

**Regulatory Flexibility Act Shepardizing:
Case Law
August 2, 2000**

Associated Builders & Contractors, Inc. v. Herman, 976 F. Supp. 1 (D.D.C. 1997).

Holding that the Department of Labor has fulfilled the requirements of the Regulatory Flexibility Act. The court found that it was reasonable for the Department of Labor to conclude that few small entities would be affected by its refusal to re-implement and enforce regulations related to employees known as “helpers.”

- (No subsequent case law)

Southwestern Pennsylvania Growth Alliance v. Browner, 121 F.3d 106 (3d Cir. 1997).

Holding that the intervenor may not raise its RFA argument because it was not adequately presented to the Environmental Protection Agency during the rulemaking process. Explaining that the 1996 SBREFA Amendments were severable and that the judicial review provision could be applied to a legislative rule promulgated before their effective date. Also holding that when a principal party adopts an argument, which was fully briefed by an intervenor, the intervenor may argue the question just as if the principal party had fully briefed the issue itself.

- **Connected case at:** Southwestern Pennsylvania Growth Alliance v. Browner, 144 F.3d 984 (6th Cir. 1998).
- **Cited by:** Associated Fisheries v. Daley, 127 F.3d 104 (1st Cir. 1997).
RFA and APA implications
- **Cited by:** United States v. Magana, 127 F.3d 1 (1st Cir. 1997).
- **Cited by:** Kleissler v. United States Forest Service, 183 F.3d 196 (3d Cir. 1999).
APA implications
- **Cited by:** Penn Fuel Gas, Inc. v. EPA, 185 F.3d 862 (3d Cir. 1999).
- **Cited by:** Miller v. City of Philadelphia, 174 F.3d 368 (3d Cir. 1999).
- **Cited by:** Fertilizer Institute v. Browner, 163 F.3d 774 (3d Cir. 1998).
APA implications
- **Cited by:** Yskamp v. DEA, 163 F.3d 767 (3d Cir. 1998).
- **Cited by:** United States v. Abuhouran, 161 F.3d 206 (3d Cir. 1998).
- **Harmonized by:** Mathews v. Kidder, Peabody & Co., 161 F.3d 156 (3d Cir. 1998).
- **Cited by:** Fertilizer Institute v. Browner, 1998 U.S. App. LEXIS 29679 (3d Cir. Del. Oct. 30, 1998).
- **Cited by:** Interface Group-Nevada v. TWA (In re TWA), 145 F.3d 124 (3d Cir. 1998).
- **Cited by:** Reynolds v. Wagner, 128 F.3d 166 (3d Cir. 1997).
- **Cited by:** Kentucky v. EPA, 1998 U.S. App. LEXIS 21686 (6th Cir. Sept. 2, 1998)

- **Cited by:** Southwestern Pennsylvania Growth Alliance v. Browner, 144 F.3d 984 (6th Cir. 1998).
- **Cited by:** Southern Offshore Fishing Association v. Daley, 995 F. Supp. 1411 (M.D. Fla. 1998).
RFA and APA implications
- **Cited by:** Northwest Mining Association v. Babbitt, 5 F. Supp. 2d 9 (D.D.C. 1998).
RFA and APA implications

Associated Fisheries of Maine, Inc. v. Daley, 127 F.3d 104 (1st Cir. 1997).

The court held that the Final Regulatory Flexibility Analysis (FRFA) prepared by the National Marine Fisheries Service pursuant to the RFA was not inadequate on its face. The court ruled that an agency can satisfy provisions of the RFA by setting forth the requirements for the FRFA, “as long as it complies meaningful, easily understood analysis that covers each requisite component dictated by the statute and makes the end product readily available to the public.” The court also made mention that the Secretary of Commerce considered numerous alternatives, studied the need to alleviate the regulatory burden on small entities within the fishing industry, adopted some measures to ease that burden, and satisfactorily explained his reason for rejecting others.

- **Affirmed by:** Associated Fisheries v. Daley, 127 F.3d 104 (1st Cir. 1997).
RFA and APA implications
- **Cited by:** Northern Wind Inc. v. Daley, 200 F.3d 13 (1st Cir. 1999).
APA implications
- **Cited by:** Airport Impact Relief, Inc. v. Wykle, 192 F.3d 197 (1st Cir. 1999).
APA implications
- **Cited by:** Rodowicz v. Massachusetts Mutual Life Insurance Co., 192 F.3d 162 (1st Cir. 1999).
- **Cited by:** Baystate Alternative Staffing v. Herman, 163 F.3d 668 (1st Cir. 1998).
APA implications
- **Cited by:** Trafalgar Capital Associates, Inc. v. Cuomo, 159 F.3d 21 (1st Cir. 1998).
APA implications
- **Cited by:** Strahan v. Linnon, 1998 U.S. App. LEXIS 16314 (1st Cir. July 16, 1998)
- **Cited by:** Doyle v. Paul Revere Life Insurance Co., 144 F.3d 181 (1st Cir. 1998).
APA implications
- **Cited by:** McMillan v. Massachusetts SPCA, 140 F.3d 288 (1st Cir. 1998).
- **Cited by:** Benitez-Pons v. Puerto Rico, 136 F.3d 54 (1st Cir. 1998).
APA implications
- **Cited by:** Vartanian v. Monsanto Co., 131 F.3d 264 (1st Cir. 1997).

- **Cited by:** Colbro Ship Management Co. v. United States, 84 F. Supp. 2d 253 (D.P.R. 2000).
APA implications
- **Followed by:** Maine v. Shalala, 81 F. Supp. 2d 91 (D. Me. 1999).
APA implications
- **Cited by:** Caola v. Delta Air Lines, Inc., 59 F. Supp. 2d 166 (D. Mass. 1999).
- **Cited by:** Glazer Construction Co. v. United States, 50 F. Supp. 2d 85 (D. Mass. 1999).
APA implications
- **Cited by:** Tutein v. Daley, 43 F. Supp. 2d 113 (D. Mass. 1999).
RFA and APA implications
- **Cited by:** Caola v. Delta Air Lines, Inc., 35 F. Supp. 2d 47 (D. Mass. 1999).
- **Cited by:** Mauser v. Raytheon Company Pension Plan for Salaried Employees, 31 F. Supp. 2d 168 (D. Mass. 1998).
- **Cited by:** Massachusetts by Division of Marine Fisheries v. Daley, 10 F. Supp. 2d 74 (D. Mass. 1998).
APA implications
- **Cited by:** Atlantic Fish Spotters Association v. Daley, 8 F. Supp. 2d 113 (D. Mass. 1998).
APA implications
- **Cited by:** Connecticut v. Daley, 53 F. Supp. 2d 147 (D. Conn. 1999).
APA implications
- **Cited by:** North Carolina Fisheries Association v. Daley, 27 F. Supp. 2d 650 (E.D. Va. 1998).
RFA and APA implications
- **Cited by:** Alenco Communications, Inc. v. FCC, 201 F.3d 608 (5th Cir. 2000).
RFA and APA implications
- **Cited by:** National Propane Gas Association v. United States DOT, 43 F. Supp. 2d 665 (N.D. Tex. 1999).
RFA and APA implications
- **Cited by:** Greater Dallas Home Care Alliance v. United States HHS, 36 F. Supp. 2d 765 (N.D. Tex. 1999).
RFA and APA implications
- **Cited by:** Progressive Subacute Care v. Shalala, 1998 U.S. Dist. LEXIS 4275 (N.D. Cal. Mar. 30, 1998)
- **Cited by:** Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336 (M.D. Fla. 1999).
RFA and APA implications
- **Followed by:** Southern Offshore Fishing Association v. Daley, 995 F. Supp. 1411 (M.D. Fla. 1998).
RFA and APA implications

Motor & Equipment Manufacturers Association v. Nichols, 142 F.3d 449 (D.C. Cir. 1998).

The court held that the EPA did not violate the statute by not conducting a regulatory flexibility analysis. The court found that a regulatory flexibility analysis need not be completed when there is not a “significant economic impact on a substantial number of small businesses.” This decision reaffirmed prior decisions where the court held that an agency is not obligated to conduct a small entity impact analysis on entities that the agency does not regulate. The EPA in this case was only obligated to consider the impact of the rule on small automobile manufacturers subject to the rule, which it adequately did.

- **Cited by:** Arizona Public Service. Co. v. EPA, 211 F.3d 1280 (D.C. Cir. 2000).
APA implications
- **Cited by:** Henderson v. EPA, 2000 U.S. App. LEXIS 7091 (D.C. Cir. Mar. 13, 2000).
- **Cited by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209, 50 Env't Rep. Cas. (BNA) 1161 (D.C. Cir. Mar. 3, 2000).
- **Cited by:** America's Community Bankers v. FDIC, 200 F.3d 822 (D.C. Cir. 2000).
APA implications
- **Cited by:** American Trucking Association, Inc. v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).
RFA implications
- **Cited by:** United Transportation Union-Illinois Legislative Board v. Surface Transp. Board, 175 F.3d 163 (D.C. Cir. 1999).
APA implications
- **Cited by:** Lepelletier v. FDIC, 164 F.3d 37 (D.C. Cir. 1999).
- **Cited by:** Northeast Energy Assocs. v. FERC, 158 F.3d 150 (D.C. Cir. 1998).
- **Followed by, Cited in Dissenting Opinion at:** Animal Legal Defense Fund v. Glickman, 154 F.3d 426 (D.C. Cir. 1998).
APA implications

Northwest Mining Association v. Babbitt, 5 F.Supp. 2d 9 (D.D.C. 1998).

Northwest Mining Association claimed that the Bureau of Land Management (BLM) did not follow the legal procedure required by the RFA when it issued the final rule. NWMA challenged the BLM’s use of “small entity” when it certified that there would not be a significant impact on a substantial number of small entities.

During this case, the Office of Advocacy filed its first ever *amicus curiae* brief in court, challenging BLM’s use of a small business size standard that was not in compliance with the SBA’s size standards published in compliance with the Small Business Act. The brief also raised concerns about BLM’s failure to comply with the APA and the substance of the economic analysis put on the record by the BLM. The court agreed with the Office of Advocacy’s position and holding that the BLM had not complied with the RFA. The court held that the final rule’s certification violated the RFA by failing to incorporate the correct definition of

“small entity.” The court reaffirmed the importance of agency compliance with the RFA by stating, “While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress.”

- **Cited by:** North Carolina Fisheries Association v. Daley, 27 F. Supp. 2d 650 (E.D. Va. 1998).
RFA and APA implications

ValueVision International, Inc. v. FCC, 149 F.3d 1204 (D.C. Cir. 1998).

Finding that the Regulatory Flexibility Act had been satisfied through the issuance of an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis, which discussed the impact on small cable operators and cable programmers. The court explained that the revised rules would only have a “positive” effect on programmers, and this analysis was enough to satisfy the obligations of the RFA.

- **Cited by:** Goldstein v. Time Warner New York City Cable Group, 3 F. Supp. 2d 423 (S.D.N.Y. 1998).
- **Cited by:** MediaOne Group, Inc. v. County of Henrico, 97 F. Supp. 2d 712 (E.D. Va. 2000).
- **Cited by:** American Bus Association v. Slater, 1999 U.S. Dist. LEXIS 20936 (D.D.C. Sept. 10, 1999).

Grand Canyon Air Tour Coalition v. FAA, 154 F.3d 455 (D.C. Cir. 1998).

The FAA certified under the RFA that its plan to reduce aircraft noise would not have a significant economic impact on a substantial number of small entities. The Office of Advocacy had earlier filed comments on the FAA’s notice of proposed rulemaking and when the matter went to court, the Office of Advocacy filed a “Notice of Intent to File an *Amicus Curiae* Brief.” This notice, pursuant to Section 612(b) of the RFA, was written to address the FAA’s noncompliance with the RFA. The Office of Advocacy ultimately withdrew this Notice in exchange for an agreement with the U.S. Department of Transportation that the FAA would “submit to the court a statement detailing the new data regarding the number of aircraft subject to the regulation...[and] include in their communication to the court a statement that the agency erroneously certified under the Regulatory Flexibility Act that the final rule would not have a significant economic impact on a substantial number of small entities.”

The court explained that the FAA completed a lengthy analysis of the economic impact that the reduction of aircraft noise from sight seeing tours in Grand Canyon National Park would have on small businesses. The FAA considered alternatives and responded to comments in what the court called a “rational decision-making process.” The court decided to defer to the FAA’s judgment and technical expertise.

- **Writ of certiorari denied:** Grand Canyon Trust v. FAA, 526 U.S. 1158 (1999).

- **Cited by:** Natural Resources Defense Council v. Fox, 93 F. Supp. 2d 531 (S.D.N.Y. 2000).
APA implications
- **Cited by:** Bailey v. United States, 39 F. Supp. 2d 1132 (N.D. Iowa 1998).
- **Cited by:** Allied Local & Regional Manufacturers Caucus v. EPA, 2000 U.S. App. LEXIS 14052 (D.C. Cir. June 16, 2000).
- **Cited by:** Beehive Telephone Co. v. FCC, 2000 U.S. App. LEXIS 15463 (D.C. Cir. May 18, 2000).
- **Cited by:** MCI Worldcom, Inc. v. FCC, 209 F.3d 760 (D.C. Cir. 2000).
- **Followed by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209 (D.C. Cir. Mar. 3, 2000).
- **Cited by:** Cellular Telecommunications Industry Association v. FCC, 168 F.3d 1332 (D.C. Cir. 1999).
- **Cited by:** George E. Warren Corp. v. EPA, 159 F.3d 616 (D.C. Cir. 1998).
APA implications
- **Cited in Dissenting Opinion at:** Berwind Natural Resources Corp., O.S.H. Dec. (CCH) P31986 (Dec. 16, 1999).

North Carolina Fisheries Association, Inc. v. Daley, 27 F. Supp. 2d 650 (E.D. Va. 1998). Finding that the Secretary of Commerce, William M. Daley, acted arbitrarily and capriciously in failing to give any meaningful consideration to the economic impact of the quotas placed on North Carolina fisheries. The court found that the Economic Analysis prepared by the Secretary failed to comply with the Regulatory Flexibility Act because it failed to consider the effect on fishing communities or small entities. It also never considered profitability or costs of any kind. The court found that the Secretary did not make a good faith attempt at reasonable compliance with the Regulatory Flexibility Act and other statutes. The court concluded that the Secretary and the agency did not uphold their responsibilities under the law, and it set aside the 1997 summer flounder quota and imposed a penalty against the NMFS.

- **Cited by:** Connecticut v. Daley, 53 F. Supp. 2d 147 (D. Conn. 1999).
APA implications
- **Cited by:** Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336, (M.D. Fla. 1999).
RFA and APA implications

Greater Dallas Home Care Alliance v. United States, 36 F. Supp. 2d 765 (N.D. Tex. 1999).

Holding that the Department of Health and Human Services (HHS) did not violate the Regulatory Flexibility Act because under the Balanced Budget Act of 1997 (BBA) the Secretary of HHS was not granted the authority to look at other alternatives in implementing the interim payment system (IPS). The court stated that the underlying statute set forth in detail the formula for the new cost limit. As a result, HCFA was merely implementing Congress' directives and was, therefore, not required to conduct a regulatory flexibility analysis.

In a subsequent motion to reopen the case, the plaintiff sought to include a letter written by the Office of Advocacy, dated June 15, 1988, as new evidence. The letter criticized HCFA's procedure in promulgating the regulations. The court denied the motion, stating that the letter is a legal opinion on issues fully presented and argued during the hearing already held. The court also found that, even if the letter contained factual information, it was cumulative and duplicative of evidence presented by witnesses. The court further explained that admitting it into evidence would be prejudicial and disruptive because the defendants would be allowed to cross-examine the authors of the letters and call witnesses in opposition.

- (No subsequent case law)

Tutein v. Daley, 43 F. Supp.2d 113 (D. Mass. 1999).

New England commercial fishermen of Atlantic Bluefin Tuna claimed that the Secretary of Commerce violated the RFA by failing to prepare regulatory flexibility analysis for the guideline. The Department had certified under the RFA that the guideline would not have a significant impact upon a substantial number of entities. The court deferred its ruling on the RFA issue by accepting the agency's argument that the issue is not ripe for decision by the court at this time.

- **Count dismissed at:** Tutein v. Daley, 1999 U.S. Dist. LEXIS 15411 (D. Mass. Sept. 8, 1999).

National Propane Gas Association v. Department of Transportation, 43 F. Supp. 2d 665 (N.D. Tex. 1999).

The Department of Transportation's Research and Special Programs Administration (RSPA) instituted an emergency interim final rule to address concerns about the transportation of compressed gas on highways. RSPA later modified and adopted the interim final rule as the emergency discharge control regulation for loading or unloading of cargo tank motor vehicles. The rule was challenged on the ground that the defendants failed to prepare a FRFA. The court held that although the agency did not prepare a FRFA, all of the elements of a FRFA were available throughout their summary of such analysis published in the Federal Register. The court further explained that the RSPA had met all the requirements found in the RFA, and to require an additional analysis by the agency would be duplicative.

