

Progress Report on the Office of Advocacy's Regional Regulatory Reform Roundtables

June 2017 - September 2018



The Office of Advocacy of the U.S. Small Business Administration was created by Congress in 1976 to be an independent voice for small business within the federal government. The office is led by the Chief Counsel for Advocacy who is appointed by the President and confirmed by the U.S. Senate. The chief counsel advances the views, concerns, and interests of small business before the White House, Congress, federal agencies, federal courts, and state policymakers. The office relies on economic research, policy analyses, and small business outreach to identify issues of small business concern. Regional and national advocates around the country and an office in Washington, D.C., support the chief counsel's efforts.

This report covers the first 16 months of the office's Regional Regulatory Reform Roundtables, from June 2017 through September 2018. To learn more visit the Regulatory Reform webpage at <https://advocacy.sba.gov/regulatory-reform>.

Information about Advocacy's initiatives on behalf of small businesses is accessible via the website; three Listservs (regulatory communications, news, and research); and social media including LinkedIn, Twitter, and Facebook.



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What Small Businesses Are Saying and What Advocacy Is Doing About It

Progress Report on the Office of Advocacy's Regional
Regulatory Reform Roundtables
June 2017–September 2018

Office of Advocacy
U.S. Small Business Administration

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Foreword

The Office of Advocacy was created by Congress in 1976 to be an independent voice for small business within the federal government. As the federal office responsible for examining the contributions and challenges of small businesses in the U.S. economy, we are constantly looking for answers to small business questions. In 1980, Advocacy's analysis and responsibilities grew to include the potential impact of federal regulations on small business when the Regulatory Flexibility Act (RFA) was passed, requiring federal agencies to consider these impacts. Over the past 46 years Advocacy attorneys have worked within the government—educating regulators, assisting agencies with small business analysis, and recommending alternative ways to reduce the burden of regulation on small business. The office has helped small businesses save billions in regulatory costs and has given small firm owners opportunities to make their voices heard about rules that affect their interests.

In 2017 the new administration brought an increased commitment to regulatory reform and burden reduction. The cornerstone of these efforts are President Trump's Executive Orders 13771 and 13777, which address the private sector's regulatory burden. Advocacy responded by creating the Regional Regulatory Reform Roundtables. This outreach initiative is intended to seek out and listen to small businesses across the country. The roundtable initiative began in June 2017 and is ongoing. This report covers the first part of the initiative through September 2018.

The Regional Regulatory Reform Roundtables are a way of gathering practical input on the success and failure of regulatory compliance requirements. They have two goals:

- To identify regional small business regulatory issues to bring to the attention of rulemaking agencies. This entails gathering firsthand information on small business regulatory burdens across the nation, and identifying specific recommendations for regulatory change to submit to responsible agencies.
- To educate small businesses and stakeholders on the ways that Advocacy can help them meet their goals.

Between June 1, 2017, and September 30, 2018, Advocacy held 33 Regional Regulatory Reform Roundtables in 21 states. While traveling to these events, Advocacy staff also made at least 84 site visits in 22 states. In addition, the office's regional and national advocates held small business forums in 244 cities, and small business owners submitted hundreds of comments through an online portal.

The recurring themes we heard include the following:

- Burdensome and confusing paperwork, red tape, reporting, labeling, and fines;
- Costly fees for the services of consultants, lawyers, and accountants;
- Regulations that run to hundreds of pages, and which require advanced legal and technical background to understand;

- Business owners regularly confronting the uncertainty of knowing whether their company is in compliance with all applicable regulations;
- Others who worry whether the business confidential information they must disclose to regulators will be kept private from competitors; and
- Major rules that are enacted to halt the excesses of large, industry-controlling firms, yet small firms are caught up in their dragnet.

Section 4 of the report outlines the progress that is being made toward reform. Here are a few examples.

- In March 2018, a legislative change allowed for the fishing industry's Onboard Monitoring Program to be fully funded by the National Oceanic and Atmospheric Administration. Previously, small fishing boats were required to pay out of their own pockets to have an onboard observer present on their vessels while at sea.
- The Centers for Medicare and Medicaid Services simplified their reimbursement rules for small rehabilitation facilities and removed a 25 percent penalty after Advocacy communicated stakeholders' concerns to the agency.
- Small businesses expressed frustration because the Environmental Protection Agency's rules use a different definition of "small business" than other federal agencies. In September, EPA published a final rule on fees for chemical businesses; in it, the agency aligned its small business definition with the one used by the Small Business Administration, and the new definition allows more small firms to pay reduced fees for reporting.
- In August 2018, the Federal Communications Commission approved "one touch-make ready" pole attachment policies. This approach simplifies the process for small competitive local carriers to string aerial fiber on existing utility poles. Advocacy had shared its support for these policies with the FCC after hearing from competitive carriers.

This report provides detail about small businesses' regulatory challenges through our firsthand accounts of roundtables and site visits around the country. It outlines the first steps made toward progress in alleviating some of these burdens. The Office of Advocacy looks forward to continuing progress towards regulatory reform for small businesses.

Major L. Clark III
Acting Chief Counsel for Advocacy
December 2018

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Representing Small Business Interests in the Era of Deregulation



The Office of Advocacy is an independent voice for small business within the federal government. The office is the watchdog of the Regulatory Flexibility Act (a statute that requires small entities to be considered in the rulemaking process) and the source of small business statistics. Advocacy speaks on behalf of small businesses to the White House, Congress, federal agencies and courts, and state policymakers. Advocacy's efforts include:

- Representing small entities' interests when federal agencies plan and draft regulations;
- Gathering the views and concerns of small businesses through public meetings and roundtables, conference calls, small meetings, online input, and a network of regional and national advocates;
- Applying its legal and economic expertise to help agencies evaluate their proposed rules' impacts on small entities and to consider alternatives that minimize adverse and disproportionate impacts on them;
- Training federal agency staff, Congressional staff, and private sector thought-leaders on the Regulatory Flexibility Act and on the unique ways that regulations affect small entities compared to their larger competitors; and
- Conducting and sponsoring economic research on small businesses' role in the economy, as well as the effects of government regulation on small businesses.

The Era of Regulatory Reform

In 2017 the Trump administration brought a new commitment to regulatory reform and burden reduction. The cornerstone of this effort are President Trump's

two executive orders addressing the private sector's regulatory burden. Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," was signed on January 30, 2017, with the goal of reducing costs associated with complying with federal regulations. This order bars federal regulatory agencies from issuing a new rule unless they identify two or more rules to be repealed.

Executive Order 13777, "Enforcing the Regulatory Reform Agenda," signed on February 24, 2017, directs agencies to make long-term reform plans. It requires each agency to designate a Regulatory Reform Officer (RRO) to oversee the implementation of regulatory reform at the agency. It also establishes Regulatory Reform Task Forces within each agency. These groups are directed to evaluate existing regulations and make recommendations to the agency head on rules that should be repealed, replaced, or changed, especially those that inhibit job creation or eliminate jobs; are outdated, unnecessary or ineffective; or whose costs exceed their benefits.

Immediately after these executive orders were issued, the Office of Advocacy developed an action plan to

ensure that small businesses are included in regulatory reform. A first step was meeting with local small business trade associations to get their input on Advocacy's most effective mode of involvement. Next, Advocacy sent a memorandum to federal agencies emphasizing the importance of considering small business impacts during regulatory reduction efforts, reiterating the goals of the RFA including section 610,¹ and reminding them of Advocacy's ability to help in this process. This memo was well received, and some agencies directly informed the office of their regulatory reform plans and efforts. Advocacy's memo is reproduced in Appendix C.

Advocacy's next step, and the reason for this report, was the creation of the Regional Regulatory Reform Roundtables. This outreach initiative is intended to seek out and listen to small businesses across the country. The roundtables began in June 2017, and they continue to the present. This report covers the first part of the initiative, from June 2017 to September 2018.

To support the regulatory reform effort, Advocacy dedicated a section of its website to regulatory reform, <https://advocacy.sba.gov/regulatory-reform>. Here, small businesses can register complaints about regulations, track reform progress, and find the schedule of future roundtables.

How Regulations Affect Small Businesses

Regulations affect small businesses differently than their larger counterparts. Evidence indicates that regulatory requirements tend to create disproportionately heavier burdens for small businesses, putting them at a disadvantage relative to their larger competitors. Here are a few of the reasons for this:

- **The cost of regulations is higher relative to available resources.** Federal agencies' analyses consistently reveal that the cost of regulations per employee is higher for businesses with fewer employees. The cost per employee at the smallest businesses is typically one or more times greater than the equivalent cost at the largest businesses.
- **Small businesses have fewer resources for regulatory compliance.** Regulatory compliance often requires new and sizable investments in equipment and upgrades. Small businesses routinely report higher borrowing costs or limited access to the capital needed for such outlays.
- **Regulations designed for large businesses may impose greater costs relative to benefits if applied without change to small businesses.** Small businesses, particularly those with very few employees, operate differently from large businesses. A compliance process, a technological mandate, or regulatory mechanism designed for a 5,000-person company will be more disruptive for a 25-person company and may not achieve the regulatory goals to the same extent. In many cases, the benefits of applying the rule to the small business may not justify the costs imposed on it. In these circumstances, an exemption from the rule or a modification of it is appropriate.
- **Small businesses are very concerned about the cost of red tape.** The relative burden of paperwork and recordkeeping requirements has been shown to be higher for small businesses in other countries, and is likely to be in United States as well.

When devising their regulatory reform plans, it is important that federal agencies consider how small entities are affected. Regulatory reform focused solely on the overall impacts to the economy without considering how those impacts are distributed could disadvantage different groups such as small businesses. Agencies will need to be vigilant that regulatory changes do

¹ Section 610 of the U.S. Code requires federal agencies to review their regulations at the 10-year mark to assess their current impact on small entities [5 U.S.C. Section 610].

"I don't think the people who write regulations actually understand the tremendous difficulties of running a business. We are competing with China and Mexico who don't have these costly regulations. We just can't compete."

—The owner of a small metal plating company.

not impose costs on small businesses, create barriers to startups, or interfere with small businesses' ability to compete in the marketplace.

Advocacy's Plan of Action for Regulatory Reform

The Office of Advocacy has a unique and important role in agencies' regulatory reform efforts. The Regulatory Flexibility Act requires Advocacy to make sure that agencies consider small businesses when they create regulations; and it also requires the office to do so when agencies remove or revise regulations. Advocacy's action plan was developed to help federal agencies accomplish their deregulatory goals, consider the economic impact on small businesses, and reduce these burdens.

Assisting Federal Agencies' Deregulation Efforts. EO 13771 created an opportunity for Advocacy to offer its expertise to the federal agencies to reduce regulatory burdens on small entities. On March 30, 2017, Advocacy sent a memorandum to federal agencies recommending that agencies consider small entity interests in implementing EO 13771 and in subsequent deregulatory actions. (See Appendix C.) The memo also reminded agencies of their obligations under the RFA and of the assistance Advocacy could offer to conduct small entity outreach.

In the past, Advocacy has made regulatory reform recommendations directly to agencies based on a review of rules subject to the requirements of section 610 of the RFA and based on outreach to small entity representatives. In addition, once agencies designated Regulatory Reform Officers and established Regulatory Reform Task Forces under EO 13777, Advocacy offered these recommendations and other assistance and views to agencies, as suggested by EO 13777, section 3(e). Since then, Advocacy has engaged in a longer term effort to make specific recommendations to agencies and the Office of Management and Budget about regulations

or regulatory programs that could be streamlined to lower small entities' compliance costs. In addition to writing public comment letters to voice small business concerns, Advocacy is also working directly with agencies to assist in developing and recommending regulatory changes.

Outreach to Small Entities. Advocacy's Regional Regulatory Reform Roundtables have allowed small businesses around the country to discuss the challenges they face with regulatory implementation and compliance. These meetings explore small entities' suggestions for regulatory streamlining and savings, and participants discuss ways to improve small business participation in agencies' rulemakings. These discussions inform Advocacy's ongoing and future recommendations to the federal agencies tasked with reducing the number of regulations.

"New technologies are transforming our industry and regulations aren't keeping pace. The federal government will mandate things but can't keep up with the regulations and make them clear, plus be able to allow small businesses to grow new technologies."

—The owner of a small information technology company in San Antonio, Texas

2

Listening to Small Businesses: Regional Regulatory Reform Roundtables and Site Visits



Advocacy's Regional Regulatory Reform Roundtables are a means of gathering practical input on small business burdens around the country. The roundtables have two goals:

1. To identify regional small business regulatory issues to assist agencies with their regulatory reform plans (as directed by EOs 13771 and 13777). This entails gathering firsthand information on small business regulatory burdens across the nation, and identifying specific recommendations for regulatory change to submit to agencies.
2. To educate small businesses and stakeholders on the ways that Advocacy can help them meet their goals.

In order to gather information about the unique regulatory problems small entities face across the country and potential solutions, Regional Regulatory Reform Roundtables bring together local small businesses, trade associations, congressional leaders, and federal regulatory agencies to identify regulatory barriers and challenges in each region.

Small businesses located in various states face distinct challenges to development and growth. At roundtables they can discuss their concerns and educate Advocacy on how best to address them. Roundtables allow Advocacy to focus on individual small businesses to identify regulatory barriers to growth and help federal agencies comply with the President's directive to eliminate burdensome regulations.

As a result of the roundtables, Advocacy staff is learning firsthand of the current and most pressing challenges these small entities are facing and what government can do to assist them. While in the area, Advocacy also has been visiting small businesses to discuss logistics, operations, and compliance problems in the places they exist.

What Happens at a Roundtable?

Roundtables are open to the public, and small businesses from a wide area are invited. Members of the press are free to attend and hear small business concerns directly. Advocacy invites federal agency officials from Washington, D.C., and the local area to hear complaints and suggestions firsthand, as well as provide agency perspectives, if they so choose. Congressional represen-

tatives have attended roundtables to hear their constituents' regulatory issues.

Meetings are usually a half day and are organized by industry sector. The most frequently discussed sectors have been:

- Agriculture, aquaculture, and fisheries;
- Construction, manufacturing, and transportation;
- Education and workforce development;
- Energy and chemical;
- Financial services and real estate;
- Food, hospitality, and retail;
- Medical services;
- Procurement; and
- Timber, logging, and mining.

The agendas are arranged by industry category, but small businesses are welcome to speak up whenever they wish, since business owners may not be able to attend an entire meeting. Once a small business identifies a specific federal regulation as a source of trouble, Advocacy staff members ask for suggestions to revise it, as well as for specific economic cost data to document the extent of the burden.

Advocacy's attorneys work on hundreds of regulations, and they have often already worked on the rules that small businesses bring up. In such cases, Advocacy staff can provide status updates and tell participants how they can be most helpful to the regulatory reform process. On the other hand, there are regulations and economic impacts that are new to Advocacy, especially ones concerning specific regions or industries. These are the type of novel and useful stories that help Advocacy inform agencies of effects they may be unaware of.

In rare instances some small businesses do not feel comfortable speaking up during the meeting. In these cases, they either pull Advocacy staff aside during one

of the breaks to tell them of their concerns or they fill out the comment forms that are placed at each seat and can be left at the registration desk upon exit. Either way, Advocacy captures their input on regulations to convey it to federal agencies.

Advocacy has published dozens of articles and blog posts reporting the regulatory compliance issues raised during the roundtables. Advocacy also conveys small business input in meetings with rulemaking officials, letters to federal agency heads and regulatory reform officers, and letters to members Congress. (See Table 6 and Appendix D.)

Where We've Been

Between June 1, 2017, and September 30, 2018, Advocacy held 33 Regional Regulatory Reform Roundtables in 21 states. Locations span rural and urban areas, geographic regions, and a range of industries. The geographical diversity provides an up-close perspective of how a single federal rule can have varying economic impacts on different types of small businesses based upon the practices, economic conditions, and other factors specific to their region.

Figure 1 shows the map of states that have hosted Regional Regulatory Reform Roundtables. Table 1 shows the roundtable dates and locations.

"These regulations are an excessive burden that have no positive impact on safety, and small businesses just can't afford them. These regs just don't make sense for the little guys. It seems as if the small businesses are left away from the table when these decisions are made. Our voice was not being heard."

—A Kansas representative from the Independent Drivers Association discussing the Electronic Logging Device rule

Figure 1. Map of Regional Regulatory Reform Roundtables, June 2017-September 2018

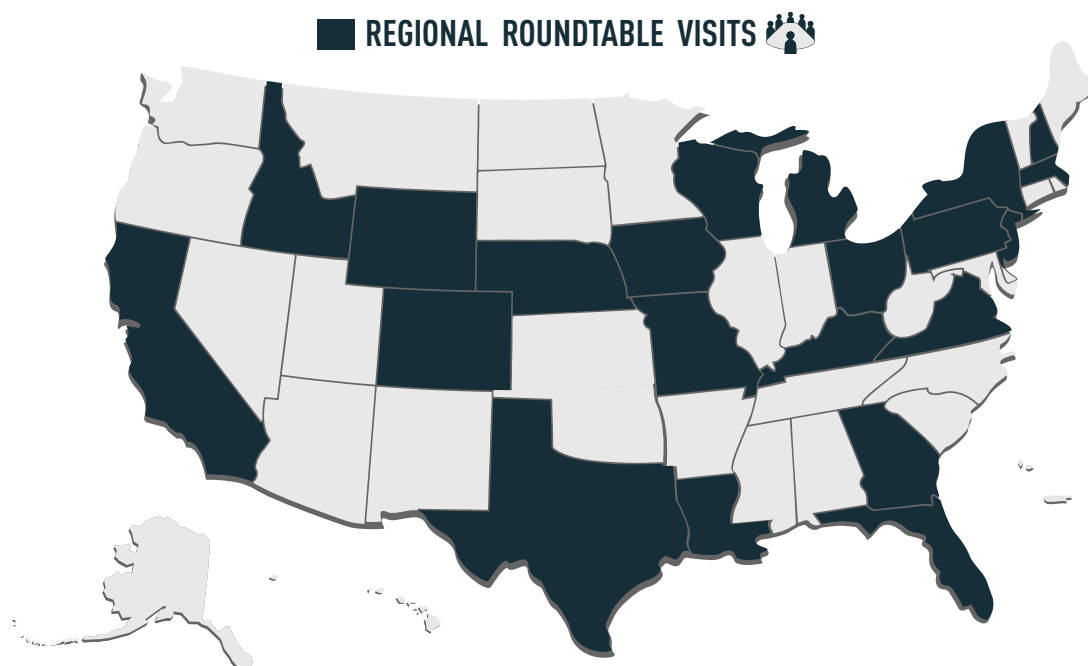


Table 1. Regional Regulatory Reform Roundtables, June 2017-September 2018

| Date | Location | | Date | Location |
|----------|---------------------------|--|---------|----------------------------|
| 6/7/17 | Baton Rouge, Louisiana | | 4/10/18 | Atlanta, Georgia |
| 6/8/17 | New Orleans, Louisiana | | 4/30/18 | Modesto, California |
| 7/11/17 | Boise, Idaho | | 5/2/18 | Sacramento, California |
| 7/13/17 | Coeur d'Alene, Idaho | | 5/3/18 | Santa Clarita, California |
| 7/31/17 | Lexington, Kentucky | | 6/5/17 | Tampa/Brandon, Florida |
| 8/1/17 | Cincinnati, Ohio | | 6/6/18 | Oviedo, Florida |
| 8/2/17 | Cadiz, Ohio | | 6/7/18 | Jacksonville, Florida |
| 8/3/17 | Cleveland, Ohio | | 7/18/18 | West Des Moines, Iowa |
| 9/12/17 | St. Louis, Missouri | | 7/19/18 | Dubuque, Iowa |
| 9/14/17 | Kansas City, Kansas | | 7/19/18 | Platteville, Wisconsin |
| 10/16/17 | Glen Allen, Virginia | | 8/7/18 | Casper, Wyoming |
| 11/28/17 | Manchester, New Hampshire | | 8/8/18 | Fort Collins, Colorado |
| 11/29/17 | Boston, Massachusetts | | 8/9/18 | Colorado Springs, Colorado |
| 3/13/18 | Detroit, Michigan | | 9/11/18 | Princeton, New Jersey |
| 3/16/18 | Milwaukee, Wisconsin | | 9/12/18 | Scranton, Pennsylvania |
| 3/19/18 | San Antonio, Texas | | 9/13/18 | Poughkeepsie, New York |
| 3/20/18 | Houston, Texas | | | |

Characteristics of Roundtable Locations

Advocacy has long known that regulatory impacts vary by geographic region. Consequently, Advocacy made an outreach plan to focus on all regions of the country and multiple industries. Advocacy has made a concerted effort to visit diverse areas that provide varying perspectives.

The office's attorneys and regulatory economists have worked on thousands of regulations affecting small business over the years. In the process, they have heard directly from small businesses and their representatives about the locations where the small businesses have been hardest hit. To determine Advocacy's roundtable schedule, Advocacy drew from this experience and assessed economic data on small business contributions across geographic areas.

In addition, small business advocates and trade organizations provided valuable input on what their members were saying and what areas were most affected by burdensome regulations.

The availability of Advocacy's team of regional advocates was also important. The regional advocates work out of SBA's district offices, and they assist with meeting setup, local small business input, and publicity. Members of Congress invited Advocacy to hear specifically from small business constituents. (See Appendix E.)

Several roundtables were scheduled in conjunction with Advocacy's information-gathering effort on small business impacts of the North American Free Trade Agreement (NAFTA) modernization. Advocacy received this mandate from the Trade Facilitation and Trade Enforcement Act (TFTEA). The events in Wisconsin, Michigan, and Texas were planned in order to hear concerns about regulatory reform, NAFTA, and international trade.

Small Business Site Visits

To maximize Advocacy's resources, each roundtable trip includes site visits to nearby small businesses to discuss their specific regulatory concerns. These are valuable and informative experiences for Advocacy staff, many of whom have never had the opportunity to visit with those whom they serve. Small business

owners greatly appreciate Advocacy's site visits. They are grateful for the chance to show Advocacy staff how their business functions, as well as the rare opportunity to meet one-on-one and talk through their concerns. Advocacy staff made at least 84 site visits in 22 states between June 2017 and September 2018. The list of businesses and locations appears in Table 2.

Advocacy encourages the small business hosting the site visit to invite their peers, and staff learns from others facing similar regulatory burdens. These small personal meetings are an important way to collect more detailed information to help in the regulatory reform effort.

