



May 12, 2025

VIA ELECTRONIC SUBMISSION

The Honorable Russell T. Vought  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street NW  
Washington, DC 20503

**Re: Request for Information: Deregulation, Docket No. OMB-2025-0003.**

Dear Director Vought:

On April 11, 2025, the Office of Management and Budget (OMB) published a request for information on deregulation.<sup>1</sup> This letter constitutes the Office of Advocacy's (Advocacy) public comments on the agencies' solicitation to identify rules for consideration to be rescinded or replaced.

Advocacy supports the OMB's efforts to identify opportunities to reduce regulatory burdens throughout all sectors of the economy. The Regulatory Flexibility Act (RFA)<sup>2</sup> directs Advocacy to work with federal agencies to minimize the economic impacts of regulations on small entities. The OMB's request for information aligns with Advocacy's mission and will help identify opportunities to provide regulatory relief to small entities. Advocacy encourages the OMB to prioritize responses on deregulatory ideas from small entities.

## **I. Background**

### **A. The Office of Advocacy**

Congress established the Office of Advocacy under 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) that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not

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<sup>1</sup> 90 Fed. Reg. 15481 (April 11, 2025).

<sup>2</sup> Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. 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),<sup>3</sup> 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, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.<sup>4</sup> Additionally, Section 609 of the RFA requires the Consumer Financial Protection Bureau, the Occupational Safety and Health Administration, and the Environmental Protection Agency to conduct special outreach efforts through a review panel.<sup>5</sup> The panel must carefully consider the views of the impacted small entities, assess the impact of the proposed rule on small entities, and consider less burdensome alternatives for small entities.<sup>6</sup> If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis for such a determination that adequately supports its certification.<sup>7</sup>

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.<sup>8</sup> The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.<sup>9</sup>

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."<sup>10</sup>

## **B. The OMB's Request for Information**

The OMB is seeking "proposals to rescind or replace regulations that stifle American businesses and American ingenuity."<sup>11</sup> Specifically, the agency is seeking comments on "regulations that are unnecessary, unlawful, unduly burdensome, or unsound."<sup>12</sup> The OMB's request coincides with a greater deregulatory effort exemplified by President Trump's executive orders on

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<sup>3</sup> Pub. L. No. 104-121, tit. II, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C. §§601-612).

<sup>4</sup> 5 U.S.C. § 603.

<sup>5</sup> *Id.* § 609.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* § 605(b).

<sup>8</sup> Small Business Jobs Act of 2010, Pub. L. No. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).

<sup>9</sup> *Id.*

<sup>10</sup> Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

<sup>11</sup> 90 Fed. Reg. 15482 (Apr. 11, 20205).

<sup>12</sup> *Id.*

*Unleashing Prosperity through Deregulation*<sup>13</sup> and *Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Initiative*.<sup>14</sup> Individual agencies, including the U.S. Department of Transportation (DOT),<sup>15</sup> the Federal Communications Commission (FCC),<sup>16</sup> the U.S. Department of Justice (DOJ),<sup>17</sup> and the Federal Trade Commission (FTC)<sup>18</sup> are also conducting their own deregulatory efforts.

## **II. Advocacy’s Small Business Concerns**

The mission of Advocacy is to give small entities a voice in the regulatory process. To accomplish this goal, Advocacy regularly meets with small entities to discuss the regulations impacting their daily business practices. During the first 100 days of President Trump’s administration, Advocacy held 150 meetings with groups representing small businesses. Additionally, Advocacy also held roundtables to solicit small entity input on the DOJ, FTC, and DOT deregulatory efforts. Further, 16 small business manufacturing roundtables were held in nine states, allowing Advocacy to connect with more than 175 small business participants overall.<sup>19</sup>

To reduce regulatory burdens on small entities, it is important to examine the regulatory process as a whole. As a result of our conversations with small entities, Advocacy’s comments contain both general suggestions to improve the regulatory process as well as specific rules which should be targeted for deregulatory efforts.

## **III. Recommendations to Improve the Regulatory Process**

### **A. Federal Agencies Should be Directed to Consider the Direct and Indirect Impacts of their Rules on Small Entities.**

In order to understand the true scope of a rule’s effects, federal agencies should broaden the definition of “impact.” For example, the reasonably foreseeable impacts of a rule on small entities could include restrictions on other entities they do business with. A regulation on a product supplier, for example, may not only impact that business, but all of the businesses that purchase their product as well.

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<sup>13</sup> 90 Fed. Reg. 9065 (Jan. 31, 2025).

<sup>14</sup> 90 Fed. Reg. 10583 (Feb. 19, 2025).

<sup>15</sup> 90 Fed. Reg. 14593 (Apr. 3, 2025).

<sup>16</sup> In re: Delete, Delete, Delete, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. March 12, 2025).