- **Cited by:** Henderson v. Stanton, 76 F. Supp. 2d 10 (D.D.C. 1999).
APA implications

Washington v. Daley, 173 F.3d 1158 (9th Cir. 1999).

The district court granted summary judgment with the belief that the Department of Commerce was correct in its reasoning that the agency action would not have a significant impact on a substantial number of small entities. The appeals court held that the Regulatory Flexibility Act only calls for agencies to consider the effect of proposed rules on entities, not the effect on revenue earned.

- **Followed by:** National Union Fire Insurance Co. v. Rite Aid of South Carolina, Inc., 210 F.3d 246 (4th Cir. 2000).
- **Cited by:** Thomas v. United States, 189 F.3d 662 (7th Cir. 1999).
APA implications
- **Cited by:** Davis for Davis v. United States, 192 F.3d 951 (10th Cir. 1999).

American Trucking Association v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).

Holding that the EPA was correct in stating that the revised national ambient air quality standards (NAAQS) do not have a significant impact on a substantial number of small entities. Stating “the SBA, however, neither administers nor has any policymaking role under the RFA; at most its role is advisory.” As a result, the court refused to defer to the SBA’s interpretation of the RFA. The court went on to explain that SBREFA did not change the court’s decision in Mid-Tex.

- **Modified by, Review or Rehearing granted by, in part, Rehearing denied by, in part:** American Trucking Associations v. EPA, 195 F.3d 4 (D.C. Cir. 1999).
APA implications
- **Rehearing, en banc, denied by:** American Trucking Associations v. EPA, 195 F.3d 4 (D.C. Cir. 1999).
APA implications
- **Opinions combined at:** American Trucking Associations v. EPA, 195 F.3d 4 (1999).
APA implications
- **Writ of certiorari granted:** Browner v. American Trucking Associations, 146 L. Ed. 2d 938, 146 L. Ed. 2d 954, 120 S. Ct. 2003 (U.S. 2000).
- **Motion granted by:** Browner v. American Trucking Associations, 2000 U.S. LEXIS 4313 (U.S. June 26, 2000).
- **Writ of certiorari granted:** American Trucking Associations v. Browner, 120 S. Ct. 2193 (U.S. 2000).
- **Motion granted by:** American Trucking Associations v. Browner, 2000 U.S. LEXIS 4314 (U.S. June 26, 2000).
- **Writ of certiorari granted:** American Trucking Associations v. Browner, 120 S. Ct. 2193 (U.S. 2000).
- **Cited by:** Citizens Concerned About Jet Noise, Inc. v. Dalton, 48 F. Supp. 2d 582 (E.D. Va. 1999).
- **Cited by:** Riley v. St. Luke's Episcopal Hospital, 196 F.3d 514 (5th Cir. Tex. 1999).
- **Cited by:** Riley v. St. Luke's Episcopal Hospital, 1999 U.S. App. LEXIS 29820 (5th Cir. Nov. 15, 1999).
- **Cited by:** City of S. Pasadena v. Slater, 56 F. Supp. 2d 1106 (C.D. Cal. 1999).
APA implications
- **Cited by:** API v. EPA, 2000 U.S. App. LEXIS 14641 (D.C. Cir. June 27, 2000).

- **Cited by:** District No. 1, Pacific Coast District, Marine Engineers Beneficial Association v. Maritime Administration, 2000 U.S. App. LEXIS 14055 (D.C. Cir. June 16, 2000).
- **Cited by:** Allied Local & Regional Manufacturers Caucus v. EPA, 2000 U.S. App. LEXIS 14052 (D.C. Cir. June 16, 2000).
- **Distinguished by, Followed by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209 (D.C. Cir. Mar. 3, 2000).
- **Cited by:** API v. EPA, 198 F.3d 275 (D.C. Cir. 2000).
- **Cited in Dissenting Opinion at:** American Trucking Associations v. EPA, 195 F.3d 4 (D.C. Cir. 1999).
APA implications
- **Cited by:** American Trucking Associations v. EPA, 195 F.3d 4 (D.C. Cir. 1999).
APA implications
- **Cited by:** Teva Pharmaceuticals United States v. FDA, 1999 U.S. Dist. LEXIS 14575 (D.D.C. Aug. 18, 1999).
- **Cited by:** Great Northern Paper, Inc., 91 F.E.R.C. P61035, 2000 FERC LEXIS 793 (2000).

Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336 (M.D. Fla. 1999).

In 1997 the Office of Advocacy filed to intervene as amicus curiae in this case. The Office of Advocacy later withdrew from the matter after the Department of Justice stipulated that the standard of review for RFA cases should be “arbitrary and capricious.” Before withdrawing, the court noted that the Chief Counsel for Advocacy is the “watchdog of the RFA,” and quoted excerpts from Advocacy’s comments criticizing NMFS for not complying with the RFA. The court held that the secretary’s certification of “no significant economic impact” and the FRFA failed to satisfy the APA standards and RFA requirements. The court criticized the agency’s economic analysis and failure to comply with the law. The court then remanded the agency’s RFA determinations to the Secretary with instructions to undertake a rational analysis of the economic effects and potential alternatives. The NMFS prepared a draft analysis and published it for public comment. The Office of Advocacy concluded that the analysis did not comply with the RFA because the analysis lacked important substantive information about the economic impact of this rulemaking on small businesses. The Office of Advocacy found that the agency did not use a consistent definition of the industry, there was no consideration on the impact on profits, the agency failed to present the economic information in a manner that could be understood by the public, the agency failed to perform an economic analysis of the alternatives, and it did not address all of the concerns raised by the court.

- (No subsequent case law)

Sporty’s v. FAA, 201 F.3d 441 (6th Cir. 1999).

The court held that the FAA did not violate the APA in designating airspace as “Class B.” The court further held that the FAA was correct in ruling that the

impact was justified and there would not be a significant economic impact on a substantial number of small entities.

- **Reported in full at:** Sporty's v. FAA, 1999 U.S. App. LEXIS 32200 (6th Cir. Dec. 3, 1999).

Alenco Communications, Inc. v. FCC, 201 F.3d 608 (5th Cir. 2000).

The court held that the FCC reasonably complied with the requirements of the RFA in promulgating interim orders to carry out the aims of Telecommunications Act of 1996, which called for universal service and competition in the local markets. The court went on to explain that the RFA does not require cost-benefit analysis or economic modeling. The RFA does not require economic analysis, but instead only requires the agency to discuss the steps it took to minimize the economic impact on small entities.

- **Writ of certiorari denied:** Portner v. Central Penn National Bank, 346 U.S. 815 (1953).
- **Cited by:** Mahone v. Waddle, 564 F.2d 1018 (3d Cir. 1977).
- **Followed by:** Marks v. Autocar Co., 152 F. Supp. 408 (D. Pa. 1955).
- **Cited by:** Martin v. Kilgore First Bancorp, Inc., 747 F.2d 1024 (5th Cir. 1984).
- **Cited by:** Berens v. Ludwig, 160 F.3d 1144 (7th Cir. 1998).
APA implications

Allied Local and Regional Manufacturers Caucus v. EPA, 2000 U.S. App. LEXIS 14052, 2000 WL 737750 (D.C. Cir. 2000).

The court ruled that §603 of the RFA, which discusses initial regulatory flexibility analysis, was not subject to judicial review. The court found that the EPA examined alternatives to product reformulation when creating regulations limiting content of volatile organic compounds (VOCs) in consumer and commercial products, and that its decisions were neither arbitrary nor capricious.

- (No subsequent case law)

Michigan v. EPA, 2000 U.S. App. LEXIS 3209, 2000 WL 180650 (D.C. Cir. 2000).

The court rejected the claim that the EPA violated the RFA when it issued a final rule mandating that 22 states and the District of Columbia revise their state implementation plans (SIPs), which provide for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS), to mitigate the interstate transport of ozone. The court further agreed with the EPA that the SIP regulating NO subx (nitrogen oxides) does not directly regulate individual sources of emissions.

- **Cited by:** API v. EPA, 2000 U.S. App. LEXIS 14641 (D.C. Cir. June 27, 2000).

In re United Mine Workers of America International Union, 190 F.3d 545 (D.C. Cir. 1999).

The court rejected the Mine Safety and Health Administration's claim that its breach of the deadline to issue its final regulations is excused by additional

rulemaking requirements that Congress has imposed on agencies, like the RFA, since the Mine Act was passed in 1977.

- **Followed by:** Natural Resources Defense Council v. Fox, 93 F. Supp. 2d 531, (S.D.N.Y. 2000).
APA implications

National Mining Association v. Secretary of Labor, 153 F.3d 1264 (11th Cir. 1998).

The court held that determining if a regulation will have a “significant economic impact on a substantial number of small entities” is not the same as deciding if a rule is economically feasible. The court also found that the Secretary of Labor’s certification that single-shift sampling, instead of multi-shift measurements, will not have a “significant impact on a substantial number of small entities.”

- **Cited by:** Gulf Power Co. v. FCC, 208 F.3d 1263 (11th Cir. 2000).

West Virginia Chamber of Commerce v. Browner, 166 F.3d 336 (4th Cir. 1998).

West Virginia Chamber of Commerce filed a petition for review challenging the EPA’s RFA certification in the notice of proposed rulemaking for the Ozone Transportation SIP Call. The court found that the proper venue for the claim was the Court of Appeals for the D.C. Circuit, not the Fourth Circuit.

- **Reported in full at:** West Virginia Chamber of Commerce v. Browner, 1998 U.S. App. LEXIS 30621 (4th Cir. Dec. 1, 1998).

Dunn-Edwards Corporation v. EPA, 122 F.3d 1070 (9th Cir. 1997).

The court held that the judicial review provision of the RFA did not provide for judicial review of agency compliance with the rulemaking process governed by Section 183(e) of the Clean Air Act. This section directs the EPA to conduct a study and then to promulgate regulations to control emissions of volatile organic compounds from consumer and commercial products.

- **Reported in full at:** Dunn-Edwards Corp. v. EPA, 1997 U.S. App. LEXIS 22891 (9th Cir. Cal. Aug. 27, 1997).
- **Writ of certiorari denied:** Smiland Paint Co. v. EPA, 525 U.S. 812 (1998).

Kansas, ex rel. Todd v. United States, 995 F.2d 1505 (10th Cir. 1993).

The court held that the Regulatory Flexibility Act does not apply when the head of a agency certifies that a rule or regulation will not affect a substantial number of small businesses. This ruling reaffirms Section 603(b) of the RFA.

- **Cited by:** Granville United Bank v. Rain & Hail Insurance Services, 1996 U.S. Dist. LEXIS 12912 (E.D.N.C. July 30, 1996).
- **Distinguished by:** Bullard v. Southwest Crop Insurance Agency, 984 F. Supp. 531, (E.D. Tex. 1997).
- **Cited by:** In re Rees, 216 B.R. 551, 1998 Bankr. LEXIS 24, 12 Tex. Bankr. Ct. Rep. 148 (Bankr. N.D. Tex. 1998).
- **Cited by:** Hyzer v. Cigna Property Casualty Insurance Co., 884 F. Supp. 1146 (E.D. Mich. 1995).
- **Cited by:** Garrelts v. Smithkline Beecham Corp., 943 F. Supp. 1023 (N.D. Iowa 1996).

- **Cited by:** Owen v. Crop Hail Management, 841 F. Supp. 297 (W.D. Mo. 1994).
- **Cited by:** In re Clark, 186 B.R. 249, 1995 Bankr. LEXIS 1295, 34 Collier Bankr. Cas. 2d (MB) 169 (Bankr. W.D. Mo. 1995).
- **Followed by, Harmonized by:** Meyer v. Conlon, 162 F.3d 1264 (10th Cir. 1998).
- **Cited by:** Pipkin v. Mortgage Creditcorp, Inc., Ct. App. 10th Dkt. No. 94-6443 (Dec. 18, 1995).
- **Cited by:** Pipkin v. Mortgage Creditcorp, 1995 U.S. App. LEXIS 35462 (10th Cir. Dec. 18, 1995).
- **Cited by:** Meyer v. National Farmers Union Property & Casualty Co., 957 F. Supp. 1492 (D. Wyo. 1997).
- **Cited by:** Mount Emmons Mining Co. v. Babbitt, 928 F. Supp. 1046 (D. Colo. 1996).
APA implications
- **Cited by:** Murphy v. SmithKline Beecham Animal Health Group, 898 F. Supp. 811 (D. Kan. 1995).
- **Cited by:** Logan Farms v. Espy, 886 F. Supp. 781 (D. Kan. 1995).
APA implications
- **Cited by:** Kansas ex rel. Secretary of Social & Rehabilitation Services v. Shalala, 859 F. Supp. 484 (D. Kan. 1994).
APA implications
- **Cited by:** Northern Crawfish Frog v. Federal Highway Administration, 858 F. Supp. 1503 (D. Kan. 1994).
APA implications

American Mining Congress v. EPA, 965 F.2d 759 (9th Cir. 1992).

The court held that it lacks the authority to strike down the storm water rule on the basis of a flawed certification under Section 605(b) of the RFA. The EPA's certification that no regulatory flexibility analysis was necessary constitutes a "determination by an agency concerning the applicability of any of the provisions of" the RFA, and is therefore unreviewable. The court also declined to invalidate the rule because the EPA was not required to consider economic and administrative impacts in formulating this rule.

- **Cited by:** West Virginia Mining & Reclamation Association v. Babbitt, 970 F. Supp. 506 (S.D. W. Va. 1997).
- **Cited by:** Residents against Industrial Landfill Expansion v. Diversified System, Inc., 804 F. Supp. 1036 (E.D. Tenn. 1992).
- **Cited by:** Defenders of Wildlife v. Browner, 191 F.3d 1159 (9th Cir. 1999).
APA implications
- **Cited by:** Idaho Farm Bureau Federation v. Babbitt, 58 F.3d 1392 (9th Cir. 1995).
APA implications
- **Cited by:** Forest Guardians v. Thomas, 967 F. Supp. 1536 (D. Ariz. 1997).

- **Cited by:** National Mining Association v. United States DOI, 1997 U.S. Dist. LEXIS 8901 (D.D.C. June 19, 1997).
- **Cited by:** National Wildlife Federation v. Babbitt, 41 Env't Rep. Cas. (BNA) 1529 (D.D.C. Aug. 31, 1995).
- **Cited by:** 41 N.R.C. 71.

Colorado, ex rel. Colorado State Banking Board v. Resolution Trust Corporation, 926 F.2d 931 (10th Cir. 1991).

The court ruled that the Resolution Trust Corporation (RTC) did not violate the RFA in certifying that the Override Regulation, which allowed banks that acquire failed or failing savings and loan associations to operate the thrifts' offices as bank branches, notwithstanding state laws that would prohibit the acquiring bank from operating such branches, would not significantly affect a number of small entities.

- **Cited by:** Heno v. FDIC, 20 F.3d 1204 (1st Cir. 1994).
- **Distinguished by:** Resolution Trust Corp. v. Diamond, 801 F. Supp. 1152 (S.D.N.Y. 1992).
- **Followed by:** Southwestern Pennsylvania Growth Alliance v. Browner, 121 F.3d 106 (3d Cir. 1997).
RFA and APA implications
- **Cited by:** Resolution Trust Corp. v. Maplewood Investment, 31 F.3d 1276 (4th Cir. 1994).
- **Cited by:** Mount Evans Co. v. Madigan, 14 F.3d 1444 (10th Cir. 1994).
APA implications
- **Followed by:** Hill v. Ibarra, 954 F.2d 1516 (10th Cir. 1992).
- **Cited by:** Ayers v. Espy, 873 F. Supp. 455 (D. Colo. 1994).
APA implications
- **Cited by:** State ex rel. Todd v. United States, 791 F. Supp. 1491 (D. Kan. 1992).
RFA implications
- **Cited by:** 18 CFR Part 35, Regional Transmission Organizations, 89 F.E.R.C. P61285 (1999).

Michigan v. Thomas, 805 F.2d 176 (6th Cir. 1986).

The Sixth Circuit in this case decided to adopt the District of Columbia Circuit's conclusion in Thompson v. Clark. In that case the court found that although an agency's compliance with the Act itself is not subject to judicial review, the contents of the analysis should be considered in determining whether a rule is reasonable. Agency decisions may be overturned if the analysis is so defective that it renders the final decision unreasonable or if the agency fails to respond to public comment concerning the rules' impact on small entities. The court further held that the EPA performed its regulatory flexibility analysis in its overall rulemaking analysis and it was unnecessary to consider any alternatives, to certify the proposed rule under section 605(b) or to prepare a complete initial regulatory flexibility analysis.

