



April 14, 2016

Chairman Steve Chabot
House Small Business Committee
2371 Rayburn House Office Building
Washington, DC 20515

Ranking Member Nydia Velázquez
House Small Business Committee
2302 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velázquez:

On behalf of the National Small Business Association (NSBA), the nation's first small-business advocacy organization, with more than 65,000 small-business members representing every state and every industry across the country, I write to commend your leadership on the committee for holding the hearing: "Regulation: The Hidden Small Business Tax" to examine the burden of federal regulations on small businesses, federal agencies' analyses of the effects of regulations on small businesses, and the need to improve those assessments.

The regulatory climate we find ourselves in today is not one easy or welcoming to small businesses and is why NSBA has been a strong supporter of the *Small Business Regulatory Flexibility Improvements Act of 2015 (H.R. 527)* which passed the House last year and why we appreciate Chairman Chabot's involvement in Speaker Ryan's Task Force on Reducing Regulatory Burdens.

The total annual cost of the federal regulatory burden on the American public has ballooned to nearly \$2 trillion and continues to grow each year. Unfortunately, small businesses disproportionately face higher annual regulatory costs of \$10,585 per employee per year, which is 36 percent above the regulatory cost facing large firm. For this reason, our members consistently rank regulatory reform as one of our top ten priority issues for the 114th Congress.

Small businesses continue to struggle under the weight of a seemingly endless stream of federal regulations. The cumulative effect of which, significantly inhibit some small businesses from performing the core functions of their business. The Regulatory Flexibility Act (RFA) and Small Business Regulatory Enforcement Act of 1996 (SBREFA) were enacted in order to require agencies to identify and account for the potentially excessive costs and disproportionate impacts of regulations on small businesses and examine ways to reduce unnecessary regulatory burdens. However, each agency interprets important terms in the existing statute in widely diverse ways and is able to avoid the RFA's requirements as Congress intended.

This is most clearly demonstrated by the Environmental Protection Agency's (EPA's) finding that the Waters of the U.S. (WOTUS) rule would not have a significant impact on small entities. By simply certifying that there was no impact, the EPA was able to avoid the largest requirements placed upon it by these laws. The requirement needs to be streamlined and make uniform those determinations of when the RFA would apply to a rule.

NSBA members are concerned that currently, there does not seem to be any end to the new federal regulations – from the EPA or otherwise. Based on the most recent regulatory agenda, as indicated by the fall 2015 Unified Agenda of Regulatory Actions, there are currently more than 2,000 regulations being promulgated, and 144 of those are economically significant, meaning they will cost the economy more than \$100 million each.

H.R. 527 improves and modernizes the RFA, coming at a time when the need for regulatory relief in the small-business community is real and immediate. Allowing small businesses to immediately challenge agencies actions with respect to the RFA will greatly reduce the uncertainty in the system and prevent America's smallest employers from waiting months or even years until rules are finalized to challenge them. Additionally, eliminating the ability of agencies to waive or delay the completion of regulatory flexibility analyses will ensure that agencies complete their requirements under the RFA in a timely manner. Furthermore, NSBA is pleased with the bill's directive requiring each department to convene a small business review panel to discuss any major new regulations before the rules can be implemented. To minimize any significant adverse impact, NSBA supports how it would also expand the scope of the required economic impact analysis to include indirect effects.

Regulatory costs for small businesses are constantly increasing and this impacts their ability to operate efficiently and free of unnecessary regulatory burdens, which is critical for a small business to successfully compete and create jobs. Regulations must be reviewed and old and duplicative regulations removed. Numerous executive orders and laws require these types of reviews; however they must be pursued more diligently.

As a result, NSBA played a critical role in developing the idea of a National Regulatory Budget and is an ardent supporter of its aim to ensure fairness and commonsense in the federal regulatory process. As one of the first supporters of Rep. Steve Scalise's National Regulatory Budget Act of 2014 (H.R. 5184), NSBA recognizes that a regulatory budget will help federal regulators to run their shops the way any small-business owner would—by prioritizing regulations that produce the most benefit for the lowest regulatory cost. Simply put: quality over quantity.

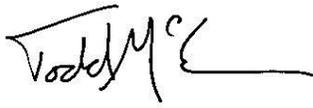
The Small Business Administration Office of Advocacy indicated in its most recent report on the RFA that agencies need to improve in their review of existing regulations. Over the past three

years, the Office of Advocacy has consistently reported that improper certification of no significant impact on small businesses and inadequate analysis of small business impacts are among the most common comments to agencies. This is troubling, because it means that agencies are continuously neglecting to fully consider the position of small businesses when promulgating regulations. This reality makes the work of the House Small Business Committee and of the Speaker's Task Force on Reducing Regulatory Burdens all the more important to the small-business community.

NSBA is a tireless advocate against unfair, unnecessary and disproportionately burdensome regulations. Leading efforts to bolster the SBA Office of Advocacy, NSBA has, for years, worked toward broad process improvements to simplify and streamline the federal regulatory process as well as the U.S. litigation system.

Thank you for your leadership in convening this timely hearing and I look forward to working with you on this important issue for small businesses throughout the country.

Sincerely,

A handwritten signature in black ink that reads "Todd McCracken". The signature is stylized, with the first name "Todd" and the last name "McCracken" written in a cursive-like font. There is a long horizontal line extending to the right from the end of the signature.

Todd McCracken
President & CEO