<sup>17</sup> U.S. Dep’t of Just., *Justice Department Launches Anticompetitive Regulations Task Force* (Mar. 27, 2025), <https://www.regulations.gov/document/ATR-2025-0001-0002>.

<sup>18</sup> Fed. Trade Comm’n, *FTC Launches Public Inquiry into Anti-Competitive Regulations* (April 14, 2025) <https://www.ftc.gov/news-events/news/press-releases/2025/04/ftc-launches-public-inquiry-anti-competitive-regulations>.

<sup>19</sup> U.S. Small Bus. Admin, Off. of Advocacy, *First 100 Days: Cutting Red Tape for Small Businesses* (Apr. 30, 2025), <https://advocacy.sba.gov/2025/04/30/first-100-days-cutting-red-tape-for-small-business/>.

Under the RFA, agencies are not currently required to consider the impact of a proposed rule on small businesses that are indirectly regulated by the rule, even when the impacts are foreseeable and often significant.<sup>20</sup> Advocacy believes that indirect impacts should be part of the RFA analysis, but that the definition of indirect effects should be clearly defined so that the analytical requirements of the RFA are feasible.

### **B. Federal Agencies Should Improve the Overall Quality of Their Economic Analyses Under the RFA.**

When certifying that a rule will not have a significant impact on a substantial number of small entities under the RFA, agencies should be directed to better explain their reasoning. Some agencies improperly certify under the RFA without supporting information in the record about small entities. Agencies should provide data to show that there would not be a significant impact on a substantial number of small entities. A clear requirement for threshold analysis would be a stronger guarantee of the quality of certifications. Agencies should publish a threshold analysis, supported by data in the record, as part of any factual basis for a rule's certification.

Additionally, Advocacy is concerned that federal agencies often do not provide the information required in the initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA). Further, information is often not presented in a transparent and easy-to-access manner. This hinders the ability of small entities and the public to comment meaningfully on the impacts on small entities and possible regulatory alternatives. It also limits agency decision-making when small business alternatives are not considered that could make the rule more cost effective. The IRFA forms the basis for public engagement on the proposed regulation. Without detail, clarity, and sufficient analysis in the IRFA, the integrity of the rulemaking process is undermined.

Agencies should also be required to include an estimate of the rule's incremental cost changes to small entities in the IRFA of the proposed rule, available for comment, and in the FRFA of the final rule, informed by public comments. When policy changes are made in final rules that lower the burden on small businesses, agencies should provide an estimate of the cost savings in the FRFA of the final rule.

Including this information will allow a small business to better understand a rule's impacts and inform the agency on ways to reduce unnecessary burden. In addition, agencies should have a single section in the preamble of the notice of proposed rulemaking and notice of final rulemaking that clearly outlines the substantive contents of the IRFA or FRFA, including a

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<sup>20</sup> See *Mid-Tex Elec. Coop. v. FERC*, 773 F.2d 327, 341 (D.C. Cir. 1985); see also U.S. SMALL BUS. ADMIN, OFF. OF ADVOCACY, A GUIDE FOR GOVERNMENT AGENCIES: HOW TO COMPLY WITH THE REGULATORY FLEXIBILITY ACT 64-66 (Nov. 2018).

specific narrative for each of the required elements. Small entities generally do not have regulatory experts on staff. Agencies should undertake a concerted effort to make information relevant to small businesses as easy to find as possible.

### **C. Federal Agencies Should Increase the Frequency of Retrospective Rule Reviews.**

As previously mentioned, there are currently multiple deregulatory initiatives occurring throughout the federal government. These initiatives have the potential to help reduce regulatory burdens on small entities in a variety of areas. As these efforts get underway and when they conclude, agencies should keep in mind that Section 610 of the RFA offers the opportunity for an agency to retrospectively review a rule at any time. Section 610 of the RFA allows an agency to consider:

- The continued need for the rule,
- The nature of complaints or comments received concerning the rule from the public,
- The complexity of the rule,
- The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules, and
- The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.<sup>21</sup>

Increased and regular use of RFA Section 610 reviews will reduce the need for additional deregulatory action initiatives in the future. Unfortunately, at times, the Section 610 review process is seen as a “box checking” exercise with agencies employing minimal explanation or analysis. As with IRFAs and FRFAs, the utility of a Section 610 review will be matched by the effort an agency puts into their analysis. Agencies should focus their efforts on ensuring Section 610 reviews clearly and concisely explain the rules at issue in a manner that is easy for small entities to understand and respond to. Increased small entity participation in Section 610 reviews will, in turn, lead to agencies receiving better information about the continued impacts of existing regulations.