- **Cited by:** Associated Fisheries v. Daley, 954 F. Supp. 383 (D. Me. 1997).
RFA and APA implications
- **Cited by:** Xin-Chang Zhang v. Slattery, 55 F.3d 732 (2d Cir. 1995).
APA implications
- **Cited by:** New York City Employees' Retirement System v. SEC, 843 F. Supp. 858 (S.D.N.Y. 1994).
APA implications
- **Cited by:** New York City Employees Retirement System v. SEC, 63 Fair Empl. Prac. Cas. (BNA) 1358 (S.D.N.Y. Jan. 13, 1994).
- **Cited by:** United States Department of Health & Human Services v. Federal Labor Relations Authority, 844 F.2d 1087 (4th Cir. 1988).
APA implications
- **Cited in Dissenting Opinion at:** United States Department of Health & Human Services v. Federal Labor Relations Authority, 822 F.2d 430 (4th Cir. 1987).
APA implications
- **Cited by:** Trawler Diane Marie, Inc. v. Brown, 918 F. Supp. 921 (E.D.N.C. 1995).
APA implications
- **Cited by:** Louisiana ex rel. Guste v. Verity, 681 F. Supp. 1178 (E.D. La. 1988).
APA implications
- **Cited in Dissenting Opinion at:** St. Francis Health Care Center v. Shalala, 205 F.3d 937 (6th Cir. 2000).
APA implications
- **Cited by:** Charter Township of Van Buren v. Adamkus, 1999 U.S. App. LEXIS 21037 (6th Cir. Aug. 30, 1999).
- **Cited by:** Spitzer Great Lakes Ltd. v. EPA, 173 F.3d 412 (6th Cir. 1999).
APA implications
- **Cited by:** United States v. Akzo Coatings of America, 949 F.2d 1409 (6th Cir. 1991).
APA implications
- **Cited by:** Navistar International Transportation Corp. v. EPA, 941 F.2d 1339 (6th Cir. 1991).
APA implications
- **Cited by:** National Truck Equipment Association v. National Highway Traffic Safety Administration, 919 F.2d 1148 (6th Cir. 1990).
RFA, APA implications
- **Explained by:** Friedrich v. Secretary of HHS, 894 F.2d 829 (6th Cir. 1990).
APA implications
- **Cited by:** Charter Township of Van Buren v. Adamkus, 10 F. Supp. 2d 766 (E.D. Mich. 1998).
APA implications
- **Cited by:** Charter Township of Van Buren v. Adamkus, 1997 U.S. Dist. LEXIS 22634 (E.D. Mich. Aug. 15, 1997).

- **Cited by:** Charter Township of Van Buren v. Adamkus, 965 F. Supp. 959 (E.D. Mich. 1997).
APA implications
- **Cited by:** National Wildlife Federation v. Adamkus, 936 F. Supp. 435 (W.D. Mich. 1996).
APA implications
- **Cited by:** National Wildlife Federation v. EPA, 42 Env't Rep. Cas. (BNA) 2171 (W.D. Mich. May 28, 1996).
- **Cited by:** United States v. Akzo Coatings of America, 719 F. Supp. 571 (E.D. Mich. 1989).
- **Cited by:** Metropolitan School District v. Davila, 969 F.2d (7th Cir. 1992).
APA implications
- **Cited by:** Chief Probation Officers v. Shalala, 118 F.3d 1327 (9th Cir. 1997).
APA implications
- **Cited by:** McCarthy v. Thomas, 27 F.3d 1363 (9th Cir. 1994).
APA implications
- **Cited by:** Cal-Almond, Inc. v. United States Department of Agriculture, 14 F.3d 429 (9th Cir. 1993).
APA implications
- **Cited by:** Idaho Mining Association v. Browner, 90 F. Supp. 2d 1078 (D. Idaho 2000).
APA implications
- **Distinguished by:** Colorado ex rel. Colorado State Banking Board v. Resolution Trust Corp., 926 F.2d 931 (10th Cir. 1991).
RFA implications
- **Cited by:** Meyer v. Bush, 981 F.2d 1288 (1993).
APA implications
- **Cited by:** Secretary of Labor v. Cincinnati Inc., 1997 OSAHRC LEXIS 39, 17 O.S.H. Cas. (BNA) 1984, O.S.H. Dec. (CCH) P31304, 1997 O.S.H. Dec. (CCH) P31304 (O.S.H.R.C. Apr. 25, 1997).
- **Cited by:** Ct. App. 6th Dkt. No. 89-4006.

National Truck Equipment Association v. National Highway Traffic Safety Administration, 919 F.2d 1148 (6th Cir. 1990).

The National Highway Traffic Safety Administration promulgated steering column standard for trucks under 10,000 pounds. The court used the RFA to reinforce its conclusion that the proposed amendment is impracticable and unreasonable. Citing Michigan v. Thomas, the court commented that regulation can be found to be arbitrary, capricious, or contrary to law if it has a great impact on small businesses in violation of the RFA despite the fact that the Act does not permit judicial review.

- **Rehearing, en banc, denied by:** National Truck Equipment Association v. National Highway Traffic Safety Administration, 928 F.2d 739 (6th Cir. 1991).

- **Costs and fees proceeding at:** National Truck Equipment Association v. National Highway Traffic Safety Administration, 972 F.2d 669 (6th Cir. 1992).
- **Criticized in:** Texas Food Industry Association v. United States Department of Agriculture, 81 F.3d 578, (5th Cir. 1996).
APA implications
- **Limited by:** Tri-State Steel Construction Co. v. Herman, 164 F.3d 973(6th Cir. 1999).
- **Costs and fees proceeding at:** Tri-State Steel Construction Co., 1999 OSAHRC LEXIS 97 (O.S.H.R.C. Aug. 18, 1999).
- **Costs and fees proceeding at:** Tri-State Steel Construction Co., 1999 OSAHRC LEXIS 98 (O.S.H.R.C. Aug. 18, 1999).
- **Cited by:** Radio Association on Defending Airwave Rights v. United States DOT, 47 F.3d 794 (6th Cir. 1995).
APA implications
- **Cited by:** National Truck Equipment Association v. National Highway Traffic Safety Administration, 972 F.2d 669 (6th Cir. 1992).
- **Cited by:** Derrick v. Kemp, 1991 U.S. Dist. LEXIS 12820 (S.D. Ohio Apr. 4, 1991).

Minority Business Legal Defense and Education Fund, Inc. v. Small Business Administration, 557 F.Supp. 37 (D.D.C. 1982).

The court held that the Small Business Administration was granted summary judgment and the complaint against the SBA was dismissed. The plaintiff had challenged regulations promulgated by the SBA placing limits on the period of time a business may receive assistance under Section 8(a) of the Small Business Act. The plaintiff's claim that the regulation was in violation of the RFA was withdrawn at oral arguments.

- **Followed by:** Superior Engineering & Electronics Co. v. Sanders, 833 F.2d 823 (9th Cir. 1987).
- **Cited by:** Roberts Construction Co. v. United States Small Business Administration, 657 F. Supp. 418 (D. Colo. 1987).
- **Cited by:** Bunge Corp. v. United States, 5 Cl. Ct. 511, 1984 U.S. Cl. Ct. LEXIS 1407 (1984).

Transmission Access Policy Study Group v. FERC, 2000 WL 762706 (D.C. Cir. Jun. 30, 2000).

The court held that it would not question FERC's decision. FERC looked at the potential impact of Order 888, and included in the order a provision allowing an exemption from compliance with the reciprocity conditions. The court ruled that nothing in the reciprocity conditions was unreasonable.

- (No subsequent case law)

United Distribution Companies v. FERC, 88 F.3d 1105 (D.C. Cir. 1996).

The court held that FERC has no jurisdiction to regulate the local distribution of natural gas. It further held that the contention that Order No. 636 may have a significant economic impact on LDCs is not sufficient to trigger the mandate of the RFA. FERC had no obligation to conduct a small entity impact analysis of effects on entities, which it does not regulate.

- **Writ of certiorari denied:** Associated Gas Distributors v. FERC, 520 U.S. 1224 (1997).
- **Cited by:** New England Utilities v. Hydro-Quebec, 10 F. Supp. 2d 53 (D. Mass. 1998).
- **Cited by:** Pacific Gas & Electric Co. v. FERC, 106 F.3d 1190 (5th Cir. 1997).
- **Cited by:** HTI Health Services v. Quorum Health Group, 960 F. Supp. 1104 (S.D. Miss. 1997).
- **Cited by:** United States Communications v. MFS Intelenet, Inc., 193 F.3d 1112 (9th Cir. 1999).
- **Followed by:** K N Gas Supply Services. v. American Product Partnership V, Ltd., 994 F. Supp. 1283 (D. Colo. 1998).
- **Cited by:** Transmission Access Policy Study Group v. FERC, 2000 U.S. App. LEXIS 15362 (D.C. Cir. June 30, 2000).
- **Cited by:** Lomak Petroleum, Inc. v. FERC, 206 F.3d 1193 (D.C. Cir. 2000).
- **Cited by:** Exxon Corp. v. FERC, 206 F.3d 47, 2000 U.S. App. LEXIS 4683 (D.C. Cir. 2000).
- **Cited by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209 (D.C. Cir. Mar. 3, 2000).
- **Cited by:** Trunkline LNG Co. v. FERC, 194 F.3d 68 (D.C. Cir. 1999).
APA implications
- **Cited by:** Process Gas Consumers Group v. FERC, 177 F.3d 995 (D.C. Cir. 1999).
APA implications
- **Cited by:** American Trucking Association, Inc. v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).
RFA implications
- **Cited by:** Municipal Defense Group v. FERC, 170 F.3d 197 (D.C. Cir. 1999).
- **Cited by:** Northern Municipal Distributors Group v. FERC, 165 F.3d 935 (D.C. Cir. 1999).
APA implications
- **Cited by:** City of Bushnell Illinois v. FERC, 1998 U.S. App. LEXIS 33928 (D.C. Cir. Dec. 9, 1998).
- **Cited by:** Wyoming Interstate Co. v. FERC, 1998 U.S. App. LEXIS 33927 (D.C. Cir. Dec. 9, 1998).
- **Cited by:** Colorado Interstate Gas Co. v. FERC, 1998 U.S. App. LEXIS 33924 (D.C. Cir. Dec. 9, 1998).
- **Cited by:** Koch Gateway Pipeline Co. v. FERC, 1998 U.S. App. LEXIS 33923 (D.C. Cir. Dec. 9, 1998).

- **Cited by:** Process Gas Consumers Group v. FERC, 158 F.3d 591 (D.C. Cir. 1998).
- **Cited by:** NorAm Gas Transmission Co. v. FERC, 148 F.3d 1158 (D.C. Cir. 1998).
APA implications
- **Cited by:** Burlington Resources Oil & Gas Co. v. FERC, 1998 U.S. App. LEXIS 20697 (D.C. Cir. July 20, 1998).
- **Cited by:** Texaco Inc. v. FERC, 148 F.3d 1091 (D.C. Cir. 1998).
- **Cited by:** City of Nephi v. FERC, 147 F.3d 929 (D.C. Cir. 1998).
- **Cited by:** Colorado Interstate Gas Co. v. FERC, 146 F.3d 889 (D.C. Cir. 1998).
- **Cited by:** UGI Utilities v. FERC, 144 F.3d 868 (D.C. Cir. 1998).
- **Cited by:** Southwest Gas Corp. v. FERC, 145 F.3d 365 (D.C. Cir. 1998).
- **Explained by:** PUC v. FERC, 143 F.3d 610 (D.C. Cir. 1998).
- **Cited by:** Kansas Municipals v. FERC, 1998 U.S. App. LEXIS 10677 (D.C. Cir. May 12, 1998).
- **Cited by:** Motor & Equipment Manufacturers Association v. Nichols, 142 F.3d 449 (D.C. Cir. 1998).
RFA, APA implications
- **Cited by:** Tennessee Valley Municipal Gas Association v. FERC, 140 F.3d 1085 (D.C. Cir. 1998).
- **Cited by:** Chevron U.S.A. v. FERC, 1998 U.S. App. LEXIS 7884 (D.C. Cir. Apr. 14, 1998).
- **Cited by:** Georgia Industrial Group v. FERC, 137 F.3d 1358 (D.C. Cir. 1998).
- **Cited by:** Koch Gateway Pipeline Co. v. FERC, 136 F.3d 810 (D.C. Cir. 1998).
APA implications
- **Cited by:** Pennsylvania Office of Consumer Advocate v. FERC, 131 F.3d 182 (D.C. Cir. 1997).
- **Cited by:** Union Pacific Fuels v. FERC, 129 F.3d 157 (D.C. Cir. 1997).
- **Cited by:** Williston Basin Interstate Pipeline Co. v. FERC, 115 F.3d 1042 (D.C. Cir. 1997).
- **Cited by:** Williams Natural Gas Co. v. FERC, 1997 U.S. App. LEXIS 11657 (D.C. Cir. Apr. 30, 1997).
- **Cited by:** Natural Gas Clearinghouse v. FERC, 108 F.3d 397 (D.C. Cir. 1997).
- **Cited by:** El Paso Natural Gas Co. v. FERC, 96 F.3d 1460 (D.C. Cir. 1996).
- **Cited in Dissenting Opinion at:** Independent Petroleum Association of America v. Babbitt, 92 F.3d 1248 (D.C. Cir. 1996).
APA implications
- **Cited by:** American Forest & Paper Association v. EPA, 1996 U.S. Dist. LEXIS 13230 (D.D.C. Sept. 4, 1996).
- **Cited by:** Pacific Gas and Electric Company, 91 F.E.R.C. P63008, 2000 FERC LEXIS 1157 (2000).

- **Cited by:** 18 CFR Parts 154, 161, 250 and 284; Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services, 91 F.E.R.C. P61169, 2000 FERC LEXIS 1029 (2000).
- **Cited by:** ANR Pipeline Company v. Transcontinental Gas Pipe Line Corp., 91 F.E.R.C. P61066, 2000 FERC LEXIS 823 (2000).
- **Cited by:** Panhandle Eastern Pipe Line Company, 91 F.E.R.C. P61037, 2000 FERC LEXIS 795 (2000).
- **Cited by:** Cotton Valley Compression, L.L.C, 90 F.E.R.C. P61206, 2000 FERC LEXIS 354 (2000).
- **Cited by:** Williston Basin Interstate Pipeline Company, 90 F.E.R.C. P61152, 2000 FERC LEXIS 276 (2000).
- **Cited by:** 18 CFR Parts 154, 161, 250, and 284, Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services, 90 F.E.R.C. P61109, 2000 FERC LEXIS 275 (2000)
- **Cited by:** B-R Pipeline Company, Portland General Electric Company, 89 F.E.R.C. P61312, 1999 FERC LEXIS 2669 (1999)
- **Cited by:** Independence Pipeline Company, ANR Pipeline Company, National Fuel Gas Supply Corporation, Transcontinental Gas Pipe Line Corporation, 89 F.E.R.C. P61283, 1999 FERC LEXIS 2624 (1999)
- **Cited by:** Transwestern Pipeline Company, 89 F.E.R.C. P61038, 1999 FERC LEXIS 2201 (1999).
- **Cited by:** Williams Gas Processing-Gulf Coast Gathering Company, L.P., Transcontinental Gas Pipe Line Corporation, 89 F.E.R.C. P61016, 1999 FERC LEXIS 2086 (1999).
- **Cited by:** Kansas Pipeline Company, 88 F.E.R.C. P61313, 1999 FERC LEXIS 2066 (1999).
- **Cited by:** North American Energy Conservation, Inc. v. CNG Transmission Corporation, 88 F.E.R.C. P61255, 1999 FERC LEXIS 1954 (1999).
- **Cited by:** Northern Natural Gas Company, 88 F.E.R.C. P61170, 1999 FERC LEXIS 1672 (1999).
- **Cited by:** El Paso Natural Gas Company, 88 F.E.R.C. P61139, 1999 FERC LEXIS 1653 (1999).
- **Cited by:** Consumers Energy Company, 88 F.E.R.C. P61084, 1999 FERC LEXIS 1553 (1999).
- **Cited by:** Texas Eastern Transmission Corporation, 88 F.E.R.C. P61082, 1999 FERC LEXIS 1557 (1999).
- **Cited by:** LBU Joint Venture, 88 F.E.R.C. P61035, 1999 FERC LEXIS 1444 (1999).
- **Cited by:** Algonquin LNG, Inc., Providence Gas Company, 87 F.E.R.C. P61296, 1999 FERC LEXIS 1239 (1999).
- **Cited by:** CNG Transmission Corporation, Texas Eastern Transmission Corporation, 87 F.E.R.C. P61273, 1999 FERC LEXIS 1123 (1999)
- **Cited by:** Williams Natural Gas Company, 87 F.E.R.C. P61269, 1999 FERC LEXIS 1133 (1999).

