

U.S. SMALL BUSINESS ADMINISTRATION

OFFICE OF ADVOCACY

REGULATION • RESEARCH • OUTREACH



Advocacy's Role in the Regulatory Process for EPA Rulemakings

2018 National Small Business Environmental Assistance Program (SBEAP)

May 2, 2018

Office of Advocacy

- Created by Congress in 1976.
- Representing small business before Congress, the White House, and the federal agencies.
- Works with federal agencies to find alternatives to proposed rules that are disproportionately burdensome to small business.
- Mandated by Congress to research topics important to small business.
- Chief Counsel leads the independent office.

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Independent Office

Located in D.C. with 10 Regional Advocates across the country.

From the Chief Counsel to the public, comments are not vetted by:

- the White House
- Congress, or
- the SBA.

Independent budget authority

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Advocacy in Action

- Watchdog for small businesses within the Federal government
- Oversees agency compliance with the Regulatory Flexibility Act
- Extensive outreach to small business community
- Assist agencies in Section 610 of the Regulatory Flexibility Act and other retrospective reviews

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Regulatory Flexibility Act of 1980

- Applies to rules that must undergo notice and comment rulemaking under the Administrative Procedure Act or any other statute
- Agencies must determine whether the rule, if promulgated, would have a “significant economic impact” on a “substantial number of small entities”
- Small entities include small businesses, small non-profits, and small governmental jurisdictions

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Regulatory Flexibility Act (Continued)

- Threshold Question: Will the rule, if promulgated, have a “significant economic impact” on a “substantial number of small entities”?
- If no, agency head may so “certify” and no further analysis is required
- If yes, agency must prepare and publish for comment an Initial Regulatory Flexibility Analysis (IRFA) and Final Regulatory Flexibility Analysis (FRFA) for the final rule.

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Executive Order 13272

- Strengthened the RFA by
 - requiring agencies to issue RFA compliance policies
 - notify Advocacy of upcoming rules
 - address Advocacy's comments with specificity;
- Requires Advocacy to
 - issue RFA compliance guide
 - train agencies on RFA compliance
 - report to Congress and OMB

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Small Business Regulatory Enforcement Fairness Act of 1996

(SBREFA)

- EPA, as a covered agency, must convene Small Business Advocacy Review (SBAR) Panels before proposing a rule that is expected to have a significant impact on a substantial number of small entities.
 - *OSHA and CFPB are also covered agencies under the RFA*
- EPA must also issue compliance guides for small business
- Permits judicial review of agency compliance with the RFA

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White House Review: OIRA and E.O. 12866

- Signed by President Clinton in 1993 (remains in effect)
- Applies to significant regulatory actions Centralized review conducted by OMB's Office of Information and Regulatory Affairs (OIRA)
- Requires agencies to prepare a “regulatory impact analysis” – assess aggregate costs and benefits, consider feasible alternatives, avoid duplication, choose the most cost-effective alternative
- Meetings with Interested Stakeholders during the review period

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Regulatory Reform

- Advocacy is involved in Regulatory Reform efforts underway as a result of two recent regulatory Executive Orders.
- Advocacy's involvement in helping to reduce the regulatory burden on our nation's small businesses.
- [Executive Order 13771 - Reducing Regulation and Controlling Regulatory Costs](#)
- [Executive Order 13777 - Enforcing the Regulatory Reform Agenda](#)
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Regulatory Reform

- As a result of President Trump's Executive Orders, 13771 and 13777, Advocacy has begun an effort to hear first-hand from small businesses across the country about specific federal regulatory burdens facing their businesses.
- Under the Regulatory Flexibility Act (RFA), agencies are required to consider the impact of their regulations on small entities when promulgating federal regulations.
- Advocacy believes that 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.