Lastly, regular RFA Section 610 reviews are simply “good government” practices. They allow agencies to identify and remove regulations that are no longer necessary. Agencies should increase the use of RFA Section 610 reviews. While the reviews must be done within ten years of a rule’s publication, there is nothing preventing agencies from initiating RFA 610 reviews on a more frequent basis.<sup>22</sup> When conducting RFA Section 610 reviews, agencies should be required to provide a timely and effective response (similar in analysis to a FRFA) in which they

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<sup>21</sup> 5 U.S.C. § 610.

<sup>22</sup> *Id.*

demonstrate that they have considered alternative means of achieving the regulatory objective while reducing the regulatory impact on small businesses.

#### **D. All Federal Agencies Should Examine the Paperwork Burdens they Currently Impose on Small Entities.**

Small entities often face a deluge of forms from federal agencies that they must file. The Paperwork Reduction Act (PRA) is meant to minimize the paperwork burden on the public and state, local, and tribal governments<sup>23</sup> and requires the OMB to review and approve agency collections of information.<sup>24</sup> Even with the PRA, the OMB currently has more than 10,700 outstanding information collections requiring more than 11.5 billion hours to complete at an annual cost of almost \$203 billion.<sup>25</sup>

Small entities impacted by multiple federal regulations have expressed concerns that they must build significant resources and time into their business plans to ensure forms are completed in a proper and timely manner. Streamlining forms and clarifying the steps small businesses need to take to comply with federal regulations will reduce one of the most common regulatory burdens faced by small entities. Additionally, all agencies should strive to ensure their information collections are not duplicative of other federal agencies. Advocacy encourages all agencies to thoroughly review and streamline existing forms for ease of use for small entities and reduce duplicative paperwork burdens.

#### **IV. Specific Deregulatory Actions for Consideration by the OMB.**

Advocacy has spoken to numerous small entity stakeholders about the OMB's request for information on possible deregulatory actions and highlighted specific rules that should be examined by agencies in submissions to the FCC<sup>26</sup> and DOT.<sup>27</sup> We also plan to submit comments to the DOJ and FTC dockets.

Based on the feedback of small entities and their representatives thus far, Advocacy recommends the following regulations for the OMB's consideration. This is a sample of the issues that small entities have shared with Advocacy and not an exhaustive list of regulations for the OMB to

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<sup>23</sup> See Paperwork Reduction Act of 1995, 44 U.S.C. § 3501(1).

<sup>24</sup> See 44 U.S.C. § 3504(c).

<sup>25</sup> See Off. of Info. & Regul. Aff., Inventory of Currently Approved Information Collections April 30, 2025, <https://www.reginfo.gov/public/do/PRAReport?operation=11> (Last accessed May 12, 2025).

<sup>26</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on FCC's In Re: Delete, Delete, Delete Deregulatory Order (Apr. 15, 2025), <https://advocacy.sba.gov/2025/04/15/advocacy-comments-on-fccs-in-re-delete-delete-delete-deregulatory-order/> (attached as Appendix A).

<sup>27</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on DOT's Regulatory Reform Initiative (May 9, 2025), <https://advocacy.sba.gov/2025/05/09/advocacy-files-comments-on-dots-regulatory-reform-initiative/> (attached as Appendix B).

consider. We plan to be in constant communication with the OMB and raise additional deregulatory issues as they arise in the future.

**A. Centers for Medicare & Medicaid Services (CMS)**

**1. Medicaid Program; Ensuring Access to Medicaid Services.<sup>28</sup>**

This rule requires insurance companies to spend at least 80 percent of the funds they take in from premiums on health care costs and quality improvement activities. The other 20 percent can go to administrative, overhead, and marketing costs. Small home care agencies have reached out to Advocacy noting that the 20 percent limit for administrative costs is too little to sustain their companies. As a result, small home care agencies could be forced out of the market. This would lead to fewer options and patient access for services and less Medicaid services to beneficiaries. Advocacy recommends this rule be repealed.

**2. Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting.<sup>29</sup>**

This rule establishes minimum staffing standards for long-term care facilities. In addition, the rule requires states to report the percent of Medicaid payments for certain Medicaid-covered institutional services that are spent on compensation for direct care workers and support staff. Small entities, including long term care facilities and nursing homes, reported to Advocacy that the rule establishes unrealistic standards, cumbersome penalties, and an arduous waiver process. Additionally, Advocacy publicly commented that the rule's costs were underestimated by more than \$3 billion and that small entities have no way to absorb these additional costs.<sup>30</sup> Advocacy recommends this rule be repealed.

**B. Consumer Finance Protection Bureau (CFPB)**

**3. Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information.<sup>31</sup>**

On January 14, 2025, the CFPB issued a final rule removing a regulatory exception that had permitted creditors to obtain and use information on medical debts. The rule also regulates

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<sup>28</sup> 89 Fed. Reg. 40542 (May 10, 2024).

<sup>29</sup> 89 Fed. Reg. 40876 (May 10, 2024).