Locally Organized Regulatory Input Sessions

In conjunction with the Regional Regulatory Reform Roundtables, Advocacy's regulatory reform team often traveled to other cities and states near the roundtables to attend locally organized regulatory input sessions. These input sessions were organized by local chambers of commerce, trade associations, and small businesses. Dozens of small businesses who were unable to make it to the roundtables would attend these sessions and provide additional input to Advocacy's regulatory reform team on their experiences as small businesses with federal regulations.

The input Advocacy received at these roundtables was valuable and allowed the Regulatory Reform team to hear from small businesses, states, and industries that would not have been able to voice their concerns to Advocacy.

Advocacy's attorneys, economists, and regional advocates included these sessions on their itineraries while traveling to roundtable locations. These locally organized events took place in Spokane, Washington; Omaha, Nebraska; Galena, Illinois, Council Bluffs, Iowa; Atlanta, Georgia; and other locales.

Table 2. Advocacy's Small Business Site Visits, June 2017-September 2018

| State | City | Business Visited | State | City | Business Visited |
|------------|------------------|---|---------------|------------------|---------------------------------|
| California | Berkeley | Lawrence Berkeley National Lab | Kentucky | Lexington | Barrel House Distillery |
| | Clovis | Valley Chrome Plating Inc. | | Lexington | Salters Alliance Farm |
| | Goleta | Seek Thermal | | Newport | BB Riverboats |
| | Lodi | Valley Iron Works | Louisiana | Baton Rouge | Tin Roof Brewing Company |
| | Los Angeles | Los Angeles Cleantech Incubator | | New Orleans | Blaine Kern's Mardi Gras World |
| | Modesto | Sciabica's Olive Oil | | New Orleans | WeChem |
| | Sacramento | Pucci Pharmacy | Massachusetts | Gloucester | Mass. Fishermen's Partnership |
| | Salida | Flory Industries | Michigan | Detroit | Architectural Salvage Warehouse |
| | Stockton | Ross Roberts Truck Repair, Inc. | | Detroit | RBV Contracting |
| | Valencia | King Henry's | | Farmington Hills | Vicount Industries |
| | Westley | Great Pacific Nut Company | | Plymouth | E&E Manufacturing |
| Colorado | Buena Vista | Elk Mountain Ranch | Missouri | Saint Louis | Chocolate, Chocolate, Chocolate |
| | Colorado Springs | Bristol Brewing Co. / Ivywild School | New Hampshire | Manchester | Red Arrow Diner |
| | Florissant | Florissant Fossil Beds Natl Monument | New Jersey | Budd Lake | KB Ingredients |
| | Fort Collins | Rocky Mountain Adventures | | Chester | Alstede Farms |
| Florida | Cedar Key | Aquaculture Visit at FWC Senator Kirkpatrick Marine Lab | | Edison | Argent Associates |
| | Geneva | Yarborough Ranches | New York | Brooklyn | Red Hook Winery |
| | Jacksonville | Florida Roads Contracting | | Goshen | Pawleski Farms/Farmroot |
| | Jacksonville | Signature Land | | Poughkeepsie | Service Master by NEST |
| | Lutz | B3 Medical | | Wappinger Falls | Honey Bee Childcare |
| | Orlando | Global Enterprises | Ohio | Brecksville | Caruso's Coffee |
| | Oviedo | Black Hammock Adventures | | Lebanon | FECON Inc. |
| | Oviedo | Citizens Bank of Florida | | Solon | Chagrin Valley Soap & Salve |
| | St. Augustine | St. Augustine Distillery | | Willoughby | Melrose Farms Community |
| | Tampa | 81Bay Brewing Company | | Willoughby | ProBuilt Homes |
| | Tampa | In the News | Pennsylvania | Dickson City | Red Line Towing |
| | Tampa | J.C. Newman Cigar Company | | Dunmore | Road Scholar Transportation |
| | Tampa | PBX Change | | Philadelphia | DiBruno Bros |
| | Tampa | Tabanero Cigars | | Philadelphia | Geno's Steaks |
| | Tampa | Urban E Recycling | | Philadelphia | Pat's King of Steaks |
| | Thonotosassa | Ameriscape Services | | | |

Continued on next page.

Table 2. Advocacy's Small Business Site Visits, June 2017-September 2018

| State | City | Business Visited | State | City | Business Visited |
|---------|-----------------|------------------------------------|------------|-----------|-----------------------------------|
| Georgia | Atlanta | Angel's Paradise Learning Academy | Texas | Galveston | Ocean Star Offshore Energy Museum |
| | Cumming | Grub Burger | | Houston | Axistrade |
| | Marietta | Sigma Thermal | | Houston | Everest Valve Company |
| Idaho | Boise | City Peanut Shop | | Houston | Original Ninfa's on Navigation |
| | Boise | True Lock Manufacturing | | Nixon | Mesquite Field Farm |
| | Hayden | Coeur Greens | Virginia | Chester | VHI Transport |
| Iowa | Cedar Rapids | Great Clips | Washington | Spokane | Wemco |
| | Cedar Rapids | Lion Bridge Brewing Company | | Spokane | Zak Designs |
| | Council Bluffs | Rasmussen Mechanical Services | Wisconsin | Milwaukee | Lakefront Brewery |
| | Manning | Puck Custom Enterprises, Inc. | | Sheboygan | Wigwam Mills |
| | West Des Moines | Focus OneSource | Wyoming | Casper | Mammoth Networks |
| Kansas | Kansas City | Watco Companies Kaw River Railroad | | Laramie | Trihydro |
| | Lenexa | Lightbulbs, Etc. | | | |

“The paperwork burden is astronomical when trying to run our business and comply with these regulations. Every step is duplicative. We redo the same process time and time again....The process takes too long and we give the same information to the federal government over and over.....This is an expensive and time consuming process.”



—A small New Hampshire apple farmer upset about the State Department’s visa rules and the accompanying paperwork burden

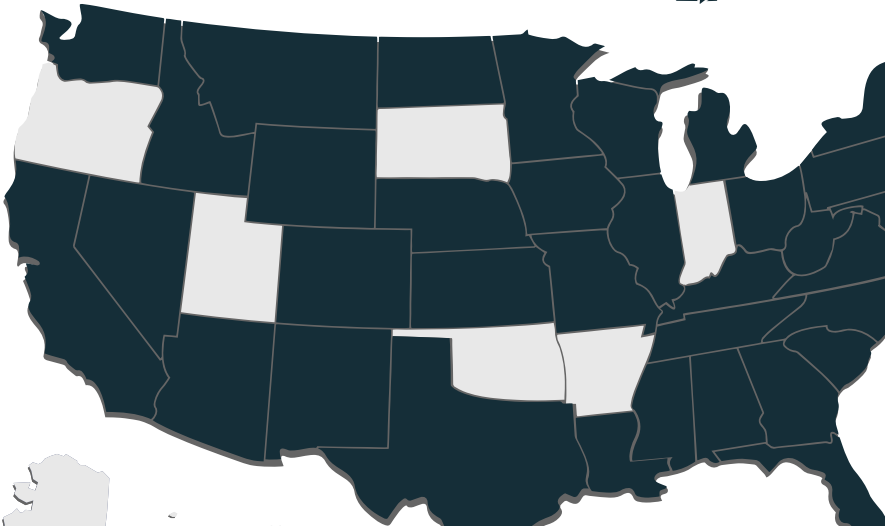
Advocacy has dedicated other resources to the regulatory reform effort as well: the online comment portal and the small business forums.

Advocacy posted an online comment form on its website for input by individuals who cannot attend a roundtable or who want to provide additional detail. Individuals in 39 states and the District of Columbia have submitted over 250 comments. Each issue is assigned to the assistant chief counsel who specializes in the area. Advocacy follows up directly with federal agencies to bring these issue to the fore and help solve regulatory problems. The map in Figure 2 shows the states from which online comments were received. The input form is online at <https://advocacy.sba.gov>.

The Office of Advocacy currently employs 10 regional and national advocates who are placed throughout the United States. Eight regional advocates serve the small business communities in their respective federal regions, and the two national advocates reach out to key segments of the U.S. small business economy such as rural businesses and manufacturing.

This team of advocates assists the regulatory reform effort by hosting small business forums to discuss the impact of federal regulations on small businesses in their respective regions and industry areas. The qualifying benchmark for these gatherings is for the advocate to have five or more small business stakeholders in attendance. At the conclusion of fiscal year 2018, over 3,000 small business stakeholders attended the 664 small business forums which the advocates hosted in 244 cities in 39 states and territories.

 **ONLINE COMMENTS RECEIVED** 



These small business forums provided valuable insight into small businesses federal regulatory challenges and help supplement the information gathered through the Regional Regulatory Reform Roundtables and online

input. The cities where these small business forums took place are listed in the shaded box.

Small Business Forum Locations, June 2017-September 2018

| | | | | | |
|-----------------------|-------------------|----------------------|-------------------|-------------------|-----------------------|
| Wasilla, AK | Chamblee, GA | Metairie, LA | Chester, NJ | Astoria, OR | Ocean Shores, WA |
| Anchorage, AK | Pine View, GA | Covington, LA | Morristown, NJ | Tillamook, OR | Redmond, WA |
| Juneau, AK | Sioux City, IA | New Roads, LA | Madison, NJ | Newport, OR | Mountlake Terrace, WA |
| Fairbanks, AK | Des Moines, IA | Ascension Parish, LA | Edison, NJ | Bend, OR | Kent, WA |
| Mobile, AL | Grinnell, IA | Houma, LA | Phillipsburg, NJ | Lincoln City, OR | Preston, WA |
| Montgomery, AL | Meridian, ID | Frederick, MD | Somerville, NJ | Klamath Falls, OR | Issaquah, WA |
| Huntsville, AL | Boise, ID | Lansing, MI | Bridgewater, NJ | Philadelphia, PA | Mount Vernon, WA |
| Birmingham, AL | Chicago, IL | Midland, MI | Blackwood, NJ | Harrisburg, PA | Sumner, WA |
| Cabot, AR | Aurora, IL | Grand Rapids, MI | Paramus, NJ | Friendsville, PA | Gig Harbor, WA |
| Little Rock, AR | Springfield, IL | Detroit, MI | Lake Hiawatha, NJ | Dunmore, PA | Orting, WA |
| Fayetteville, AR | South Bend, IN | Minneapolis, MN | Toms River, NJ | Bethlehem, PA | Puyallup, WA |
| Scottsdale, AZ | Fort Wayne, IN | St. Paul, MN | Lake Hopcong, NJ | Taylor, PA | Mill Creek, WA |
| Prescott Valley, AZ | Greenwood, IN | Medonta Heights, MN | Mt Laurel, NJ | Allentown, PA | Bellingham, WA |
| Glendale, AZ | Indianapolis, IN | Golden Valley, MN | New Brunswick, NJ | York, PA | Lynnwood, WA |
| Chandler, AZ | Wichita, KS | Edina, MN | Las Cruces, NM | Waverly, PA | Tacoma, WA |
| Peoria, AZ | Overland Park, KS | Burnsville, MN | Santa Fe, NM | McKees Rocks, PA | Spokane Valley, WA |
| Sedona, AZ | Topeka, KS | West St. Paul, MN | Albuquerque, NM | Johnstown, PA | Spokane, WA |
| Fountain Hills, AZ | Lawrence, KS | Brooklyn Park, MN | Las Vegas, NV | Scranton, PA | Monroe, WA |
| Phoenix, AZ | Olathe, KS | Kansas City, MO | New York, NY | San Juan, PR | Snohomish, WA |
| Tempe, AZ | Fairway, KS | Jefferson City, MO | Rome, NY | Myrtle Beach, SC | Mukilteo, WA |
| Goodyear, AZ | Leawood, KS | St. Louis, MO | Syracuse, NY | Chattanooga, TN | Bellevue, WA |
| Tucson, AZ | Elizabethtown, KY | St. Charles, MO | Utica, NY | Houston, TX | Ballard, WA |
| Fullerton, CA | Paducah, KY | Clayton, MO | Columbus, OH | Austin, TX | Marysville, WA |
| Santa Ana, CA | Hopkinsville, KY | Hattiesburg, MS | Dayton, OH | Beaumont, TX | Tulalip, WA |
| Sacramento, CA | Bowling Green, KY | Jackson, MS | Cincinnati, OH | Port Arthur, TX | Milwaukee, WI |
| Citrus Heights, CA | Shelbyville, KY | Grenada, MS | Westerville, OH | El Paso, TX | Warrens, WI |
| Washington, DC | Baton Rouge, LA | Greensboro, NC | Troy, OH | The Woodlands, TX | Lyndon Station, WI |
| Dahlgonega, GA | Chalmette, LA | Wilmington, NC | Portsmouth, OH | Lubbock, TX | Richland Center, WI |
| Norcross, GA | Alexandria, LA | Raleigh, NC | Cleveland, OH | Laredo, TX | Eau Claire, WI |
| Brunswick, GA | Watson, LA | Kannapolis, NC | Perrysburg, OH | San Antonio, TX | Rothschild, WI |
| Savannah, GA | Addis, LA | Jamestown, ND | Archbold, OH | St. Thomas, USVI | Superior, WI |
| Suwanee, GA | Morgan City, LA | Hankinson, ND | Steubenville, OH | Richmond, VA | Trego, WI |
| Duluth, GA | Lafayette, LA | Fargo, ND | Tulsa, OK | Everett, WA | Wisconsin Dells, WI |
| East Point, GA | New Orleans, LA | Omaha, NE | Oklahoma City, OK | Woodinville, WA | Ripon, WI |
| Sandy Springs, GA | Zachary, LA | Hackettstown, NJ | Norman, OK | Arlington, WA | Baraboo, WI |
| Berkley Lake, GA | Central, LA | Florham Park, NJ | McMinnville, OR | Seattle, WA | Green Bay, WI |
| Lilburn, GA | Luling, LA | Atlantic City, NJ | Tigard, OR | Kirkland, WA | Waukesha, WI |
| Lawrenceville, GA | Port Allen, LA | Lincroft, NJ | Canby, OR | Olympia, WA | New Glarus, WI |
| Peachtree Corners, GA | Leesville, LA | Morris, NJ | Lake Oswego, OR | Shoreline, WA | Wausau, WI |
| Warner Robbins, GA | Walker, LA | Parsippany, NJ | Portland, OR | Bothell, WA | |
| Atlanta, GA | Lake Charles, LA | Randolph, NJ | Coos Bay, OR | Renton, WA | |

3

What We Heard: Small Businesses' Experience with Regulation



In Advocacy's face-to-face meetings with small businesses across the country, they told us stories that exemplify how federal regulations drain small businesses' resources, energy, and even their desire to stay in business. The following examples and the quotations in comment boxes throughout the report highlight the main recurring themes we heard.

Overlapping and conflicting regulations between agencies is an issue that comes up at almost every roundtable. In Baton Rouge, La., the owner of a **small chemical company** expressed frustration that many federal rules are confusing and complicated, and therefore extremely difficult and costly to comply with. He told Advocacy that smaller businesses do not have the same resources as large businesses to be able to interpret how to comply with requirements. While state and local offices provide some assistance to help businesses sort through their regulatory requirements, at the federal level no such clarity and assistance exists, he complained.

Another example of small business regulatory burden is the costly rules associated with the implementation of the Affordable Care Act (ACA) and health care costs in general. A **small hotel operator** in St. Louis, Mo., told Advocacy that not all small businesses can afford health insurance for their employees, particularly because they do not have the option of joining an association to lower health care costs. Additionally, he said that the ACA causes problems in finding skilled labor. He felt that larger businesses can provide better benefits at lower cost, while offering the same wages. Small businesses are unable to compete and lose skilled

employees to their larger counterparts. He suggested small businesses be given the opportunity to purchase insurance across states to help drive down costs.

The vice president of a **small vocational college** in Shreveport, La., said he has seen the cost of educating students nearly triple since 2010 because of the Department of Education's program integrity and gainful employment regulations. Complying with these rules has meant costs for hiring attorneys, accountants, and professional auditors. To handle the paperwork requirements, his school has had to invest almost a hundred thousand dollars in new technology and student management software. The school offers training programs in such high-demand fields as HVAC, medical assistance, electronics, and technology. He said that nearly all of their graduates are hired immediately, and employers say that they can't produce enough skilled graduates fast enough to fill their job openings.

A **small ice cream company** in Cleveland, Ohio, told Advocacy that Food and Drug Administration regulations enforcing the Food Safety Management Act (FSMA) have caused her an exponential increase in paperwork and costs. Specifically, she is concerned that the rules will require her to re-label dozens of products

and redo all associated packaging, adding significant costs and negatively affecting her business.

A Cincinnati, Ohio, **riverboat operator** who serves patrons meals during lunch and dinner cruises on the Ohio River told Advocacy that new FDA regulations have classified his business as a food manufacturer rather than a restaurant because meals are prepared in a central kitchen. This change makes him subject to the new FSMA food safety rules. He has had to hire additional employees to dedicate their time solely to complying with these regulations. He feels this is another example of federal regulations that are overly broad and not targeted to the problem they are meant to fix; as a result, innocent businesses are captured in the overreaching net of federal regulation.

At the San Antonio roundtable a **small farmer** said that FSMA regulations do not adequately account for different types and sizes of small businesses. She felt that these regulations create a disincentive for small farms that actually prevents them from increasing sales; this hampers small farms like hers, as well as the development of the local food system as an economic generator.

Another focus of small business complaints has been the Department of Labor's Overtime Rule, particularly the "white collar exemption." Advocacy is hearing that the threshold for this regulation was set too high, making it extremely costly and burdensome. While many small operators believe there should be an increase in pay for their workers, any mandatory increase should be less drastic. A **small human resources company** in Boise, Idaho, indicated that the rule does not recognize the very real problem small businesses face of retention and recruitment of employees. She explained that focusing only on salary negates other incentives and puts their organization at a disadvantage compared to large companies that can offer employees more money.

In Manchester, N.H., a **small apple farmer** also complained about the Department of Labor's Overtime Rule. He stated that a higher threshold didn't make sense for his operation and would be extremely costly to those small farms barely hanging on. Under the Fair Labor Standards Act, agricultural workers are normally exempt from receiving overtime. However, if these

workers move from the agricultural area to the retail operations at a farm, they would be entitled to overtime. The inflexibility of the current FLSA regulation limits the ability to use able workers for different aspects of his business.

A **small financial services company** in Cincinnati, Ohio, complained that the Department of Labor's Fiduciary Rule will put him and many other small broker-dealers out of business. They consider the rule to be the biggest change to the financial advisor sector in many years, and as such, they feel that more care should have been taken determining the rule's potential impact on small operators. He told Advocacy that the rule creates a barrier in the advisor-client relationship, and that small businesses who need investment advice are unable to get it.

Small businesses also expressed concern over the Consumer Financial Protection Bureau's impending Payday Lending Rule. A **small lender** in New Orleans believes the rule will make small businesses fail rather than protect consumers. He believes the result of the regulation will be to reduce the availability of storefront loans, particularly in rural and underserved markets. He complained about the lack of analysis of these markets as required by the Dodd-Frank Act.

Maritime small businesses are burdened by the cost of the Transportation Security Administration's Transportation Worker Identification Credential (TWIC) Card Rule. A **small tour boat company** in Ohio told Advocacy that while big businesses can absorb the cost, small businesses must pay for the card to find employees at the wages they can offer. He also complained that there is no system to determine whether TWIC cards are real or counterfeit. Small businesses want a system in place that can verify the cards to justify the cost of obtaining them.

Small businesses in the transportation industry nationwide have strong feelings about compliance with the Federal Motor Carrier Safety Administration's rule requiring electronic logging devices (or ELDs). A **small farmer** in Kansas City, Kan., complained that small farms cannot afford the new devices and its costly requirements. Large commercial carriers have the financial resources to implement the devices, but independent drivers do not. This is a common concern heard

by small businesses that need to transport their goods. His biggest complaint is that the ELD regulation is inflexible and does not allow for wait time. He believes this oversight will increase the shortage of commercial drivers, which is a big concern for his industry.

A small **manufacturer of road signs** in Glen Allen, Va., told Advocacy that the Federal Highway Administration (FHWA) regulations change too frequently, costing his industry millions of dollars in testing all of the products that his company produces. Adding to this frustration, after receiving letters of acceptance from FHWA for a product, his company received a reprieve to grandfather the original product under the previous, less onerous regulation. FHWA subsequently changed the rule and reversed its opinion, requiring him to perform costly retesting of his entire product line despite no evidence of injuries or fatalities due to his products.

The Food and Drug Administration's Tobacco Deeming rule is a big concern to small cigar manufacturers and store operators. The rule extends FDA's authority to electronic cigarettes, cigars, and pipe tobacco. These products are now subject to the federal prohibition on sales to minors, the federal prohibition on free sampling, federal warning label requirements, and the requirement that tobacco manufacturers register with the FDA and seek the agency's review of new tobacco products. At the roundtable in Tampa, Fla., the **owner of a cigar store** in Ybor City told Advocacy that despite the fact that his store does not have any youth customers, the costly impacts of this rule on small businesses will wipe out half of his industry.

An **owner of golf courses** in Jacksonville, Fla., was concerned about the lack of available labor for his business combined with the limits that the State Department has put on the H-2B visa program. Because of the state's warmer climate, he explained that Florida businesses have a different seasonal timeframe and a different need for workers than those in the northern states. He also complained about the lengthy application process, which makes it difficult for small businesses to estimate and plan during their busiest times.

In Dubuque, Iowa, a small business owner in the **camping industry** complained about Federal Emergency Management Agency regulations that are having a negative impact on his business. Every year he has to

purchase flood insurance for his 17 campgrounds even though there are no permanent structures on the land. The regulations were intended to protect structures when there is a flood. However, his business operates differently. When the bad weather and heavy rains come, the campers and motor homes leave and drive to higher ground or return home. Flooding is not an issue. Nevertheless, he must pay \$2,700 per year in flood insurance that is not needed. He feels this is a clear example of government overregulation that does not make common sense.

The owner of a small **human resources services company** in Poughkeepsie, N.Y., described the tremendous paperwork burden of OSHA's Electronic Reporting rule. The mechanics of figuring out how to comply with these complicated regulations is very burdensome. This reporting load is compounded by the many regulations promulgated by the Office of Federal Compliance Programs at the Department of Labor. She described compliance as "a monumental task," forcing small business owners decide whether to spend a considerable amount of money to hire professional assistance or risk being out of compliance.

The owner of a small **drone services company** in Princeton, N.J., has had to turn down thousands of dollars worth of work because of the long wait times associated with the Federal Aviation Administration's (FAA) approval process contained in its new regulations on drones.

These are some of the real life consequences of federal regulations promulgated without the full consideration of their impact on small businesses. The stories are numerous and the effects on businesses across the country are varied. But the message is clear: small businesses are not against regulation; rather they want certainty, clarity, and regulations that make sense for the real world in which they operate.