- **Cited by:** K N Interstate Gas Transmission Company, 87 F.E.R.C. P61267, 1999 FERC LEXIS 1132 (1999).
- **Cited by:** 18 CFR Part 35, Regional Transmission Organizations, 87 F.E.R.C. P61173, 1999 FERC LEXIS 1015 (1999).
- **Cited by:** Williams Gas Processing-Gulf Coast Gathering Company, L.P., Transcontinental Gas Pipe Line Corporation, 87 F.E.R.C. P61144, 1999 FERC LEXIS 888 (1999).
- **Cited by:** Kansas Pipeline Company, Riverside Pipeline Company, L.P., Transok, Inc., KansOk Partnership, Williams Gas Pipelines Central n1 v. Kansas Pipeline Operating Company, Kansas Pipeline Partnership, KansOk Partnership, Riverside Pipeline Company, L.P., 87 F.E.R.C. P61020, 1999 FERC LEXIS 648 (1999).
- **Cited by:** Trailblazer Pipeline Company, 86 F.E.R.C. P61102, 1999 FERC LEXIS 201 (1999).
- **Cited by:** Williams Natural Gas Company, 86 F.E.R.C. P61098, 1999 FERC LEXIS 170 (1999).
- **Cited by:** CNG Transmission Corporation and Texas Eastern Transmission Corporation, 85 F.E.R.C. P61432, 1998 FERC LEXIS 2581 (1998).
- **Cited by:** Transwestern Pipeline Company, KN Interstate Gas Transmission Company, 85 F.E.R.C. P61416, 1998 FERC LEXIS 2548 (1998).
- **Cited by:** Northwest Pipeline Corporation, 85 F.E.R.C. P61335, 1998 FERC LEXIS 2470 (1998).
- **Cited by:** Koch Gateway Pipeline Company, 85 F.E.R.C. P61236, 1998 FERC LEXIS 2308 (1998).
- **Cited by:** Southern Natural Gas Company, 85 F.E.R.C. P61134, 1998 FERC LEXIS 2192 (1998).
- **Cited by:** Tennessee Gas Pipeline Company and Columbia Gulf Transmission Company, 85 F.E.R.C. P61086, 1998 FERC LEXIS 2084 (1998).
- **Cited by:** Michigan Consolidated Gas Company, 85 F.E.R.C. P61080, 1998 FERC LEXIS 2079 (1998).
- **Cited by:** Koch Gateway Pipeline Company, 85 F.E.R.C. P61013, 1998 FERC LEXIS 1971 (1998).
- **Cited by:** Williams Natural Gas Company, 84 F.E.R.C. P63013, 1998 FERC LEXIS 1898 (1998).
- **Cited by:** Clear Creek Storage Company, L.L.C., 84 F.E.R.C. P61210, 1998 FERC LEXIS 1726 (1998).
- **Cited by:** Connecticut Yankee Atomic Power Company, 84 F.E.R.C. P63009, 1998 FERC LEXIS 1705 (1998).
- **Cited by:** Horsehead Resource Development Co., Inc. v. Transcontinental Gas Pipe Line Corporation, 84 F.E.R.C. P61161, 1998 FERC LEXIS 1572 (1998).
- **Cited in Dissenting Opinion at:** Atlanta Gas Light Company, 84 F.E.R.C. P61119, 1998 FERC LEXIS 1492 (1998).
- **Cited by:** Iroquois Gas Transmission System, L.P., 84 F.E.R.C. P61086, 1998 FERC LEXIS 1519 (1998).

- **Cited by:** 18 CFR Parts 161, 250, and 284 Regulation of Short-Term Natural Gas Transportation Services, 84 F.E.R.C. P61085, 1998 FERC LEXIS 1496 (1998).
- **Cited by:** UtiliCorp United Inc., 84 F.E.R.C. P61059, 1998 FERC LEXIS 1393 (1998).
- **Followed by:** Natural Gas Pipeline Company of America, 83 F.E.R.C. P61343, 1998 FERC LEXIS 1259 (1998).
- **Followed by:** Texas Gas Transmission Corporation, 83 F.E.R.C. P61342, 1998 FERC LEXIS 1258 (1998).
- **Followed by:** Columbia Gas Transmission Corporation, 83 F.E.R.C. P61341, 1998 FERC LEXIS 1261 (1998).
- **Cited by:** South Georgia Natural Gas Company, 83 F.E.R.C. P61339, 1998 FERC LEXIS 1260 (1998).
- **Cited by:** Williams Natural Gas Company, 83 F.E.R.C. P63015, 1998 FERC LEXIS 1207 (1998).
- **Cited by:** CNG Transmission Corporation, 83 F.E.R.C. P63013, 1998 FERC LEXIS 1179 (1998).
- **Cited by:** El Paso Natural Gas Company, 83 F.E.R.C. P61286, 1998 FERC LEXIS 1166 (1998).
- **Cited by:** Tennessee Gas Pipeline Company, 83 F.E.R.C. P61284, 1998 FERC LEXIS 1148 (1998).
- **Cited by:** Pipeline Service Obligations and Revisions to Regulations, Governing Self-Implementing Transportation Under Part 284, and Regulation of Natural Gas Pipelines After, Partial Wellhead Decontrol, 83 F.E.R.C. P61210, 1998 FERC LEXIS 1049 (1998).
- **Cited by:** Duke Energy Field Services, Inc. Richfield Gas Storage System, 83 F.E.R.C. P61153, 1998 FERC LEXIS 938 (1998).
- **Cited by:** Kansas Pipeline Company, Riverside Pipeline Company, L.P., Transok, Inc., KansOk Partnership, KansOk Partnership, Kansas Pipeline Partnership, Riverside Pipeline Company, L.P., Williams Natural Gas Company v. Kansas Pipeline Operating Company, Kansas Pipeline Partnership, KansOk Partnership, Riverside Pipeline Company, L.P., 83 F.E.R.C. P61107, 1998 FERC LEXIS 822 (1998).
- **Cited by:** Columbia Gas Transmission Corp., 83 F.E.R.C. P63005, 1998 FERC LEXIS 769 (1998).
- **Cited by:** CNG Transmission Corporation and Texas Eastern Transmission Corporation, 83 F.E.R.C. P61081, 1998 FERC LEXIS 757 (1998).
- **Cited by:** Williams Natural Gas Company and Missouri Gas Energy, A Division of Southern Union Company, Missouri Gas Energy, A Division of Southern Union Company v. Williams Natural Gas Company, 83 F.E.R.C. P61052, 1998 FERC LEXIS 749 (1998).
- **Cited by:** Revised Filing Requirements Under Part 33 of the Commission's Regulations, 83 F.E.R.C. P61027, 1998 FERC LEXIS 716 (1998).
- **Cited by:** Transcontinental Gas Pipe Line Corporation, 82 F.E.R.C. P63019, 1998 FERC LEXIS 631 (1998).

- **Cited by:** Natural Gas Pipeline Company of America, 82 F.E.R.C. P61278, 1998 FERC LEXIS 501 (1998).
- **Cited by:** ANR Pipeline Company, 82 F.E.R.C. P61248, 1998 FERC LEXIS 497 (1998).
- **Cited by:** Pacific Gas Transmission Company and Southern California Edison Company, 82 F.E.R.C. P61227, 1998 FERC LEXIS 423 (1998).
- **Cited by:** Copano Field Services/Copano Bay, L.P. Florida Gas Transmission Company, 82 F.E.R.C. P61222, 1998 FERC LEXIS 400 (1998).
- **Cited by:** Northwest Pipeline Corporation, 82 F.E.R.C. P61158, 1998 FERC LEXIS 272 (1998).
- **Cited by:** USG Pipeline Company, 82 F.E.R.C. P61117, 1998 FERC LEXIS 216 (1998).
- **Cited by:** Kansas Pipeline Company, Riverside Pipeline Company, L.P., Transok, Inc., KansOk Partnership, KansOk Partnership, Kansas Pipeline Partnership, Riverside Pipeline Company, L.P., Williams Natural Gas Company v. Kansas Pipeline Operating Company, Kansas Pipeline Partnership, KansOk Partnership, Riverside Pipeline Company, L.P., 82 F.E.R.C. P61094, 1998 FERC LEXIS 168 (1998).
- **Cited by:** Western Gas Resources, Inc., Williams Natural Gas Company, 82 F.E.R.C. P61072, 1998 FERC LEXIS 126 (1998).
- **Cited by:** Amoco Production Company and Amoco Energy Trading Company v. Natural Gas Pipeline Company of America, 82 F.E.R.C. P61038, 1998 FERC LEXIS 71 (1998).
- **Cited by:** Iroquois Gas Transmission System, L.P., 81 F.E.R.C. P63012, 1997 FERC LEXIS 2800 (1997).
- **Cited by:** Northern Natural Gas Company, 81 F.E.R.C. P61391, 1997 FERC LEXIS 2740 (1997).
- **Cited by:** Trunkline Gas Company, Duke Energy Field Services, Inc., 81 F.E.R.C. P61351, 1997 FERC LEXIS 2694 (1997).
- **Cited by:** Missouri Gas Energy, A Division of Southern Union Company v. Williams Natural Gas Company, 81 F.E.R.C. P61350, 1997 FERC LEXIS 2702 (1997).
- **Cited by:** Tennessee Gas Pipeline Company, 81 F.E.R.C. P63008, 1997 FERC LEXIS 2670 (1997).
- **Cited by:** Williams Natural Gas Company, 81 F.E.R.C. P61306, 1997 FERC LEXIS 2595 (1997).
- **Cited by:** Horsehead Resource Development Co., Inc. v. Transcontinental Gas Pipe Line Corporation, 81 F.E.R.C. P61293, 1997 FERC LEXIS 2593 (1997).
- **Cited by:** Hopkinton LNG Corp., 81 F.E.R.C. P61291, 1997 FERC LEXIS 2597 (1997).
- **Cited by:** Kansas Pipeline Company, Riverside Pipeline Company, L.P., Transok, Inc., KansOk Partnership, Kansas Pipeline Partnership, Williams Natural Gas Company v. Kansas Pipeline Operating Company KansOk

- Partnership, Riverside Pipeline Company, L.P., 81 F.E.R.C. P61250, 1997 FERC LEXIS 2533 (1997).
- **Cited by:** Total Peaking Services, L.L.C., 81 F.E.R.C. P61246, 1997 FERC LEXIS 2575 (1997).
 - **Cited by:** Koch Gateway Pipeline Company, 81 F.E.R.C. P61228, 1997 FERC LEXIS 2506 (1997).
 - **Cited by:** Trunkline Gas Company, 81 F.E.R.C. P61223, 1997 FERC LEXIS 2499 (1997).
 - **Cited by:** K N Interstate Gas Transmission Company, 81 F.E.R.C. P61221, 1997 FERC LEXIS 2502 (1997).
 - **Cited by:** Williams Natural Gas Company, 81 F.E.R.C. P61218, 1997 FERC LEXIS 2495 (1997).
 - **Cited by:** Trunkline LNG Company, 81 F.E.R.C. P61147, 1997 FERC LEXIS 2381 (1997).
 - **Cited by:** USG Pipeline Company, 81 F.E.R.C. P61039, 1997 FERC LEXIS 2208 (1997).
 - **Cited by:** Decatur Utilities, City of Decatur, Alabama, and Huntsville Utilities, City of Huntsville, Alabama v. Midcoast Interstate Transmission, Inc. (formerly Alabama-Tennessee Natural Gas Company)Huntsville Utilities, City of Huntsville, Alabama v. Midcoast Interstate Transmission, Inc., 81 F.E.R.C. P61034, 1997 FERC LEXIS 2201 (1997).
 - **Cited by:** Kansas Pipeline Company, Riverside Pipeline Company, L.P. n1, Transok, Inc., KansOk Partnership, KansOk Partnership, Kansas Pipeline Partnership, Riverside Pipeline Company, L.P., Williams Natural Gas Company v. Kansas Pipeline Operating Company, Kansas Pipeline Partnership, KansOk Partnership, Riverside Pipeline Company, L.P. n1 This application was filed by Riverside Pipeline Company. However, , 81 F.E.R.C. P61005, 1997 FERC LEXIS 2121 (1997).
 - **Cited by:** Northwest Pipeline Company, 80 F.E.R.C. P61361, 1997 FERC LEXIS 2024 (1997).
 - **Cited by:** Warren Transportation, Inc., 80 F.E.R.C. P61292, 1997 FERC LEXIS 1901 (1997).
 - **Distinguished by:** Texas Eastern Transmission Corporation, 80 F.E.R.C. P61270, 1997 FERC LEXIS 1942 (1997).
 - **Cited by:** Columbia Gas Transmission Corporation Columbia Gulf Transmission Company, 80 F.E.R.C. P61220, 1997 FERC LEXIS 1714 (1997).
 - **Cited by:** Panhandle Eastern Pipe Line Corporation, 80 F.E.R.C. P61193, 1997 FERC LEXIS 1674 (1997).
 - **Cited by:** Koch Gateway Pipeline Company, 80 F.E.R.C. P61191, 1997 FERC LEXIS 1696 (1997).
 - **Cited by:** Williams Natural Gas Company, 80 F.E.R.C. P61158, 1997 FERC LEXIS 1606 (1997).
 - **Cited by:** Great Lakes Gas Transmission Limited Partnership, 80 F.E.R.C. P61105, 1997 FERC LEXIS 1502 (1997).

- **Cited by:** Tennessee Gas Pipeline Company, 80 F.E.R.C. P61070, 1997 FERC LEXIS 1474 (1997).
- **Cited by:** Tennessee Gas Pipeline Company, 80 F.E.R.C. P61019, 1997 FERC LEXIS 1446 (1997).
- **Cited by:** Northern Natural Gas Company, Enron Mountain Gathering, Inc., 79 F.E.R.C. P61313, 1997 FERC LEXIS 1132 (1997).
- **Distinguished by:** Tennessee Gas Pipeline Company, 79 F.E.R.C. P61297, 1997 FERC LEXIS 1081 (1997).
- **Cited by:** Decatur Utilities, City of Decatur, Alabama, and Huntsville Utilities, City of Huntsville, Alabama v. Alabama-Tennessee Natural Gas Company, 79 F.E.R.C. P61282, 1997 FERC LEXIS 1055 (1997).
- **Cited by:** Southern Natural Gas Company, 79 F.E.R.C. P61280, 1997 FERC LEXIS 1053 (1997).
- **Followed by:** Florida Gas Transmission Company, 79 F.E.R.C. P63012, 1997 FERC LEXIS 945 (1997).
- **Cited by:** Columbia Gas Transmission Corporation and Texas Eastern Transmission Corporation, 79 F.E.R.C. P61160, 1997 FERC LEXIS 882 (1997).
- **Cited by:** Transcontinental Gas Pipe Line Corporation, 79 F.E.R.C. P61075, 1997 FERC LEXIS 722 (1997).
- **Cited by:** Columbia Gas Transmission Corporation MarkWest Hydrocarbon, Inc., 79 F.E.R.C. P61041, 1997 FERC LEXIS 656 (1997).
- **Cited by:** Enron Gulf Coast Gathering Limited Partnership, Northern Natural Gas Company, 79 F.E.R.C. P61039, 1997 FERC LEXIS 654 (1997).
- **Cited by:** Colorado Interstate Gas Company, 79 F.E.R.C. P61020, 1997 FERC LEXIS 616 (1997).
- **Cited by:** Mississippi River Transmission Corporation, 78 F.E.R.C. P61367, 1997 FERC LEXIS 540 (1997).
- **Cited by:** Tennessee Gas Pipeline Company, 78 F.E.R.C. P61340, 1997 FERC LEXIS 508 (1997).
- **Cited by:** Florida Gas Transmission Company Copano Field Services/Copano, 78 F.E.R.C. P61300, 1997 FERC LEXIS 440 (1997).
- **Cited by:** Northwest Pipeline Corporation, 78 F.E.R.C. P61289, 1997 FERC LEXIS 432 (1997).
- **Cited by:** Texas Eastern Transmission Corporation, 78 F.E.R.C. P61277, 1997 FERC LEXIS 404 (1997).
- **Cited by:** Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 78 F.E.R.C. P61220, 1997 FERC LEXIS 463 (1997).
- **Followed by:** Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 78 F.E.R.C. P61186, 1997 FERC LEXIS 303 (1997).