<sup>30</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting (Nov. 3, 2023), <https://advocacy.sba.gov/2023/11/03/cms-proposes-to-require-minimum-staffing-standards-for-long-term-care-facilities/>.

<sup>31</sup> 90 Fed. Reg. 3276 (Jan. 14, 2025).

when a consumer reporting agency may furnish a consumer report containing information on medical debt to a creditor. Small businesses impacted by the rule include depository and non-depository financial institutions, lawyers, collection agencies, credit bureaus, and medical offices. Advocacy has expressed concern that the CFPB undercounted the number of small entities impacted by the rule and did not specify the actual costs these businesses would incur from the rule.<sup>32</sup> Additionally, Advocacy noted that the rule could conflict with other federal laws and is duplicative of existing state requirements.<sup>33</sup> Also, the Nationwide Consumer Reporting Agencies (NCRA) announced that starting July 2022, unpaid medical collections would not appear on a consumer’s report for up to one year and paid medical collections will not be included on credit reports. In 2023, NCRA announced that initial medical balances below \$500 had been removed from consumer credit reports. Advocacy recommends this rule be repealed.

### **C. Consumer Product Safety Commission (CPSC)**

#### **4. Certificates of Compliance.<sup>34</sup>**

This rule requires importers to electronically file certificates of compliance (CoCs) for imported consumer products at the time of entry. This changes the current requirement that CoCs only accompany products but need not be filed at the time of importation. The rule also prohibits importers from emailing CoCs to the CPSC in PDF format. The rule applies to all imported consumer products that are subject to a CPSC rule, ban, standard, or regulation, including small shipments of products (less than \$800 per day). Small entities have reached out to Advocacy and are concerned that the CPSC has understated the costs and technology requirements of this rule. Specifically, small businesses noted CPSC did not consider the training, implementation and technology costs associated with the rule. One small business conservatively estimated that the rule would cost them an additional \$145,000. Advocacy recommends the rule be withdrawn and that the CPSC gather additional data to better assess its impact on small entities.

#### **5. Safety Standard for Infant Support Cushions.<sup>35</sup>**

This rule promulgates a safety standard for infant support cushions. Small businesses have approached Advocacy with concerns that the CPSC’s rule is overbroad without an adequate causal connection between the requirements, the data, and the products in scope. The CPSC outlines a non-exhaustive list of products covered by the rule, including “head positioner

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<sup>32</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on the Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V) (Aug. 6, 2024), <https://advocacy.sba.gov/2024/08/06/advocacy-submits-comments-on-cfpbs-proposed-rule-on-the-prohibition-on-creditors-and-consumer-reporting-agencies-concerning-medical-information-regulation-v/>.

<sup>33</sup> *Id.*

<sup>34</sup> 90 Fed. Reg. 1800 (Jan. 8, 2025).

<sup>35</sup> 89 Fed. Reg. 87467 (Nov. 4, 2024).

pillows; flat baby loungers; crib pillows; wedge pillows for infants; infant sleep positioners, unless regulated by the Food and Drug Administration (FDA) as medical devices; stuffed toys marketed for use as an infant support cushion; infant ‘tummy time’ or ‘lounging’ pillows, whether flat or inclined; multi-purpose pillows marketed for both nursing and lounging; anti-rollover pillows with or without straps that fasten the pillow to the infant; infant ‘self-feeding’ pillows that hold a bottle in front of the face of a reclining or lying infant; pads and mats; and accessory pillows and other padded accessories, often marketed for use with an infant car seat, stroller, or bouncer, but not sold with that product and therefore not included in the mandatory safety standard for those products.”<sup>36</sup> However, many of these products are already covered by existing CPSC rules. Small businesses have also expressed concern over the lack of transparent, publicly available correlative data as a basis for the rule. Advocacy recommends this rule be withdrawn.

#### **D. Department of Education**

##### **6. Accreditation and Pre-accreditation Standards.<sup>37</sup>**

Accreditation and pre-accreditation standards establish the requirements that accrediting agencies must meet to be recognized by the U.S. Department of Education. While primarily designed to ensure quality assurance in higher education, this regulation also has a direct and indirect impact on small entities, particularly those operating as proprietary educational institutions, vocational training providers, and other nontraditional education service providers seeking accreditation to participate in federal student aid programs.

These small educational institutions often serve niche markets and rely on accreditation to access federal funding and remain competitive in the education sector. The standards, while promoting academic integrity, can be prohibitively costly and administratively burdensome for small educational institutions. Expenses related to compliance include hiring consultants, developing detailed assessment frameworks, undergoing multiple site visits, and dedicating internal resources to meet evolving expectations. In some cases, institutions must delay program expansions or innovations due to the strain of aligning with accreditation requirements.