Roundtable Reports—Follow-Up Articles and Blogs

Advocacy staff documents the issues that small businesses share, and they are published as news items on the office's website. Advocacy has published dozens of these reports on the complexities and frustrations that small businesses grapple with in regulatory compliance. Table 3 contains a list of articles about the roundtables and links to them. Table 4 lists articles and blogs on dozens of site visits. These contain great detail about regulatory impediments in the real-life operation of small businesses. Both sets of articles illustrate small businesses' ongoing struggles with federal regulatory compliance.

Table 3. What We Heard: Small Business Roundtable Recaps

| Date | Location | Title and Link |
|---------------------------------------|---|--|
| 6/7/17 6/8/17 | Baton Rouge, LA New Orleans, LA | <u>Louisiana Small Biz Proclaims, "Federal Regulations are Stifling Business!"*</u> <u>Businesses on the Bayou are Burdened by Regulations and Paperwork</u> <u>A Baton Rouge Regional Regulatory Roundtable Roundup</u> <u>New Orleans Roundtable Hits on Common Themes</u> <u>Advocacy Holds Regulatory Roundtable in New Orleans</u> |
| 7/11/17 7/12/17 7/13/17 | Boise, ID Spokane, WA Coeur d'Alene, ID | <u>Idaho and Washington Small Businesses Speak Out against Burdensome Regulations*</u> <u>Advocacy Hosts Regional Regulatory Reform Roundtable in Boise, Idaho</u> <u>Region's Major Industries Have Their Voices Heard at Roundtables</u> <u>Regulatory Roundtables get to the Coeur of the Matter</u> |
| 7/31/17 8/1/17 8/2/17 8/3/17 | Lexington, KY Cincinnati, OH Cadiz, OH Cleveland, OH | <u>"One-Size-Fits-All Doesn't Fit!"—Small Businesses in Kentucky and Ohio Talk to Advocacy*</u> <u>Lexington, Kentucky Welcomes Advocacy to the (Round) Table</u> <u>From Riverboats to Land Surveys, Wide Range of Issues Highlight Cincinnati Roundtable</u> <u>Site Visit: Small Businesses in Oil and Gas Sector Voice Challenges to Regulatory Compliance</u> <u>Advocacy Rolls Along with Hearing Regulatory Concerns in Cleveland</u> |
| 9/12/17 9/14/17 | St. Louis, MO Kansas City, KS | <u>"We're Being Set Up to Fail!" Small Businesses in Missouri and Kansas Are Frustrated by "Too Much Regulation"*</u> <u>Wide Range of Issues Highlighted at Advocacy's Regional Regulatory Roundtable in St. Louis</u> <u>Labor and Transportation Issues Highlighted at Kansas Roundtable</u> |
| 10/16/17 | Glen Allen, VA | <u>"Regulations Are So Out of Control!": Virginia Small Business Owners Speak Out</u> <u>Small Businesses in Virginia Urge Agencies to Pursue Sensible Regulations</u> |
| 11/28/17 11/29/17 11/29/17 | Manchester, NH Gloucester, MA Boston, MA | <u>"How Did This Happen in This Country? Small Businesses Are "Overregulated and Treated So Poorly!": Small Businesses in New Hampshire and Massachusetts Speak Up*</u> <u>Granite State Solidifies their Small Business Concerns at Advocacy Roundtable</u> <u>Advocacy's Boston Roundtable Brings Multiple Sectors to the Table</u> |

*Indicates summary article of roundtables in the region. All articles are are posted on Advocacy's website, <https://advocacy.sba.gov>.

Table 3 continued. What We Heard: Small Business Roundtable Recaps

| Date | Location | Title and Link |
|-------------------------------|--|---|
| 3/13/18 3/16/18 | Detroit, MI Milwaukee, WI | <u>“Regulations Are Unfair and Deceptive!”*</u> <u>Detroit Small Business Owners Want the Feds to be Less of a Speed Bump</u> <u>Advocacy Gets a Taste of the Regulatory Problems of Wisconsin Small Businesses</u> |
| 3/19/18 3/20/18 | San Antonio, TX Houston, TX | <u>“Stop the Madness and Fix the Mess!”: Texas Small Businesses Plead for Regulatory Relief*</u> <u>Federal Procurement, NAFTA, and Agricultural Issues Highlight San Antonio Roundtable</u> |
| 4/10/18 | Atlanta, GA | <u>Georgia Gets Grubby at Area Roundtable Discussion*</u> |
| 4/30/18 5/2/18 5/3/18 | Modesto, CA Sacramento, CA Santa Clarita, CA | <u>The Golden State Shines a Light On Regulatory Issues: “We Are So Overregulated!”*</u> <u>County Seat Modesto Puts Advocacy in Regulatory Hot Seat</u> |
| 6/5/18 6/6/18 6/7/18 | Tampa, FL Orlando, FL Jacksonville, FL | <u>Advocacy Travels To Tampa To Hear From Small Businesses</u> <u>Overregulation Hurts Orlando Small Businesses</u> <u>Federal Regulations Discussion Has Small Business Jumping Off the Rails</u> <u>Can’t the Feds and the State Work Together?</u> <u>Clouds of Regulations Hover Over the Sunshine State: Small Businesses in Florida Talk To Advocacy*</u> |
| 7/17/18 7/18/18 7/19/18 | Council Bluffs, IA Des Moines, IA Dubuque, IA | <u>Small Business Are Not Bluffing About Burdensome Regulations in Iowa</u> <u>“We Can’t Operate in a Constant State of Regulatory Uncertainty!” Small Business Owners in the Midwest Urge Advocacy For Help*</u> <u>Small Business in Des Moines Face a Cornucopia of Burdensome Regulations</u> <u>Small Businesses From Three States Join Advocacy in Dubuque</u> |
| 8/7/18 8/8/18 8/9/18 | Casper, WY Fort Collins, CO Colorado Springs, CO | <u>Small Businesses in Wyoming and Colorado Hopeful To Find Regulatory Relief*</u> <u>Wyoming Small Businesses Ride The Federal Regulatory Rodeo</u> <u>Broad Range of Issues Highlight Fort Collins Roundtable</u> <u>Colorado Springs Roundtable Highlights a Wide Range of Regulatory Issues</u> |
| 9/11/18 9/12/18 9/13/18 | Princeton, NJ Scranton, PA Poughkeepsie, NY | <u>“Regulations Are An Impediment To Everything We Are Trying To Do!” Small Businesses in Pennsylvania, New York and New Jersey Ask For Relief*</u> <u>Wide Range Of Regulatory Issues Highlight New Jersey Roundtable</u> <u>Advocacy Hears From Small Businesses In Scranton, PA</u> <u>Advocacy Hears From Poughkeepsie Small Businesses</u> |

*Indicates summary article of roundtables in the region. All articles are are posted on Advocacy’s website, <https://advocacy.sba.gov>.

Site Visit Input and Follow Up

Table 4 contains a list of the blogs and articles that Advocacy staff members wrote as follow-ups to small business site visits. They describe the unique businesses and their owners, as well as their discussions of regulatory issues and obstacles.

Table 4. What We Heard: Small Business Site Visit Recaps

| Date of Visit | Location | Company | Title and Link |
|---------------|------------------|------------------------------------|--|
| 6/7/17 | Maurice, LA | Dale Martin Offshore | Louisiana Towing Vessel Operator Unhappy With New Coast Guard Regulations |
| 6/7/17 | Shreveport, LA | Ayers Career College | Education Issues Heard At Baton Rouge Regional Regulatory Roundtable |
| 6/7/17 | Baton Rouge, LA | Tin Roof Brewing Company | Advocacy Staff Tours Tin Roof Brewing Company in Baton Rouge |
| 6/8/17 | New Orleans, LA | Blaine Kern's Mardi Gras World | Advocacy Visits Mardi Gras World; the Small Business Spreads 'Carnival' to the Rest of the World |
| 6/9/17 | New Orleans, LA | WeChem | Advocacy Tours Small Chemical Manufacturing and Distribution Plant in New Orleans |
| 6/9/17 | Port Fouchon, LA | Greater Lafourche Port Commission | Port Fouchon—A Service Port For Domestic Deep Water Oil and Gas |
| 7/11/17 | Boise, ID | City Peanut Shop | Advocacy Goes Nuts For City Peanut Shop |
| 7/11/17 | Meridian, ID | Big D Ranch | Small Farm Brings Big Business For Idaho's Treasure Valley |
| 7/12/17 | Spokane, WA | Zak Designs | Advocacy Has A Colorful Conversation With Zak! Designs |
| 7/12/17 | Spokane, WA | Wemco | Wemco 'Manufactures Productivity' |
| 7/14/17 | Colville, WA | Vaagen Brothers Lumber | Saw Mill Complains of Feds Lumbering Around |
| 7/31/17 | Newport, KY | BB Riverboats | BB Riverboats Owner Steamed About Federal Regulations |
| 7/31/17 | Lexington, KY | Salter's Alliance Farm | Farm Owner Jockeys For Regulatory Relief |
| 8/1/17 | Lebanon, OH | FECON Inc. | Advocacy Meets With Mulching Manufacturer |
| 8/4/17 | Solon, OH | Chagrin Valley Soap & Salve | Small Business Feeling Chagrin At Potential Product Rules |
| 8/4/17 | Willoughby, OH | ProBuilt Homes | Advocacy Builds Engagement With Home Developer |
| 8/4/17 | Brecksville, OH | Caruso's Coffee | Cool Beans: Advocacy Visits Small Coffee Roaster in Northeast Ohio |
| 9/12/17 | St. Louis, MO | Chocolate, Chocolate, Chocolate | Advocacy Hears Small Business Concerns At Chocolate, Chocolate, Chocolate |
| 9/14/17 | Kansas City, MO | Watco Companies Kaw River Railroad | Short Line Railroad Warns of "Death By A Thousand Cuts" Caused By Federal Regulations Tailored Only To Bigger Rail Companies |
| 9/14/17 | Lenexa, KS | Lightbulbs, Etc. | Advocacy Receives A Warm Welcome At Light Bulbs Etc. |
| 10/16/17 | Chester, VA | VHI Transport | Advocacy Visits Small Transportation Company Following Virginia Roundtable |
| 11/28/17 | Manchester, NH | Red Arrow Diner | Order Up! Advocacy Visits Red Arrow Diner To Discuss Its Regulatory Challenges |

Note: Articles are posted on Advocacy's website, <https://advocacy.sba.gov>.

Continued on next page.

Table 4 continued. What We Heard: Small Business Site Visit Recaps

| Date of Visit | Location | Company | Title and Link |
|----------------------|----------------------|--|--|
| 11/29/17 | Gloucester, MA | Massachusetts Fishermen's Partnership | <u>Advocacy Discusses Regulatory Challenges Facing Fishermen During Visit With the Massachusetts Fishermen's Partnership</u> |
| 3/13/18 | Plymouth, MI | E&E Manufacturing Company | <u>Family Business Puts the Pedal To the Metal On Reducing Regulations</u> |
| 3/13/18 | Detroit, MI | RBV Contracting | <u>RBV Contracting Digs Detroit</u> |
| 3/13/18 | Detroit, MI | Architectural Salvage Warehouse of Detroit | <u>Architectural Salvage Warehouse Preserves the History of Detroit</u> |
| 3/13/18 | Farmington Hills, MI | Vicount Industries | <u>Michigan Company Shapes Constructive Criticism For NAFTA Revision</u> |
| 3/15/18 | Sheboygan, WI | Wigwam Mills | <u>Wigwam Knocks the Socks Off Its Competitors in Unraveling Apparel Industry</u> |
| 3/15/18 | Waterloo, WI | Crave Brothers Farm; Crave Brothers Farmstead Cheese Factory | <u>Wisconsin Dairy Farmers Concerned With NAFTA Re-Negotiations</u> |
| 3/15/18 | Watertown, WI | Rosy-Lane Holsteins LLC | <u>Wisconsin Dairy Farmers Concerned With NAFTA Re-Negotiations</u> |
| 3/16/18 | Milwaukee, WI | Lakefront Brewery | <u>Let the Beer Flow: A Milwaukeean Brewer's Story of Domestic and International Growth</u> |
| 3/19/18 | Houston, TX | Everest Valve Company; Axistrade (2 companies) | <u>Houston Has A Regulatory Problem That Advocacy Aims To Solve</u> |
| 3/19/18 | Galveston, TX | Ocean Star Offshore Energy museum; Gulf Copper | <u>Museum Brings Offshore Oil Industry Concerns Ashore</u> |
| 3/19/18 | Houston, TX | The Original Ninfa's on Navigation | <u>Small Business Brings Sizzling Regulatory Concerns To the Table</u> |
| 3/19/18 | San Antonio, TX | Concord Supply | <u>Advocacy Staff Learns About Role of NAFTA During Visit With Owners of Concord Supply</u> |
| 3/22/18 | Austin, TX | Gold Rush Vinyl | <u>Plant Spins Regulatory Concerns Round and Round With Advocacy</u> |
| 4/10/18 | Marietta, GA | Sigma Thermal | <u>Georgia Small Businesses Partner With Advocacy To Hold Hot Roundtable</u> |
| 4/30/18 | Westley, CA | Great Pacific Nut Company | <u>Advocacy Learns About Walnut Grower and Processor in California</u> |
| 4/30/18 | Salida, CA | Flory Industries | <u>Some Federal Regulations Are Just Plain Nutty</u> |
| 5/1/18 | Stockton, CA | Ross Roberts Truck Repair, Inc. | <u>SBA Loans Give Entrepreneurs A Hand Up</u> |
| 5/3/18 | Valencia, CA | King Henry's | <u>Advocacy Takes A Bite Out of Snack Company's Regulatory Concerns</u> |
| 5/4/18 | Santa Barbara, CA | Seek Thermal | <u>Southern California Small Business Owners Are Hot About Senseless Regulations</u> |
| 6/5/18 | Tampa, FL | In the News | <u>Florida Small Business Makes Headlines With Their Plaque Company</u> |
| 6/5/18 | Tampa, FL | Urban E Recycling | <u>Tampa Recycler Turns Old Electronics Into Precious Materials</u> |
| 6/5/18 | Tampa, FL | 81Bay Brewing Co. | <u>Ale in A Day's Work</u> |

Note: Articles are are posted on Advocacy's website, <https://advocacy.sba.gov>.

Continued on next page.

Table 4 continued. What We Heard: Small Business Site Visit Recaps

| Date of Visit | Location | Company | Title and Link |
|----------------------|----------------------|--|---|
| 6/5/18 | Thonotosassa, FL | Ameriscape Services | Advocacy Visits Small Landscaping Company in Tampa Bay Area |
| 6/5/18 | Lutz, FL | B3 Medical | B3 Medical–Federal Regulations Give Health Clinic A Headache |
| 6/6/18 | Oviedo, FL | Black Hammock Adventures | Central Florida Small Business Owner Chomps Down On Excessive EPA Rules |
| 6/6/18 | Orlando, FL | Citizens Bank of Florida | Citizens Bank of Florida Believes Others Have Competitive Advantage |
| 6/6/18 | Seminole County, FL | Yarborough Ranches | Planting Skilled Labor Troublesome For Family Farm |
| 6/8/18 | Cedar Key, FL | Aquaculture visit at FWC Senator Kirkpatrick Marine Lab | Small Business Hatches Ideas To Ease Its Industry's Regulatory Burdens |
| 7/17/18 | Council Bluffs, IA | Rasmussen Mechanical Svcs | Small Mechanical Services Company in Council Bluffs, Iowa |
| 7/17/18 | West Des Moines, IA | Focus OneSource | Iowa Company Focusing On Helping Small Businesses Comply With Regulations |
| 7/17/18 | Manning, IA | Puck Custom Enterprises, Inc. | Puck Enterprises in Iowa |
| 7/18/18 | Cedar Rapids, IA | Great Clips | Great Clips! Entrepreneur Franchisee Provides Career Opportunities For Stylists |
| 7/18/18 | Cedar Rapids, IA | Lion Bridge Brewing Company | Tax Reform Passed By Congress Gives Small Brewery High “Hops” |
| 8/6/18 | Gillette, WY | Mammoth Networks | Mammoth Networks |
| 8/7/18 | Laramie, WY | Trihydro | Environmental and Engineering Firm in Laramie, WY |
| 8/7/18 | Fort Collins, CO | Rocky Mountain Adventures | Rocky Mountain Adventure in Colorado |
| 8/8/18 | Buena Vista, CO | Elk Mountain Ranch | Elk Mountain Ranch in Colorado |
| 8/9/18 | Colorado Springs, CO | Bristol Brewing Company | Bristol Brewing Co. in Colorado |
| 8/9/18 | Florissant, CO | Florissant Fossil Beds National Monument | Florissant Fossil Beds National Monument |
| 9-10-18 | Philadelphia, PA | Di Bruno Bros. House of Cheese | Di Bruno Bros. House Of Cheese In Pennsylvania |
| 9-10-18 | Philadelphia, PA | Pat's King of Steaks, Geno's Steaks | Cheesesteak Warriors Team Up To Fight Burdensome Regulations |
| 9-11-18 | Budd Lake, NJ | KB Ingredients | The Sweet Smell Of Success – Smells Like Pumpkin Pie At KB Ingredients |
| 9-11-18 | Edison, NJ | Argent Associates | Argent Controls |
| 9-12-18 | Dunmore, PA | Road Scholar Transport | Road Scholar Transport: Safety And Security The Key Concerns |
| 9-12-18 | Dickson City, PA | Red Line Towing, Inc. | Advocacy Discusses Red Tape At Red Line Towing, Inc. |
| 9-13-18 | Wappinger Falls, NY | Honey Bee Child Care | Nanny State: New York Daycare Service Perseveres Despite State Level Regulations And Taxation |
| 9-13-18 | Goshen, NY | Pawelski Farms | A Farmer's Growing Appreciation For Tax Cuts |
| 9-13-18 | Poughkeepsie, NY | ServiceMaster Restore by NEST | Starting A New Business Takes A Community Effort |
| 9-14-18 | Brooklyn, NY | Red Hook Winery | In The Shadow Of Lady Liberty |

Note: Articles are are posted on Advocacy's website, <https://advocacy.sba.gov>.

Regulations Most Frequently Cited by Small Businesses

Table 5 is a list of federal regulations that small businesses at roundtables complained about most often. Several dozen regulations are listed, although this is not an exhaustive list.

Table 5. What Small Businesses Told Us: Regulations in Need of Reform

| Agency | Regulation Identified by Small Businesses |
|--|--|
| Affordable Care Act rules (various agencies) | Various ACA Rules and the Cost of Health Care. Many ACA regulations are costly and burdensome for small entities. Businesses complain that they can't afford costly health insurance for their employees. The voluminous paperwork associated with these rules is a costly burden as well. |
| Federal Procurement (various agencies) | Federal Procurement Rules and Procedures. Small businesses stagger under the weight and complexity of the federal procurement process, despite programs intended to encourage their participation. Various problematic rules are listed in this table and Appendix G. But procurement practices and process are also costly impediments to small businesses' participating in the federal marketplace for goods and services. |
| CFPB | Mortgage Servicing. Small mortgage companies and title companies say this rule has changed the culture of their business. They now operate in fear of being fined by the CFPB for even minor violations. Small businesses say the rule increases the cost for consumers, and the complexity and paperwork required to do a financial transaction is staggering. |
| CFPB | Payday Lending. The costs to comply with this rule may force small lenders to close, and rural areas without abundant capital options might be hit the hardest. Payday lenders, small banks, credit unions, vehicle title lenders and online lenders have said that this rule will have a negative impact on the revenue stream of their business if their customers no longer qualify for loans, resulting in many having to close their business. |
| DCAA/FAR | The Defense Contract Audit Agency's accounting requirements make it very difficult for small suppliers to be reimbursed. The federal procurement accounting requirements do not distinguish between a very large contract and a small contract, hence the same amount of information is required for a small contract. There needs to be a simpler requirement for small contractors to go through the process. |
| DOC/NOAA | Data Used to Determine Fishing Allocations. These allocations cause an undue financial burden on small boat fishermen by setting overly conservative groundfish allocations based on incomplete data. Small commercial fishermen have said they spend much of their time avoiding the fish so as not to exceed their catch limit. |
| DOC/NOAA | Payment for Onboard Observers Program. Fishermen have had to pay up to \$700 for the cost of an observer on their small boat plus travel costs, which frequently can exceed the value of the catch on the voyage. This regulatory burden is financially devastating for small boat ground fishermen throughout coastal New England. |
| DOD/GSA/FAR | A small business defense contractor expressed concerns with the cost of compliance with the over-reaching Department of Defense cybersecurity regulation. |
| DOI USDA Forest Service SBA | Harvest Sales on Federal Lands/Timber Set-aside Rule. Small timber mills are being bought out or going out of business due to a lack of timber available to small businesses and the predatory nature of large corporations in the bidding process. They also complain that the federal government takes so long to permit logging after a fire, that such salvage timber becomes unusable. Salvage timber is most often harvested by small businesses. Small businesses want a specific set-aside program for small business, they want agencies to explore stewardship options, and they have presented possible alternatives to consider. |
| DOI/FWS | Endangered Species Act Rules. Impacts on small business are not being considered when the agency is designating the critical habitat, even though these impacts can be devastating. |

Note: Appendix G contains the formal titles and citations of regulations mentioned in this report.

Continued on next page.

