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November 1, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

As you know, Section 602 of the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. §§601-612) requires each agency to publish a “regulatory flexibility agenda” in the *Federal Register* each year during the months of April and October. The regulatory flexibility agenda should include regulations and major policies currently under development, a review of existing regulations and major policies, as well as rules and major policymakings completed or canceled since the last agenda.

Most importantly, the RFA provides a transparent analytical review of rules and regulations that may have a significant economic impact on a substantial number of small entities. This analysis should clearly describes why a regulatory action is being considered, which small entities the rule will apply, an estimate of the number of small entities that will be affected and compliance requirements of the rule.

This letter is to inform you that your agency is more than 184 days delinquent and is operating in a state of non-compliance with the RFA by failing to submit a semiannual regulatory agenda for spring 2012. Furthermore, as I am preparing this letter, your agency has also failed to produce a semiannual regulatory agenda for fall 2012.

In the *Regulatory Plan and Semiannual Regulatory Agenda: Fall 2009*, you stated “...We want to keep the American people informed and engaged, to show them that these issues are part of their lives, and make sure they take part in guiding our path forward. A transparent and open dialogue can bring people together to build healthier, safer communities.”

Administrator Jackson, U.S. owned and operated small businesses are unable to remain informed and engaged in guiding our path forward when your agency does not publish a transparent semiannual review as required by the RFA. Furthermore, at a time when our unemployment rate is at 7.8 percent, small business owners are unable to hire unemployed workers or raise the underemployed to full time status when they lack certainty in the federal regulatory environment

and are unable to properly allocate compliance costs for regulations that may be proposed or promulgated.

As the U.S. Small Business Administration Office of Advocacy clearly states, the “RFA requires agencies to examine public policy issues using an analytical process that identifies, among other things, barriers to small business competitiveness and seeks a level playing field for small entities, not an unfair advantage.” Until the Environmental Protection Agency publishes the required semiannual regulatory agendas your agency will remain a barrier to small business competitiveness and will be stunting our nation’s economic recovery by allowing investment capital to remain on the sidelines due to regulatory uncertainty.

Throughout my career in public service I have often found that education and transparency are the most effective tools the federal government can use to help provide small businesses and industry with regulatory certainty. I ask that your agency comply with the RFA and produce the delinquent semiannual reports so that industry can properly prepare for the economic impact of potential burdensome regulatory action. Please note that I am copying Dr. Winslow Sargeant, Chief Counsel for Advocacy of the U.S. Small Business Administration on this letter and expect a complete review into your agency’s lack of compliance with the RFA.

Sincerely,



Marsha Blackburn

Member of Congress

Cc: Dr. Winslow Sargeant, Chief Counsel for Advocacy, U.S. Small Business Administration