

Report on the Regulatory Flexibility Act, FY 2014

U.S. Small Business Administration, Office of Advocacy, 92 pages.

Purpose

This report covers federal agencies' compliance with the Regulatory Flexibility Act (RFA) and Executive Order 13272 in FY 2014. The Office of Advocacy is required to provide this report by the RFA and E.O. 13272.

The RFA requires federal agencies to consider the impact of their proposed rules on small entities—small businesses, small government jurisdictions, and small nonprofits. It requires agencies to review proposed regulations that would have a significant economic impact on a substantial number of small entities and to consider significant alternatives that minimize the regulatory burden on them while achieving the rules' purposes. E.O. 13272 requires agencies to take additional specific steps demonstrating their consideration of small entities in their rulemakings.

The Office of Advocacy's Interagency Compliance Activities

Advocacy encourages agency compliance throughout the year along many avenues. In FY 2014, Advocacy hosted 19 roundtables to gather input from small business and their representatives. On many occasions, officials from federal agencies and Congress participated in these roundtables and had direct exchanges with small businesses.

Since 2002, Advocacy has offered training on RFA compliance to every rule-writing agency in the federal government, in most cases multiple times. Advocacy has conducted training for 18 cabinet-level departments and agencies, 67 separate component agencies and offices within these departments, and 22 independent agencies. This year, Advocacy provided training to rule writers from 16 agencies.

In FY 2014, Advocacy filed 22 formal comment letters conveying small business concerns on specific regulatory proposals. The two issues identified most often were the inadequate analysis of a rule's small entity impacts and inadequate consideration of small business alternatives. Figure 1 charts the issues of concern in these letters.

Advocacy has participated in 64 Small Business Regulatory Enforcement Fairness Act (SBREFA) panels since 1996.¹ In FY 2014, Advocacy participated in three SBREFA panels convened by the Environmental Protection Agency and one by the Consumer Financial Protection Bureau.

Small Business Cost Savings and Success Stories in FY 2014

Regulatory cost savings are one important measure of agencies' compliance with the RFA. In FY 2014, 13 of the rules on which Advocacy provided small business input were made final and contained flexibilities reflecting this input. As a result of these flexibilities, Advocacy achieved cost savings of more than \$4.8 billion on behalf of small businesses. The primary source of cost savings was the Environmental Protection Agency's modification of its construction and development stormwater runoff regulations. The final rule allowed flexibility in the standards for measuring and managing construction site runoff.

1. SBREFA panels give small entities a voice in rule-making at an early stage. They are named for the Small Business Regulatory Enforcement Fairness Act, which amended the RFA.

Other success stories resulted from RFA compliance, although the exact amounts of savings were not estimated. These include:

- The Consumer Financial Protection Bureau’s mortgage rules, which relaxed electronic record-keeping requirements and maintained the traditional definition of the five-day business week in mortgage transactions;
- Several Federal Communications Commission flexibilities affecting small businesses, for instance granting small businesses more time to phase in video displays accessible to the blind; and
- The Occupational Safety and Health Administration’s final rule on cranes and derricks, which gave small employers more time to meet training standards for crane and derrick operators while important terms in the rules are more precisely defined.

Scope and Methodology

This report is an account of how Advocacy worked to achieve cost savings for small entities and helped agencies comply with the RFA and E.O. 13272. It covers Advocacy’s public activities with respect to regulatory development. An important part of Advocacy’s involvement in regulatory development is achieved through confidential communication

with agencies prior to publication of proposed rules. Consequently, the report does not reflect the sum total of Advocacy’s accomplishments in this area.

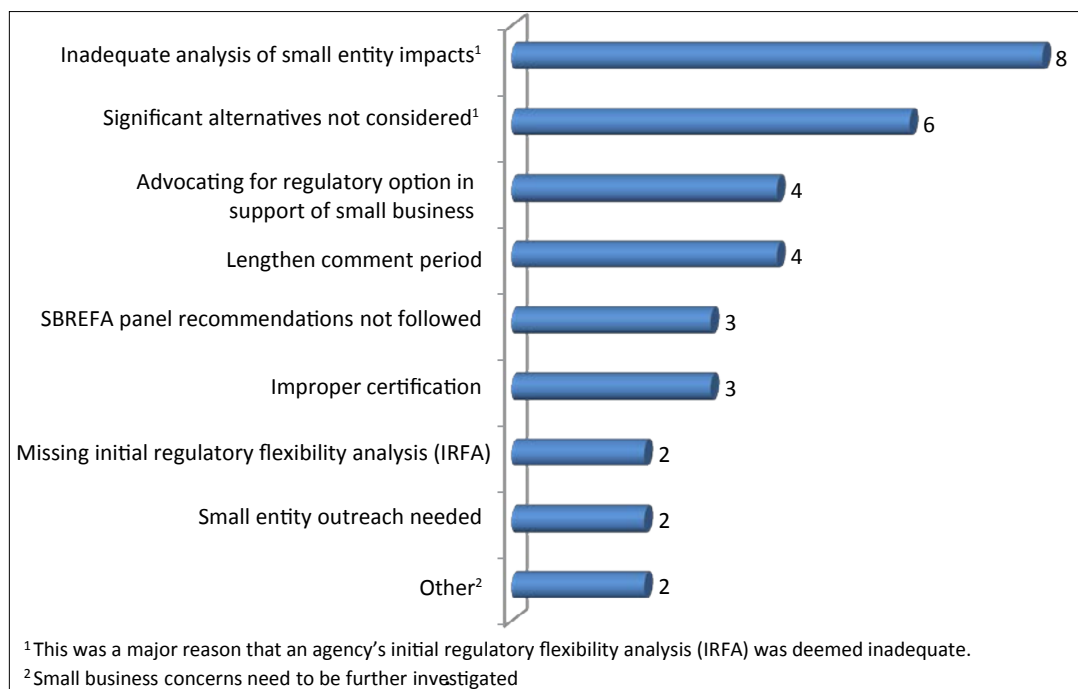
The Office of Advocacy bases its cost savings estimates primarily on agency estimates, when available. Alternatively, cost estimates are obtained from the entities affected, their representatives, and/or the public record. Cost savings for a given rule as a result of Advocacy’s intervention are captured in the fiscal year in which the agency takes final action on the rule. First-year and recurring annual cost savings are listed where applicable. Where cost savings have accrued during the prepublication draft stages of the rule, they are not publicly available.

Additional Information

This report is available on the Office of Advocacy’s webpage at www.sba.gov/advocacy/regulatory-flexibility-act-annual-reports.

To be informed of future publications, visit the office’s email subscription webpage at www.sba.gov/content/connect-us-0. By subscribing to the Small Business Regulation & Research category, you can choose to receive email notices of new Advocacy research, news releases, regulatory communications, publications, or the latest issue of *The Small Business Advocate* newsletter.

Figure 1: Number of Specific Issues of Concern in Agency Comment Letters, FY 2014.



Source: *Report on the Regulatory Flexibility Act, FY 2014*, U.S. Small Business Administration, Office of Advocacy.