Table 5 continued. What Small Businesses Told Us: Regulations in Need of Reform

| Agency | Regulation Identified by Small Businesses |
|----------|--|
| DOJ | Title III of the ADA as applied to Passenger Vessels. Small U.S. flagged passenger vessel operators have said that they have difficulty understanding and complying with existing regulations implementing the Americans with Disabilities Act. Small businesses are concerned as to how the DOJ might apply Access Board Guidelines to passenger vessels, which are almost exclusively small businesses. |
| DOL | Fiduciary Rule. Small broker dealers say the rule is the biggest change to the financial advisor sector in a long time and that it will potentially put them out of business. The rule requires them to reassess their business models for servicing retirement accounts and to potentially restructure their businesses. |
| DOL/DHS | H-1B Visas. The H-1B visa program allows U.S. companies to hire foreign workers in fields such as science, engineering, and information technology. Small businesses are very concerned that H-1B visas will become harder to get. They are hoping these types of visas will still be available as these rules are revised. |
| DOL/DHS | H-2B Visas. Small businesses state that there are not enough H-2B visas to provide foreign workers for jobs that are currently going unfilled. They do not want this program to be taken away, rather they want more of these visas for non-agricultural workers. |
| DOL | Minimum Wage. Small businesses have stated that the compliance costs of this rule will have disproportionate impacts on them. Many are concerned that these increases will make them much less competitive in their industries, making the rule overly burdensome. |
| DOL | "White Collar" Exemption from Overtime Rule. In May 2016, the Department of Labor finalized changes to the overtime rule; that rule was permanently enjoined by the federal courts in November 2016. Small businesses say that the threshold limits established in the rule need to be more realistic. Many stated that it has forced them to decide which employees they could pay more and which ones they would have to lay off. They also say the rule was difficult to understand, and that who is exempt and who is not was confusing. |
| DOL/OSHA | Telecommunication Towers. Small businesses that construct or maintain telecommunications towers or install and maintain equipment on them want OSHA to adopt an industry consensus standard for this work. However, they fear that OSHA will go further and enact burdensome regulations. |
| DOL/OSHA | Confined Spaces in Construction. Homebuilders are concerned that the rule applies to areas of residential construction that don't pose significant risks, like crawl spaces and attics. They believe that the residential construction industry should have been exempted from the rule. |
| DOL/OSHA | Crystalline Silica. Small foundries and those in the construction industry stated that the lower permissible exposure limit is not feasible, and as a result, the rule is too costly. |
| DOL/OSHA | Fall Protection for Residential Construction. Small residential home builders would like OSHA to provide flexibility to its six-foot fall protection standard in residential construction in circumstances where complying with the standard would create a greater risk. They believe the current rule is unnecessarily stringent and lacks flexibility. |
| DOL/OSHA | Process Safety Management. Small businesses are concerned that the agency will move forward with requiring unnecessary independent third-party audits and other burdensome provisions. They are also concerned that OSHA will apply the rule to chemicals that don't pose significant safety risks. |
| DOL/OSHA | Workplace Safety—Electronic Recordkeeping and Reporting. Many small businesses complain that the rules result in a paperwork burden that requires a full-time employee to keep up with the reams of required paperwork. |
| DOT/FAA | Drones—Small Unmanned Aircraft System (UAS). Small businesses state that the current rule requiring operators to keep the aircraft within visual lines-of-sight and fly no higher than 400 feet are too restrictive. These rules prohibit using drones for beneficial purposes, such as inspecting facilities. |

Note: Appendix G contains the formal titles and citations of regulations mentioned in this report.

Continued on next page.

Table 5 continued. What Small Businesses Told Us: Regulations in Need of Reform

| Agency | Regulation Identified by Small Businesses |
|------------|---|
| DOT/FMCSA | Electronic Logging Devices (ELDs). Many small businesses struggle to afford the purchase of ELDs. They believe this rule is an excessive burden that has no positive impact on safety. They prefer paper logs which are reliable and less expensive. The rule doesn't make sense for small truckers and doesn't recognize interruptions of driving, such as wait times. |
| DOT/FMCSA | Hours of Service. Many small businesses say the rule needs more flexibility or needs to be removed. Small trucking companies describe scenarios in which the rule increases risk instead of reducing it. |
| EPA | Hard Rock Mining. This rule would have increased costly requirements on hard rock mine operations. Mine owners believe the rule as proposed was based on an inadequate study and would have had devastating effects on the mining industry. |
| EPA | Lead Renovation, Repair Program (LRRP). Small home builders say this rule has imposed hundreds of millions of dollars in costs for building renovations including recordkeeping and reporting. |
| EPA | Nonhazardous Secondary Materials (NHSM). Small manufacturers say the requirement of handling hazardous wastes in incinerators instead of boilers will be more costly. |
| EPA | EPA Oil and Gas Production; New Source Performance Requirements. EPA has established requirements on small oil and gas well and distribution facilities that reduce emissions of volatile organic compounds and methane. The agency is exploring alternatives that would exempt small production sites from some costly requirements and lower the frequency of leak monitoring for well and distribution sites. |
| EPA | Pesticides; Agricultural Worker Protection Standards. Small businesses, pesticide applicators, and handlers expressed concerns with the rule's minimum age requirement stating that it will reduce the workforce in some states, particularly on small farms. They also expressed concern with EPA's designated representative requirement, explaining that the rule lacks a verification method for the designated representative and does not provide any restrictions on how the information will be used. Small businesses are also concerned about how the rule would enforce the requirement for employers to keep workers and other persons out of areas defined as application exclusion zones. |
| EPA | Stormwater Permits–Multi-Sector General Permit. The one-size-fits-all approach does not work for small businesses. Construction companies take issue with the mandatory online reporting of pollution plans, which would end up with stale data and result in additional unnecessary fines. |
| EPA | Toxics Release Inventory. Chemical distributors and petroleum wholesale distributors should be exempted from this costly and unnecessary reporting requirement. Twenty years of reporting has shown minimal releases to the environment. |
| EPA, CORPS | Definition of Waters of the United States (WOTUS). In 2015, EPA finalized a new definition of WOTUS. Later that year, the rule was stayed by the federal courts. Small businesses stated that the rule was too broad and would have been costly and burdensome to comply with. Small businesses want the definition of "navigable waters" to be reviewed. The rule is now being redeveloped by EPA. |
| EPA | Wood Heaters. Small businesses that manufacture wood heaters say they will have to lay off employees as a result of this rule and that new efficient heaters do not need to be regulated. They also complain that the rule won't allow them to sell out of their existing inventory or retrofit older heaters. |
| GSA | Small business owners feel that the System for Award Management (SAM) contains unnecessary requirements for information that is not related to their businesses. |
| GSA/FAR | The Federal Acquisition Regulation Subpart 19.5 (Set-Asides for Small Business) excludes small businesses that are not connected to the Small Business Innovation Research and Development program (SBIR) from certain types of research and development contracting opportunities. |

Note: Appendix G contains the formal titles and citations of regulations mentioned in this report.

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Table 5 continued. What Small Businesses Told Us: Regulations in Need of Reform

| Agency | Regulation Identified by Small Businesses |
|------------------|---|
| HHS/FDA | Food Safety Regulations, FSMA. This rule will result in an unnecessary increase in paperwork and more burden for small food manufacturers and suppliers. Small manufacturers say it will have a drastic impact on their packaging, processing, and labeling requirements, adding unnecessary delays. |
| HHS/FDA | Tobacco Deeming Rule. Under an act of Congress intended to rein in big tobacco companies, FDA promulgated a rule that deemed premium cigars and electronic nicotine delivery systems to be the equivalent of cigarettes. Small tobacco companies, retailers, and electronic cigarette manufacturers feel that the rule is overly broad and burdensome; it creates barriers to prevent product development and threatens small businesses with failure, all in an effort to control a problem that these small businesses neither caused nor contributed to. |
| SBA | Business Certification Process. Small businesses identified a need for a unified certification process for women-owned small businesses (WOSB), businesses located in HUBZones, small disadvantaged businesses (SDB), and service-disabled veteran contractors |
| SEC | Conflict Minerals. This rule imposes significant costs to small manufacturers when trying to determine whether products in their supply chains contain conflict minerals (minerals or derivatives whose sale helps finance wars in the Democratic Republic of the Congo or an adjoining country). |
| SEC | Regulation D. This regulation against general solicitation and advertising prohibits security issuers and startups from pitching investment opportunities to those who are not accredited investors, potentially preventing small businesses from access to important sources of capital. |
| TREASURY/ IRS | IRS Form 1099 C, Cancellation of Debt. The IRS requires small auto dealers who self-finance automobile loans for customers to issue Form 1099-C to borrowers who are late on their payments. These auto dealers say this rule should not apply to them. They feel that it creates unnecessary and burdensome documentation requirements, does not make sense for this industry, and is an unwelcome shock to the customer. |

Note: Appendix G contains the formal titles and citations of regulations mentioned in this report.

Agency Abbreviations

| | | | |
|-------|--------------------------------------|----------|---|
| CFPB | Consumer Financial Protection Bureau | FCC | Federal Communications Commission |
| CORPS | U.S. Army Corps of Engineers | FDA | Food and Drug Administration |
| DCAA | Defense Contract Audit Agency | FMCSA | Federal Motor Carrier Safety Administration |
| DHS | Department of Homeland Security | FWS | Fish and Wildlife Service |
| DOC | Department of Commerce | GSA | General Services Administration |
| DOD | Department of Defense | HHS | Department of Health and Human Services |
| DOI | Department of Interior | IRS | Internal Revenue Service |
| DOJ | Department of Justice | NOAA | National Oceanic and Atmospheric Administration |
| DOL | Department of Labor | OSHA | Occupational Safety and Health Administration |
| DOT | Department of Transportation | SBA | Small Business Administration |
| EPA | Environmental Protection Agency | SEC | Securities and Exchange Commission |
| FAA | Federal Aviation Administration | TREASURY | Department of Treasury |
| FAR | Federal Acquisition Regulation | | |

4

Advocacy's Action Plan: Follow-Up with Federal Agencies and Progress Reports



The Office of Advocacy was created by Congress in 1976 as an independent voice for small business within the federal government. When Executive Orders 13771 and 13777 launched the era of federal emphasis on deregulation, Advocacy set out with renewed purpose to communicate small businesses' priorities for regulatory reform.

Advocacy's extensive national outreach has produced detailed complaints about the excessive costs and difficulties of small business compliance with numerous federal rules. Advocacy has acted on this information in a concerted fashion: communicating with the head of each agency head and their regulatory reform officer, and conveying information in numerous ways to each agency's rule writing officials. Through one-

on-one phone calls and meetings, teleconferences, webinars, and small business meetings, Advocacy's attorneys are diligently pursuing needed reforms. This engagement process has begun to yield results.

This section presents Advocacy's follow-up efforts with federal agencies, as well as instances of regulatory reform progress made so far.

"What we want is for the government to get out of the way. Let us do our thing and produce. The cumbersome involvement of the government in our business does more harm than good."

—A small steel parts manufacturer in Michigan

Formal Communications With Federal Agencies on Behalf of Small Business

Soon after the Regional Regulatory Reform Roundtables began, Advocacy started providing feedback to the federal agencies responsible for the rules with the highest number of complaints. In 15 letters to the heads of regulatory agencies, Advocacy enumerated the small business concerns and suggested fixes for specific rules.

In fall 2018, Advocacy sent 11 additional follow-up letters. All of these letters are publicly available on Advocacy's regulatory reform website, <http://advocacy.sba.gov/regulation/regulatory-reform>. Table 6 contains a list of these 26 letters. A sample of one of these letters is also reproduced in Appendix D.

Table 6. Formal Letters to Agency Heads and Regulatory Reform Officers

| Agency and Link | Date | Issues Raised |
|---|----------|--|
| 2017 | | |
| Department of Agriculture | 10/2/17 | Delays in Forest Service issuance of permits for timber salvage. About 20 duplicative and outdated rules dealing with poultry handling and other topics |
| Department of Education | 10/3/17 | Difficulty complying with gainful employment regulation, regional wage variations, and schools' limited control over the data used to calculate compliance. |
| Department Energy | 9/28/17 | Energy efficiency standards and the Energy Star program. |
| Environmental Protection Agency | 9/29/17 | Chemical regulations; lead paint rule; land disposal and management regulations; Toxic Release Inventory, issues with the Clean Air Act and Clean Water Act, waters of the U.S. rule. |
| Federal Communications Commission | 9/25/17 | Barriers to rural broadband deployment. |
| Department of Health and Human Services | 10/3/17 | Affordable Care Act, Food Safety Modernization Act, and food labeling rules. Includes specific reform requests for Centers for Medicare and Medicaid Services and the Food and Drug Administration. |
| Department of Homeland Security | 10/4/17 | Deferred Action for Childhood Arrivals, Form I-9 Employment Verification process, H-2A and H-2B Visa programs, and the International Entrepreneur Rule. Issues with various Coast Guard safety and security plan rules. |
| Department of Housing and Urban Development | 10/4/17 | HUD's 2016 rules concerning criminal background checks. |
| Department of the Interior | 9/29/17 | Designation of critical habitats, Endangered and Threatened Species Act compensatory mitigation policy and litigation, and habitat conservation plans. Federal coal leasing issues. |
| Department of Justice | 10/4/17 | Title III of the Americans with Disabilities Act regarding public accommodations; Title III of the ADA as applied to passenger vessels. |
| Department of Labor | 10/4/17 | Fiduciary rule, H-2A and H-2B Visa Programs, federal paid sick leave for government contractors, OSHA electronic recordkeeping and reporting, Examinations of Working Places in Metal and Nonmetal Mines rule, and issues under the Fair Labor Standards Act. |
| Small Business Administration | 10/23/17 | System for Award Management, eligibility of HUBZone status to accommodate a partial overseas workforce, and single certification process for women-owned small business, HUBZone businesses, small disadvantaged businesses, and service-disabled veteran contractors. |

Note: Letters are posted on Advocacy's website, <https://advocacy.sba.gov>.

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Table 6 continued. Formal Letters to Agency Heads and Regulatory Reform Officers

| Agency and Link | Date | Issues Raised |
|---|----------|--|
| Department of State | 10/4/17 | Intercountry adoptions and recent executive orders targeting the Summer Work Travel Program and Exchange Visitor Programs. |
| Department of Transportation | 10/12/17 | Design and production approvals from the Federal Aviation Administration; Compliance, Safety, Accountability and Safety Measurement System; and Electronic Logging Devices. Conflicting and confusing Federal Railroad Administration rules. |
| Department of the Treasury | 9/28/17 | Exempting small private companies from the penalties and requirements associated with deferred compensation arrangements under Internal Revenue Code section 409A; simplifying tax and inventory accounting rules; accounting for the small business impact when implementing legislative changes arising from tax reform; and revising the Basel III rules related to capital requirements on bank lending. |
| 2018 | | |
| Federal Communications Commission | 8/1/18 | Definitions and regulations under the Telecommunications Consumer Protection Act, streamlining regulation to reduce barriers to infrastructure deployment, promoting investment in the 3550-3700 MHz band, and USTelecom Petition for Forbearance under 47 U.S.C § 160(c). |
| Department of Energy | 10/17/18 | Energy efficiency standards; Energy Star programming; Federal Energy Regulatory Commission oversight and proposed rule on distributed energy resources; energy efficiency process rule. |
| Small Business Administration and Department of Agriculture | 10/17/18 | Taking action on the Small Business Timber Set-Aside Program; finalizing the set-aside portion of the rule to provide a high enough volume of available timber to help small businesses stay in business. |
| Department of the Treasury | 10/12/18 | Contradictory Form 1099-C instructions; the disclosure of preparer information for Form 5500; repeal of duplicative and burdensome Treasury regulation § 1.401(a)-5(b), the "Top 25" rule; update instructions to Form 5330 clarifying that the late deposit of 403(b) plan deferrals is not subject to an excise tax; expanding self-correction options for participant loan failures in the IRS Employee Plans Compliance Resolution System (EPCRS). |
| Environmental Protection Agency | 10/17/18 | Multiple federal agency rules for handling regulated chemical substances, consistent small business definition for all federal agencies, hazardous waste regulations applicable to airbags. |
| Department of Education | 10/18/18 | Progress on the Gainful Employment regulation. Regarding the agency's proposed rulemaking on Institutional Accountability/Borrower Defenses to Repayment, Advocacy recommends that the agency publish a supplemental certification with a valid factual basis showing no significant impact on small entities, or else publish an initial regulatory flexibility analysis. |
| Department of the Interior | 10/30/18 | Endangered Species Act reform, National Park Service commercial use authorization fees, candidate conservation agreements, National Park Service and Bureau of Land Management permits, Bureau of Land Management mineral trespass, and Fish and Wildlife Service habitat conservation plans. |
| Department of Agriculture | 11/07/18 | National Organics Program: concerns with requirements for personal care products; fraudulent labeling of imported goods and liability connected to them. High costs of the electronic animal ID program for small entities. Changes needed to modernize crop insurance program. |

Note: Letters are are posted on Advocacy's website, <https://advocacy.sba.gov>.

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Table 6 continued. Formal Letters to Agency Heads and Regulatory Reform Officers

| Agency and Link | Date | Issues Raised |
|---|----------|--|
| Department of Labor | 11/16/18 | Nineteen issues of concern; four areas of improvement. Concerns include fiduciary rule; electronic ERISA notices; H-2A, H-2B visa programs; federal contracting issues (minimum wage, affirmative action, hospital reimbursements); communication tower safety; electronic recordkeeping and reporting; silica and beryllium rules, OSHA inspections and enforcement; mine inspections; overtime rule; companion care rule; tipping rule. Improvements include exemption for recreational companies on federal lands, definition of independent contractor and joint employment; rescinded part of the persuader rule. |
| Department of Homeland Security | 11/16/18 | Shortages, high costs, and slow processing times of H-1B visas (science, engineering and IT workers); H-2A visas (temporary agricultural workers); and H-2B visas (temporary non-agricultural workers). Coast Guard vessel safety and security plans are designed for large complex operations and impose outsize burdens on small entities. |
| Department of Justice | 11/16/18 | Title III of the ADA. Small businesses and municipalities feel that rules for accessibility of public accommodations and websites are vague, and they have been targets of litigation on these issues. Owners of small passenger vessels feel that accessibility regulations may conflict with Coast Guard-mandated safety features, especially for older vessels. |

Note: Letters are posted on Advocacy's website, <https://advocacy.sba.gov>.

Staff Level Regulatory Reform Follow-Up

In addition to these letters, Advocacy's regulatory staff continue to have meetings, conference calls, and detailed discussions with federal regulatory officials. Advocacy presents small business feedback from the various roundtables and works with the agencies on potential solutions and burden reductions as their Regulatory Reform Task Forces are making decisions. These contacts help Advocacy amplify the voice of the small businesses who have participated in Regional Regulatory Reform activities.

Small Business Regulatory Progress Reports

In the 16 months since Advocacy launched its nationwide regulatory reform effort, there have already been developments that have resulted in burden reduction and cost savings for small businesses. The following section describes some examples of progress toward reform. These include improvements on rules discussed during Advocacy's current regulatory reform efforts, as well as progress on rules that small businesses had brought to Advocacy's attention previously.¹

¹ Please note that these descriptions were current as of November 2018. Appendix G contains the formal names of regulations and citations.

1. Consumer Financial Protection Bureau— Home Mortgage Disclosure Act

The Consumer Financial Protection Bureau's Home Mortgage Disclosure Act rule requires small businesses to collect a significant amount of data. Small lenders have told Advocacy that the number of data points that need to be collected make the rule burdensome. Advocacy met with CFPB to discuss the issue and submitted a letter detailing the small business concerns.

On September 13, 2017, the CFPB issued a temporary amendment to the rule. It exempts financial institutions that originate between 100 and 499 open-end lines of credit in either of the two preceding calendar years from the requirement to collect, report, and disclose data on open-end lines of credit. The exemption lasts until June 30, 2020.

2. Consumer Financial Protection Bureau— Payday, Title, and Certain High-Cost Installment Loans

Small businesses have complained to Advocacy that the Consumer Financial Protection Bureau's Payday Lending Rule restricts how small dollar lenders can lend money and that it will force them out of business. Advocacy was very active in this rulemaking. Advocacy participated in the agency's small business review panel

preceding the rulemaking. Advocacy later submitted comments asking the agency to consider the potential effects of the regulation on small entities. In January 2018, the CFPB announced that it would reconsider the rulemaking.

3. Department of Commerce/National Oceanic and Atmospheric Administration— **Magnuson National Standard Number 2**

Magnuson National Standard Number 2 states that “Conservation and management measures shall be based upon the best scientific information available.” The fishing industry is concerned that there are flaws in the science that the agency uses to regulate the industry. Fishermen attending Advocacy’s roundtable expressed these concerns. Advocacy contacted the Department of Commerce about the issue and obtained an explanation for the industry.

4. Department of Commerce/ National Oceanic and Atmospheric Administration— **Payment for Onboard Monitors for the Fishing Industry**

This rule requires fishers to have an onboard observer when they are at sea. In the past, the federal government paid for the observers. In recent years, the fishers were required to pay for the observers. Small fishing operations, especially in New England, have told Advocacy about their concerns with this regulation. In March 2018, a legislative change allowed for the onboard monitoring program to be fully funded by the National Oceanic and Atmospheric Administration, relieving small businesses of this cost.

5. Department of Health and Human Services/Centers for Medicare and Medicaid Services— **ICD-9-CM Compliant Codes for Inpatient Rehabilitation Facilities; 60 Percent Rule**

The Centers for Medicare and Medicaid Services is transitioning from ICD-9 Medicare billing codes to ICD-10. The agency believes this will result in much greater specificity and clinical information, improved ability to measure health care services, and decreased need to include supporting documentation with claims. Attendees at Advocacy’s regional roundtables, and stakeholders that submitted written regulatory

reform comments to Advocacy, requested that CMS restore certain ICD-9 codes because some codes were inadvertently eliminated during the transition to ICD-10. This has resulted in payment penalties for late-patient assessment submissions.

Advocacy has been following this issue for years. In fact the office filed a public comment letter on November 3, 2003, when CMS published the 75 percent rule affecting inpatient rehabilitation facilities, asking that CMS reduce the regulatory burden associated with the use of reimbursement codes. Recently, Advocacy communicated the stakeholders’ ICD-9 regulatory reform suggestions to CMS. In the 2018 inpatient rehabilitation facility prospective payment system rule, CMS reversed certain ICD-10 diagnosis codes and removed a 25 percent payment penalty for late-patient assessment submissions. These changes provide the relief requested by the stakeholders in this situation.

6. Department of Interior/Bureau of Land Management— **Hydraulic Fracturing Regulations**

On March 26, 2015, the Bureau of Land Management published a final rule entitled, “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands.” The rule established new requirements for operator planning, drilling plans, surface use plans, enhanced record keeping requirements, and operational requirements.

Manufacturers and builders complained that states have long been the primary regulators of hydraulic fracturing and should remain in that role. They were concerned that federal regulations could harm any potential gains resulting from increased exploration of shale oil and gas. They believed that where there is a perceived deficiency in any one state’s regulatory mechanisms, the federal government should work with the state to fill in the gap rather than imposing one-size-fits-all federal rules on states where no deficiency exists.

On December 29, 2017, BLM published a final rule rescinding the 2015 BLM rule. This final rule effectively eliminates the burden described by stakeholders and provides for consistency and clarity on the state-federal issue.

7. Department of Interior/Fish and Wildlife Service— Mitigation Policy

On November 21, 2016, the Fish and Wildlife Service published an update to its Mitigation Policy, which guides its recommendations on mitigating the adverse impacts of land and water developments on fish, wildlife, plants, and their habitats. The 2016 policy set a goal of net benefit for natural resources, or at a minimum, no net loss. The agency stated that it would apply a landscape-scale approach to mitigation that was to serve as an umbrella policy under which the agency could issue more detailed guidance directing various activities in the future.

