



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 24, 2011

H.R. 527 **Regulatory Flexibility Improvements Act of 2011**

As ordered reported by the House Committee on the Judiciary on July 7, 2011

SUMMARY

H.R. 527 would amend the Regulatory Flexibility Act (RFA). The bill would expand the number of rules covered by the RFA and require agencies to perform additional analysis of regulations that affect small businesses. Finally, the legislation would provide new authorities to the Small Business Administration's (SBA's) Office of Advocacy to intervene in agency rulemaking.

CBO estimates that implementing H.R. 527 would cost \$80 million over the 2012-2016 period to expand the RFA, assuming appropriation of the necessary funds. Enacting the bill could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting H.R. 527 would not affect revenues.

H.R. 527 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 527 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 800 (general government), and all budget functions that include agencies that issue regulations affecting small businesses.

	By Fiscal Year, in Millions of Dollars					2012-2016
	2012	2013	2014	2015	2016	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	10	15	20	20	20	85
Estimated Outlays	8	14	18	20	20	80

BASIS OF ESTIMATE

For this estimate, CBO assumes that the legislation will be enacted near the end of fiscal year 2011, that the necessary amounts will be appropriated near the start of each fiscal year, and that spending will follow historical patterns for similar activities.

CBO is unaware of any comprehensive information on the current costs of spending for regulatory activities governmentwide. However, according to the Congressional Research Service, federal agencies issue 3,000 to 4,000 final rules each year. Most are promulgated by the Departments of Transportation, Homeland Security, and Commerce, and the Environmental Protection Agency (EPA). Agencies that issue the most major rules (those with an estimated economic impact on the economy of more than \$100 million per year) include the Department of Health and Human Services, the U.S. Department of Agriculture, and EPA.

H.R. 527 would broaden the definition of a “rule” for rulemaking purposes to include agency guidance documents and policy statements. The bill also would expand the scope of the regulatory analysis for proposed and final rules to examine any indirect economic effects on small businesses and to provide a more detailed analysis of the possible economic consequences of the rule to small businesses. The legislation equates indirect economic effects with any impact that is reasonably foreseeable. The legislation also would require agencies to publicly report on the cumulative economic impact of any new regulations on the costs of existing regulations to small businesses. Implementing H.R. 527 would increase the number of agencies that need to prepare regulatory analysis and also would increase the role of the SBA’s Office of Advocacy and the Office of Information and Regulatory Affairs (OIRA) in the rulemaking process. Finally, the legislation would require more federal agencies to use panels of experts to evaluate regulations and to prepare reports on the economic impact of proposed regulations on small business.

Information from OIRA, SBA, and some federal regulatory agencies indicates that the new requirements under the bill would increase the cost to issue a few hundred of the thousands of federal regulations issued annually. Based on that information, CBO estimates that requiring the additional analysis would increase administrative costs to

regulatory agencies, the SBA's Office of Advocacy, and OIRA by \$20 million annually, subject to the availability of appropriated funds. We expect that it would take about three years to reach that level of effort.

Under current law and executive orders, all agencies must prepare a regulatory analysis prior to issuing a final rule. That analysis includes the purpose of the regulatory action, the number and types of small businesses to which the rule will apply, the projected reporting and compliance costs of the rule, and any significant alternatives that would accomplish the objectives of the rule while minimizing the economic impact on small business and other activities.

An agency can waive the requirement for a part of the regulatory analysis if it can certify that the proposed rule will not have a significant economic impact on a substantial number of small businesses. If a proposed rule is expected to have a significant economic impact, the agency is required to notify the Small Business Administration's Office of Advocacy and provide it with an opportunity to comment on the rule. In addition, EPA, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau are required to convene panels of experts to evaluate any proposed regulation that may have a significant economic impact. Those panels consist of federal employees from the rulemaking agency, the Office of Management and Budget, and SBA who work to ensure that small business viewpoints are considered prior to the issuance of a final rule. Moreover, under current law, agencies are required to periodically review the economic impact of existing rules that may have an impact on small businesses.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting H.R. 527 could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 527 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

PREVIOUS CBO ESTIMATE

On August 24, 2011, CBO transmitted a cost estimate for H.R. 527 as ordered reported by the House Committee on Small Business on July 13, 2011. The pieces of legislation are similar, and the CBO cost estimates are the same.

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