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Associated Fisheries of Maine, Inc. v. Daley: *A Balanced Approach to Judicial Review Under The Regulatory Flexibility Act*

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Abstract by Christine Parsadaian

This note objectively analyzes the First Circuit's decision in *Associated Fisheries of Maine, Inc. v. Daley* to determine the impact that judicial review of agency actions will have on small businesses and agencies. This note explains how the court's holding will impact the future of agency policy affecting small businesses by finding that retroactive agency decisions in violation of the Small Business Regulatory Enforcement Act (SBREFA) are not judicially reviewable. The author begins by describing the struggle small businesses faced under the Regulatory Enforcement Act (REA) when unchecked agency power often led to significant and negative economic impacts for small businesses. Following, the author emphasizes the key role that SBREFA played in developing small business rights by amending REA.

In describing the court's rationale, however, the author is somewhat critical. She notes that the parallel the court makes between RFA and the National Environmental Policy Act of 1969 is somewhat tenuous. Specifically, the comparison the court makes between small businesses and the environment is unconvincing. Following, she addresses the pros and cons of the court's decision by looking from the perspective of small businesses and agencies. In conclusion, the author finds that the court's decision in *Associated Fisheries* was fair, but does not accurately predict the fate of agencies and small business because of the lack of precedent in other circuits.