragraph (3)—**

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

15                       **(B) by striking “(3) the term” and**  
16                      **inserting the following:**

17                      **“(3) SMALL BUSINESS.—The term”;**

18               **(3) in paragraph (5)—**

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

21                       **(B) by striking “(5) the term” and**  
22                      **inserting the following:**

23                      **“(5) SMALL GOVERNMENTAL JURISDIC-**  
24                      **TION.—The term”; and**

25               **(4) in paragraph (6)—**



1 (A) by striking “; and” and insert-  
2 ing a period; and

3 (B) by striking “(6) the term” and  
4 inserting the following:

5 “(6) SMALL ENTITY.—The term”.

6 (b) INCORPORATIONS BY REFERENCE AND  
7 CERTIFICATIONS.—The heading of section 605  
8 of title 5, United States Code, is amended to  
9 read as follows:

10 “§ 605. Incorporations by reference and certifi-  
11 cations”.

12 (c) TABLE OF SECTIONS.—The table of sec-  
13 tions for chapter 6 of title 5, United States  
14 Code, is amended—

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

“605. Incorporations by reference and certifications.”;

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

“607. Quantification requirements.”;

21 and

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

“608. Additional powers of Chief Counsel for Advocacy.”.

1       **(d) OTHER CLERICAL ADENDMENTS TO CHAP-**  
2 **TER 6.—Chapter 6 of title 5, United States**  
3 **Code, is amended as follows:**

4           **(1) In section 603, by striking sub-**  
5 **section (d).**

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

8 **SEC. 12. AGENCY PREPARATION OF GUIDES.**

9       **Section 212(a)(5) the Small Business Regu-**  
10 **latory Enforcement Fairness Act of 1996 (5**  
11 **U.S.C. 601 note) is amended to read as follows:**

12           **“(5) AGENCY PREPARATION OF GUIDES.—**  
13 **The agency shall, in its sole discretion,**  
14 **taking into account the subject matter of**  
15 **the rule and the language of relevant**  
16 **statutes, ensure that the guide is written**  
17 **using sufficiently plain language likely to**  
18 **be understood by affected small entities.**  
19 **Agencies may prepare separate guides**  
20 **covering groups or classes of similarly af-**  
21 **ected small entities and may cooperate**  
22 **with associations of small entities to dis-**  
23 **tribute such guides. In developing guides,**  
24 **agencies shall solicit input from affected**  
25 **small entities or associations of affected**

1        **small entities. An agency may prepare**  
2        **guides and apply this section with re-**  
3        **spect to a rule or a group of related**  
4        **rules.”.**

5        **SEC. 13. GAO REPORT.**

6        **Not later than 90 days after the date of en-**  
7        **actment of this Act, the Comptroller General**  
8        **of the United States shall complete and pub-**  
9        **lish a study that examines whether the Chief**  
10       **Counsel for Advocacy of the Small Business**  
11       **Administration has the capacity and re-**  
12       **sources to carry out the duties of the Chief**  
13       **Counsel under this Act and the amendments**  
14       **made by this Act.**

Union Calendar No. 208

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2542**

[Report No. 113-288, Parts I and II]

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**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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DECEMBER 11, 2013

Reported from the Committee on the Judiciary with an amendment

DECEMBER 11, 2013

Reported from the Committee on Small Business with an amendment