- **Cited by:** Texas-Ohio Pipeline, Inc., 78 F.E.R.C. P61106, 1997 FERC LEXIS 178 (1997).
- **Cited by:** Tennessee Gas Pipeline Company, 78 F.E.R.C. P61079, 1997 FERC LEXIS 147 (1997).
- **Cited by:** Williams Natural Gas Company, 78 F.E.R.C. P61068, 1997 FERC LEXIS 127 (1997).
- **Cited by:** East Tennessee Natural Gas Company, 77 F.E.R.C. P61327, 1996 FERC LEXIS 2349 (1996).
- **Cited by:** Northwest Pipeline Corporation, 77 F.E.R.C. P61323, 1996 FERC LEXIS 2343 (1996).
- **Cited by:** Colorado Interstate Gas Company, MIGC, Inc., 77 F.E.R.C. P61311, 1996 FERC LEXIS 2370 (1996).
- **Cited by:** Panhandle Eastern Pipe Line Company, 77 F.E.R.C. P61284, 1996 FERC LEXIS 2339 (1996).
- **Cited by:** Union Pacific Fuels, Inc., et al. v. Southern California Gas Company, Shell Western E&P Inc. v. Southern California Gas Company, Southern California Utility Power Pool and Imperial Irrigation District v. Southern California Gas Company, 77 F.E.R.C. P61283, 1996 FERC LEXIS 2314 (1996).
- **Cited by:** Alabama-Tennessee Natural Gas Company, 77 F.E.R.C. P61281, 1996 FERC LEXIS 2316 (1996).
- **Cited by:** Williams Natural Gas Company, 77 F.E.R.C. P61277, 1996 FERC LEXIS 2317 (1996).
- **Cited by:** Dakota Gasification Company (successor-in-interest to the Department of Energy); Natural Gas Pipeline Company of America; Tennessee Gas Pipeline Company; Transcontinental Gas Pipe Line Corporation; ANR Pipeline Company, 77 F.E.R.C. P61271, 1996 FERC LEXIS 2366 (1996).
- **Cited by:** Transcontinental Gas Pipe Line Corporation, 77 F.E.R.C. P61253, 1996 FERC LEXIS 2241 (1996).
- **Cited by:** Midwestern Gas Transmission Company, 77 F.E.R.C. P61243, 1996 FERC LEXIS 2233 (1996).
- **Distinguished by:** Transcontinental Gas Pipe Line Corporation, 77 F.E.R.C. P61195, 1996 FERC LEXIS 2148 (1996).
- **Cited by:** Florida Gas Transmission Company, 77 F.E.R.C. P61152, 1996 FERC LEXIS 2092 (1996).
- **Cited by:** Panhandle Eastern Pipe Line Corporation, 77 F.E.R.C. P61149, 1996 FERC LEXIS 2079 (1996).
- **Cited by:** Panhandle Eastern Pipe Line Company, 77 F.E.R.C. P61123, 1996 FERC LEXIS 2034 (1996).
- **Followed by:** Colorado Interstate Gas Company, 77 F.E.R.C. P61100, 1996 FERC LEXIS 1999 (1996).
- **Cited by:** Tennessee Gas Pipeline Company, 77 F.E.R.C. P61082, 1996 FERC LEXIS 1983 (1996).

- **Cited by:** Transcontinental Gas Pipe Line Corporation; Transcontinental Gas Pipe Line Corporation, National Fuel Gas Supply Corporation, 77 F.E.R.C. P61070, 1996 FERC LEXIS 1945 (1996).
- **Cited by:** Pacific Interstate Transmission Company, 77 F.E.R.C. P61053, 1996 FERC LEXIS 1934 (1996).
- **Cited by:** Mississippi River Transmission Corporation, 76 F.E.R.C. P61363, 1996 FERC LEXIS 1786 (1996).
- **Cited by:** Northern Natural Gas Company, 76 F.E.R.C. P61325, 1996 FERC LEXIS 1762 (1996).
- **Cited by:** Koch Gateway Pipeline Company, 76 F.E.R.C. P61299, 1996 FERC LEXIS 1670 (1996).
- **Cited by:** NorAm Gas Transmission Company, 76 F.E.R.C. P61221, 1996 FERC LEXIS 1554 (1996).
- **Cited by:** Secondary Market Transactions on Interstate Natural Gas Pipelines, 76 F.E.R.C. P61118, 1996 FERC LEXIS 1530 (1996).

Time Warner Entertainment Co., L.P. v. FCC, 56 F.3d 151 (D.C. Cir. 1995).

The court held that the RFA question was not properly before the court. The reason for this was that none of the petitioners raised the issue in their petitions for review. Since intervenors may only raise issues raised by the parties, the issue was not properly before the court.

- **Writ of certiorari denied:** Time Warner Entertainment Co., L. P. v. FCC, 516 U.S. 1112 (1996).
- **Petition granted by, in part:** Time Warner Entertainment Co., L.P. v. FCC, 144 F.3d 75 (D.C. Cir. 1998).
APA implications
- **Cited by:** United States v. Ward, 131 F.3d 335 (3d Cir. 1997).
- **Criticized by:** Southwestern Pennsylvania Growth Alliance v. Browner, 121 F.3d 106 (3d Cir. 1997).
RFA, APA implications
- **Cited by:** Bell Atlantic-Delaware, Inc. v. McMahon, 80 F. Supp. 2d 218 (D. Del. 2000).
APA implications
- **Cited by:** City of Dallas v. FCC, 165 F.3d 341 (5th Cir. 1999).
- **Cited by:** Time Warner Cable v. Doyle, 66 F.3d 867 (7th Cir. 1995).
APA implications
- **Cited by:** Total TV v. Palmer Communications, 69 F.3d (9th Cir. 1995).
- **Cited by:** Hahn v. Rifkin/Narragansett South Florida CATV Ltd. Partnership, 941 F. Supp. 1196 (S.D. Fla. 1996).
- **Cited by:** Aventura Cable Corp. v. Rifkin/Narragansett S. Florida CATV Ltd. Pshp., 941 F. Supp. 1189 (S.D. Fla. 1996).
- **Cited by:** United States Telephone Association v. FCC, 188 F.3d 521 (D.C. Cir. 1999).
- **Cited by:** Southwestern Bell Telephone Co. v. FCC, 168 F.3d 1344 (D.C. Cir. 1999).

- **Cited by:** Cellular Telecommunications Industry Association v. FCC, 168 F.3d 1332 (D.C. Cir. 1999).
- **Cited by:** Time Warner Entertainment Co., L.P. v. FCC, 144 F.3d 75 (D.C. Cir. 1998).
APA implications
- **Cited by:** Appalachian Power Co. v. EPA, 135 F.3d 791 (D.C. Cir. 1998).
- **Cited by:** Pennsylvania Office of Consumer Advocate v. FERC, 134 F.3d 422 (D.C. Cir. 1998).
- **Cited by:** Southeastern Michigan Gas Co. v. FERC, 133 F.3d 34 (D.C. Cir. 1998).
APA implications
- **Cited by:** Pennsylvania Office of Consumer Advocate v. FERC, 131 F.3d 182 (D.C. Cir. 1997).
- **Cited by:** Time Warner Entertainment Co., L.P. v. FCC, 93 F.3d 957 (D.C. Cir. 1996).
- **Cited by:** Adelphia Communications Corp. v. FCC, 88 F.3d 1250 (D.C. Cir. 1996).
APA implications
- **Cited by:** Association of Oil Pipe Lines v. FERC, 83 F.3d 1424 (D.C. Cir. 1996).
APA implications
- **Cited by:** Omnipoint Corp. v. FCC, 78 F.3d 620 (D.C. Cir. 1996).
APA implications
- **Cited in Dissenting Opinion at:** Turner Broadcasting v. FCC, 910 F. Supp. 734 (D.D.C. 1995).
- **Cited by:** 14 F.C.C.R. 7277, 14 F.C.C.R. 7277, F.C.C. Delegated Auth. Order No. 99-891.
- **Cited by:** 14 F.C.C.R. 7134, 14 F.C.C.R. 7134, F.C.C. Delegated Auth. Order No. 99-854.
- **Cited by:** 14 F.C.C.R. 5296, 14 F.C.C.R. 5296, F.C.C. Delegated Auth. Order No. 99-57.
- **Cited by:** 14 F.C.C.R. 4538, 14 F.C.C.R. 4538, F.C.C. Delegated Auth. Order No. 99-615.

Mid-Tex Elec. Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985).

The Federal Energy Regulatory Commission proposed a rule which allowed electric utilities to include in their rate bases amounts equal to 50% of their investments in construction work in progress. The Small Business Administration, arguing against FERC, stated that FERC “should have considered the impact of the proposed rule on wholesale and retail customers of the jurisdictional entities subject to rate regulation by the Commission.” FERC stated that “the RFA does not require the Commission to consider the effect of this rule, a federal rate standard, on non-jurisdictional entities whose rates are not subject to the rule.”

The court held that regulatory flexibility analysis is limited to small entities subject to the proposed regulation. As a result, FERC was correct in its

determination that it need not prepare a regulatory flexibility analysis in connection with its proposed CWIP rule. The court concluded that “an agency may properly certify that no regulatory flexibility analysis is necessary when it determines that the rule will not have a significant economic impact on a substantial number of small entities that are subject to the requirements of the rule.”

- **Appeal after remand at:** Mid-Tex Electric Cooperative, Inc. v. FERC, 822 F.2d 1123 (D.C. Cir. 1987).
APA implications
- **Later proceeding at:** Mid-Tex Electric Cooperative v. Federal Energy Regulatory Commission, 864 F.2d 156 (D.C. Cir. 1988).
- **Cited by:** Southwestern Pennsylvania Growth Alliance v. Browner, 121 F.3d 106 (3d Cir. 1997).
RFA, APA implications
- **Cited by:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
RFA, APA implications
- **Cited by:** Lakes Region Legal Defense Fund v. Slater, 986 F. Supp. 1169, (N.D. Iowa 1997).
APA implications
- **Cited by:** US West Communications v. MFS Intelenet, Inc., 193 F.3d 1112 (9th Cir. 1999).
- **Cited by:** Colorado ex rel. Colorado State Banking Board v. Resolution Trust Corp., 926 F.2d 931 (10th Cir. 1991).
RFA implications
- **Cited by:** Transmission Access Policy Study Group v. FERC, 2000 U.S. App. LEXIS 15362 (D.C. Cir. June 30, 2000).
- **Followed by:** American Trucking Association, Inc. v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).
RFA implications
- **Cited by:** Motor & Equipment Manufacturers Association v. Nichols, 142 F.3d 449 (D.C. Cir. 1998).
RFA, APA implications
- **Cited by:** National Mining Association v. MSHA, 116 F.3d 520 (D.C. Cir. 1997).
APA implications
- **Followed by:** United Distributing Cos. v. FERC, 88 F.3d 1105 (D.C. Cir. 1996).
RFA, APA implications
- **Cited by:** Town of Norwood v. FERC, 80 F.3d 526 (D.C. Cir. 1996).
- **Cited by:** Williams Natural Gas Co. v. FERC, 943 F.2d 1320 (D.C. Cir. 1991).
APA implications
- **Cited by:** Anaheim v. FERC, 941 F.2d 1234 (D.C. Cir. 1991).

- **Cited by:** Williston Basin Interstate Pipeline Co. v. FERC, 931 F.2d 948 (D.C. Cir. 1991).
- **Cited by:** Mid-Tex Electric Cooperative v. Federal Energy Regulatory Commission, 864 F.2d 156 (D.C. Cir. 1988).
- **Cited by:** ATC Petroleum, Inc. v. Sanders, 860 F.2d 1104 (D.C. Cir. 1988).
- **Cited by:** Carolina Power & Light Co. v. Federal Energy Regulatory Commission, 860 F.2d 1097 (D.C. Cir. 1988).
- **Cited by:** Zotos International, Inc. v. Young, 830 F.2d 350 (D.C. Cir. 1987).
APA implications
- **Cited by:** Mid-Tex Electric Cooperative, Inc. v. FERC, 822 F.2d 1123 (D.C. Cir. 1987).
APA implications
- **Cited by:** Associated Gas Distributors v. FERC, 824 F.2d 981 (D.C. Cir. 1987).
- **Distinguished by:** National Trust for Historic Preservation v. Dole, 828 F.2d 776 (D.C. Cir. 1987).
APA implications
- **Distinguished by:** National Trust for Historic Preservation v. Dole, 819 F.2d 1164 (D.C. Cir. 1987).
APA implications
- **Cited by:** Jersey Central Power & Light Co. v. Federal Energy Regulatory Com., 810 F.2d 1168 (D.C. Cir. 1987).
APA implications
- **Cited by:** Coalition on Sensible Transportation, Inc. v. Dole, 642 F. Supp. 573 (D.D.C. 1986).
- **Cited by:** 14 F.C.C.R. 10771, 14 F.C.C.R. 10771, F.C.C. Comm'n Order No. 99-103.
- **Cited by:** 14 F.C.C.R. 6004, 14 F.C.C.R. 6004, F.C.C. Delegated Auth. Order No. 99-47.
- **Cited by:** 6 F.C.C.R. 5880, 6 F.C.C.R. 5880, F.C.C. Comm'n Order No. 91-251, 69 Rad. Reg. 2d (P & F) 1135.
- **Cited by:** 4 F.C.C.R. 6134, 4 F.C.C.R. 6134, F.C.C. Comm'n Order No. 89-241, 66 Rad. Reg. 2d (P & F) 1214.
- **Cited by:** 4 F.C.C.R. 3983, 4 F.C.C.R. 3983, F.C.C. Comm'n Order No. 89-105.
- **Cited by:** 2 F.C.C.R. 4305, 2 F.C.C.R. 4305, F.C.C. Comm'n Order No. 87-208.
- **Cited by:** 2 F.C.C.R. 548, 2 F.C.C.R. 548, F.C.C. Comm'n Order No. 87-20, 62 Rad. Reg. 2d (P & F) 513.
- **Cited by:** 18 CFR Part 382 Revision of Annual Charges Assessed to Public Utilities, 90 F.E.R.C. P61081, 2000 FERC LEXIS 133 (2000).
- **Cited by:** 18 CFR Parts 270, 375, 381 Well Category Determinations, 90 F.E.R.C. P61068, 2000 FERC LEXIS 117 (2000).

- **Cited by:** 18 CFR Parts 125, 225, and 356 Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies, 89 F.E.R.C. P61310, 1999 FERC LEXIS 2689 (1999).
- **Cited by:** 18 CFR Part 35, Regional Transmission Organizations, 89 F.E.R.C. P61285, 1999 FERC LEXIS 2692 (1999).
- **Cited by:** Depreciation Accounting, 88 F.E.R.C. P61137, 1999 FERC LEXIS 1648 (1999).
- **Cited by:** 18 CFR Part 35, Regional Transmission Organizations, 87 F.E.R.C. P61173, 1999 FERC LEXIS 1015 (1999).
- **Cited by:** Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 78 F.E.R.C. P61220, 1997 FERC LEXIS 463 (1997).
- **Cited by:** Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 75 F.E.R.C. P61080, 1996 FERC LEXIS 777 (1996).
- **Cited by:** Capacity Reservation Open Access Transmission Tariffs, 75 F.E.R.C. P61079, 1996 FERC LEXIS 707 (1996).
- **Cited by:** Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 F.E.R.C. P61139, 1993 FERC LEXIS 2205 (1993).
- **Cited by:** New England Power Company, 56 F.E.R.C. P61456, 1991 FERC LEXIS 2334 (1991).
- **Cited by:** New England Power Company, 54 F.E.R.C. P61055, 1991 FERC LEXIS 100 (1991).
- **Cited by:** New England Power Company, 52 F.E.R.C. P61090, 1990 FERC LEXIS 1669, Util. L. Rep. (CCH) P13681 (1990).
- **Cited by:** Southwestern Public Service Company, 51 F.E.R.C. P61130, 1990 FERC LEXIS 946, 112 Pub. Util. Rep.4th (PUR) 446, Util. L. Rep. (CCH) P13649 (1990).
- **Cited by:** Canal Electric Company, 49 F.E.R.C. P61069, 1989 FERC LEXIS 2514 (1989).
- **Cited by:** Williston Basin Interstate, 48 F.E.R.C. P61137, 1989 FERC LEXIS 1959, 105 Pub. Util. Rep. 4th (PUR) 374 (1989).
- **Cited in Dissenting Opinion at:** Southern California Edison Company, 46 F.E.R.C. P61300, 1989 FERC LEXIS 582 (1989).
- **Cited by:** Transcontinental Gas Pipe Line Corporation Texas Eastern Transmission Corporation Texas Gas Transmission Corporation Trunkline Gas Company Panhandle Eastern Pipe Line Company, 45 F.E.R.C. P61169, 1988 FERC LEXIS 2833 (1988).
- **Cited by:** Union Electric Company, 41 F.E.R.C. P61343, 1987 FERC LEXIS 106 (1987).
- **Cited by:** Southern California Edison Company, 40 F.E.R.C. P61371, 1987 FERC LEXIS 787 (1987).

- **Distinguished by:** Kansas Gas and Electric Company, 39 F.E.R.C. P63013, 1987 FERC LEXIS 2303 (1987).
- **Cited by:** Southern California Edison Company, 37 F.E.R.C. P63014, 1986 FERC LEXIS 454 (1986).
- **Cited by:** Virginia Electric and Power Company, 36 F.E.R.C. P61025, 1986 FERC LEXIS 1458 (1986).
- **Cited by:** Southern California Edison Company, 36 F.E.R.C. P61011, 1986 FERC LEXIS 1472 (1986).
- **Cited by:** Southwestern Public Service Company, 36 F.E.R.C. P61010, 1986 FERC LEXIS 1471 (1986).
- **Cited by:** Virginia Electric and Power Company, 35 F.E.R.C. P61329, 1986 FERC LEXIS 1754 (1986).
- **Cited by:** Construction Work in Progress--Anticompetitive Implications, 35 F.E.R.C. P61328, 1986 FERC LEXIS 1753 (1986).
- **Cited by:** Southern California Edison Company, 35 F.E.R.C. P63026, 1986 FERC LEXIS 2398 (1986).
- **Cited by:** Southern California Edison Company, 34 F.E.R.C. P63086, 1986 FERC LEXIS 2937 (1986).
- **Cited by:** Montaup Electric Company, 34 F.E.R.C. P61132, 1986 FERC LEXIS 3322 (1986).
- **Cited by:** Georgia Power CompanyOglethorpe Power Corporation v. Georgia Power Company, 34 F.E.R.C. P63003, 1986 FERC LEXIS 3782 (1986).
- **Cited by:** Georgia Power CompanyOglethorpe Power Company v. Georgia Power Company, 33 F.E.R.C. P63079, 1985 FERC LEXIS 270 (1985).
- **Cited by:** Ct. App. D.C. Dkt. No. 90-1193.
- **Cited by:** 48 F.E.R.C. P61137, 48 F.E.R.C. P61137.