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Regional Regulatory Roundtables

- Advocacy is hosting small business roundtables in order to hear firsthand from small businesses facing regulatory burdens.
- The purpose of Advocacy's Regional Regulatory Roundtables is to:
 - Identify regional small business regulatory issues in order to assist agencies with regulatory reform and reduction in compliance with Executive Orders 13771 & 13777;
 - Compile crucial information for Advocacy's new report on existing small business regulatory burdens across the nation, identifying specific recommendations for regulatory changes based upon first-hand accounts from small businesses across the country; and
 - Inform and educate the small business public as to how Advocacy and SBA can assist them with their small business.

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THANK YOU!

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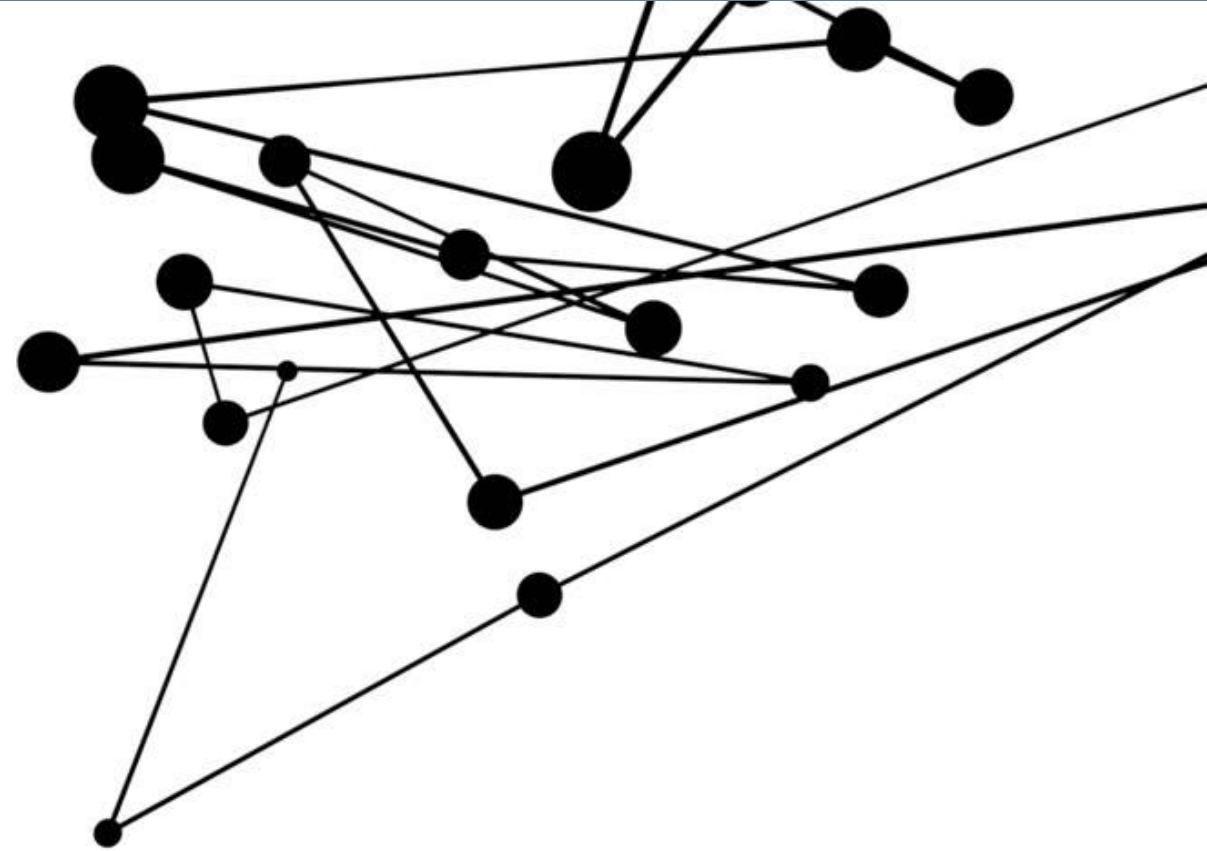
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RELEVANT LINKS

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