Given the disproportionate impact on small educational institutions, Advocacy recommends revising the standards to include scaled standards or alternative pathways to accreditation for small institutions that maintain a record of compliance and student success. Additionally, the Department should consider providing technical assistance for small educational institutions navigating the accreditation process.

#### **E. Department of Homeland Security (DHS)**

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<sup>36</sup> *Id.* at 87469.

<sup>37</sup> 34 C.F.R. § 602.16.

## **7. Customs and Border Protection (CBP) Bonds.<sup>38</sup>**

These import bonds, which are required by law, serve as a financial guarantee that importers will fulfill their duty obligations, including paying all applicable tariffs and complying with customs laws. However, they impose significant unpredictability on small businesses. Tariff levels are at times unpredictable, resulting in some small importers facing sudden or overwhelming financial burdens to maintain sufficient bonds. The challenge is particularly acute because bond amounts are recalculated based on an importer's duty liability over a 12-month period. If tariffs increase, so do the importers' liability, and consequently, the bond amount required by CBP.

If a small importer is unable to pay the assessed duties, the ramifications are severe. CBP may liquidate the bond, triggering a claim against the surety, which in turn can seek reimbursement from the importer. If the small importer defaults, this can result in legal action, financial ruin, and a permanent blacklisting from future trade activity. In some cases, surety companies may also decline to underwrite new bonds for importers with prior claims or delinquencies, effectively locking them out of the import market entirely.

Advocacy recommends revising the CBP bond regulations to create more flexible and equitable bonding requirements for small importers. One path forward would be to implement a tiered bonding system, where trusted importers with a proven compliance record and limited volume are offered reduced or capped bond collateral requirements. Another potential reform would be to repeal the practice of bond stacking and mandate a streamlined process for the approval and activation of new bonds to avoid concurrent coverage periods.

### **F. Department of Justice (DOJ)**

## **8. Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities.<sup>39</sup>**

This rule subjects state and local government websites to accessibility standards under the Americans with Disabilities Act.<sup>40</sup> Advocacy believes that the DOJ has underestimated the compliance costs and burden of this rule for small governmental entities, particularly the smallest government jurisdictions.<sup>41</sup> Small governments seek to provide accessibility for their constituents but have limited revenues and a lack of internal technical staff to meet this high

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<sup>38</sup> 19 C.F.R. § 113.

<sup>39</sup> 89 Fed. Reg. 31320 (Apr. 24, 2024).

<sup>40</sup> 42 U.S.C. § 12101.

<sup>41</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities (Oct. 17, 2023), <https://advocacy.sba.gov/2023/10/17/advocacy-comments-on-nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state-and-local-government-entities/>.

technical standard. Advocacy recommends that the DOJ exempt small government jurisdictions with a population of fewer than 10,000 from these requirements or, alternatively, provide them with an additional three years to comply.

## **G. Department of Labor (DOL)**

### **9. Employee or Independent Contractor Classification Under the Fair Labor Standards Act.<sup>42</sup>**

This rule determines whether a worker is an independent contractor or employee under the Fair Labor Standards Act.<sup>43</sup> DOL estimates that 6.5 million small entities could be affected by this rule.<sup>44</sup> Advocacy expressed concerns with DOL's economic analysis of this rule.<sup>45</sup> Specifically, small businesses expressed concerns to Advocacy that this rule ignored multiple costs, including employer-provided fringe benefits like health insurance, retirement, and paid leave. Advocacy recommends this rule be repealed because it did not fully account for the impacts it would have on small entities.

### **10. Updating the Davis-Bacon and Related Acts Regulations.<sup>46</sup>**

This rule updates regulations issued under the Davis-Bacon and Related Acts (DBRA).<sup>47</sup> The rule impacts small businesses with federal construction contracts exceeding \$2,000. The final rule expanded coverage of the DBRA to additional industries and changed the calculation of prevailing wages which increased pay. Specifically, the DBRA coverage expanded to small businesses including prefabrication businesses, material suppliers, truck drivers, demolition companies, flaggers, surveyors, and green technology businesses. Advocacy is concerned that DOL underrepresented costs to small businesses in this rule by not accounting for administrative costs, increased wages, and changes in enforcement requirements on small businesses.<sup>48</sup> This rule is currently in federal litigation and parts of it have been stayed.<sup>49</sup> Advocacy recommends this rule be repealed.

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<sup>42</sup> 89 Fed. Reg. 1630 (Jan. 10, 2024).

<sup>43</sup> 29 U.S.C. § 8.

<sup>44</sup> 89 Fed. Reg. 1740 (Jan. 10, 2024).

<sup>45</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on Independent Contractor Rule (Dec. 13, 2022), <https://advocacy.sba.gov/2022/12/13/advocacy-recommends-that-the-dol-reassess-the-compliance-costs-of-independent-contractor-rule-for-small-business/>.