Thompson v. Clark, 741 F.2d 401 (D.C. Cir. 1984).

The court held that the reviewing court may consider the contents of the preliminary or final regulatory flexibility analysis, along with the rest of the record in assessing not the agency's compliance with the RFA, but the validity of the rule under other provisions of law. The agency is not required to respond to every comment it receives. However, if the agency does not prepare a final regulatory analysis within 180 days from the date of publication of the final rule the rule will lapse and have no effect.

- **Cited by:** Smiley v. Citibank, 517 U.S. 735 (1996).
- **Cited by:** Associated Fisheries v. Daley, 127 F.3d 104 (1st Cir. 1997).
RFA, APA implications
- **Cited by:** United States v. Magana, 127 F.3d 1 (1st Cir. 1997).
- **Cited by:** Associated Fisheries v. Daley, 954 F. Supp. 383 (D. Me. 1997).
RFA, APA implications

- **Followed by:** Stinson Canning Co. v. Mosbacher, 731 F. Supp. 32 (D. Me. 1990).
RFA, APA implications
- **Followed by:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
RFA, APA implications
- **Explained by:** Michigan v. Thomas, 805 F.2d 176 (6th Cir. 1986).
RFA, APA implications
- **Cited by:** American Mining Congress v. EPA, 965 F.2d 759 (9th Cir. 1992).
RFA, APA implications
- **Cited by:** Natural Resources Defense Council, Inc. v. Hodel, 618 F. Supp. 848 (E.D. Cal. 1985).
APA implications
- **Cited by:** Colorado ex rel. Colorado State Banking Board v. Resolution Trust Corp., 926 F.2d 931 (10th Cir. 1991).
RFA implications
- **Cited by:** Allied Local & Regional Manufacturers Caucus v. EPA, 2000 U.S. App. LEXIS 14052 (D.C. Cir. June 16, 2000).
- **Distinguished by:** American Trucking Association, Inc. v. EPA, 175 F.3d 1027 (D.C. Cir. 1999).
RFA implications
- **Cited by:** American Iron & Steel Institute v. EPA, 115 F.3d 979 (D.C. Cir. 1997).
APA implications
- **Cited by:** Reytblatt v. United States NRC, 105 F.3d 715 (D.C. Cir. 1997).
APA implications
- **Cited by:** Texas Mun. Power Agency v. EPA, 89 F.3d 858 (D.C. Cir. 1996).
APA implications
- **Cited by:** American Mining Congress v. EPA, 907 F.2d 1179 (D.C. Cir. 1990).
APA implications
- **Cited by:** Baltimore Gas & Electric Co. v. United States, 817 F.2d 108 (D.C. Cir. 1987).
- **Cited by:** New York v. FCC, 814 F.2d 720 (D.C. Cir. 1987).
APA implications
- **Cited by:** Conference of State Bank Supervisors v. Office of Thrift Supervision, 792 F. Supp. 837 (D.D.C. 1992).
RFA, APA implications
- **Cited by:** Building & Construction Trades Department v. Dole, 1990 U.S. Dist. LEXIS 12953 (D.D.C. Sept. 24, 1990).
- **Cited by:** Teamsters for Democratic Union v. Secretary of Labor, 629 F. Supp. 665 (D.D.C. 1986).
APA implications

- **Cited by:** Synar v. United States, 626 F. Supp. 1374 (D.D.C. 1986).
RFA implications
- **Cited by:** 6 F.C.C.R. 2959, 6 F.C.C.R. 2959, F.C.C. Delegated Auth. Order No. 91-620.

Small Refiner Lead Phase-Down Task Force v. EPA, 705 F.2d 506 (D.C. Cir. 1983).

The court found that it could consider the adequacy of the EPA's regulatory flexibility analysis regarding the EPA's rule to set lead-content limits for leaded gasoline produced by certain small refiners. The court found that the EPA had considered a reasonable range of alternatives and had given sufficient reasons for rejecting them. The court further held, "that a reviewing court should consider the regulatory flexibility analysis as part of its overall judgment whether a rule is reasonable and may, in an appropriate case, strike down a rule because of a defect in the flexibility analysis."

- **Cited by:** Natural Resources Defense Council, Inc. v. EPA, 824 F.2d 1258 (1st Cir. 1987).
APA implications
- **Cited by:** New York by Perales v. Bowen, 811 F.2d 776 (2d Cir. 1987).
- **Cited by:** National Black Media Coalition v. FCC, 791 F.2d 1016 (2d Cir. 1986).
APA implications
- **Cited by:** Concerned Citizens of Bridesburg v. EPA, 836 F.2d 777 (3d Cir. 1987).
APA implications
- **Cited by:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
RFA, APA implications
- **Cited by:** United States v. Hoechst Celanese Corp., 128 F.3d 216 (4th Cir. 1997).
- **Cited by:** Chocolate Manufacturers Association v. Block, 755 F.2d 1098 (4th Cir. 1985).
APA implications
- **Cited by:** Cat Run Coal Co. v. Babbitt, 932 F. Supp. 772 (S.D. W. Va. 1996).
APA implications
- **Cited by:** Texas Oil & Gas Association v. EPA, 161 F.3d 923 (5th Cir. 1998).
APA implications
- **Cited by:** United States v. Coastal Refining & Marketing, Inc., 911 F.2d 1036 (5th Cir. 1990).
- **Cited by:** Chemical Manufacturers Association v. EPA, 870 F.2d 177 (5th Cir. 1989).
APA implications
- **Cited by:** Texas v. Lyng, 868 F.2d 795 (5th Cir. 1989).
APA implications
- **Cited by:** Shelton v. Marsh, 902 F.2d 1201 (6th Cir. 1990).

- **Cited by:** Michigan v. Thomas, 805 F.2d 176 (6th Cir. 1986).
RFA, APA implications
- **Cited by:** Northwest Tissue Ctr. v. Shalala, 1 F.3d 522 (7th Cir. 1993).
APA implications
- **Cited by:** American Medical Association v. United States, 887 F.2d 760 (7th Cir. 1989).
APA implications
- **Cited by:** Lakes Region Legal Defense Fund v. Slater, 986 F. Supp. 1169 (N.D. Iowa 1997).
APA implications
- **Cited by:** Riverbend Farms, Inc. v. Madigan, 958 F.2d 1479 (9th Cir. 1992).
APA implications
- **Cited by:** Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, 863 F.2d 1420 (9th Cir. 1988).
APA implications
- **Cited by:** Cerrillo-Perez v. Immigration & Naturalization Service, 809 F.2d 1419 (9th Cir. 1987).
- **Cited by:** Sagebrush Rebellion, Inc. v. Hodel, 790 F.2d 760 (9th Cir. 1986).
APA implications
- **Cited by:** County of Del Norte v. United States, 732 F.2d 1462 (9th Cir. 1984).
- **Cited by:** O'Bryant v. Idaho Department of Health & Welfare, 841 F. Supp. 991 (D. Idaho 1993).
APA implications
- **Cited by:** New Mexico v. United States Department of Housing & Urban Dev., 1987 U.S. App. LEXIS 15519 (10th Cir. Jan. 7, 1987).
- **Cited by:** American Mining Congress v. Thomas, 772 F.2d 617 (10th Cir. 1985).
APA implications
- **Cited by:** Transmission Access Policy Study Group v. FERC, 2000 U.S. App. LEXIS 15362 (D.C. Cir. June 30, 2000)
- **Cited by:** Allied Local & Regional Manufacturers Caucus v. EPA, 2000 U.S. App. LEXIS 14052 (D.C. Cir. June 16, 2000).
- **Cited by:** Arizona Pub. Service Co. v. EPA, 211 F.3d 1280 (D.C. Cir. 2000).
APA implications
- **Cited by:** EDF v. EPA, 210 F.3d 396 (D.C. Cir. 2000).
- **Cited by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209 (D.C. Cir. Mar. 3, 2000).
- **Cited by:** Natural Resources Defense Council, Inc. v. EPA, 194 F.3d 130, (D.C. Cir. 1999).
- **Cited by:** Presbyterian Medical Center of the University of Pennsylvania Health System v. Shalala, 170 F.3d (D.C. Cir. 1999).

- **Cited by:** Air Transportation Association of America v. FAA, 169 F.3d 1 (D.C. Cir. 1999).
APA implications
- **Cited by:** Motor & Equipment Manufacturers Association v. Nichols, 142 F.3d 449 (D.C. Cir. 1998).
RFA, APA implications
- **Cited by:** Columbia Falls Aluminum Co. v. EPA, 139 F.3d 914 (D.C. Cir. 1998).
- **Cited by:** Appalachian Power Co. v. EPA, 135 F.3d 791 (D.C. Cir. 1998).
- **Cited by:** National Mining Association v. MSHA, 116 F.3d 520 (D.C. Cir. 1997).
APA implications
- **Cited by:** American Iron & Steel Institution v. EPA, 115 F.3d 979 (D.C. Cir. 1997).
APA implications
- **Cited by:** Kennecott Utah Copper Corp. v. United States DOI, 88 F.3d 1191 (D.C. Cir. 1996).
APA implications
- **Cited by:** Eddy v. Colonial Life Insurance Co. of America, 59 F.3d 201 (D.C. Cir. 1995).
- **Cited by:** MCI Telecommunications Corp. v. FCC, 57 F.3d 1136 (D.C. Cir. 1995).
APA implications
- **Cited by:** Ethyl Corp. v. EPA, 51 F.3d 1053 (D.C. Cir. 1995).
APA implications
- **Cited by:** Personal Watercraft Industry Association v. Department of Commerce, 48 F.3d 540 (D.C. Cir. 1995).
APA implications
- **Cited by:** American Water Works Association v. EPA, 40 F.3d 1266 (D.C. Cir. 1994).
APA implications
- **Cited by:** Association of American Railroads v. Department of Transportation, F.3d 582 (D.C. Cir. 1994).
APA implications
- **Cited by:** Chemical Manufacturers Association v. EPA, 28 F.3d 1259 (D.C. Cir. 1994).
APA implications
- **Cited by:** Kooritzky v. Reich, 17 F.3d 1509 (D.C. Cir. 1994).
APA implications
- **Cited by:** Horsehead Resource Development Co. v. Browner, 16 F.3d 1246 (D.C. Cir. 1994).
APA implications

- **Cited by:** National Recycling Coalition, Inc. v. Browner, 984 F.2d 1243 (D.C. Cir. 1993).
APA implications
- **Cited by:** New York v. Reilly, 969 F.2d 1147 (D.C. Cir. 1992).
- **Cited by:** Anne Arundel County v. EPA, 963 F.2d 412 (D.C. Cir. 1992).
APA implications
- **Cited by:** Solite Corp. v. EPA, 952 F.2d 473 (D.C. Cir. 1991).
APA implications
- **Cited by:** Shell Oil Co. v. EPA, 950 F.2d 741 (D.C. Cir. 1991).
APA implications
- **Cited by:** American Iron & Steel Institute v. OSHA, 939 F.2d 975 (D.C. Cir. 1991).
APA implications
- **Cited by:** International Union, United Automobile, Aerospace & Agricultural Implement Workers v. OSHA, 938 F.2d 1310 (D.C. Cir. 1991).
- **Cited by:** Hercules, Inc. v. EPA, 938 F.2d 276 (D.C. Cir. 1991).
APA implications
- **Cited by:** Fertilizer Institute v. EPA, 935 F.2d 1303 (D.C. Cir. 1991).
APA implications
- **Cited by:** Aeronautical Radio, Inc. v. FCC, 928 F.2d 428 (D.C. Cir. 1991).
APA implications
- **Cited by:** Nuclear Information & Resource Service v. United States Nuclear Regulatory Commission, 918 F.2d 189 (D.C. Cir. 1990).
APA implications
- **Cited by:** National Tank Truck Carriers, Inc. v. EPA, 907 F.2d 177 (D.C. Cir. 1990).
- **Cited by:** Hazardous Waste Treatment Council v. EPA, 886 F.2d 355(D.C. Cir. 1989).
APA implications
- **Cited by:** Ohio v. United States DOI, 880 F.2d 432 (D.C. Cir. 1989).
- **Cited by:** Chemical Manufacturers Association v. EPA, 859 F.2d 977 (D.C. Cir. 1988).
APA implications
- **Cited by:** Stoughton v. EPA, 858 F.2d 747 (D.C. Cir. 1988).
APA implications
- **Cited by:** Public Citizen v. Steed, 851 F.2d 444 (D.C. Cir. 1988).
- **Cited by:** Action Alliance of Senior Citizens v. Bowen, 846 F.2d (D.C. Cir. 1988).
APA implications
- **Cited by:** McLouth Steel Products Corp. v. Thomas, 838 F.2d 1317 (D.C. Cir. 1988).
APA implications

- **Cited by:** Natural Resources Defense Council, Inc. v. Thomas, 838 F.2d 1224 (D.C. Cir. 1988).
APA implications
- **Cited by:** Nichols v. Board of Trustees, 835 F.2d 881 (D.C. Cir. 1987).
APA implications
- **Cited by:** Natural Resources Defense Council, Inc. v. EPA, 822 F.2d 104 (D.C. Cir. 1987).
APA implications
- **Cited by:** Union Oil Co. v. EPA, 821 F.2d 678 (D.C. Cir. 1987).
APA implications
- **Cited by:** Natural Resources Defense Council v. Thomas, 805 F.2d 410 (D.C. Cir. 1986).
APA implications
- **Cited by:** Mid-Tex Electric Cooperative, Inc. v. Federal Energy Regulatory Commission, 773 F.2d 327 (D.C. Cir. 1985).
RFA, APA implications
- **Cited by:** Motor Vehicle Manufacturers Association v. EPA, 768 F.2d 385 (D.C. Cir. 1985).
APA implications
- **Cited by:** Natural Resources Defense Council, Inc. v. Herrington, 768 F.2d 1355 (D.C. Cir. 1985).
APA implications
- **Cited by:** American Maritime Association v. United States, 766 F.2d 545 (1985).
APA implications
- **Cited by:** Eagle-Picher Industries, Inc. v. EPA, 759 F.2d 905 (D.C. Cir. 1985).
APA implications
- **Cited by:** Eagle-Picher Industries, Inc. v. EPA, 759 F.2d 922 (D.C. Cir. 1985).
- **Cited by:** AFL-CIO v. Donovan, 757 F.2d 330 (D.C. Cir. 1985).
APA implications
- **Cited by:** Center for Auto Safety v. Peck, 751 F.2d 1336 (D.C. Cir. 1985).
APA implications
- **Cited by:** Thompson v. Clark, 741 F.2d 401 (D.C. Cir. 1984).
RFA, APA implications
- **Cited by:** Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984).
APA implications
- **Cited by:** Air Transport Association v. Civil Aeronautics Board, 732 F.2d 219 (D.C. Cir. 1984).
APA implications

- **Cited by:** Farmers Union Central Exchange, Inc. v. Federal Energy Regulatory Commission, 734 F.2d 1486 (D.C. Cir. 1984).
APA implications
- **Cited by:** International Ladies' Garment Workers' Union v. Donovan, 722 F.2d 795 (D.C. Cir. 1983).
APA implications
- **Cited by:** Central V. R., Inc. v. Interstate Commerce Commission, 711 F.2d 331 (D.C. Cir. 1983).
APA implications
- **Cited by:** Lamoille V. R. Co. v. Interstate Commerce Commission, 711 F.2d 295 (D.C. Cir. 1983)
APA implications
- **Cited by:** American Bus Association v. Slater, 1999 U.S. Dist. LEXIS 20936 (D.D.C. Sept. 10, 1999).
- **Cited by:** Pearson v. Shalala, 14 F. Supp. 2d 10 (D.D.C. 1998).
APA implications
- **Cited by:** Avena v. INS, 989 F. Supp. 1 (D.D.C. 1997).
APA implications
- **Cited by:** Building Industry Association v. Babbitt, 979 F. Supp. 893 (D.D.C. 1997).
APA implications
- **Cited by:** Defenders of Wildlife v. Babbitt, 958 F. Supp. 670 (D.D.C. 1997).
APA implications
- **Cited by:** Animal Legal Defense Fund v. Glickman, 943 F. Supp. 44 (D.D.C. 1996).
APA implications
- **Cited by:** Evans v. Perry, 944 F. Supp. 25 (D.D.C. 1996)
APA implications
- **Cited by:** National Association of Manufacturers v. United States DOL, 1996 U.S. Dist. LEXIS 10478 (D.D.C. 1996).
- **Cited by:** National Oilseed Processors Association v. Browner, 924 F. Supp. 1193 (D.D.C. 1996).
APA implications
- **Cited by:** Personal Watercraft Industrial Association v. Department of Commerce, 1993 U.S. Dist. LEXIS 20876 (D.D.C. Aug. 24, 1993).
- **Cited by:** Woerner v. United States Small Business Administration, 1990 U.S. Dist. LEXIS 12982 (D.D.C. Oct. 1, 1990).
- **Cited by:** National Wildlife Federation v. Lujan, 1990 U.S. Dist. LEXIS 11541 (D.D.C. 1990).
- **Cited by:** Abbott Laboratories v. Young, 691 F. Supp. 462 (D.D.C. 1988).
APA implications

