July 12, 2011

The Hon. Sam Graves
Chairman
House Small Business Committee

The Hon. Nydia Velázquez
Ranking Member
House Small Business Committee

Dear Chairman Graves and Ranking Member Velázquez:

The Coalition for Sensible Safeguards, which includes more than 50 consumer, labor, scientific, research, good government, faith, community, health and environmental groups, strongly opposes HR 527, The Regulatory Flexibility Improvements Act of 2011.

Unlike its title, this bill is neither an improvement nor flexible. It would be more aptly named, the "Regulatory Paralysis Bill."

In the name of helping small entities – small businesses, nonprofits and governments – this bill would make it virtually impossible for federal agencies to protect public health, safety and the environment. In fact, the bill would disproportionately benefit big business interests by allowing them to escape from being regulated altogether.

The employees and owners of small businesses themselves rely on the government for clean air and water, safe drugs and untainted food. Businesses that play by the rules and treat both the public and their workers fairly are not helped when the regulatory process comes to a standstill, or is tied up in endless litigation, as they are forced to compete with companies that risk public health and safety with impunity.

This bill imposes unreasonable and unnecessary hurdles for federal agencies attempting to enact rules based on bipartisan laws passed by Congress.

By expanding the scope of the Regulatory Flexibility Act, HR 527 could give corporate special interests the ability to legally challenge regulations long before they become "final agency actions."

HR 527 would:

- Greatly expand the authority and mandate of the Regulatory Flexibility Act by including rules that may, in some future time, possibly have an indirect economic effect on small entities, whether or not the rule applies to them. This broad and vague definition would apply to almost any conceivable rule. It broadens the Act's jurisdiction to include amendments to land management plans, and IRS recordkeeping requirements.

- Require agencies, at the beginning of the process of issuing any proposed rule with a potential impact on small entities, to do a regulatory analysis as detailed and complex as the law now requires for a final rule. This will greatly slow down the regulatory process, and will make it nearly impossible for agencies to move forward on regulatory proposals that are necessary to fulfill mandates imposed by Congress to protect the American public from harm. Food safety regulations, for example, would take years to implement under these requirements.

- Redefine a significant rule to include any rule that will increase costs or prices for consumers, individual industries, federal state or local governments, tribal organizations or geographic regions, that might have a "significant economic impact on a substantial number of small entities," or that may harm their competitiveness in the global marketplace. This breathtaking expansion of the definition of a significant rule will subject almost all agency actions to the lengthy full regulatory process, even simple guidance documents that help reduce regulatory uncertainty for many industries.

- Make the Chief Counsel of the Office of Small Business Advocacy a super-regulator whose duties and powers appear to overlap with the Office of Management and Budget's Office of Information and Regulatory Affairs. This delegation of new responsibilities is duplicative, wasteful, and another tactic to impede efficient and productive rule-making.

Far from fine-tuning the regulatory process to ensure that rules are effective and necessary, this proposal would impede the government's ability to protect our food, and our environment, our safety, and our health, demanding more bureaucratic red tape before any necessary standards are put in place. We strongly urge the Committee to oppose this bill.

Sincerely,

The Coalition for Sensible Safeguards