Small entities stated that the new policy would increase costs and limit their ability to start, expand, and operate their businesses due to costly permitting and new mitigation requirements. They stated that the guidance added more confusion, and that the agency should instead withdraw it in favor of guidance that clarifies specific guidelines for conservation plans, streamlines the process, and does away with the untenable goal of no-net-loss for natural resources.

In response to various executive orders on November 6, 2017, the agency requested public comment on this and other mitigation policies. Advocacy held a webinar with the agency to encourage specific small business feedback on December 12, 2017. After reviewing the public comments, the agency announced on July 30, 2018, that it would be withdrawing this policy, thus restoring previous agency guidance and removing the untenable goals for small businesses.

8. Department of Interior/Fish and Wildlife Service— Endangered and Threatened Wildlife and Plants; Endangered Species Act Compensatory Mitigation Policy

On December 27, 2016, the Fish and Wildlife Service published a policy on compensatory mitigation under the Endangered Species Act. The policy was a shift from the project-by-project basis that the industry was used to, to a “landscape scale” approach to implementing mitigation. The rule covered permittee-responsible mitigation, conservation banking, in-lieu fee programs, and other third-party mitigation mechanisms. It also stressed the need to hold all compensatory mitigation mechanisms to equivalent and effective

standards. Furthermore, the agency shifted to a goal of net-benefits and/or no-net-loss for natural resources.

Small entities stated the rule made it much more difficult to start, expand, and otherwise operate their businesses due to costly mitigation requirements, and furthermore that it made the policy confusing, and inconsistent with other mitigation standards.

In response to various executive orders, the agency requested public comment on this and other mitigation policies on November 6, 2017. Advocacy held a webinar with the agency to encourage specific small business feedback on December 12, 2017. After reviewing the public comments, the agency announced on July 30, 2018 that it would be withdrawing this policy, thus restoring previous agency guidance and removing the untenable goals for small businesses.

9. Department of Interior— Moratorium on Leasing of Federal Coal

In January 2016, the Department of Interior announced a moratorium on the leasing of coal on federal lands while it considered updates to the federal government’s coal leasing process. The moratorium prohibited leasing on federal lands by small power plants, industries that service coal plants, small utility companies and municipalities, and those manufacturing plants that rely on coal to power their facilities.

On March 29, 2017, the moratorium was revoked by DOI’s Secretarial Order number 3338. This increased the potential for small businesses to enter the market and allowed those already in the market to remain competitive.

10. Department of Interior— Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation

In July 2016, the Department of Interior published a final rule allowing its Office of Natural Resource Revenue to change a payer’s calculations of value and deductions, and establishing inappropriate limits on deductions, including elimination of significant deduction for subsea transportation of product. This valuation structure was burdensome on small coal plants, gas plants, and the industries that service them. Small

entities felt that it established inappropriate limits on deductions. The final rule was repealed on August 7, 2017, reducing costs and regulatory burdens for small businesses.

11. Department of Labor— Companion Care Rule

In 2015, the Department of Labor changed the companion-care services exemption to minimum wage and overtime requirements under the Fair Labor Standards Act, limiting the use of this exemption to those employed by the family or household using those services. Under this rule, home care agencies providing these services were required to pay minimum wage and overtime to their workers. Small businesses across the country told Advocacy that these changes would devastate their businesses, and reported business losses in general hourly services. The rule made it almost impossible for small home care companies to provide live-in care.

In 2018, Advocacy facilitated meetings between DOL and small business representatives from the Private Care Association and the National Association for Home Care and Hospice. These organizations sought to repeal the 2015 final regulations. In addition, the Private Care Association asked DOL to provide guidance stating that registries are not employers under FLSA and subject to these requirements. (These registries are companies that facilitate matches between clients and caregivers.) On July 13, 2018, DOL issued Field Assistance Bulletin No. 2018-4, which reaffirmed DOL's position that registries are typically not employers under the FLSA. This document provided specific examples of common registry business practices that may establish the existence of an employment relationship under the FLSA.

12. Department of Labor— Definition of Independent Contractor

In 2015, the Department of Labor issued a guidance document narrowing the definition of an independent contractor and expanding the number of employees subject to the Fair Labor Standards Act's requirements, including overtime. Small businesses expressed concern with this guidance document, stating it was costly and burdensome. Advocacy communicated these

concerns to DOL in meetings on regulatory reform. On June 7, 2017, DOL withdrew this guidance document.

13. Department of Labor— Definition of Joint Employer

In 2016, the Department of Labor issued an Administrator's Interpretation, which established an expanded definition of joint employment between two companies who determine the working conditions of employees under the Fair Labor Standards Act (FLSA) and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). Small businesses expressed concern with the interpretation, as it classified many more businesses as joint employers who were subject to enforcement actions on overtime and other FLSA requirements. Advocacy communicated these concerns to DOL in meetings on regulatory reform. On June 7, 2017, DOL withdrew this guidance document.

14. Department of Labor— Minimum Wage for Federal Contractors

The minimum wage for federal contractors and subcontractors was raised to \$10.10 per hour as a result of Executive Order 13658 and a rule issued by the Department of Labor. The rule also affected individuals with federal contracts in connection to leases on federal property, lands, and military installations, including restaurants, retail enterprises, and outdoor recreational companies. Advocacy wrote a comment letter on the rule when it was proposed. In 2018, small businesses in the outdoor recreation industry expressed concern with this rule, which required them to pay higher wages and overtime to workers who often lead weeklong backpacking trips in national parks. Advocacy set up a meeting with DOL and stakeholders in the outdoor recreation industry to discuss possible regulatory reforms. On May 25, 2018, the Trump Administration issued Executive Order 13838, which created an exemption to the wage requirements for recreational services on federal lands. The exempted seasonal recreational services include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps. On September 26, 2018, DOL released a final rule implementing the E.O.

15. Dep't of Labor/Occupational Safety and Health Admin— Electronic Recordkeeping and Reporting of Workplace Injuries and Illnesses

On May 12, 2016, the Occupational Safety and Health Administration issued a final rule requiring employers to submit injury and illness reports to OSHA electronically. OSHA stated that it planned to make this electronic information publically available through a dedicated website. (The rule is formally called “Improving Tracking of Workplace Injuries and Illnesses.”) The rule also has anti-retaliation provisions that require reasonable reporting policies and purport to ban safety incentive programs and post-accident drug testing,

Small businesses representatives have complained that various provisions of the rule are illegal, that making the data publicly available can create a false impression of a company’s safety record, and it could jeopardize confidential business information.

On July 30, 2018, OSHA published proposed changes to the rule (“Tracking of Workplace Injuries and Illnesses”) that would eliminate the electronic submission of some of the information, but retain the requirement to submit summary data electronically. OSHA also sought comment on whether employers must include their employer identification number (EIN) in the data collection. This might enable the Bureau of Labor Statistics (BLS) to match OSHA-collected data with the BLS’s Survey of Occupational Injury and Illness (SOII) data, and could eliminate the need for employers to report injury and illness data to two agencies.

Advocacy filed a public comment letter on the proposed rule on September 27, 2018. Advocacy also attended OSHA’s public hearing on the original proposed rule, has discussed this rule at several Advocacy roundtables, and attended various Executive Order 12866 review meetings on the rule.

16. Dep't of Labor/Occupational Safety and Health Admin— Occupational Exposure to Beryllium

On January 9, 2017, the Occupational Safety and Health Administration issued its final rule lowering the permissible exposure limit (PEL) for occupational exposure to beryllium, a naturally occurring mineral that can cause—through contact or inhalation—beryl-

lium sensitization, chronic beryllium disease, and possibly lung cancer.

Attendees at Advocacy’s roundtables raised this rule as a concern for their industries. They said that construction and shipyards (except abrasive blasting) had not been represented in the Small Business Advocacy Review panel on beryllium in 2008 and should not have been included in the final beryllium rule. They felt that OSHA had insufficient information about beryllium that occurs naturally in soil, stone, and other construction materials. The final rule is subject to ongoing litigation and negotiation.

OSHA has extended the compliance date several times, and on June 27, 2017, it published a proposed rule that would revoke the ancillary provisions for the construction and shipyard sectors, but retain the new, stricter exposure standards for both sectors. OSHA stated that it will not enforce the final rule for shipyards and construction without further notice while the rulemaking is pending. With respect to the final rule for general industry, OSHA has been negotiating with litigants and may propose to clarify revisions to that rule.

Advocacy has participated in the rulemaking since its earliest stages in 2008, and the office filed public comments on the latest proposed deregulatory action for maritime and construction.

17. Dep't of Labor/Occupational Safety and Health Admin— Occupational Exposure to Respirable Crystalline Silica

On March 25, 2016, the Occupational Safety and Health Administration published its final rule on Occupational Exposure to Respirable Crystalline Silica. Respirable crystalline silica refers to very fine particles of sand that can become lodged deep in the lungs and can cause silicosis or lung cancer through long-term inhalation exposure. OSHA issued two separate standards: one for construction and one for general industry and maritime. Small business representatives—particularly in the foundry and construction industries—complained that OSHA’s new rule was not based on a demonstration of significant risk and that compliance with the rule was neither technically nor economically feasible. Small business representatives from the construction industry also complained that the standards put in place for dust control are not

workable and need substantial revision. Following publication of the final rule, several industry groups sued OSHA to overturn the rule; however, the U.S. Court of Appeals for the D.C. Circuit upheld the final rule and litigation has concluded.

This issue has been brought up by attendees at several of Advocacy's Regional Regulatory Reform Roundtables, and Advocacy filed public comments on the proposed rule.

Advocacy has been continuously involved with this rulemaking since 2003. OSHA has now committed to providing industry with compliance assistance and agreed to work with the construction industry to improve the dust control methods (Table 1). The agency included a formal notification in its spring 2018 Regulatory Agenda that it will publish a Request for Information on revising and expanding the range of control measures.

18. Dep't of Labor/Occupational Safety and Health Admin—Safety Rules for Telecommunications Towers

Small businesses at Advocacy's roundtables have long brought up the issue of telecommunications towers. Small businesses in the telecommunication tower construction and maintenance industry would like the Occupational Safety and Health Administration to adopt industry consensus standards for communication tower safety, rather than developing a separate regulatory standard. They are concerned that OSHA will exceed industry standards and promulgate a rule that is unduly costly, burdensome, and conflicting.

OSHA is considering the promulgation of worker safety regulations for the construction and maintenance of telecommunications towers, as well as the installation, maintenance, and replacement of equipment on or attached to them. While OSHA has indicated that it will focus primarily on telecommunication towers, the agency also plans to consider including other structures (e.g., buildings, rooftops, water towers, billboards, etc.) that have telecommunications equipment on or attached to them.

OSHA convened a Small Business Advocacy Review panel for this rulemaking on August 15, 2018, following several Advocacy roundtable meetings that includ-

ed presentations by the National Association of Tower Erectors (NATE). The next steps are the completion of the panel report and possible publication of a proposed rule.

19. Departments of Labor and Homeland Security—H-2B Visa Program

The H-2B visa program allows employers facing a shortage of U.S workers to hire temporary foreign workers to complete non-agricultural jobs in seasonal businesses. At almost every Advocacy regional roundtable, small businesses have expressed concern with the statutory limit of 66,000 H-2B workers per year. In 2018, both the Department of Labor and the Department of Homeland Security received more applications than the 33,000 visas allowed in the first half of the year. As of March 2018, DOL had received applications for over 140,000 H-2B workers. Both DHS and DOL instituted a lottery process for these visas.

In March 2018, President Trump signed into law a spending bill which included a provision that allows DHS in consultation with DOL to raise the number of H-2B visas from 66,000 cap by over 60,000 extra workers. However, the agencies had to create rulemakings to approve these numbers.

On April 14, 2018, Advocacy wrote a comment letter to DHS and DOL, recommending that the agencies authorize this increase. In May 2018, DHS, in consultation with DOL, published a final rule creating a one-time increase in the number of H-2B visas, adding 15,000 more visas and allowing more small businesses to take advantage of this program.

20. Dept of Transportation/Federal Aviation Administration—Small Unmanned Aircraft Systems (Small Drones)

On June 28, 2016, the Federal Aviation Administration issued a final rule allowing the commercial operation of small unmanned aircraft systems (small UAS or drones) in the National Airspace System (NAS). The rule addressed the operation of small UAS and the certification of remote pilots.

Small UAS—defined as weighing less than 55 pounds—have tremendous potential commercial applications and benefits, including crop monitoring and inspec-

tion; power-line and pipeline inspection; construction, tower, and antenna inspections; search and rescue operations; bridge inspections; aerial surveying and photography; and medical and supply delivery. The final rule, however, placed significant operational limitations on small UAS operations, including a visual line-of-sight limit, a prohibition on nighttime flight, a 400-foot altitude limit, a 100 mph maximum speed, and a ban on flights from a moving vehicle or over people.

This issue has been discussed by small businesses at a number of Advocacy's regional roundtables. Small businesses—particularly in the agricultural, construction, and land surveying/mapping industries—can provide reasonable protection from a falling drone. They feel that the operational limits—particularly the visual line-of-sight limit—are prohibiting many innovative and beneficial services they would like to provide.

Advocacy has attended numerous FAA stakeholder meetings on this issue, hosted a small business roundtable on the original proposed rule, and filed public comments on the original proposed rule. FAA has announced its plans to issue a proposed rule to allow for the operation of small UAS over people in certain circumstances. FAA's draft proposed rule is under review at OMB.

21. Department of Treasury, Internal Revenue Service— Estate Valuation

On August 4, 2016, the Internal Revenue Service published a notice of proposed rulemaking concerning estate, gift, and generation-skipping transfer taxes and restrictions on liquidation of an interest. The notice included the elimination of most of the valuation discounts for businesses operating under section 2704(b). The current law permits certain discounts for lack of control (minority interests) and lack of marketability that are commonly applied to lower the value of transferred interests for gift, estate, and generation-skipping tax purposes. On November 1, 2016, Advocacy submitted a public comment letter conveying small business concerns about the estate valuation proposal. Small business stakeholders indicated to Advocacy that the proposed regulations would be such a large departure from current IRS policy and industry practice that expensive new business valuations would need to

be completed for closely held businesses. Even more problematic for small business owners, by eliminating valuation discounts, the proposed regulations would negatively affect succession planning for many small businesses. As an example, the proposed regulations would result in higher estate taxes on small family businesses, possibly forcing them to either liquidate the business or sell large or controlling interests to non-family members.

On October 4, 2017, the Department of Treasury announced recommended actions to withdraw, partially revoke, or revise eight regulations identified as posing an undue burden on taxpayers, which included withdrawing the proposed regulations under section 2704 that would have eliminated valuation discounts.

22. Environmental Protection Agency— Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act

On January 13, 2017, the Environmental Protection Agency revised its Risk Management Plan under the Clean Air Act with new requirements for facilities that store hazardous chemicals. This rule affects hundreds of small manufacturers. Small facilities that use and handle chemicals are concerned that some of the rule's requirements add unnecessary burdens and substantial costs without improving safety. Industry members submitted a petition to amend the new rule in June 2017.

Advocacy has engaged with the agency on behalf of the small entities. EPA published a proposed rule to address the small business concerns on May 30, 2018. In June 2018, EPA postponed the effective date of the current rule until February 2019. If the proposed changes are finalized, small businesses would avoid significant costs.

23. Environmental Protection Agency— Airbag Regulatory Status Under RCRA

According to EPA, some undeployed airbag modules and airbag inflators are considered hazardous waste under the Resource Conservation and Recovery Act (RCRA) due to their reactive and ignitable characteristics. As such, they are subject to EPA's permit requirements regarding the treatment, storage and disposal of hazardous waste. According to EPA, the deployment

of the airbag removes the reactivity and ignitability characteristics.

Defective or recalled airbags that have been removed from vehicles present problems under RCRA. Small businesses expressed confusion and frustration with EPA's position. Advocacy has engaged with the agency to address the small business concerns with the treatment of airbags under RCRA. On July 19, 2018, EPA issued a memorandum providing clarification on the regulatory status of undeployed airbag modules and inflators. Also, in the memorandum, EPA contemplated a future rulemaking to exempt discarded airbag modules and airbag inflators from some RCRA regulatory requirements under certain conditions.

Advocacy anticipates working with EPA on the potential rulemaking to further address small business issues regarding defective or recalled airbags.

24. Environmental Protection Agency— Disposal of Coal Combustion Residuals

On April 17, 2015, the Environmental Protection Agency published a final rule to regulate the disposal of coal combustion residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act. Small coal-fired power plants are concerned that the rule's deadlines require them to make irreversible decisions based on standards that may not be final. For example, under the existing regulations, some facilities will be required to close their coal ash impoundments (ponds containing coal ash), yet these may later be eligible for flexibilities via an approved state permit program.

Advocacy has worked with EPA on this issue. On March 15, 2018, EPA proposed a rulemaking to address some of the small business concerns including reducing the scope of the required closures. Advocacy submitted a comment letter to urge the agency to align the compliance deadlines with the anticipated reconsiderations of the rule's provisions and to provide any flexibilities that would be available in a state permit program under the self-implementing rule. On July 30, 2018, the agency finalized part of its proposed rule. The final rule provides regulated entities flexibility with regard to complying with performance standards and allowed

the additional time for compliance. As a result, small businesses will avoid significant CCR unit closure costs.

25. Environmental Protection Agency— Once-In, Always-In

Under the Clean Air Act, the Environmental Protection Agency regulates the emissions of hazardous air pollutants (HAPs) from industrial sources. Generally, EPA imposes the most stringent requirements on major sources and less stringent requirements on smaller emitters, known as area sources. Many small businesses are classified as major sources, and under a 20-year-old EPA policy known as "once-in always-in," a business has been unable to reduce its emissions and be reclassified as an area source.

Small businesses have complained that this policy imposes significant costs while discouraging innovation and investment that could reduce air emissions. Small business representatives raised this as a problem in the SBREFA panels for the Mercury and Air Toxics Rule and the Brick Industry Hazardous Air Pollutants Rule, as well as in recent Advocacy regulatory reform roundtables.

On January 25, 2018, EPA reversed the policy. EPA expects to codify the policy change in a rulemaking in the near future. Small businesses will benefit from this change slowly, as they implement changes to their industrial processes to lower their uncontrolled emissions below the major source threshold.

26. Environmental Protection Agency— Pesticides; Agricultural Worker Protection Standard Revisions

The Environmental Protection Agency finalized updates and revisions to its existing worker protection regulation for pesticides on November 2, 2015.

Small businesses expressed concerns with the rule's minimum age requirement stating that it will reduce workforce in some states, particularly on small farms. They are also concerned with EPA's designated representative requirement explaining that the rule lacks a verification method for the designated representative and does not provide any restrictions on how the information will be used. Moreover, small businesses

are also concerned that the requirement for agricultural employers, which requires employers to keep workers and other persons out of certain areas defined as application exclusion zones during pesticide application, does not include clarity on how the rule would be enforced.

Advocacy previously engaged with the agency during the rulemaking process. On December 21, 2017, EPA announced that it initiated a rulemaking process to revise certain requirements in the final rule. On June 18, 2018, EPA submitted a proposed rule to OMB, where it is under review.

27. Environmental Protection Agency— Pesticides; Certification of Pesticide Applicators

The Environmental Protection Agency finalized updates to its existing regulation concerning the certification of applicators of restricted use pesticides on January 4, 2017.

Small businesses expressed concerns with the rule's minimum age requirement stating that not all states have a required minimum age of 18 and that it will require states to enact legislation to comply with the new federal requirement. They also added that this will reduce the workforce in some states, with particular impact on small farms.

Advocacy has engaged with the agency to revise or eliminate the minimum age requirement, leaving it up to the states. On December 19, 2017, EPA announced that it initiated a rulemaking process to revise the minimum age requirements in the final rule. More recently, on June 18, 2018, EPA submitted a proposed rule to OMB.

28. Environmental Protection Agency— Steam Electric Effluent Limitation Guidelines (ELG)

The Steam Electric Effluent Limitation Guidelines affect hundreds of coal-fired power plants that are required to upgrade their units to address water pollution. Small businesses have raised this issue as a big concern.

In April 2017 Advocacy submitted a regulatory petition to the Environmental Protection Agency, asking

it to reduce the stringency of the requirements for small plants whose compliance costs would be very high compared with the pollution reduction achieved. EPA granted the petition in April 2018. It subsequently extended the compliance deadlines for the rule while it reconsiders the rule requirements. Rule revisions could save small firms hundreds of millions of dollars in annual costs.

29. Environmental Protection Agency— Small Business Size Standards, Fees Rule

The Environmental Protection Agency has discretion to define small businesses for the purpose of collecting fees and providing exemptions from recordkeeping requirements under the Toxic Substance Control Act (TSCA). These definitions do not match the industry-based small business standards established by the Small Business Administration (SBA) that are used by most federal agencies.

Small businesses expressed concerns about inconsistent small business definitions among federal agencies. Specifically, small businesses noted that EPA's definition for small manufacturers under TSCA was outdated and did not capture small businesses as they exist today.

Advocacy engaged with the EPA and SBA to revise EPA's small business size standards under TSCA. On September 27, 2018, EPA signed its final rule on the fee collecting rule under TSCA. The rule established a fee schedule for a business that is required to submit information to EPA under several sections of TSCA. In this rule, EPA revised its small business definition to align with the SBA's small business standards. The new definition will qualify more small businesses for a reduced fee.

30. Federal Communications Commission— ISP Privacy Rules

In 2014, the Federal Communications Commission reclassified broadband Internet as a "communications service" under Title II of the Communications Act. This reclassification gave the FCC the authority to regulate Internet service providers (ISPs) like telecommunications companies. In 2016, the FCC issued final regulations to protect the privacy of broadband customers

using its new authority. The proposed regulations included: (1) requirements to provide notice of privacy policies, (2) requirements to obtain customer approval for the use and disclosure of customer proprietary information (PI), (3) conditions for disclosure of aggregate customer PI, (4) requirements to protect the security and confidentiality of customer PI, (5) data breach notification requirements, (6) other practices implicating privacy, and (7) dispute resolution provisions.

Small Internet service providers (ISPs) argued that the rules were disproportionately burdensome and that they unfairly restricted ISPs from engaging in commercial activities that were permitted for companies not classified as ISPs, putting them at a competitive disadvantage.

Advocacy forwarded these concerns to the FCC. In 2017 Congress used the Congressional Review Act to prevent the FCC from implementing these rules. Additionally, the FCC reclassified broadband as an “information service,” which limits its authority to propose rules like this in the future.