- **Cited by:** Haralson v. Federal Home Loan Bank Board, 678 F. Supp. 925 (D.D.C. 1987).
APA implications
- **Cited by:** United Church Board for World Ministries v. SEC, 649 F. Supp. 492 (D.D.C. 1986).
APA implications
- **Cited by:** United Church Board for World Ministries v. SEC, 617 F. Supp. 837 (D.D.C. 1985).
APA implications
- **Cited by:** In re Permanent Surface Mining Regulation Litigation, 1985 U.S. Dist. LEXIS 21461 (D.D.C. Mar. 22, 1985).
- **Cited by:** Sargent v. Block, 576 F. Supp. 882 (D.D.C. 1983).
RFA, APA implications
- **Cited by:** Mobil Oil Corp. v. Department of Energy, 728 F.2d 1477 (Temp. Emer. Ct. App. 1983).
APA implications
- **Cited by:** United States v. Priority Products, Inc., 793 F.2d 296 (Fed. Cir. 1986).
- **Cited by:** Griffin Industries v. United States, 27 Fed. Cl. 183, 1992 U.S. Claims LEXIS 137 (1992).
- **Cited by:** Aviall of Texas v. United States, 861 F. Supp. 100 (Ct. Int'l Trade 1994).
- **Cited by:** United States v. Priority Products, Inc., 615 F. Supp. 591 (Ct. Int'l Trade 1985).
- **Cited by:** Schwalbach v. Commissioner, 111 T.C. 215, 1998 U.S. Tax Ct. LEXIS 45, 111 T.C. No. 9 (1998.)
- **Cited by:** Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, 74 F.E.R.C. P61223, 1996 FERC LEXIS 302 (1996)

Central Forwarding, Inc. v. ICC, 698 F.2d 1266 (5th Cir. 1983).

Holding that the ICC complied with the RFA by issuing a release under Ex Parte No. 311, which estimate how many owner-operators would be affected by the regulation to require carriers to reimburse owner operators for a portion of the fuel costs.

- **Cited by:** Waldo v. North American Van Lines, Inc., 669 F. Supp. 722 (W.D. Pa. 1987).
- **Distinguished by, Explained by:** Wales Transportation, Inc. v. Interstate Commerce Commerce, 728 F.2d 774 (5th Cir. 1984).
- **Cited by:** American Transfer & Storage Co. v. Interstate Commerce Commission, 719 F.2d 1283 (5th Cir. 1983).
APA implications
- **Cited by:** McDannell v. United States Office of Personnel Management, 716 F.2d 1063 (5th Cir. 1983).

- **Explained by:** Global Van Lines, Inc. v. Interstate Commerce Commission, 714 F.2d 1290 (5th Cir. 1983).
APA implications
- **Explained by:** Fisher v. Fleming-Babcock, Inc., 745 F.2d 513 (8th Cir. 1984).
- **Cited by:** Kaw Valley v. EPA, 844 F. Supp. 705 (D. Kan. 1994).
APA implications
- **Cited by:** Central & Southern Motor Freight Tariff Association v. United States, 757 F.2d 301 (1985).
APA implications
- **Cited by:** 6 I.C.C.2d 584.
- **Cited by:** 1 I.C.C.2d 978, 1985 Fed. Carr. Cas. (CCH) P37209.

American Moving and Storage Association, Inc. v. U.S. Department of Defense, 91 F. Supp. 2d 132 (D.D.C. 2000).

The court found that the RFA does not apply to the Department of Defense's procurement policy decision changing its distance calculation source to PC*Miller computer software. The court held that the OFPPA publication for comment requirement does not reach the standard of APA "rulemaking." As a result, the RFA does not apply.

- (No subsequent case law)

New Mexico Cattle Growers Association v. U.S. Fish and Wildlife Service, 81 F. Supp.2d 1141 (D.N.M. 1999).

The court agreed with the Fish and Wildlife Service's belief that economic considerations have no relevance to determinations regarding the status of species and intends that the economic analysis of the RFA does not apply. The court held that the reason for this was because the Endangered Species Act requires the Secretary to make critical habitat listing determinations "solely on the basis of the best scientific and commercial data available." The term solely implies that the RFA is not applicable.

- **Cited by:** Porsche Cars N. Am., Inc. v. Spencer, 2000 U.S. Dist. LEXIS 7060 (E.D. Cal. May 17, 2000).

Greater Dallas Home Care Alliance v. U.S., 1998 WL 355464 (N.D. Tex. June 22, 1998).

The Small Business Administration wrote a letter to the Health Care Financing Administration criticizing HCFA's procedure in promulgating its January 2, 1998 and March 31, 1998 regulations implementing the Interim Payment System of the Balanced Budget Act of 1997. The SBA claimed the HCFA violated the analysis requirement of the RFA among other things. The court denied the request of Greater Dallas Home Care Alliance to reopen the evidentiary hearing to consider the letter. The court claimed that the letter represented issues already presented and argued before the court.

- **Summary judgment granted by:** Greater Dallas Home Care Alliance v. United States HHS, 36 F. Supp. 2d 765 (N.D. Tex. 1999).
RFA and APA implications

Greater Dallas Home Care Alliance v. United States, 10 F. Supp. 2d 638 (N.D. Tex. 1998).

The court held that the Interim Payment System statute set forth in detail the formulas for the new cost limits. As a result, the court found that HCFA was implementing Congress' directives and was not required to conduct a 604(a)(5) analysis under the RFA.

- **Motion denied by:** Greater Dallas Home Care Alliance v. United States (HHS), 1998 U.S. Dist. LEXIS 9656 (N.D. Tex. June 22, 1998).
- **Summary judgment granted by:** Greater Dallas Home Care Alliance v. United States HHS, 36 F. Supp. 2d 765 (N.D. Tex. 1999).
RFA and APA implications
- **Cited by:** Texas Clinical Labs, Inc. v. Shalala, 1999 U.S. Dist. LEXIS 19701 (N.D. Tex. Dec. 21, 1999).
- **Cited by:** Greater Dallas Home Care Alliance v. United States HHS, 36 F. Supp. 2d 765 (N.D. Tex. 1999).
RFA and APA implications
- **Cited by:** Visiting Nurses Association of Southwestern Indiana, Inc. v. Shalala, 213 F.3d 352 (7th Cir. 2000).
- **Cited by:** Visiting Nurses Association of Southwestern Ind., Inc. v. Shalala, 1999 U.S. Dist. LEXIS 17523 (S.D. Ind. Sept. 13, 1999)
- **Cited by:** Home Care Association Of America, Inc. v. United States, 1998 U.S. Dist. LEXIS 20515 (W.D. Okla. Aug. 19, 1998).

Southern Offshore Fishing Association v. Daley, 995 F. Supp. 1411 (M.D. Fla. 1998).

The National Marine Fishery Service certified under the RFA that the quota reduction was not expected to significantly affect a substantial number of small entities. They cited that fisherman would be able to adapt their fishing operations, and that fishermen did not rely exclusively on revenue from shark fishing. The Small Business Administration criticized NMFS's "no significant impact" certification, stating that it was "perplexed" and "bewildered" by the "illogical certification." The SBA went on to state the directed shark fishermen's "conversion to other fishing operations is costly and probably not feasible." The court, agreeing with the SBA, found no adequate explanation of the agency's calculation. The court held that the Secretary of Commerce's certification and the FRFA failed to satisfy the APA standards and RFA requirements. The court concluded by remanding the agency's RFA determinations to the Secretary with instructions to undertake a rational consideration of the economic effects and potential alternatives to the 1997 quotas.

- **Injunction granted at, Motion denied by, Stay dissolved by:** Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336 (M.D. Fla. 1999).
RFA and APA implications
- **Cited by:** Massachusetts by Division of Marine Fisheries v. Daley, 10 F. Supp. 2d 74 (D. Mass. 1998).
APA implications

- **Cited by:** North Carolina Fisheries Association v. Daley, 27 F. Supp. 2d 650, (E.D. Va. 1998).
RFA and APA implications
- **Cited by:** Brower v. Daley, 93 F. Supp. 2d 1071 (N.D. Cal. 2000).
APA implications
- **Cited by:** Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336 (M.D. Fla. 1999).
RFA and APA implications

North Carolina Fisheries Association Inc. v. Daley, 16 F. Supp.2d 647 (E.D. Va. 1997).

The court stated that the government must make some showing that it has considered the potential effects of quotas for fisheries. The mere showing that the quota was the same in 1997 as it was in 1996 was not deemed to be an analysis. The court concluded that the Secretary of Commerce violated the RFA and the issue was remanded to the Secretary so that he could undertake the correct analysis to determine whether the quota had a significant economic impact on the North Carolina fishery.

- **Summary judgment granted by, Summary judgment denied by:** North Carolina Fisheries Association v. Daley, 27 F. Supp. 2d 650 (E.D. Va. 1998).
RFA and APA implications
- **Cited by:** North Carolina Fisheries Association v. Daley, 27 F. Supp. 2d 650, (E.D. Va. 1998).
RFA and APA implications
- **Cited by:** Southern Offshore Fishing Association v. Daley, 55 F. Supp. 2d 1336 (M.D. Fla. 1999).
RFA and APA implications
- **Cited by:** Southern Offshore Fishing Association v. Daley, 995 F. Supp. 1411 (M.D. Fla. 1998).
RFA and APA implications

Associated Fisheries of Maine, Inc. v. Daley, 954 F. Supp. 383 (D. Me. 1997).

The court found that the Department of Commerce complied with the RFA in its promulgation of Amendment 7. The final rule listed the comments and responses the Secretary of Commerce received and explained why alternatives that would reduce the burden on fisheries were rejected. The court held that the agency adequately complied with the RFA. The court also held that judicial review was unavailable in this case because the court could not apply the judicial review portion of the 1996 SBREFA amendments to past agency actions.

- **Affirmed by:** Associated Fisheries v. Daley, 127 F.3d 104 (1st Cir. 1997).
RFA and APA implications
- **Cited by:** Associated Fisheries v. Daley, 127 F.3d 104 (1st Cir. 1997).
RFA and APA implications
- **Criticized by:** Southwestern Pennsylvania Growth Alliance v. Browner, 121 F.3d 106 (3d Cir. 1997).
RFA and APA implications

- **Followed by:** Southern Offshore Fishing Association v. Daley, 995 F. Supp. 1411 (M.D. Fla. 1998).
RFA and APA implications

Conference of State Bank Supervisors v. Office of Thrift Supervision, 792 F. Supp. 837 (D.D.C. 1992).

The court agreed with the Office of Thrift Supervision that because the rule to allow interstate branching by federal savings associations does not increase the operating costs or otherwise hurt federal associations financially, the rule will not have a “significant economic impact” on small entities.

- (No subsequent case law)

Kansas ex rel. Todd v. U.S., 791 F. Supp. 1491 (D. Kan. 1992).

The court held that it is without the authority to decide whether the Federal Crop Insurance Corporation’s actions were exempt from the RFA. The court state the reason for this was that the state of Kansas was seeking judicial review of the FCIC’s compliance with the RFA.

- **Clarified by, On reconsideration by:** State ex rel. Todd v. United States, 791 F. Supp. 1491 (D. Kan. 1992).
RFA implications
- **Affirmed by:** State ex rel. Todd v. United States, 995 F.2d 1505 (10th Cir. 1993).
RFA implications
- **Cited by:** Brown v. Crop Hail Management, Inc., 813 F. Supp. 519 (S.D. Tex. 1993).
- **Cited by:** Logan Farms v. Espy, 886 F. Supp. 781 (D. Kan. 1995).
APA implications
- **Cited by:** Kansas ex rel. Secretary of Social & Rehabilitation Services v. Shalala, 859 F. Supp. 484 (D. Kan. 1994).
APA implications
- **Cited by:** Northern Crawfish Frog v. Federal Highway Administration, 858 F. Supp. 1503 (D. Kan. 1994).
APA implications

Stinson Canning Co., Inc. v. Mosbacher, 731 F. Supp. 32 (D. Me. 1990).

The court held that the Stinson Canning Company did not cite any authority permitting a separate judicial review of the adequacy of the regulatory flexibility analysis. The administrative record, according to the court, demonstrated that fish processors were considered when the agency conducted its Regulatory Flexibility Analysis for the 1996 Interim Rule. The court concluded that the regulations have rational support.

- **Cited by:** F/V Robert Michael, Inc. v. Kantor, 961 F. Supp. 11 (D. Me. 1997)
- **Cited by:** United Paperworkers International Union, Local 14, etc. v. International Paper Co., 777 F. Supp. 1010 (D. Me. 1991).

Farmers Cooperative Dairy, Inc. v. Block, 703 F. Supp. 379 (E.D. Pa. 1989).

The court held that it could not review certain certifications made by the government pursuant to the RFA.

- **Connected case at:** Lehigh Valley Farmers v. Block, 829 F.2d 409 (3d Cir. 1987).
- **Connected case at:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
APA implications
- **Cited by:** Lucas v. White, 63 F. Supp. 2d 1046 (N.D. Cal. 1999).

Owner-Operators Independent Drivers Association of America, Inc. v. Burnley, 705 F. Supp. 481 (N.D. Cal. 1989).

The court declined to decide the RFA issue related to the Secretary of Transportation's decision to require random and post-accident drug testing of drivers of commercial vehicles.

- **Later proceeding at:** Owner-Operators Independent Drivers Association v. Skinner, 1989 U.S. Dist. LEXIS 11319 (N.D. Cal. Aug. 1, 1989).
- **Reversed by, Remanded by:** Owner-Operators Independent Drivers Association v. Skinner, 931 F.2d 582 (9th Cir. 1991).
APA implications
- **Cited by:** International Brotherhood of Teamsters v. DOT, 932 F.2d 1292 (9th Cir. 1991).
APA implications
- **Cited by:** Owner-Operators Independent Drivers Association v. Skinner, 931 F.2d 582 (9th Cir. 1991).
APA implications
- **Cited by:** Owner-Operators Independent Drivers Association v. Skinner, 1989 U.S. Dist. LEXIS 11319 (N.D. Cal. Aug. 1, 1989).
- **Cited by:** Bangert v. Hodel, 705 F. Supp. 643 (D.D.C. 1989).
- **Cited by:** Teamsters v. Department of Transportation, O.S.H. Dec. (CCH) P29328 (Apr. 26, 1991).

American Medical Association v. United States, 688 F. Supp. 358 (N.D. Ill. 1988).

When the original version and the final version of the IRS regulation were promulgated the RFA had not yet been adopted. The IRS did not follow its current practice of including in its notice of the original proposed regulation whether or not the proposed regulation was "interpretative," which would determine whether or not the notice requirements of APA §553 would be triggered.

- **Supplemental opinion at:** American Medical Association v. United States, 691 F. Supp. 1170 (N.D. Ill. 1988).
APA implications
- **Affirmed in part and reversed in part by:** American Medical Association v. United States, 887 F.2d 760 (7th Cir. 1989).
APA implications

- **Cited by:** Bankers Life & Casualty Co. v. United States, 142 F.3d 973 (7th Cir. 1998).
APA implications
- **Cited by:** American Medical Association v. United States, 691 F. Supp. 1170 (N.D. Ill. 1988).
APA implications
- **Cited by:** Tom v. Secretary of HHS, 22 Cl. Ct. 214, 1990 U.S. Cl. Ct. LEXIS 512 (1990).

In re Sealed Case, 666 F. Supp. 231 (D.D.C. 1987).

The court held that regulations that involve foreign affairs functions are not covered under the APA's requirement for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. Since no notice of proposed rulemaking is required for this rule, the RFA does not apply.

- **Affirmed by:** In re Sealed Case, 829 F.2d 50 (D.C. Cir. 1987).
- **Writ of certiorari denied:** North v. Walsh, 484 U.S. 1027 (1988).
- **Cited by:** North v. Walsh, 881 F.2d 1088 (D.C. Cir. 1989).
- **Cited by:** In re Sealed Case, 832 F.2d 1268 (1987).
- **Cited by:** In re Sealed Case, 829 F.2d 50 (1987).

Sierra Club v. Thomas, 658 F. Supp. 165 (N.D. Cal. 1987).

The court held that the RFA was not so onerous that it would justify a delay by the EPA in the promulgating of the PSD requirements to prevent the significant deterioration of air quality.