<sup>46</sup> 88 Fed. Reg. 52576 (Aug. 23, 2023).

<sup>47</sup> 40 U.S.C. § 3141.

<sup>48</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on Davis-Bacon Act Proposed Rule (May 18, 2022), <https://advocacy.sba.gov/2022/05/18/advocacy-comments-on-davis-bacon-act/>.

<sup>49</sup> See U.S. Dep't of Lab., *Final Rule: Updating the Davis-Bacon and Related Acts Regulations*, <https://www.dol.gov/agencies/whd/government-contracts/construction/rulemaking-davis-bacon> (last accessed May 12, 2025).

## **H. Department of the Treasury**

### **11. Beneficial Ownership Information Reporting Requirements.<sup>50</sup>**

This rule requires most small businesses to file reports with the Financial Crimes Enforcement Network (FinCEN) that identify both the beneficial owners of the entity, and individuals who have filed an application with specified governmental authorities to create the entity or register it to do business. Advocacy publicly commented that the rule’s impact on small businesses was not properly considered.<sup>51</sup> On March 25, 2025, an interim final rule was published revising the reporting requirements by limiting them only to firms owned by foreign entities. Advocacy estimates this change will save small businesses \$6.7 billion in annualized cost savings over 10 years using a 7 percent discount rate (\$47.3 billion in present value). Advocacy recommends the original rule be amended to make the interim final rule’s changes permanent.

## **I. Environmental Protection Agency (EPA)**

Advocacy supports EPA’s current deregulatory efforts<sup>52</sup> and recommends focusing on the following rules:

### **12. Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances.<sup>53</sup>**

This rule classifies PFOA and PFAS as “hazardous substances” under the Comprehensive Environmental Response, Compensation, and Liability Act.<sup>54</sup> Small entities impacted by the rule include chemical manufacturers and processors, waste management and wastewater treatment facilities, downstream chemical users, fire departments, municipalities, small airports, and farmers. Advocacy publicly commented that the EPA’s certification for the rule lacked a factual basis and should have convened a SBREFA panel.<sup>55</sup> The rule also ignored costs to small entities, such as the cost to remediate PFAS and the impacts of liability should PFAS be discovered on a small entity’s property. Advocacy recommends the EPA repeal this rule and seek alternative methods to address PFAS.

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<sup>50</sup> 87 Fed. Reg. 59498 (Sept. 30, 2022).

<sup>51</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on Beneficial Ownership Information Reporting Requirements (July 24, 2024), <https://advocacy.sba.gov/2024/07/24/advocacy-submits-comments-on-sec-and-fincen-joint-proposed-rule-to-require-certain-investment-advisers-to-establish-and-maintain-customer-identification-programs/>.

<sup>52</sup> See U.S. Env’t Prot. Agency, *EPA Launches Biggest Deregulatory Action in U.S. History* (Mar. 12, 2005), <https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history>.

<sup>53</sup> 90 Fed. Reg. 39124 (May 8, 2024).

<sup>54</sup> 42 U.S.C. § 9601.

<sup>55</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on EPA’s Proposed Hazardous Substance Designations for PFOA and PFOS under CERCLA (Nov. 8, 2022), <https://advocacy.sba.gov/2022/11/08/advocacy-comments-on-epas-proposed-hazardous-substance-designations-for-pfoa-and-pfos-under-cercla/>.

### **13. Revised Definition of Waters of the United States.<sup>56</sup>**

This rule was jointly issued by the EPA and the U.S. Army Corps of Engineers (Corps). The definition of “waters of the United States” (WOTUS) has been a regulatory burden to small entities for decades. If a wet area is classified as a “WOTUS,” it is subject to federal jurisdiction under the Clean Water Act (CWA).<sup>57</sup> Confusion over whether a wet area is a WOTUS has led to increased permitting and compliance costs for small entities as well as project delays. Following the Supreme Court’s decision in *Sackett v. EPA*,<sup>58</sup> the agencies have undertaken an effort to clarify the WOTUS definition.<sup>59</sup> Advocacy supports this effort and urges the agencies to involve small entities in this effort to the maximum extent possible. Advocacy additionally recommends the agencies strive to achieve a definition that is clear enough that small entities will be able to identify a WOTUS on their property without having to hire outside attorneys or consultants.<sup>60</sup>

### **14. Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Safer Communities by Chemical Accident Prevention.<sup>61</sup>**

This rule revised accident prevention and safety requirements for the use and distribution of hazardous chemicals. Specific small entities impacted include chemical manufacturers, refineries, and small water systems. Advocacy submitted public comments on the rule disagreeing with the EPA’s RFA certification and expressing concern that the rule was duplicative of existing federal requirements, adding costly requirements to its existing regulations without providing any quantitative benefits.<sup>62</sup> Advocacy supports the EPA’s current reconsideration of this rule<sup>63</sup> and recommends it be repealed and the 2019 standard<sup>64</sup> be reinstated.