31. Federal Communications Commission— Mobility Fund Phase II Challenge Process

The purpose of the Federal Communications Commission’s Mobility Fund is to improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing, and to do so by supporting private investment. The Mobility Fund uses a reverse auction to make one-time support available to service providers to extend mobile coverage in specified unserved areas. Providers are able to challenge the FCC’s determination that an area is not eligible for support.

Advocacy has heard persistent concerns from small rural wireless advocates that the process for determining whether an area is ineligible for support because it is already “served” is flawed, and that the challenge process for areas that are presumptively ineligible was too burdensome for small entities to utilize.

Advocacy forwarded these concerns about the Mobility Fund to FCC. In August 2017, the FCC adopted an order that established the parameters for a one-time collection of more specific and current data on the de-

ployment of 4G LTE, in lieu of using existing form 477 data to establish a map of areas presumptively eligible for support. The agency also established a less complex challenge process for areas that would be considered ineligible using the new data. These reforms ensure that the Mobility Fund support is accurately directed to underserved areas, and they make it easier for small wireless companies to meet the needs of rural communities.

32. Federal Communications Commission— Net Neutrality (Enhanced Network Transparency Requirements under the FCC 2014 Open Internet Order)

In 2014, the Federal Communications Commission reclassified Internet service providers as communications providers under Title II of the Communications Act. The decision to classify broadband Internet service as a Title II service gave the agency authority to adopt various rules to ensure net neutrality, including enhanced network transparency requirements. Advocacy reached out to small service providers who would be affected by this rule who were concerned about the potential compliance burdens.

Advocacy filed comments with the FCC recommending that the agency exempt small businesses from these rules. The FCC adopted a small business exemption from its enhanced transparency requirements in early 2017, and then ultimately withdrew the entire set of rules and reclassified broadband as a Title I information service—setting new, less burdensome rules for ISPs under that authority.

33. Federal Communications Commission— Pole Attachments (One Touch-Make Ready)

Advocacy spoke with a number of small competitive local exchange carriers about the need for the FCC to adopt so-called “one-touch-make-ready” pole attachment policies. This approach would simplify the process by which companies wishing to string aerial fiber on existing utility poles obtain permission and make the necessary preparations prior to starting work.

Advocacy met with representatives of the FCC chairman’s office in August 2018 and shared support for its proposal to adopt one-touch-make-ready policies.

Subsequently, the FCC voted to approve final rules adopting the measures.

34. Federal Communications Commission— Removing Barriers to Wireless Infrastructure Deployment

Small wireless carriers have told Advocacy that the costs of certain environmental, historic, and tribal reviews make the widespread deployment of small-cell technology needed to launch 5G networks too costly. Under existing Federal Communications Commission regulations, a company would have to conduct the same reviews when installing a small-cell device that it would when building a macro-cell tower. Some industry analysts estimate that these reviews would impose over \$1.5 billion in costs related to small-cell deployment.

Advocacy published a blog highlighting these concerns and supporting an exemption for small business: “Advocacy Urges the FCC to Preserve Small Business Choice in Communications Services.” The FCC initiated a proceeding in 2017 seeking input on reducing barriers to infrastructure deployment. In March 2018, the FCC finalized regulatory reforms that would exempt small-cell deployment from most of these reviews. This will help speed the deployment of next-generation wireless networks by reducing costs associated with deployment.

35. National Labor Relations Board— Joint Employment

Small businesses at Advocacy’s regional roundtables expressed concern with the 2015 National Labor Relations Board decision in *Browning-Ferris Industries*, 362 NLRB No. 186 (2015), which expanded the definition of joint-employer between two companies who determine the working conditions of a group of employees. Under this decision, an employer could be considered a joint employer and liable for violations under the National Labor Relations Act when the employer has indirect control of its employees. This overruled the longstanding NLRB precedent that required that an employer had to have direct control of an employee to be considered a joint employer. Small franchise owners expressed concern that the decision

would alter the franchisor-franchisee relationship; it would increase franchisors’ liability, thereby increasing the price of a franchise and limiting franchisors’ ability to provide human resources and legal advice to franchisees. Advocacy communicated these concerns to the NLRB in internal meetings and communications on regulatory reform.

On September 14, 2018, the NLRB published a proposed rule which returned the standard for the joint-employer relationship back to the longstanding precedent: an employer must possess and actually exercise substantial direct and immediate control over the essential terms and conditions of employment such as hiring, firing, discipline, supervision, and direction. In this rule, the NLRB identified the following types of small entities most likely to be affected by this rule: contractors, subcontractors, suppliers and users of temporary help services, franchisees, and labor unions.

5

Where Do We Go From Here?

The Next Steps

Advocacy has received invaluable information from hundreds of small businesses to date, but there is still much more to learn from small businesses across the country. One lesson that has emerged during this process is how varied the challenges facing small businesses are. These challenges vary based on geographical location, business size, and type of industry; and so do the solutions small businesses offer to deal with such challenges. In order to add to Advocacy's awareness of the numerous and varied regulatory concerns in different parts of the country and to understand which solutions work best for which businesses, Advocacy is continuing the effort to canvass small businesses from as many states and geographic regions of the country as possible. In this way Advocacy can be more effective and responsive in its goal of being the voice of small business in the regulatory reform effort underway at federal regulatory agencies.



Conclusion: The Mission Continues

Advocacy expects to continue hosting Regional Regulatory Reform Roundtables across the United States in order to update and complete this report, and continue to report and provide input to federal agencies tasked with reforming their regulatory agendas. Advocacy staff will continue to share information about specific rules with the federal agencies with the goal of small business burden reduction. With Advocacy's input in this process, the voice of small business is less likely to be muffled, and their valuable suggestions for reform lost in the mix. Advocacy's mission in this endeavor continues, as does the reporting on what small businesses across the nation are dealing with and the changes they feel would make their business more successful.

For more information on Advocacy's regulatory reform efforts or to attend one of the upcoming roundtables, please visit advocacy.sba.gov/regulatory-reform.

"The regulations are taking the passion out of running a business."

—Owner of a small trucking company in Houston

Appendix A. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs¹

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Budget and Accounting Act of 1921, as amended (31 U.S.C. 1101 et seq.), section 1105 of title 31, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. Purpose. It is the policy of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources. In addition to the management of the direct expenditure of taxpayer dollars through the budgeting process, it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward that end, it is important that for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.

Sec. 2. Regulatory Cap for Fiscal Year 2017. (a) Unless prohibited by law, whenever an executive department or agency (agency) publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.

(b) For fiscal year 2017, which is in progress, the heads of all agencies are directed that the total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Director of the Office of Management and Budget (Director).

(c) In furtherance of the requirement of subsection (a) of this section, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. Any agency eliminating existing costs associated with prior regulations under this subsection shall do so in accordance with the Administrative Procedure Act and other applicable law.

(d) The Director shall provide the heads of agencies with guidance on the implementation of this section. Such guidance shall address, among other things, processes for standardizing the measurement and estimation of regulatory costs; standards for determining what qualifies as new and offsetting regulations; standards for determining the costs of existing regulations that are considered for elimination; processes for accounting for costs in different fiscal years; methods to oversee the issuance of rules with costs offset by savings at different times or different agencies; and emergencies and other circumstances that might justify individual waivers of the requirements of this section. The Director shall consider phasing in and updating these requirements.

Sec. 3. Annual Regulatory Cost Submissions to the Office of Management and Budget. (a) Beginning with the Regulatory Plans (required under Executive Order 12866 of September 30, 1993, as amended, or any successor order) for fiscal year 2018, and for each fiscal year thereafter, the head of each agency shall identify, for each regulation that increases incremental cost, the offsetting regulations described in section 2(c) of this order, and provide the agency's best approximation of the total costs or savings associated with each new regulation or repealed regulation.

(b) Each regulation approved by the Director during the Presidential budget process shall be included in the

¹ Executive Order 13,771, *Reducing Regulation and Controlling Regulatory Costs*, <https://www.federalregister.gov/documents/2017/02/03/2017-02451/reducing-regulation-and-controlling-regulatory-costs>.

Unified Regulatory Agenda required under Executive Order 12866, as amended, or any successor order.

(c) Unless otherwise required by law, no regulation shall be issued by an agency if it was not included on the most recent version or update of the published Unified Regulatory Agenda as required under Executive Order 12866, as amended, or any successor order, unless the issuance of such regulation was approved in advance in writing by the Director.

(d) During the Presidential budget process, the Director shall identify to agencies a total amount of incremental costs that will be allowed for each agency in issuing new regulations and repealing regulations for the next fiscal year. No regulations exceeding the agency's total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the Director. The total incremental cost allowance may allow an increase or require a reduction in total regulatory cost.

(e) The Director shall provide the heads of agencies with guidance on the implementation of the requirements in this section.

Sec. 4. Definition. For purposes of this order the term "regulation" or "rule" means an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency, but does not include:

(a) regulations issued with respect to a military, national security, or foreign affairs function of the United States;

(b) regulations related to agency organization, management, or personnel; or

(c) any other category of regulations exempted by the Director.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Donald J. Trump
The White House,
January 30, 2017

Appendix B. Executive Order 13777, Enforcing the Regulatory Reform Agenda

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to lower regulatory burdens on the American people by implementing and enforcing regulatory reform, it is hereby ordered as follows:²

Section 1. Policy. It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people.

Sec. 2. Regulatory Reform Officers. (a) Within 60 days of the date of this order, the head of each agency, except the heads of agencies receiving waivers under section 5 of this order, shall designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. These initiatives and policies include:

- (i) Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs), regarding offsetting the number and cost of new regulations;
- (ii) Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), as amended, regarding regulatory planning and review;
- (iii) section 6 of Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), regarding retrospective review; and
- (iv) the termination, consistent with applicable law, of programs and activities that derive from or implement Executive Orders, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded.

(b) Each agency RRO shall periodically report to the agency head and regularly consult with agency leadership.

Sec. 3. Regulatory Reform Task Forces. (a) Each agency shall establish a Regulatory Reform Task Force composed of:

- (i) the agency RRO;
- (ii) the agency Regulatory Policy Officer designated under section 6(a)(2) of Executive Order 12866;
- (iii) a representative from the agency's central policy office or equivalent central office; and
- (iv) for agencies listed in section 901(b)(1) of title 31, United States Code, at least three additional senior agency officials as determined by the agency head.

(b) Unless otherwise designated by the agency head, the agency RRO shall chair the agency's Regulatory Reform Task Force.

(c) Each entity staffed by officials of multiple agencies, such as the Chief Acquisition Officers Council, shall form a joint Regulatory Reform Task Force composed of at least one official described in subsection (a) of this section from each constituent agency's Regulatory Reform Task Force. Joint Regulatory Reform Task Forces shall implement this order in coordination with the Regulatory Reform Task Forces of their members' respective agencies.

(d) Each Regulatory Reform Task Force shall evaluate existing regulations (as defined in section 4 of Executive Order 13771) and make recommendations to the agency head regarding their repeal, replacement, or modification, consistent with applicable law. At a minimum, each Regulatory Reform Task Force shall attempt to identify regulations that:

- (i) eliminate jobs, or inhibit job creation;
- (ii) are outdated, unnecessary, or ineffective;
- (iii) impose costs that exceed benefits;
- (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and

² Executive Order 13777, Enforcing the Regulatory Reform Agenda, <https://www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda>.

policies;

- (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- (vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

(e) In performing the evaluation described in subsection (d) of this section, each Regulatory Reform Task Force shall seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.

(f) When implementing the regulatory offsets required by Executive Order 13771, each agency head should prioritize, to the extent permitted by law, those regulations that the agency's Regulatory Reform Task Force has identified as being outdated, unnecessary, or ineffective pursuant to subsection (d)(ii) of this section.

(g) Within 90 days of the date of this order, and on a schedule determined by the agency head thereafter, each Regulatory Reform Task Force shall provide a report to the agency head detailing the agency's progress toward the following goals:

- (i) improving implementation of regulatory reform initiatives and policies pursuant to section 2 of this order; and
- (ii) identifying regulations for repeal, replacement, or modification.

Sec. 4. Accountability. Consistent with the policy set forth in section 1 of this order, each agency should measure its progress in performing the tasks outlined in section 3 of this order.

(a) Agencies listed in section 901(b)(1) of title 31, United States Code, shall incorporate in their annual performance plans (required under the Government Performance and Results Act, as amended (see 31 U.S.C. 1115(b))), performance indicators that measure progress toward the two goals listed in section 3(g) of

this order. Within 60 days of the date of this order, the Director of the Office of Management and Budget (Director) shall issue guidance regarding the implementation of this subsection. Such guidance may also address how agencies not otherwise covered under this subsection should be held accountable for compliance with this order.

(b) The head of each agency shall consider the progress toward the two goals listed in section 3(g) of this order in assessing the performance of the Regulatory Reform Task Force and, to the extent permitted by law, those individuals responsible for developing and issuing agency regulations.

Sec. 5. Waiver. Upon the request of an agency head, the Director may waive compliance with this order if the Director determines that the agency generally issues very few or no regulations (as defined in section 4 of Executive Order 13771). The Director may revoke a waiver at any time. The Director shall publish, at least once every 3 months, a list of agencies with current waivers.

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Donald J. Trump
The White House,
February 24, 2017

Appendix C. Office of Advocacy Memorandum to Heads of Agencies, March 30, 2017


U.S. SMALL BUSINESS ADMINISTRATION

OFFICE OF ADVOCACY

REGULATION • RESEARCH • OUTREACH

MEMORANDUM

TO: Heads of Agencies

FROM:  Major L. Clark, III Acting Chief Counsel for Advocacy, U.S. Small Business Administration

DATE: March 30, 2017

SUBJECT: Implementation of Executive Orders 13771, "Reducing Regulation and Controlling Regulatory Costs," and 13777, "Enforcing the Regulatory Reform Agenda"

As required by Executive Order (EO) 13272¹, I am writing to advise you of the activities of the Office of Advocacy (Advocacy) related to recent Executive Orders on the reduction of regulatory burdens and offer additional assistance related to these new policies. Advocacy strongly endorses the principles and policies of these Executive Orders and urges that they be implemented consistent with the Regulatory Flexibility Act (RFA)² in order to reduce the regulatory burdens and the disproportionate impacts of regulations on small entities.

Congress established the Office of Advocacy under Pub. L. No. 94-305 to advocate the views of small entities before federal agencies and Congress. Because Advocacy is an independent office within the U.S. Small Business Administration (SBA), the views expressed by Advocacy do not necessarily reflect the position of the Administration or the SBA.³ The RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), gives small entities (businesses, organizations, and local governments) a voice in the federal rulemaking process and requires agencies to consider the impacts of their rulemakings on small entities. Under EO 13272, Advocacy provides training to agencies on the RFA.

Over the coming months, Advocacy will be making available additional assistance and tools to implement Executive Orders 13771 and 13777 and engaging in outreach to small entities to identify opportunities to reduce burdens on small entities. Advocacy will also be seeking additional opportunities to train policy officials and regulatory staff on the RFA and its importance in the implementation of these EOs.

¹ Executive Order 13272, signed August 13, 2002 (67 Fed. Reg. 53,461 (August 16, 2002)). Section 2(a) requires the Chief Counsel for Advocacy to "notify agency heads from time to time of the requirements of the [Regulatory Flexibility] Act."

² 5 U.S.C. § 601, *et. seq.*

³ 15 U.S.C. § 634a, *et. seq.*



409 3rd Street, SW / MC 3114 / Washington, DC 20416 / 202-205-6533 ph / 202-205-6928 fax

www.sba.gov/advocacy

To initiate Advocacy assistance to your agency in the implementation of EO 13771, EO 13777, and the Regulatory Flexibility Act, please provide me with the names of the officials you have designated as the Regulatory Policy Officer, named under EO 12866, section 6(a)(2), and the Regulatory Reform Officer, named under EO 13777, section 2(a).

This information should be sent to Charles Maresca, Director of Interagency Affairs, SBA Office of Advocacy, Charles.Maresca@sba.gov, as it is available. Please also contact me or Mr. Maresca if you have any questions about this memorandum or your agency's compliance with the RFA.

Thank you for your consideration of these requests. I look forward to a productive effort to reduce the regulatory burdens on small entities.

cc: Dominic Mancini, Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget



Appendix D. Office of Advocacy Letters to Heads of Agencies

Advocacy has sent 22 letters to the heads of agencies and their regulatory reform officers. The complete list of letters appears in Table 6, along with individual links. A sample letter is included here. The list of

letters also appears on Advocacy's Regulatory Reform webpage: <http://advocacy.sba.gov/regulation/regulatory-reform>.



October 2, 2017

VIA ELECTRONIC CORRESPONDENCE

The Honorable Sonny Perdue
Secretary, U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

Dear Secretary Perdue:

As a result of President Trump's executive orders, 13771 and 13777, the Office of Advocacy (Advocacy) has begun an effort to hear first-hand from small businesses across the country about specific federal regulatory burdens facing their businesses. As you know, under the Regulatory Flexibility Act (RFA), agencies are required to consider the impact of their regulations on small entities when promulgating federal regulations.¹ We believe the RFA and consideration of small business economic impacts is a good place to start when an agency is selecting rules that are being reviewed for reform or elimination.

We recently hosted roundtables in Louisiana, Idaho, Ohio, Kentucky, Missouri; and Kansas, and would like to inform you of the specific concerns and regulations that we heard about from small businesses in that region. In addition, we received comments through our website.

¹ Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The RFA, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives. 5 U.S.C. § 601 et seq.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy. The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so. Small Business Jobs Act of 2010 (PL 111-240) § 1601.

Summary of Concerns from Roundtables and Website

- **FSIS Regulation 9 C.F.R. § 418.2—misbranding of products**
Advocacy has heard from stakeholders that this regulation should be revised. Small entities stated that the regulation requires any issue related to misbranding or be reported by the shipping and/or receiving establishment to the relevant FSIS District Office. Stakeholders suggested placing the reporting onus on the shipping entity rather than the shipping and receiving entity.
- **FSIS Regulation 9 C.F.R. § 310.25 (a)- contamination with microorganisms**
Stake holders indicated that the rule requiring generic E. coli testing adds cost to operations but provides little benefits. Stakeholders stated that inspectors rarely review results and reviews of establishment data show little relation to public health objectives. In addition, newer technologies for screening and process control assessments have been developed and are used, which results in more meaningful and robust data. Stakeholders have indicated that the rule should be revised.
- **FSIS Regulation 9 C.F.R. § 381.91- contamination**
Advocacy has heard from small entities that this rule should be amended to eliminate the need to rinse poultry salvage parts with 20-50 ppm chlorine. Stakeholders indicate that there is little scientific data supporting the need to use chlorine and the prescriptive nature of the rule contradicts a HACCP approach. They stated that a facility should have to address hazards of concern and in doing so companies may and should consider alternatives to rinsing with chlorine.
- **FSIS Regulation 9 C.F.R. § 381.65 (g)- controlling contamination through slaughter and dressing operation**
Stakeholders indicated that the regulation includes prescriptive and burdensome sampling requirements for poultry slaughter establishments. They stated that requiring plants to sample 1/22,000 carcasses is burdensome and unnecessary. Stakeholders also indicated that a facility should collect data to support its processes and what best serves public health may not include sampling at this frequency, particularly for APC or other generic organisms. When SIP was in place, Salmonella sampling was necessary but with the new poultry inspection system the need for such testing has been eliminated. In addition, each poultry facility has over two years' of data now under the NPIS system. Stakeholders believe the required testing does not add value or enhance food safety and ask that it be revised.
- **FSIS Regulation 9 C.F.R. §381.36-facilities**
Stakeholders indicated that most provisions in this section no longer apply under the new poultry inspection system (NPIS), and therefore the regulations should either be repealed or revised.
- **FSIS 9 C.F.R. § 381.66-temperatures and chilling and freezing procedures**
Advocacy heard from stakeholders that the temperature and chilling regulations are outdated and should be repealed or revised.

- **FSIS 9 C.F.R. § 381.67- slaughter inspection rate maxims**
Stakeholders indicated that under NPIS the line configuration provisions no longer apply.
- **FSIS 9 C.F.R. § 381.76- post mortem inspection**
Stakeholders indicated that this regulation is not about food safety but product quality and should be rescinded.
- **FSIS 9 C.F.R. § 381.79-passing of carcasses and parts**
Advocacy heard from stakeholders that this regulation is superfluous and not needed.
- **FSIS 9 C.F.R. § 381.80-93- relating to several diseases**
Stakeholders indicated that these regulations are outdated and not in use because plant programs accomplish the same objectives more efficiently. The regulations should be rescinded.
- **FSIS Specific Risk Materials Rules**
Advocacy heard from stakeholders that certain components addressing the issues involving removal of SRM (i.e., the feed ban) should remain, but that the Agency should review the science regarding the risk and reassess the cost and effectiveness of the SRM removal/disposal regulations, including those relating to non-ambulatory disabled livestock (NADL). Stakeholders stated that the rule imposes a cost exceeding the benefits and results in added food waste. They stated that at a minimum, the Agency should allow public health veterinarians to make a professional case-by-case disposition.
- **Organic Standards**
Advocacy heard from one stakeholder about the need to properly enforce organic standards rules for labeling and that there should be better enforcement and policing of entities that mislabel products that are not USDA certified. Advocacy also heard from stakeholders in the fishing industry about the need to finalize the organic aquaculture standard for fish, as well as develop an organic standard for shellfish.
- **Forest Service Timber on Federal Lands**
Several stakeholders indicated that Forest Service should make more timber available for purchase on federal lands. They also spoke about the need to speed up the process for sales of wildfire salvage timber, indicating that the current NEPA process delays the sales to the point where the wood is no longer salvageable. Furthermore, they stated that Forest Service should offer every sale as a set-aside first, and then open it up if no small business bids. Furthermore they stated that stewardship should be counted in small business calculations, and that the NEPA process for bids should be streamlined so that it is not as costly or burdensome.

The Office of Advocacy looks forward to working with your agency to reduce the burden of federal regulations on behalf of the small businesses that have asked us to be their voice in this regulatory reform process. We hope that you will include these specific rules when you compile your list of rules to review. Advocacy would be happy to meet with you or your representative so

that we may detail the concerns and help suggest less burdensome alternatives for small business as rules are being considered for revision. I have provided the contact information for Assistant Chief Counsels **Linwood Rayford** and **Prianka Sharma** below.

As we continue to hear from small businesses across the country at our regional regulatory reform roundtables or through our outreach from our regulatory reform website, we will update you with additional summaries from those locations.

Thank you for considering small business impacts as a vital part of your regulatory reform efforts and for including the Office of Advocacy as an important part of the process.

