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**RULES COMMITTEE TALKING POINTS**

**H.R. 527**

**“THE REGULATORY FLEXIBILITY ACCOUNTABILITY**

**ACT OF 2011”**

**AMENDMENT # 4**



**NOVEMBER 29, 2011**

I would like to thank the Chairman for the opportunity to explain my amendment to H.R. 527, the Regulatory Flexibility Improvements Act of 2011, which amends the Regulatory Flexibility Improvements Act of 1980. My amendment # 4, would provide an exemption for rules promulgated by the Department of Homeland Security.

- I have offered this amendment to mitigate the uncertainty regarding federal laws and rulemaking in the area of national security because of the increased urgency when dealing with these often sensitive matters. The Department of Homeland Security is the newest federal agency, and as such already is subject to pioneering levels of oversight and scrutiny.

- In its current form, the Regulatory Flexibility Improvements Act of 2011 adds a burdensome requirement to provide advanced notice of a rulemaking. My amendment simply exempts all rules promulgated by the Department of Homeland Security. Let the skilled and professional managers do their jobs and make decisions.
- This bill expands the review that agencies must conduct before issuing new regulations and the review they must conduct of existing rules to include an evaluation of the "indirect" costs of regulations, and grants the SBA authority to intervene in agency rulemaking. The measure also expands the ability of small businesses and other small entities impacted by an agency's regulations to challenges to those rules in court.

- Under current law, the process already takes as long as eight years to complete. **Given the nature of its mission, the Department of Homeland Security is the last agency that needs to be subject to more levels of regulation and scrutiny. Some advocates groups also have expressed concern that by extending the rule-making process, regulatory uncertainty could increase, which may make it more cost effective for agencies to seek enforcement through the courts, and thereby reduce the public's ability to participate in the process.** These costs add to the cost of doing business with the Department of Homeland Security, and eat away at the profits of our businesses, particularly our small businesses which often are not as equipped to absorb additional costs. Moreover, many businesses dealing with national security have higher costs because of expensive equipment, and as such are already working with lower profit margins.

- The prolonged or indefinite delay of these life saving regulations threaten the security, stability, and the delivery of vital services to the American people. I cannot speak for my colleagues on the other side of the aisle, but I certainly do not want to slow the promulgation of regulations to a drip.
- Mr. Chairman, the gist of this legislation aims to reduce regulations with the idea to lower costs and burdens for businesses. That is a noble pursuit but let's exempt the Department of Homeland Security out of pragmatic necessity.

- In our post 9/11 climate, homeland security continues to be a top priority for our nation. As we continue to face threats from enemies foreign and domestic, we must ensure that we are doing all we can to protect our country. DHS cannot react to the constantly changing threat landscape effectively if they are subject to this bill.
- Since the creation of the Department of Homeland Security in 2002, we have overhauled the government in ways never done before. Steps have been taken to ensure that the communication failures that led to 9/11 do not happen again. The Department of Homeland Security has helped push the United States forward in how protect our nation. Continuing to make advance in Homeland security and intelligence is the best way to combat the threats we still face.

- My amendment will not affect the intent of the bill; it merely ensures that the Department of Homeland Security and the officials that are charged with implementing it's laws are not burdened by new notice requirements that simply delay and add uncertainty to the entire rulemaking process.
- I urge my colleagues to support my amendment and let the continue to allow the professionals in the Department of Homeland Security to do the job that the American people have hired them to do.

Thank you, Mr. Chairman. I yield back the balance of my time.