- **Cited by:** Conservation Law Found. v. Reilly, 755 F. Supp. 475 (D. Mass. 1991).
- **Cited by:** Natural Resources Defense Council, Inc. v. EPA, 797 F. Supp. 194 (E.D.N.Y. 1992).
- **Cited by:** Natural Resources Defense Council Inc. v. EPA, 35 Env't Rep. Cas. (BNA) 1788 (E.D.N.Y. July 1, 1992).
- **Cited by:** Environmental Defense Fund v. Browner, 1995 U.S. Dist. LEXIS 2616 (N.D. Cal. Feb. 10, 1995).
- **Cited by:** EDF v. EPA, 40 Env't Rep. Cas. (BNA) 1730 (N.D. Cal. Feb. 10, 1995).
- **Cited by:** Alaska Center for the Environment v. Reilly, 796 F. Supp. 1374 (W.D. Wash. 1992).
- **Cited by:** Alaska Center for the Environment v. Reilly, 762 F. Supp. 1422 (W.D. Wash. 1991).
- **Cited by:** McCarthy v. Thomas, 18 Env'tl. L. Rep. 21025 (D. Ariz. 1988).
- **Cited by:** McCarthy v. Thomas, 17 Env'tl. L. Rep. 21214 (D. Ariz. 1987).
- **Cited by:** Natural Resources Defense Council v. Reilly, 983 F.2d 259 (D.C. Cir. 1993).
- **Cited by:** Environmental Defense Fund, Inc. v. Administrator of United States EPA, 898 F.2d 183 (D.C. Cir. 1990).

Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).

The court held that the Secretary of Agriculture's certification that his proposed rule amending Orders 2 and 4, amending milk marketing orders, would not have a significant economic impact was incorrect. However, the court held that an agency's certification pursuant to Section 605(b) of the RFA that a proposed rule will not have a significant economic impact on a substantial number of small entities was not subject to judicial review.

- **Affirmed by:** Lehigh Valley Farmers v. Block, 829 F.2d 409 (3d Cir. 1987).
- **Cited by:** Lehigh Valley Farmers v. Block, 829 F.2d 409 (3d Cir. 1987).
- **Cited by:** Sever v. IBM Corp., 1991 U.S. Dist. LEXIS 20881 (M.D. Pa. Dec. 6, 1991).
- **Cited by:** Sani-Dairy v. Yeutter, 782 F. Supp. 1060 (W.D. Pa. 1991).
APA implications
- **Cited by:** Cumberland Farms, Inc. v. Lyng, 1989 U.S. Dist. LEXIS 5342 (D.N.J. May 15, 1989).
- **Cited by:** Farmers Cooperative Dairy, Inc. v. Block, 703 F. Supp. 379 (E.D. Pa. 1989).
RFA implications
- **Cited by:** Western Dairymen Coop., Inc. v. Yeutter, 1990 U.S. Dist. LEXIS 3950 (D.D.C. Apr. 10, 1990).

Synar v. U.S., 626 F. Supp. 1374 (D.D.C. 1986).

The court held that judicial review is not essential to sustain a delegation. The court cited Thompson v. Clark and the RFA as delegated authorities statutorily insulated from judicial review.

- **Jurisdiction noted by, Motion granted by:** Bowsher v. Synar, 475 U.S. 1009 (1986).
- **Motion granted by:** Bowsher v. Synar, 475 U.S. 1094 (1986).
- **Motion granted by:** Bowsher v. Synar, 475 U.S. 1107 (1986).
- **Motion granted by:** Bowsher v. Synar, 475 U.S. 1116 (1986).
- **Affirmed by:** Bowsher v. Synar, 478 U.S. 714 (1986).
- **Later proceeding at:** Synar v. United States, 670 F. Supp. 410 (D.D.C. 1987).
- **Cited by:** Mistretta v. United States, 488 U.S. 361 (1989).
- **Cited in Dissenting Opinion at:** Morrison v. Olson, 487 U.S. 654 (1988).
- **Cited by:** Bowsher v. Synar, 478 U.S. 714 (1986).
- **Followed by:** United States v. Alves, 688 F. Supp. 70 (D. Mass. 1988).
- **Cited by:** United States v. Cortes, 697 F. Supp. 1305 (S.D.N.Y. 1988).
- **Cited by:** Bergman v. Atlantic City, 860 F.2d 560 (3d Cir. 1988).
- **Cited by:** Ameron, Inc. v. United States Army Corps of Engineers, 809 F.2d 979 (3d Cir. 1986).
- **Criticized by, Distinguished by:** Ameron, Inc. v. U.S. Army Corps of Engineers, 787 F.2d 875 (3d Cir. 1986).
- **Cited by:** United States v. Schwartz, 692 F. Supp. 331 (D. Del. 1988).

- **Cited by:** Norfolk Southern Corp. v. Oberly, 632 F. Supp. 1225 (D. Del. 1986).
- **Cited by:** United States v. Williams, 691 F. Supp. 36 (M.D. Tenn. 1988).
- **Cited by:** United States v. Sparks, 687 F. Supp. 1145 (E.D. Mich. 1988).
APA implications
- **Cited by:** United States v. Franco, 691 F. Supp. 1036 (E.D. Ky. 1988).
- **Cited by:** United States v. Smith, 686 F. Supp. 1246 (W.D. Tenn. 1988).
- **Cited by:** Sandwiches, Inc. v. Wendy's International, Inc., 822 F.2d 707 (7th Cir. 1987).
- **Cited by:** United States v. Schetz, 698 F. Supp. 153 (N.D. Ill. 1988).
- **Cited by:** United States v. Molander, 683 F. Supp. 701 (W.D. Wis. 1988).
- **Cited in Dissenting Opinion at:** Gubiensio-Ortiz v. Kanahale, 857 F.2d 1245 (9th Cir. 1988).
- **Cited in Dissenting Opinion at:** Seattle Master Builders Association v. Pacific Northwest Electric Power & Conservation Planning Council, 786 F.2d 1359 (9th Cir. 1986).
APA implications
- **Cited by:** United States v. Belgard, 694 F. Supp. 1488 (D. Or. 1988).
- **Cited by:** United States v. Ortega Lopez, 684 F. Supp. 1506 (C.D. Cal. 1988).
- **Cited by:** United States v. Macias-Pedroza, 694 F. Supp. 1406 (D. Ariz. 1988).
- **Followed by:** United States v. Myers, 687 F. Supp. 1403 (N.D. Cal. 1988).
- **Followed by:** United States v. Ruiz-Villanueva, 680 F. Supp. 1411 (S.D. Cal. 1988).
- **Cited by:** United States v. Arnold, 678 F. Supp. 1463, 1988 U.S. Dist. LEXIS 1416 (S.D. Cal. 1988).
- **Cited by:** United States v. Boyd, 1988 U.S. Dist. LEXIS 17091 (D. Kan. July 22, 1988).
- **Cited by:** United States v. Scott, 688 F. Supp. 1483 (D.N.M. 1988).
- **Cited by:** United States v. Tolbert, 682 F. Supp. 1517 (D. Kan. 1988).
- **Followed by:** United States v. Smith, 686 F. Supp. 847 (D. Colo. 1988).
- **Cited by:** Director of the Office of Thrift Supervision U.S. Department of the Treasury v. Lopez, 141 F.R.D. 169 (S.D. Fla. 1992).
- **Cited by:** United States v. Kane, 691 F. Supp. 341 (N.D. Ga. 1988).
- **Cited by:** United States v. Bogle, 689 F. Supp. 1121 (S.D. Fla. 1988).
- **Cited by:** United States v. Russell, 685 F. Supp. 1245 (N.D. Ga. 1988).
- **Cited by:** Michigan v. EPA, 2000 U.S. App. LEXIS 3209 (D.C. Cir. 2000).
- **Cited by:** Cole v. Burns International Security Services, 105 F.3d 1465 (D.C. Cir. 1997).
- **Cited by:** Federal Election Commission v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993).
- **Cited by:** International Union, United Auto., Aerospace & Agricultural Implement Workers v. OSHA, 938 F.2d 1310 (D.C. Cir. 1991).
- **Cited by:** Dart v. United States, 848 F.2d 217 (D.C. Cir. 1988).

APA implications

- **Cited by:** Humphrey v. Baker, 848 F.2d 211 (D.C. Cir. 1988).
- **Cited by:** In re Sealed Case, 838 F.2d 476 (D.C. Cir. 1988).
- **Cited by:** National Treasury Employees Union v. Reagan, 830 F.2d 1188 (D.C. Cir. 1987).
- **Cited in Dissenting Opinion at:** In re Sealed Case, 829 F.2d 50 (D.C. Cir. 1987).
- **Cited in Dissenting Opinion at:** Community Nutrition Institute v. Young, 818 F.2d 943 (D.C. Cir. 1987).

APA implications

- **Cited by:** Adams v. Clinton, 1998 U.S. Dist. LEXIS 22849 (D.D.C. Nov. 2, 1998).
- **Cited by:** Byrd v. Raines, 956 F. Supp. 25 (D.D.C. 1997).
- **Cited by:** United States v. Brodie, 686 F. Supp. 941 (D.D.C. 1988).
- **Cited by:** Younger v. Turnage, 677 F. Supp. 16 (D.D.C. 1988).

APA implications

- **Cited by:** Arnold v. Postmaster General, 667 F. Supp. 6 (D.D.C. 1987).
- **Cited by:** Synar v. United States, 670 F. Supp. 410 (D.D.C. 1987).
- **Cited by:** Antosh v. Federal Election Com., 664 F. Supp. 5 (D.D.C. 1987).
- **Cited by:** Humphrey v. Baker, 665 F. Supp. 23 (D.D.C. 1987).
- **Followed by:** Melcher v. Federal Open Market Committee, 644 F. Supp. 510 (D.D.C. 1986).
- **Cited by:** Melcher v. Federal Open Market Committee, 644 F. Supp. 510 (D.D.C. 1986).
- **Followed by:** American Federation of Government Employees v. United States, 634 F. Supp. 336 (D.D.C. 1986).
- **Explained by:** National Association of Retired Federal Employees v. Horner, 633 F. Supp. 511 (D.D.C. 1986).
- **Cited by:** Antosh v. Federal Election Commission, 631 F. Supp. 596 (D.D.C. 1986).
- **Cited by:** Demko v. United States, 44 Fed. Cl. 83, 1999 U.S. Claims LEXIS 141 (1999).
- **Cited by:** 2 F.C.C.R. 1094, 2 F.C.C.R. 1094, F.C.C. Comm'n Order No. 87-58, 62 Rad. Reg. 2d (P & F) 844.
- **Cited by:** Ct. App. D.C. Dkt. No. 89-1559.

Texarkana Livestock Commission v. United States Department of Agriculture, 613 F. Supp. 271 (E.D. Tex. 1985).

The court held that the USDA could not produce any documents that indicated how it created its regulations relating to brucellosis testing of cattle involved in interstate movement. The court found no mention of the effect on small entities nor any study or any supporting documentation. The court concluded that the USDA's certification that there was no need for a regulatory flexibility analysis was incorrect.

- (No subsequent case law)

Mast Industries, Inc. v. Regan, 596 F. Supp. 1567 (CIT 1984).

The court held that compliance or noncompliance with the Regulatory Flexibility Act was specifically precluded from judicial review.

- **Cited by:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
RFA, APA implications
- **Among conflicting authorities noted in:** Mada-Luna v. Fitzpatrick, 813 F.2d 1006 (9th Cir. Ariz. 1987).
- **Cited by:** Meyer v. Citizens & Southern National Bank, 117 F.R.D. 180, 1987 U.S. Dist. LEXIS 13882 (M.D. Ga. 1987).
- **Cited by:** International Brotherhood of Teamsters v. Pena, 17 F.3d 1478 (D.C. Cir. 1994).
APA implications
- **Cited by:** Helms v. Secretary of Treasury, 721 F. Supp. 1354 (D.D.C. 1989).
APA implications
- **Cited by:** Target Sportswear v. United States, 70 F.3d 604 (Fed. Cir. 1995).
- **Cited by:** Mast Industries, Inc. v. United States, 822 F.2d 1069 (Fed. Cir. 1987).
- **Cited by:** American Association of Exporters & Importers-Textile & Apparel Group v. United States, 751 F.2d 1239 (Fed. Cir. 1985).
APA implications
- **Cited by:** Pac Fung Feather Co. v. United States, 911 F. Supp. 529 (Ct. Int'l Trade 1995).
- **Cited by:** Foodcomm Int'l v. Kantor, 886 F. Supp. 35 (Ct. Int'l Trade 1995).
- **Cited by:** Target Sportswear v. United States, 875 F. Supp. 835 (Ct. Int'l Trade 1995).
- **Cited by:** National Customs Brokers & Forwarders Association of America v. United States, 861 F. Supp. 121 (Ct. Int'l Trade 1994).
APA implications
- **Distinguished by:** Atari Caribe, Inc. v. United States, 799 F. Supp. 99 (Ct. Int'l Trade 1992).
- **Cited by:** Fundicao Tupy S.A. v. United States, 652 F. Supp. 1538 (Ct. Int'l Trade 1987).
- **Cited by:** Carlisle Tire & Rubber Co., Division of Carlisle Corp. v. United States, 634 F. Supp. 419 (Ct. Int'l Trade 1986).
APA implications
- **Cited by:** Yuri Fashions Co. v. United States, 632 F. Supp. 41 (Ct. Int'l Trade 1986).
- **Cited by:** Sacilor, Acieries et Laminaires de Lorraine v. United States, 613 F. Supp. 364 (Ct. Int'l Trade 1985).
APA implications
- **Cited by:** Arbor Foods, Inc. v. United States, 600 F. Supp. 217 (Ct. Int'l Trade 1984).

- **Cited by:** Neptune Microfloc, Inc. v. United States, 8 Ct. Int'l Trade 353, 1984 Ct. Intl. Trade LEXIS 1860 (Ct. Int'l Trade 1984).
- **Cited by:** American Institute for Imported Steel, Inc. v. United States, 600 F. Supp. 204 (Ct. Int'l Trade 1984).
APA implications
- **Cited by:** C.S.D. 90-29.
- **Cited by:** C.S.D. 90-20.
- **Cited by:** C.S.D. 90-19.
- **Cited by:** 111 F.R.D. 503, 111 F.R.D. 503.
- **Cited by:** C.B. Treas. Dec. 93-27.
- **Cited by:** C.B. Treas. Dec. 87-7.
- **Followed by:** C.B. Treas. Dec. 85-38.

Sargent v. Block, 576 F. Supp. 882 (D.D.C. 1983).

The court held that the Secretary of Agriculture was correct in deciding there was no need for a regulatory flexibility analysis regarding the revision of verification procedures under the national school lunch program. The court held that it had the power to review an agency's compliance with the RFA based on 5 U.S.C. §611(b). However the court found no evidence to contradict the Secretary's statement that there were "[n]o major increase in cost or prices for program participants, individual industries, federal, state or local government agencies or geographic regions."

- **Cited by:** Sepulveda v. Block, 1985 U.S. Dist. LEXIS 20366 (S.D.N.Y. Apr. 26, 1985).
- **Cited by:** Lehigh Valley Farmers v. Block, 640 F. Supp. 1497 (E.D. Pa. 1986).
RFA and APA implications
- **Criticized by:** Thompson v. Clark, 741 F.2d 401 (D.C. Cir. 1984).
RFA and APA implications
- **Cited by:** 1 F.C.C.R. 682, 1 F.C.C.R. 682, F.C.C. Comm'n Order No. 86-497, 61 Rad. Reg. 2d (P & F) 992.

South Carolina ex rel. Patrick v. Block, 558 F. Supp. 1004 (D.S.C. 1983).

The court held that the RFA was not applicable to the Notice of Determination since the Commodity Credit Court is not required by 5 U.S.C. §553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

- **Same case at:** South Carolina ex rel. Tindal v. Block, 717 F.2d 874 (4th Cir. 1983).
APA implications
- **Cited by:** Maldonado v. Block, 769 F.2d 33 (1st Cir. 1985).
- **Cited by:** Mandel v. Block, 573 F. Supp. 1522 (S.D.N.Y. 1983).
APA implications

- **Cited by:** South Carolina ex rel. Tindal v. Block, 717 F.2d 874 (4th Cir. 1983).
APA implications
- **Cited by:** United States v. Rainbow Family, 695 F. Supp. 294 (E.D. Tex. 1988).
APA implications
- **Cited by:** Hickman v. Pierce, 1984 U.S. Dist. LEXIS 21838 (N.D. Ill. Nov. 20, 1984).
- **Cited by:** National Farmers' Organization, Inc. v. Block, 561 F. Supp. 1201 (E.D. Wis. 1983).
APA implications
- **Cited by:** Curry v. Block, 738 F.2d 1556 (11th Cir. 1984).
APA implications
- **Cited by:** Mobil Oil Corp. v. Department of Energy, 728 F.2d 1477 (Temp. Emer. Ct. App. 1983).
APA implications