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<sup>56</sup> 88 Fed. Reg. 3004 (Jan. 18, 2023).

<sup>57</sup> 33 U.S.C. § 1251.

<sup>58</sup> *Sackett v. EPA*, 598 U.S. 651, 680 (2023).

<sup>59</sup> 90 Fed. Reg. 13428 (March 25, 2025).

<sup>60</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on WOTUS Notice: The Final Response to SCOTUS (April 23, 2025), <https://advocacy.sba.gov/2025/04/23/advocacy-calls-for-increased-small-business-role-in-wotus-discussion/>.

<sup>61</sup> 89 Fed. Reg. 17622 (Mar. 11, 2024).

<sup>62</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on EPA’s Revisions to Accidental Release Prevention Requirements (Oct. 31, 2022), <https://advocacy.sba.gov/2022/10/31/advocacy-submits-comments-on-accidental-release-prevention-requirements-risk-management-programs-under-the-clean-air-act-safer-communities-by-chemical-accident-prevention/>.

<sup>63</sup> See U.S. Env’t Prot. Agency, *supra* note 49.

<sup>64</sup> 84 Fed. Reg. 69834 (Dec. 19, 2019).

## **15. Procedures for Chemical Risk Evaluation under the Toxic Substances Control Act (TSCA).<sup>65</sup>**

This rule amends the procedural framework rule for conducting risk evaluations under the TSCA.<sup>66</sup> All small businesses working in the chemical supply chain will be impacted by this rule. Advocacy raised multiple concerns with the rule in public comments.<sup>67</sup> Generally, Advocacy is concerned that the rule will lead to unnecessary and duplicative regulation with minimal public health benefits.

Advocacy supports the EPA's current reconsideration of this rule<sup>68</sup> and recommends the EPA revise it to maintain as narrow a scope of its risk evaluations as possible, relying on the authorities and expertise of other federal offices. Additionally, the rule should be amended to bolster outreach and consult with small entities, other federal agencies, and peer reviewers. This will enable the EPA to better understand the diversity of the conditions of use of each chemical and the risks presented by existing chemicals as they are used in commerce.

### **J. Food and Drug Administration (FDA)**

## **16. Requirements for Additional Traceability Records for Certain Foods.<sup>69</sup>**

This rule establishes traceability recordkeeping requirements, beyond those in existing regulations, for manufacturing, processing, packing, or holding foods included on the Food Traceability List. This regulation affects every small entity in the food industry supply chain. Stakeholders have told Advocacy that despite the FDA's 30-month extension, technical and cost limitations exist that make it difficult for small businesses to comply with the rule. Advocacy recommends that the rule be revised to give small businesses greater flexibility to comply with the regulation's provisions.

### **K. National Marine Fisheries Service (NMFS)**

## **17. Scallop Fishing Regulations/Closed Area II Habitat Management Area.<sup>70</sup>**

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<sup>65</sup> 89 Fed. Reg. 37028 (May 3, 2024).

<sup>66</sup> 15 U.S.C. § 2601.

<sup>67</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on EPA's Proposed Changes to its Procedures for Risk Evaluations under TSCA (Dec. 13, 2023), <https://advocacy.sba.gov/2023/12/13/advocacy-comments-on-epas-proposed-changes-to-its-procedures-for-risk-evaluations-under-tsca/>.

<sup>68</sup> See U.S. Env't Prot. Agency, *EPA Announces Path Forward on Chemical Reviews to Protect Public Health, Increase Efficiency and Follow the Law* (Mar. 10, 2005), <https://www.epa.gov/newsreleases/epa-announces-path-forward-chemical-reviews-protect-public-health-increase-efficiency>.

<sup>69</sup> 87 Fed. Reg. 70910 (Nov. 21, 2022).

<sup>70</sup> 50 C.F.R. § 648.370(g).

This regulation prevents scallop fishing in designated areas of Georges Bank. Advocacy has been contacted by a coalition of fishing interests, including 156 small businesses, about the regulatory burdens facing the scallop fishing industry. The regulations are aimed at protecting groundfish populations but are having an adverse impact on scallop fishing. Advocacy recommends the NMFS reexamine these regulations to determine whether the goal of groundfish protection can be achieved without restricting scallop fishing in the area.

**L. National Oceanic and Atmospheric Administration (NOAA)**

**18. Vessel Speed Restriction Rule.<sup>71</sup>**

This rule sets a 10-knot seasonal speed limit for boats 65 feet and over in seasonal zones on the Atlantic Coast in an effort to minimize whale strikes. Advocacy has spoken with multiple small businesses in the boating and fishing industries about the significant costs imposed by this rule. Additionally, since the rule was enacted, there have been significant gains in technology which minimize the need for vessel speed restrictions. Advocacy recommends this rule be repealed, or at the very least reviewed under Section 610 of the RFA to determine whether it is still needed.

