

To the office of U.S. Senator Rick Scott

Re: S 5178 (119th Congress), Small Business Regulatory Flexibility Improvements Act • Latest action (2026-07-30): Read twice and referred to the Committee on Homeland Security and Governmental Affairs. VFA SI Solution #212 • published 2026-08-02 • <https://www.valuesforamerica.com/solutions/212>
Office of record (Congress.gov): 110 Hart Senate Office Building Washington, DC 20510, Washington, DC • (202) 224-5274

Small Entity Regulatory Accountability and Transparency Act of 2025

The measure, as described from the official record: To require federal agencies to conduct a thorough analysis of the potential impacts of their rules on small businesses and other small entities before issuing them, ensuring that regulatory burdens are minimized and alternatives are considered.

THE PROPOSAL

This Act amends chapter 6 of title 5, United States Code, to require each federal agency, before issuing any proposed or final rule that may have a significant economic impact on a substantial number of small entities, to prepare and publish a Small Entity Impact Analysis (SEIA). The SEIA shall include: (1) a description of the rule's objectives and legal basis; (2) an estimate of the number and types of small entities affected; (3) a quantification of the projected compliance costs, including any disproportionate burden on small entities relative to larger entities; (4) a discussion of significant alternatives that would accomplish the stated objectives while minimizing adverse impacts on small entities, including exemption, simplified reporting, or delayed compliance dates; and (5) a certification by the agency's Chief Regulatory Officer that the analysis is complete and accurate.

Agencies shall submit each SEIA to the Small Business Administration's Office of Advocacy for review and comment. The Office of Advocacy shall publish its comments within 30 days of receipt. Any small entity that may be adversely affected by a final rule may petition the agency for a reconsideration of the rule based on an inadequate SEIA. The agency shall respond in writing within 60 days, and the petitioner may seek judicial review in the appropriate United States district court. The court shall set aside the rule if it finds the SEIA is arbitrary, capricious, or fails to comply with this Act.

This Act applies only to rules issued by executive agencies as defined in 5 U.S.C. § 105. It does not apply to rules of particular applicability, rules relating to agency management or personnel, or rules that are exempt from notice and comment under 5 U.S.C. § 553(b). The Act shall be funded from existing agency appropriations; no additional funds are authorized. The Act shall sunset five years after enactment, unless reauthorized by Congress. The Comptroller General shall submit a report to Congress three years after enactment evaluating the Act's effectiveness and costs.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Existing agency appropriations; no new funding authorized.
Funding Amount	Not applicable (funded from existing budgets).
Sunset Years	5 years
Oversight Body	Small Business Administration's Office of Advocacy (review and comment); Comptroller General (evaluation report).
Enforcement Mechanism	Judicial review in U.S. district court; court may set aside rule if SEIA is arbitrary, capricious, or noncompliant.
Effective Date	180 days after enactment

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause – Congress may enact procedural requirements for federal agencies to carry out its enumerated powers)
- Article I, Section 8, Clause 3 (Commerce Clause – rules affecting small entities often involve interstate commerce)
- Fifth Amendment Due Process Clause – ensuring fair notice and opportunity to be heard before rules impose burdens

Concerns with the measure as written:

- The original bill may impose procedural requirements that are within Congress's power under the Necessary and Proper Clause (Article I, Section 8, Clause 18) and the Commerce Clause (Article I, Section 8, Clause 3), so no major constitutional concerns arise. However, to avoid any Tenth Amendment commandeering, the bill should not impose duties on state agencies unless they are receiving federal funds.

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Democratic priorities honored: Protects small businesses and disadvantaged entities from disproportionate regulatory burdens, promotes transparency and public participation in rulemaking, and ensures agencies consider alternatives that reduce costs for vulnerable stakeholders. Republican priorities honored: Reduces unnecessary federal red tape, imposes cost-benefit analysis and accountability on agencies, limits new spending by using existing funds, and includes a sunset to prevent permanent expansion of bureaucracy.

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