Sincerely,

/s/ Major L. Clark, III

Major L. Clark, III
Acting Chief Counsel for Advocacy

Assistant Chief Counsel, Linwood Rayford
Linwood.Rayford@sba.gov
(202) 401-6880
* FSIS, FNS

Assistant Chief Counsel, Prianka Sharma
Prianka.Sharma@sba.gov
(202) 205-6938
*AMS, APHIS, GIPSA, NOS, Forest Service, NCRS

Appendix E. Roundtable Requests from Congress and the Public

COMMITTEE ON
THE BUDGET

COMMITTEE ON EDUCATION
AND THE WORKFORCE

COMMITTEE ON
SMALL BUSINESS

CHAIRMAN OF SUBCOMMITTEE ON
ECONOMIC GROWTH, TAX,
AND CAPITAL ACCESS



David Brat
Congress of the United States
7th District, Virginia

1628 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2815
(202) 225-0011 (F)

4201 DOMINION BOULEVARD
SUITE 110
GLEN ALLEN, VA 23060
(804) 747-4073
(804) 747-5308 (F)

9104 COURTHOUSE ROAD
P.O. BOX 99
SPOTSYLVANIA, VA 22553
(540) 507-7216
(540) 507-7019 (F)

WWW.BRAT.HOUSE.GOV

July 14, 2017

Major L. Clark, III
Acting Chief Counsel, Office of Advocacy
Small Business Administration
409 3rd St, SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

I am writing to request that the Small Business Administration schedule a Regulatory Reform Roundtable in the near future in Virginia's 7th Congressional District.

As Chairman of the House Small Business Subcommittee on Economic Growth, Tax, and Capital Access, and as an economist, I understand how unnecessary regulations can hinder a business's ability to succeed. Many of these businesses are in my economically diverse district, which includes the counties of Culpeper, Orange, Spotsylvania, Louisa, Goochland, Powhatan, Henrico, Chesterfield, Amelia, and Nottoway, Virginia.

I often hear from small business owners in my district about how burdensome federal regulations are directly harming their economic livelihood. I believe it's important that the Administration hear from them as well. Since no Regulatory Reform Roundtables have been hosted in Region III yet, I would like to request one be held in my district.

Thank you in advance for your attention to this letter. If you or your staff have any questions, please contact my Legislative Aide, Jay Kronzer, at 202-225-2815.

Sincerely,

Dave Brat
Chairman
Subcommittee on Economic Growth, Tax, and
Capital Access

PRINTED ON RECYCLED PAPER

JEFF DENHAM
10TH DISTRICT, CALIFORNIA

E-MAIL VIA WEBSITE:
Denham.house.gov

HOUSE AGRICULTURE COMMITTEE
HOUSE NATURAL RESOURCES COMMITTEE
HOUSE TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE
CHAIRMAN, SUBCOMMITTEE ON RAILROADS,
PIPELINES AND HAZARDOUS MATERIALS

Congress of the United States
House of Representatives

Washington, DC

January 18, 2018

Major L. Clark, III
Acting Chief Counsel, Office of Advocacy
U.S. Small Business Administration
409 3rd St., SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

I am writing to request that the U.S. Small Business Administration's Office of Advocacy schedule a Regulatory Reform and Jobs Roundtable in the near future in California's 10th Congressional District.

As a small business owner myself, I know that burdensome federal regulations can harm business, restrict job creation and depress economic growth. Many such businesses are in my economically diverse district, which includes San Joaquin and Stanislaus counties.

I frequently hear from small business owners and entrepreneurs in the California 10th district about how government over-regulation is restricting job creation. I believe it's important that the Administration hear from them as well. Since no Regulatory Reform and Jobs Roundtables have been hosted in Region IX as of yet, I would like to request one be held in my district.

Thank you in advance for your attention to this letter. If you or your staff have any questions, please contact Walker Barrett on my staff at 202-225-4540.

Sincerely,



Jeff Denham
United States Representative

MODESTO
4701 SISK ROAD, SUITE 202
MODESTO, CA 95356
PHONE: (209) 579-5458
FAX: (209) 579-5028

CONNECT
YOUTUBE.COM/REPJEFFDENHAM
TWITTER.COM/REPJEFFDENHAM
FACEBOOK.COM/REPJEFFDENHAM

WASHINGTON, DC
1730 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-4540
FAX: (202) 225-3402

TOM RICE
7TH DISTRICT, SOUTH CAROLINA

WASHINGTON OFFICE:
223 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TEL: (202) 225-9895
FAX: (202) 225-9690



HOUSE COMMITTEE ON
WAYS AND MEANS
SUBCOMMITTEE ON TRADE
SUBCOMMITTEE ON SOCIAL SECURITY

Congress of the United States
House of Representatives
Washington, DC 20515-4007

January 29, 2018

Major L. Clark, III
Acting Chief Counsel, Office of Advocacy
U.S. Small Business Administration
409 3rd St., SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

I am writing to request that the U.S. Small Business Administration's Office of Advocacy schedule a Regulatory Reform and Jobs Roundtable in the near future in South Carolina's 7th Congressional District.

Small businesses play a vital role in the communities of the 7th District. Creating jobs is my number one priority in Congress. As such, I am constantly engaging with local businesses and stakeholders to find ways to grow the economy. Too often, I hear about federal regulations that restrict economic growth and job creation.

In order to discuss ways to cut red tape and create jobs, I would like to request a Regulatory Reform and Jobs Roundtables to be held in my district.

Thank you in advance for your attention to this letter. If you or your staff have any questions, please contact Walker Truluck on my staff at 202-225-9895.

Sincerely,

Tom Rice
Member of Congress

GRAND STRAND REGIONAL OFFICE:
2411 NORTH OAK STREET
SUITE 405
MYRTLE BEACH, SC 29577
TEL: (843) 445-6459
FAX: (843) 445-6418

RICE.HOUSE.GOV
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TWITTER.COM/REP.TOMRICE
YOUTUBE.COM/REP.TOMRICE
INSTAGRAM.COM/REP.TOMRICE
PRINTED ON RECYCLED PAPER

PEE DEE REGIONAL OFFICE:
1831 WEST EVANS STREET
SUITE 300
FLORENCE, SC 29501
TEL: (843) 679-9781
FAX: (843) 679-9783

JOE WILSON
2ND DISTRICT, SOUTH CAROLINA

ASSISTANT MAJORITY WHIP

COMMITTEES:
ARMED SERVICES
CHAIRMAN, READINESS
FOREIGN AFFAIRS

EDUCATION AND THE WORKFORCE
VICE-CHAIR

HOUSE REPUBLICAN POLICY

Congress of the United States
House of Representatives

January 30, 2018

COUNTIES:
AIKEN
BARNWELL
LEXINGTON
ORANGEBURG*
RICHLAND*
(*PARTS OF)

Major L. Clark, III
Acting Chief Council, Office of Advocacy
Small Business Administration
409 3rd St, SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

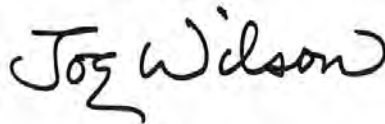
I am writing to request that the Small Business Administration schedule a Regulatory Reform Roundtable in South Carolina's 2nd Congressional District.

The success of small businesses in the 2nd District is key to economic prosperity and stability in the community. I am always working on ways to grow the economy and promote job creation to ensure their continued success.

In visiting with my constituents, I often hear how burdensome federal regulations are directly limiting economic growth and job creation. I believe it is of the upmost importance that the Administration hear from them as well. Since no Regulatory Reform Roundtables have been hosted in South Carolina's 2nd Congressional District yet, I would like to request one be held in my district.

Thank you in advance for your attention to this letter. If you or your staff have any questions, please contact Leah Grace Denny on my staff at (202) 225-2452.

Sincerely,



Joe Wilson
Member of Congress

JW/ld
MIDLANDS OFFICE:
1700 SUNSET BLVD. (US 378), SUITE 1
WEST COLUMBIA, SC 29169
(803) 939-0041
FAX: (803) 939-0078

1436 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4002
(202) 225-2452
FAX: (202) 225-2455
www.joewilson.house.gov

AIKEN OFFICE:
1930 UNIVERSITY PARKWAY, SUITE 1600
AIKEN, SC 29801
(803) 642-6416
FAX: (803) 642-6418

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
BUDGET

COMMERCE, SCIENCE
AND TRANSPORTATION

FOREIGN RELATIONS

HOME LAND SECURITY AND
GOVERNMENTAL AFFAIRS

February 7, 2018

Major L. Clark, III
Acting Chief Counsel, Office of Advocacy
Small Business Administration
409 3rd Street SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

I am writing to request the Small Business Administration hold a Regulatory Reform Roundtable in the near future in my home state of Wisconsin.

As I travel around Wisconsin, countless constituents in the small business community tell me how overregulation is the greatest obstacle to their economic growth and opportunities. It is no secret that complying with federal regulations is significantly burdensome for small businesses due to limited resources. According to our best estimates, it costs American businesses, collectively, as much as \$2 trillion dollars annually to comply with federal regulations. To put it into perspective, this is equivalent to a loss of \$14,000 per household.

The size and scope of our current regulatory system is threatening America's economic prosperity. I believe it is important for the SBA to hear directly from small business owners outside the Beltway. Holding this roundtable in Wisconsin would provide an opportunity for the SBA to work with real small business owners to discuss the regulatory harm and potential solutions that will help my constituents and small businesses nationwide.

Thank you in advance for your consideration.

Sincerely,



Ron Johnson
United States Senator

WASHINGTON OFFICE:
328 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-5323

OSHKOSH OFFICE:
219 WASHINGTON AVENUE, SUITE 100
OSHKOSH, WI 54901
(920) 230-7250

MILWAUKEE OFFICE:
517 EAST WISCONSIN AVENUE, ROOM 406
MILWAUKEE, WI 53202
(414) 276-7282

MADISON OFFICE:
5315 WALL STREET, SUITE 110
MADISON, WI 53718
(608) 240-9629

<http://www.ronjohnson.senate.gov>

Oviedo~Winter Springs

Regional Chamber of Commerce

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CHAMBER TRUSTEES



PARTNERS IN PROGRESS



Major L/ Clark, III
Acting Chief Counsel, Office of Advocacy
Small Business Administration
409 3rd St., SW
Washington, DC 20416

Dear Acting Chief Counsel Clark,

I, on behalf of our Economic Development Committee, am writing to request that the SBA Office of Advocacy conduct a Regional Regulatory Reform Roundtable in Seminole County.

The success of small business in Seminole is key to our economic success. Thus, we want to do everything possible to help them succeed including removing harmful federal regulatory barriers.

The members of our chamber often tell us how burdensome federal regulations are to their individual businesses. That is why we think your important effort to hear directly from small businesses should include central Florida, specifically Oviedo-Winter Springs.

We don't believe the Office of Advocacy has held a roundtable in the state of Florida yet, so we respectfully request that you consider scheduling one in early June this year.

If you have any questions or need any further information or assistance in setting up a roundtable in Oviedo-Winter Springs, please feel free to contact me.

Thank you for your consideration.

Bridget Lake
President/CEO
Oviedo-Winter Springs Regional Chamber of Commerce
Bridget@oviedowintersprings.org
(407) 278-4870

Appendix F. Roundtables in the News

Jim Risch, “Unleashing the Job-Creating Potential of the American Entrepreneur,” The Idaho Statesman, July 12, 2017. <https://www.idahostatesman.com/opinion/readers-opinion/article161100514.html>

Small-business owners need real regulatory relief. They need an advocate to force government agencies to consider the impact of regulations on their businesses. They need a chance to look up from the massive piles of paperwork required by each of the thousands of new regulations passed over the last eight years. And, most importantly, they need Washington out of their way.

The estimated cost of compliance with federal regulations is disproportionately shouldered by small businesses. Federal agencies don’t understand how much new regulations increase costs and uncertainty in the business world. Over the last eight years, small businesses in Idaho and across the country have overwhelmingly pleaded for a break from the regulations they’ve been suffering under. Regulators have continued to pile on more rules, leading to more difficult compliance and higher penalties. It is up to Congress to step in and break this cycle.

As Chairman of the Senate Committee on Small Business and Entrepreneurship, I have introduced two bills that will help small businesses finally enjoy relief from burdensome federal regulations: the Advocacy Empowerment Act and the [Hearing Small Businesses Act](#). These bills would give the Office of Advocacy at the Small Business Administration (SBA) the authority it needs to hold the government accountable for how their actions impact small businesses.

The Office of Advocacy is an independent branch of the SBA that exists to prevent regulations from crushing small businesses. This office stands up for small businesses, giving them a way to speak directly with the federal agencies that make regulations. Advocacy works with agencies to find ways to regulate without further devastating America’s 28 million

small businesses. The Office of Advocacy has asked for tools to help give businesses a break, and it is time for Congress to deliver these.

My legislation requires federal agencies to monitor their regulations’ impact on small businesses. These bills give the Office of Advocacy the power to make sure agencies have considered how many small businesses will be affected by a regulation, if additional regulations overlap, and other alternatives to making an additional regulation. This legislation also will allow small businesses to provide direct input on interim final rules, which are agency rules that could be issued and go into immediate effect.

Making it easier for small businesses to start and flourish should not be a partisan issue. I have been disappointed to see so many of my colleagues call for regulatory reform but fail to advance meaningful solutions to get it done. These two bills provide small, common-sense reforms that directly deliver the tools that the Office of Advocacy has asked for in order to effectively do its job of speaking for small businesses. Business owners across the country have been forced to choose between growing their business and devoting time, money, and man hours to complying with federal rules for far too long. It is up to those of us in Congress to do what is in the best interest of business owners across the country.

Idaho’s Republican Sen. Jim Risch is chairman of Senate Committee on Small Business and Entrepreneurship.

TAKING AIM AT THE RULES

July 14, 2017 at 5:00 am /

[Print Article](#)



LOREN BENOIT/PressMichael Boeck of Tri-Pro Forest voices his concerns about forest resources and protecting small businesses during a regulation roundtable talk put on by the Office of Advocacy of the Small Business Administration Thursday morning at the Best Western Plus Coeur d'Alene Inn.



By BRIAN WALKER

Hagadone News Network

COEUR D'ALENE — Mark Freeman tapped the show-and-tell method to drive home his point on how environmental regulations are strapping his wood stove company.

The president and CEO of Kuma Stoves in Garwood on Thursday brought a display of two pipes — one 15 times longer than the other — to illustrate the same ratio of how much the EPA has required stove emissions to be reduced in recent years.

"If the auto industry did that, you all may have had to walk here today," he told officials with the Office of Advocacy of the Small Business Administration during a regulatory roundtable attended by about 50 at the Best Western Plus Coeur d'Alene Inn. "Enough is enough."

The SBA hosted the event to hear how federal regulations are hampering small businesses. Input from Thursday's roundtable and others will be compiled into a report for Congress to review when considering to cut regulations under a directive from President Donald J. Trump.

Freeman said the EPA has not been willing to come to the negotiating table with the wood stove industry when it comes to further reducing emissions, so the sides are tied up in litigation.

"We need some help; we need relief," Freeman said. "The emission target is unreasonable and onerous."

The ripple effect, he said, will be a negative economic impact.

"It will make stoves more expensive, so fewer people will buy them," he said. "We can't punish rural Americans who need this fuel. I believe my business is not only at stake but our industry is at stake."

Freeman said he's not against clean air standards, but regulations need to be reasonable.

Shawn Keough, executive director of Associated Logging Contractors, said her industry also made a plea in 2015 to the SBA about a burden it faces with the Small Business Timber Set Aside Program.

"We have not seen that issue resolved," she said. "We wonder if anyone is truly listening."

The program tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property.

Keough, also a Republican state senator from Sandpoint, said her trade association would like to see an amendment to the set-aside program. She said it should include timber volume sold as part of a stewardship services contract in the calculation for the timber sale share for small business.

"It is not that the work isn't there to be done," she said. "It's that the challenge for small businesses like ours to secure this work, coupled with other regulatory burdens within the U.S. Forest Service, make it difficult for our small businesses to compete on the same playing field with big business."

Another regulatory issue the timber industry faces is that of restoration after a wildfire on national forest land.

"The regulations binding the hands of the U.S. Forest Service often mean that it is at least one year and more likely longer before all the i's are dotted and t's crossed on the paperwork required to start salvaging of dead burned trees," Keough said.

"As a result, the trees lose their value as the wood deteriorates rapidly. In turn, potential purchasers of that wood such as logging contractors and sawmills won't buy the trees because the value is no longer there. This sets up a vicious circle."

Hugh Himmelreich, branch manager of Century Travel Service, said consolidation of contracts has hurt his business. The workforce for the travel management agency has dropped from 40 to 17.

"We've lost more than 50 percent of our contracting business due to consolidation," he said.

Doug Wolford, of Washington Trust Bank, said regulations are also an ongoing concern in the banking industry.

"My fear is that they'll have a negative impact on my ability to extend credit to small businesses," he said.

...

In case you missed it

If there are federal regulations that are hampering your small business and you were unable to attend Thursday's regulatory roundtable in Coeur d'Alene, the Office of Advocacy of the Small Business Administration still wants to hear your concerns at <http://bit.ly/2uT9Mrq>.

Emily Bamforth, "Are Federal, State Regulations Hurting Northeast Ohio Businesses? Owners Discuss Problems. Cleveland.com, August 4, 2017.

https://www.cleveland.com/metro/index.ssf/2017/08/are_federal_state_regulations.html

Are federal, state regulations hurting Northeast Ohio businesses? Owners discuss problems

Updated Aug 4, 2017; Posted Aug 4, 2017



By [Emily Bamforth, cleveland.com](#), ebamforth@cleveland.com

CLEVELAND, Ohio -- Federal and state regulations touch everything from whether truck drivers need to get tested for sleep apnea to requiring more than 1,500 hours of training to become a cosmetologist.

Some small business owners are sick of it. At a Cleveland roundtable presented by the Office of Advocacy of the Small Business Association, people aired their concerns to officials who are looking for real-world examples of how regulations are burdening small businesses in America.

In Ohio, 99.6 percent of Ohio businesses qualify as small businesses, defined as businesses with fewer than 500 employees. Employees of those businesses total 2.1 million, making up 46 percent of employees, according from the Office of Advocacy.

The roundtable comes at a time where government officials are contemplating rolling back or reforming regulations. President Donald Trump [signed an executive order in January trying to cut down on federal regulations](#), saying agencies should cut two regulations for every new one.

Ohio Republican Senator Rob Portman was part of introducing the bipartisan [Regulatory Accountability Act](#), which requires cost-benefit analysis for all regulations and aims to improve transparency.



Read more: Sen. Rob Portman's push to peel back regulations meets fierce criticism

U.S. Sen. Rob Portman has tried to change government regulation since he became a senator. Now he has his best chance.

Here are some of the regulations that small business owners felt were limiting their success:

The Affordable Care Act



Some small businesses say government regulations are making it hard to succeed and take care of employees (MaxPixel)

Not being able to afford to provide health care was a common complaint among the business owners who spoke. As [health care reform stutters and starts in Congress](#), many business owners are anxiously awaiting the results. If some form of change doesn't pass, some owners are afraid they won't be able to provide health care at all.

Frank Destro, who owns U.S. Industrial Sales Inc., which helps manufacturers sell their wares, said the healthcare expenses for his business have increased 25 percent per year since the Affordable Health Care Act passed.

"It prevents me from hiring people," he said.

Patricia Miller, owner of SpaceBound, a technology product company, said employers typically want to be able to provide the best benefits for their employees but that the additional costs that come with these kinds of regulations force employers to cut somewhere else.

She also said that in the grand scheme of things, officials could benefit from listening to small business owners, because they know what employees need.

Overtime pay regulations

Expansions in overtime pay rules under the Obama administration left some employers having to change the way that they do business. Many cited a proposed 2016 rule -- eventually [blocked in court](#) -- that allowed full-time salaried employees [to earn overtime if they make up to \\$47,476 a year](#).

Miller said this stops employers from using discretion when it comes to their employees due to having to document hours to show they're complying with federal overtime rules. If an employee has an emergency, it's a lot more difficult to shift hours around, she said.

Lack of streamlining processes and unnecessary rules

A large part of administrative burdens comes from having to hire accountants and lawyers to make sure businesses are compliant, attendees said.

Tony Fiore, government affairs director for the Ohio State Council of Society for Human Resource Management, said technology could help streamline submitting information and other processes that take up time for business owners.

For example, being able to verify if someone is able to work in the United States. Making it possible to check out a potential employee's status quickly from a phone or app would make life easier for small business owners, he said.

Modernizing laws like the Fair Labor Standards Act is also key, Fiore added.

"We can't have 1930's labor laws governing the policy of the 2030 labor laws, that's just not feasible," he said.

[View Comments \(35\)](#)

Appendix G. Formal Titles of Regulations in this Report

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|--|-----------------|--|--|
| 60 Percent Rule | HHS/ CMS | ICD-9-CM Compliant Codes for Inpatient Rehabilitation Facilities (IRF) 60% Rule; Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Fiscal Year 2018 | 82 Fed. Reg. 36238 (proposed on August 3, 2017) (to be codified at 42 CFR Part 412) |
| ADA Accessibility of Passenger Vessels | DOJ | Nondiscrimination on the Basis of Disability by Public Accommodations on Passenger Vessels | 28 CFR Part 36 |
| Affirmative Action Requirements for Federal Contractors | DOL | Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities | 41 CFR Part 60–741 |
| Affordable Care Act Compliance Paperwork Burdens | Treasury / IRS | Employers with at Least 50 Employees | Form 1095-C |
| Affordable Care Act Compliance Paperwork Burdens | Treasury / IRS | Self-insured Employers with Fewer than 50 Employees | Form 1095-B |
| Affordable Care Act Rules; Difficulty Determining Full-Time Versus Part Time Employment For ACA Coverage | HHS / DOL / IRS | Shared Responsibility For Employers Regarding Health Coverage | 26 U.S. Code § 4980H(c)(4) |
| Affordable Care Act Rules; Reducing Cost Of Coverage; Purchasing Coverage Across State Lines | HHS / DOL / IRS | Executive Order Promoting Healthcare Choice and Competition Across the United States | Exec. Order 13813 of Oct 12, 2017 |
| Basel III Rules Related To Capital Requirements On Bank Lending | Treasury | Minimum Capital Requirements | 12 CFR 3.10 |
| Beryllium Rule | DOL/ OSHA | Proposed Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyards | 82 Fed. Reg. 29182 (June 27, 2017) |
| Calculation of Star Ratings | HHS/ CMS | Calculation of Star Ratings | 42 CFR 422.166 |
| Coal Combustion Residuals (CCR) Rule | EPA | Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One, Part One) | 83 Fed. Reg. 36435 (July 30, 2018) |
| Communication Towers | DOL/ OSHA | OSHA has re-initiated its Small Business Advocacy Review panel on Communication Tower Safety | |
| Companion Care Rule | DOL | Application of the Fair Labor Standards Act to Domestic Service | 29 CFR Part 552; 76 Fed. Reg. 81190 (December 27, 2011) |
| Compliance Costs associated with DFARS, Part 252 | SBA | Defense Federal Acquisition Regulation Supplement Part 252—Solicitation Provisions and Contract Clauses | DFARS 252.204-7012 - Safeguarding Covered Defense Information and Cyber Incident Reporting |
| Confined Spaces | DOL/ OSHA | Confined Spaces in Construction | 29 CFR Part 1926 |

Continued on next page.

Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|---|------------|---|--|
| Conflict Minerals | SEC | Requirement of report regarding disclosure of registrant's supply chain information regarding conflict minerals. | 17 CFR Part 240, 240.13p-1 |
| Criminal Background Check Rules | HUD | Guidance on Criminal Background Checks | Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (April 4, 2016). |
| Data Used to Determine Fishing Allocations | DOC/ NOAA | Magnuson-Stevens Fishery Conservation and Management Act Provisions: Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 57 | 50 CFR Part 648 (New England Fishery) 16 USC 1851 (a)(2)(Magnuson Stevens Act, National Standard 2) |
| Definition of Destruction or Adverse Modification of Critical Habitat | DOI | Definitions | 50 CFR Part 402.02 |
| Definition of Independent Contractor | DOL | US Secretary Of Labor Withdraws Joint Employment, Independent Contractor Informal Guidance | U.S. Dep't of Labor, Release No. 17-0807-NAT (June 7, 2017) |
| Definition of Joint Employer | DOL | US Secretary Of Labor Withdraws Joint Employment, Independent Contractor Informal Guidance | U.S. Dep't of Labor, Release No. 17-0807-NAT (June 7, 2017) |
| Design and Production Approvals | DOT | Certification Procedures for Products and Articles | 14 CFR Part 21 |
| Drones | DOT/ FAA | Operation and Certification of Small Unmanned Aircraft Systems | 14 CFR Part 107, Subpart B |
| Drones | DOT/ FAA | Small Unmanned Aircraft Systems (Small Drones); Department Regulatory and Deregulatory Agenda; Semiannual Summary | 83 Fed. Reg. 27161; Operations of Small Unmanned Aircraft over People RIN: 2120-AK85 |
| Electronic Logging Devices (ELDs) | DOT/ FMCSA | Electronic Logging Devices and Hours of Service Supporting Documents | 49 CFR Parts 395, Subpart B |
| Electronic Recordkeeping and Reporting | DOL/ OSHA | Tracking of Workplace Injuries and Illnesses | 83 Fed. Reg. 36494 (proposed July 30, 2018) (to be codified at 29 CFR Part 1904) |
| Emissions Standards for Oil and Gas Production | EPA | Review of the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources | 40 CFR Part 60 |
| Endangered and Threatened Species Act Compensatory Mitigation Policy And Litigation | DOI | Endangered and Threatened Wildlife and Plants; Endangered Species Act Compensatory Mitigation Policy; Withdrawal | 83 Fed. Reg. 36469 (effective July 30, 2018) (to be codified at 50 CFR Chapter I) |
| Endangered Species Act Rules | DOI/ FWS | Endangered and Threatened Wildlife and Plants; Revision of the Regulations for Listing Species and Designating Critical Habitat | 83 Fed. Reg. 35193 (proposed on July 25, 2018) (to be codified at 50 CFR Part 424) |
| Endangered Species Listing of the Lesser Prairie Chicken | DOI | Endangered and Threatened Wildlife and Plants | 50 CFR Part 17 |

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Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|--|-----------|---|---|
| Endangered Species Listing of the Northern Long-Eared Bat | DOI | Endangered and Threatened Wildlife and Plants | 50 CFR Part 17 |
| Endangered Species Listing of the Northern Spotted Owl | DOI | Endangered and Threatened Wildlife and Plants | 50 CFR Part 17 |
| Endangered Species Listing of the Rusty Patched Bumble Bee | DOI | Endangered and Threatened Wildlife and Plants | 50 CFR Part 17 |
| Energy Efficiency Standards and Energy Star programming | DOE | Part 430—Energy Conservation Program For Consumer Products | 10 CFR 430 |
| Energy Efficiency Standards And Energy Star Programming For Automatic Commercial Ice Makers | DOE | Part 431—Energy Efficiency Program For Certain Commercial And Industrial Equipment | 10 CFR 431, Subpart H |
| Energy Efficiency Standards And Energy Star Programming For Compressors | DOE | Part 431—Energy Efficiency Program For Certain Commercial And Industrial Equipment | 10 CFR 431, Subpart T |
| Energy Efficiency Standards And Energy Star Programming For Refrigerated Bottled or Canned Beverage Vending Machines | DOE | Part 431—Energy Efficiency Program For Certain Commercial And Industrial Equipment | 10 CFR 431, Subpart Q |
| Energy Efficiency Standards And Energy Star Programming for Walk-In Coolers and Walk-In Freezers | DOE | Part 431—Energy Efficiency Program For Certain Commercial And Industrial Equipment | 10 CFR 431, Subpart R |
| Estate Valuation | Treasury | Estate, Gift, and Generation-Skipping Transfer Taxes; Restrictions on Liquidation of an Interest | 82 Fed. Reg. 48779 (withdrawal of notice of proposed rulemaking) |
| Exchange Visitor/ Summer Work Travel Program Programs | STATE | Exchange Visitor Program-Summer Work Travel | 82 Fed. Reg. 4,120 (proposed Jan. 12, 2017) (to be codified at 22 CFR pt. 62) |
| Fall Protection for the Construction Industry | DOL/ OSHA | Subpart M—Fall Protection | 29 CFR part 1926, subpart M |
| Fiduciary Rule | DOL | Definition of the Term “Fiduciary” | 29 CFR Part 2510 |
| Food Labeling Rules | HHS | Food Labeling: Revision of the Nutrition and Supplement Facts Labels | 21 CFR Part 101 |
| Food Labeling Rules | HHS | Food Labeling: Serving Sizes of Foods that Can Reasonably Be Consumed at One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments | 21 CFR Part 104 |
| Form I-9- Employment Verification Process | DHS | Verification of identity and employment authorization | 8 CFR Part 274a.2 |
| Food Safety Regulations— Controlling Contamination Through Slaughter And Dressing Operation | USDA/FSIS | Poultry Products Inspection Regulations | 9 CFR § 381.65 (g) |

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Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|--|----------------|--|--|
| Food Safety Regulations— Disposition of Condemned Livestock | USDA/FSIS | Disposition of Condemned Livestock | 9 CFR § 309.13 |
| Food Safety Regulations— National Organic Program | USDA/FSIS | National Organic Program | 7 CFR Part 205 |
| Food Safety Regulations— Post Mortem Inspection | USDA/FSIS | Poultry Products Inspection Regs; Post Mortem Inspection; Disposition of Carcasses and Parts | 9 CFR § 381.76- post mortem inspection |
| Food Safety Regulations— Contamination | USDA/FSIS | Poultry Products Inspection Regulations | 9 CFR § 381.91 |
| Food Safety Regulations— Contamination with Micro-organisms | USDA/FSIS | Post-Mortem Inspection | 9 CFR § 310.25 (a) |
| Food Safety Regulations—Facilities | USDA/FSIS | Poultry Products Inspection Regulations | 9 CFR §381.36 |
| Food Safety Regulations—Misbranding of Products | USDA/FSIS | Recalls | 9 CFR § 418.2 |
| Food Safety Regulations—Passing of Carcasses and Parts | USDA/FSIS | Poultry Products Inspection Regs; Post Mortem Inspection; Disposition of Carcasses and Parts | 9 CFR § 381.79 |
| Food Safety Regulations—Relating to Several Diseases | USDA/FSIS | Poultry Products Inspection Regs; Post Mortem Inspection; Disposition of Carcasses and Parts | 9 CFR § 381.80-93- |
| Food Safety Regulations—Slaughter Inspection Rate Maximums | USDA/FSIS | Poultry Products Inspection Regulations | 9 CFR § 381.67 |
| Food Safety Regulations— Temperatures and Chilling and Freezing Procedures | USDA/FSIS | Poultry Products Inspection Regulations | 9 CFR § 381.66 |
| FSMA Rules (Food Safety Modernization Act) | HHS | Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications | 21 CFR Parts 1, 11, and 16 |
| FSMA Rules (Food Safety Modernization Act) | HHS | Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food | 21 CFR Parts 1, 11, 16, 106, 110, 114, 117, 120, 123, 129, 179, and 211 |
| Gainful Employment Rule | ED | Gainful Employment Regulation | 34 CFR § 66.403, et seq. |
| H-1B Visas | DHS | Buy American and Hire American | Exec. Order No. 13,788, 82 Fed. Reg. 18,837 (April 18, 2017) |
| H-1B Visas | DHS | Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to the Numerical Limitations | 76 Fed. Reg. 11686 (proposed on March 03, 2011) (to be codified at 8 CFR pts. 214 and 299) |
| H-2A and H-2B Visa Programs | DOL / DHS | Temporary Employment of Foreign Workers in the United States; Nonimmigrant Classes | 20 CFR Part 655; 8 CFR Part 214 |
| Hard Rock Mining | EPA | Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry | 83 Fed. Reg. 7556 (February 21, 2018) |
| Harvest Sales on Federal Lands/ Timber Set-aside Rule | SBA/ USDA/ DOI | Small Business Timber Set-Aside Program | 81 Fed. Reg. 66199 (proposed on September 26, 2016)(to be codified at 13 CFR Part 121) |

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Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|--|------------------|--|---|
| Home Mortgage Disclosure Act | CFPB | Home Mortgage Disclosure (Regulation C) | 12 CFR Part 1003 |
| Hours of Service | DOT/ FMCSA | Hours of Service; Notice of Public Listening | 49 CFR Part 395; 83 Fed. Reg. 45204 |
| HUBZone | SBA | HUBZONE Program | 13 CFR Part 126 |
| Hydraulic Fracturing (Fracking) | DOI | Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands; Rescission of a 2015 Rule | 43 CFR Part 3160 |
| International Adoptions | STATE | Intercountry Adoptions | 81 Fed. Reg. 62,321 (proposed on Sept. 08, 2016) (to be codified at 22 CFR Part 96) |
| International Entrepreneur Rule | DHS | Removal of International Entrepreneur Parole Program | 83 Fed. Reg. 24415 (proposed May 29, 2018) (to be codified at 8 CFR pts. 103, 212, 274a) |
| IRS Form 1099 C, Cancellation of Debt | Treasury/ IRS | Information reporting for discharges of indebtedness by certain entities. | 26 CFR § 1.6050P-1 |
| Joint Employment | NLRB | The Standard for Determining Joint Employer Status | 83 Fed. Reg. 46681 (proposed on Sept. 14, 2018) (to be codified at 29 CFR Chapter I) |
| Lead Renovation Repair and Painting (LRRP) Program Rules | EPA | Lead-based Paint Poisoning Prevention in Certain Residential Structures | 40 CFR Part 745, Subpart E |
| Minimum Wage | DOL | Fair Labor, Minimum Wage | 29 USC § 206 |
| Minimum Wage for Contractors | DOL | Establishing a Minimum Wage for Contractors | Exec. Order No. 13,658, 79 Fed. Reg. 9849 (February 12, 2014) |
| Minimum Wage for Contractors | DOL | Establishing a Minimum Wage for Contractors, Notice of Rate Change in Effect as of Jan. 1, 2019 | 83 Fed. Reg. 44906 (September 4, 2018) |
| Mobility Fund Phase II Challenge Process | FCC | FCC Establishes Challenge Process For Mobility Fund Phase II To Promote Access To Mobile Broadband Services In Rural America | Order on Reconsideration and Second Report and Order (FCC 17-102) |
| Mobility Fund Phase II Challenge Process | FCC | Procedures for the Mobility Fund Phase II Challenge Process | 83 Fed. Reg. 13417 (March 29, 2018) |
| Moratorium on Enforcement of Federal Contractor Requirements Against Hospitals | DOL | TRICARE Subcontractor Enforcement Activities | Directive 2014-01, U.S. Department Of Labor, Office of Federal Contract Compliance Programs |
| Moratorium on Leasing of Federal Coal | DOI | Secretary of the Interior - Order 3348 Subject: Concerning the Federal Coal Moratorium | Secretarial Order 3348, Concerning the Federal Coal Moratorium (March 29, 2017) |
| Mortgage Servicing, Regulation Z | CFPB | Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z) | 12 CFR Part 1026 |
| Multiple Device Reporting | HHS/ FDA | Multiple Device Reporting | 21 CFR Part 803 |
| National Environmental Policy Act (NEPA) Compliance | USDA | National Environmental Policy Act (NEPA) Compliance | 36 CFR Part 220 |
| Net Neutrality | FCC | Restoring Internet Freedom; ISP Privacy Rules Net Neutrality (Enhanced Network Transparency Requirements under the FCC 2014 Open Internet Order) | 83 Fed. Reg. 7852 (proposed on February 22, 2018)(to be codified at 47 CFR Parts 1, 20, and 8) |

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Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|---|-----------|---|---|
| Nonhazardous Secondary Materials (NHSM) | EPA | Solid Wastes Used As Fuels Or Ingredients In Combustion Units | 41 CFR Part 241 |
| Nonhazardous Secondary Materials (NHSM) | EPA | Standards Of Performance For New Stationary Sources | 40 CFR Part 60 |
| Oil, Natural Gas, and Coal Valuation Rule | DOI | Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform | 30 CFR parts 1202 and 1206 |
| Payment for Onboard Observers Program | DOC/NOAA | Payment for Onboard Observers Program. At-Sea Onboard Monitoring for the Fishing Industry. Magnuson-Stevens Act | 16 USC 1881b |
| Once-In, Always-In | EPA | Issuance of Guidance Memorandum, "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act" | Memo at: www.epa.gov/sites/production/files/2018-01/documents/reclassification_of_major_sources_as_area_sources_under_section_112_of_the_clean_air_act.pdf |
| Overtime Rule | DOL | Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees (EAP Exemption) under the Fair Labor Standards Act | 29 CFR Part 541; 81 Fed. Reg. 32,391 (May 23, 2016) |
| Paid Sick Leave For Federal Contractors | DOL | Establishing Paid Sick Leave for Federal Contractors | Exec. Order No. 13,706, 80 Fed. Reg. 54,697 (September 7, 2015); 29 CFR Part 13 |
| Payday Lending | CFPB | Payday, Vehicle Title, and Certain High-Cost Installment Loans | 12 CFR part 1041 |
| Persuader Rule | DOL | Rescission of Rule Interpreting "Advice" Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act | 83 Fed. Reg. 33826 (effective August 16, 2018)(to be codified at 29 CFR 405 and 406) |
| Pesticides; Agricultural Worker Protection Standard Revisions | EPA | Pesticides; Agricultural Worker Protection Standard; Reconsideration of Several Requirements and Notice About Compliance Dates | 82 Fed. Reg. 60576 (December 21, 2017) |
| Pesticides; Certification of Pesticide Applicators | EPA | Pesticides; Certification of Pesticide Applicators Rule; Reconsideration of the Minimum Age Requirements | 82 Fed. Reg. 60195 (December 19, 2017) |
| Positive Train Control (PTC) Exemption | DOT | Requirements for Positive Train Control Systems | 49 CFR § 236.1005 |
| Process Safety Management | DOL/ OSHA | Executive Order - Improving Chemical Facility Safety and Security | Exec. Order No. 13,650, 78 Fed. Reg. 48029 (August 1, 2013) |
| Process Safety Management | DOL/ OSHA | Hazardous Materials | 29 CFR Part 1910, Subpart H |
| Quality System Regulation | HHS/ FDA | Quality System Regulation | 21 CFR Part 820 |
| Recall Reporting | HHS/ FDA | Recall Reporting | 21 CFR Part 806 |
| Regulation D | SEC | Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings | 17 CFR Parts 230, 239 and 242 |

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Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|---|----------------|--|--|
| Removing Barriers to Wireless Infrastructure Deployment | FCC | Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment | 83 Fed. Reg. 19440 (May 03, 2018) |
| Removing Barriers to Wireless Infrastructure Deployment | FCC | Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment | 83 Fed. Reg. 46812 (September 14, 2018) |
| Requirements for inpatient CAH Services (Critical Access Hospitals) | HHS/ CMS | Requirements for inpatient CAH services | 42 CFR 424.15 |
| Risk Management Program (RMP) Rule | EPA | Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act | 83 Fed. Reg. 24850 (May 30, 2018) |
| Risk Reduction and Crew Size Proposed Rules | DOT | Risk Reduction Program | 80 Fed. Reg. 10949 (proposed on February 27, 2015)(to be codified at 49 CFR 271) |
| Risk Reduction and Crew Size Proposed Rules | DOT | Train Crew Staffing | 81 Fed. Reg. 13917 (proposed March 15, 2016)(to be codified at 49 CFR 218) |
| Safety Measurement System | DOT | Withdrawal of Proposed Enhancements to the Safety Measurement System | 83 Fed. Reg. 32949 (July 16, 2018) |
| Section 409A | Treasury / IRS | Application of Section 409A and effective dates. Exempting Small Private Companies from the Penalties and Requirements Associated with Deferred Compensation Arrangements Under Internal Revenue Code Section 409A | 26 CFR § 1.409A-6 |
| Service Disabled Veteran Contractors | SBA | Eligibility Requirements for the SDVO SBC Program | 13 CFR Part 125, Subpart B |
| Silica Rule | DOL/ OSHA | Occupational Exposure to Respirable Crystalline Silica | 29 CFR Parts 1910, 1915, and 1926 |
| Small Business Excluded from Some R&D contracts Because They Are Not Related to the Small Business Innovation Research and Development (SBIR) Program | SBA | Federal Acquisition Regulation - Subpart 19.5—Set-Asides for Small Business | 19.502-2 Total Small Business Set-Asides |
| Small Disadvantaged Business (SDB) | SBA | 8(a) Business Development/Small Disadvantaged Business Status Determinations | 13 CFR Part 124 |
| Standards for the Electronic Health Record Technology Incentive Program | HHS/ CMS | Standards For The Electronic Health Record Technology Incentive Program | 42 CFR Part 495 |
| Steam Electric | EPA | Postponement of Certain Compliance Dates for the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category | 82 Fed. Reg. 43494 (September 18, 2017) |

Continued on next page.

Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|--|------------|--|---|
| Steam Electric | EPA | SBA Petition for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category | https://www.epa.gov/sites/production/files/2017-04/documents/sba_petition_for_effluent_limitations_guidelines_and_standards_for_the_steam_electric_power_generating_point_source_category.pdf |
| Stormwater Permits - Multi-Sector General Permit | EPA | Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Industrial Activities | 80 Fed. Reg. 34403 |
| Stormwater Permits - Multi-Sector General Permit | EPA | NPDES Multi-Sector General Permit (MSGP) for Industrial Stormwater (2015) | 40 CFR Part 122 |
| System For Award Management | SBA | System for Award Management. | 48 CFR Part 52, Subpart 52.204-7 |
| Tax and Inventory Accounting Rules | Treasury | Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule | 12 CFR Parts 208, 217, and 226 |
| Tip Rules | DOL | Tip Regulations Under the Fair Labor Standards Act (FLSA) | 82 Fed. Reg. 59562 (proposed on December 15, 2017) (to be codified at 29 CFR 531) |
| Tobacco Deeming | HHS/ FDA | Clarification of When Products Made or Derived From Tobacco Are Regulated as Drugs, Devices, or Combination Products | 21 CFR Parts 201, 801, and 1100 |
| Tobacco Deeming | HHS/ FDA | Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act | 21 CFR Parts 1100, 1140, and 1143 |
| Toxic Substance Control Act (TSCA) Fee Rule | EPA | Fees for the Administration of the Toxic Substance Control Act | 83 Fed. Reg. 52694 (October 17, 2018) |
| Toxics Release Inventory | EPA | Toxic Chemical Release Reporting: Community Right-To-Know | 40 CFR Part 372 |
| Training, Qualification, and Oversight for Safety-Related Railroad Employees | DOT | Training, Qualification, and Oversight for Safety-Related Railroad Employees | 49 CFR Part 243 |
| US Coast Guard Safety and Security Plan Rules | DHS | Vessel Security | 46 CFR 140.660 |
| Wood Heaters | EPA | Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces | 40 CFR Part 60, Subpart AAA |
| WOTUS, Waters of the United States | EPA, CORPS | Addition of an Applicability Date to 2015 Clean Water Rule | 33 CFR 328, 40 CFR 110, 112, 116-17, 122, 230, 232, 300, 302, 401 |

Continued on next page.

Appendix G. Formal Titles of Regulations in this Report, continued

| Issue | Agency | Title of Proposed or Enacted Rule | Citation to Rule |
|------------------------------------|---------------|---|---|
| WOTUS, Waters of the United States | EPA, CORPS | Clean Water Rule: Definition of “Waters of the United States” | 80 CFR 37053, 33 CFR 328, 40 CFR 110, 112, 116-17, 122, 230, 232, 300, 302, 401 |
| WOTUS, Waters of the United States | EPA, CORPS | Recodification of Preexisting Rule | 83 Fed. Reg. 32227 (July 12, 2018) |

Agency Abbreviations

| | | | |
|-------|---|----------|---|
| CFPB | Consumer Financial Protection Bureau | FSIS | Food Safety and Inspection Service |
| DHS | Department of Homeland Security | FWS | Fish and Wildlife Service |
| DOC | Department of Commerce | HHS | Department of Health and Human Services |
| DOI | Department of Interior | IRS | Internal Revenue Service |
| DOJ | Department of Justice | NOAA | National Oceanic and Atmospheric Administration |
| DOL | Department of Labor | OSHA | Occupational Safety and Health Administration |
| DOT | Department of Transportation | SBA | Small Business Administration |
| EPA | Environmental Protection Agency | SEC | Securities and Exchange Commission |
| FAA | Federal Aviation Administration | STATE | Department of State |
| FCC | Federal Communications Commission | TREASURY | Department of Treasury |
| FDA | Food and Drug Administration | CORPS | U.S. Army Corps of Engineers |
| FMCSA | Federal Motor Carrier Safety Administration | USCIS | Citizenship and Immigration Service |
| FS | Forest Service | USDA | Department of Agriculture |