**M. Occupational Health and Safety Administration (OSHA)**

**19. Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings.<sup>72</sup>**

This proposed rule requires employers to create a plan to evaluate and control heat hazards in their workplace. If finalized, it will apply to small entities conducting outdoor and indoor work in all general industry, construction, maritime, and agriculture sectors. Advocacy has been gathering information about the proposed rule for many years, including a 2023 Small Business Advocacy Review (SBAR) panel.<sup>73</sup>

Advocacy submitted public comments objecting to OSHA's "one size fits all" approach in the rule.<sup>74</sup> Attempting to impose a single heat standard on both indoor and outdoor businesses, without regard for the climate in which they are located, creates economic inefficiencies in pursuit of a uniform rule and unnecessarily imposes extra costs on small businesses. If OSHA chooses to finalize this rule, it should avoid a one-size-fits-all approach. Instead, the agency should provide flexibility based on climate, geography, or sector, and tailor any final rule to

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<sup>71</sup> 50 C.F.R. § 224.105.

<sup>72</sup> 89 Fed. Reg. 70698 (Aug. 30, 2024).

<sup>73</sup> OCCUPATIONAL HEALTH & SAFETY ADMIN., REPORT OF THE SMALL BUSINESS ADVOCACY REVIEW PANEL ON OSHA'S POTENTIAL HEAT INJURY AND ILLNESS PREVENTION IN OUTDOOR AND INDOOR WORK SETTINGS (Dec. 3, 2023), <https://www.osha.gov/sites/default/files/Heat-SBREFA-Panel-Report-Full.pdf>.

<sup>74</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on OSHA's Proposed Heat Injury and Illness Prevention Rule (Jan. 14, 2025), <https://advocacy.sba.gov/2025/01/14/advocacy-files-comments-on-oshas-proposed-heat-injury-and-illness-prevention-rule/>.

high-risk sectors or employees who would benefit most from a rule or consider other less costly alternatives such as a training-only rule.

## **20. Worker Walkaround Representative Designation Process.<sup>75</sup>**

This rule provides that employee representatives authorized to accompany an OSHA inspector during an inspection may be an employee of the employer or a third party if, in the judgement of the OSHA inspector, good cause has been shown that their presence is reasonably necessary to conduct an effective and thorough inspection. Advocacy publicly commented that the rule's RFA certification is improper because OSHA has failed to include the direct and foreseeable costs that small employers would incur as a result of the various new categories of non-employee third-party representatives who can now join OSHA during workplace inspections.<sup>76</sup> Advocacy recommends this rule be withdrawn and OSHA conduct a more thorough analysis of its economic impacts, including the costs of screening, processing, and accompanying the additional non-employee third-party representatives during the inspection and related activities.

## **21. Improve Tracking of Workplace Injuries and Illnesses.<sup>77</sup>**

This rule requires employers to electronically submit injury and illness records and make that information publicly available. Small entities have expressed concern to Advocacy that the public availability of injury and illness records could be misleading to the public, give a false impression of a company's safety record, and be unjustly damaging to a company's reputation. The information could also lead to the identification of individual, injured employees, especially in small companies or geographic areas. Advocacy recommends the portions of this rule requiring public posting of workplace injury and illness information be repealed.

## **V. Conclusion**

Advocacy commends the OMB for initiating this dialogue on reducing the regulatory burdens faced by small entities. Advocacy is prepared to collaborate with federal agencies and small entities from across the country to help the OMB achieve lasting and impactful results from this initiative. Advocacy will continue the important work of engaging with small entities to gather information about how they are impacted by federal regulations and relay their concerns to the OMB.

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<sup>75</sup> 89 Fed. Reg. 22558 (Apr. 1, 2024).

<sup>76</sup> U.S. Small Bus. Admin, Off. of Advocacy, Comment Letter on OSHA's Proposed Worker Walkaround Rule (Nov. 14, 2023), <https://advocacy.sba.gov/2023/11/14/advocacy-files-comments-on-oshas-proposed-worker-walkaround-rule/>.

<sup>77</sup> 88 Fed. Reg. 47254 (July 23, 2023).

As the OMB considers additional deregulatory measures, Advocacy encourages the agency to collaborate with us and continue the dialogue with small entities. If you have any questions or require additional information, please contact me or Assistant Chief Counsel Nick Goldstein at (202) 772-6948 or by email at [nick.goldstein@sba.gov](mailto:nick.goldstein@sba.gov).

Sincerely,

/s/

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/s/

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Copy to: Mr. Jeffrey B. Clark, Sr. Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget