

March 30, 2011
Statement
Congressman Roscoe G. Bartlett
Before the House Small Business Committee
Hearing on Reducing Federal Agency Overreach:
Modernizing the Regulatory Flexibility Act

Thank you, Chairman Graves for calling this hearing on the Regulatory Flexibility Act. The persistent problem of costly regulation yielding minimal benefits and maximum burdens to the true engine of our economy, small businesses, must stop.

Government Accountability Office reports over 20 years have held Congress is as responsible for ambiguity in the law as those who promulgate the rules. GAO states there is a “lack of clarity in the act regarding key terms and a resulting variability in the act’s implementation. For example, what constitutes a “significant” economic impact to small businesses. While I am pleased that you and Judiciary Chairman Lamar Smith are addressing these issues in HR 527, the Regulatory Flexibility Improvements Act of 2011, I believe that this critique is not completely accurate.

We are never at a lost for anecdotes and I would like to add one more for the record. Currently, National Institute of Health’s Office of Laboratory Welfare is reviewing its Guide for the Care and Use of Laboratory Animals. The current guide has been in use for 30 years. The proposed rules change the size of rabbit cages. My hope is that NIH personnel will review the concerns of Dr. Louis DeTolla of the University of Maryland, School of Medicine and the owners of a small business located in my district, Spring Valley Laboratories.

Addressing the need for the complete set of new guidelines Louis DeTolla, V.M.D.,Ph.D.,DACLAM of the University of Maryland, School of Medicine states that, “There are no deficiencies in the currently used 7th Edition of the Guide, so its continued use fully supports animal welfare, best practices, and quality biomedical

research. The proposed changes to the Guide in the 8th Edition are not supported by data that demonstrate any improvement in scientific outcome of animal studies or benefits in animal welfare as a result of these changes.”

But for the purposes of this hearing focusing on the impact of regulations on small businesses, I would like to highlight the comments of one small business owner, Robert M. Shaw of Spring Valley Laboratory located in my district. One seemingly minor change involves increasing the height requirement for rabbit cages from 14” to 16”. To Mr. Shaw this is one costly rule. The rule will require that he buy 100 cage racks (8 cages per rack) at a cost of about \$400,000 but the rule if implemented without any type of grandfather clause **might cost him his business and at the very least during these perilous economic times will prevent them from hiring new employees.**

While agencies can claim “lack of clarity in the act,” I think there are true warning signs that can clue agencies on the rules’ impact. As with the case of the animal cage size, when a business says it might have to close down --this a definitive signal. If it quacks like a duck then perhaps the regulation is a burden and we in Congress should expect that agencies rulemaking personnel are not so obtuse that they can’t see the duck walking though the door and avoid poor rulemaking decisions.