



September 29, 2017

The Honorable E. Scott Pruitt  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
via e-mail

Dear Administrator Pruitt:

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.<sup>1</sup> 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, Kentucky, Ohio, 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.

Advocacy heard from many small businesses on a number of environmental regulations. For instance, with regard to EPA's chemical regulations, several small businesses noted issues with EPA's Lead-Based Paint Renovation, Repair and Painting Rule, specifically citing difficulties with the training requirements, lack of an EPA-compliant test-kit, recordkeeping requirements,

---

<sup>1</sup> 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.

enforcement and the cost of fines under these regulations. In addition, many small business homebuilders stated that the rule has caused a large increase in the cost of new home construction and remodeling projects.

As for the agency's regulations under the Clean Air Act, small businesses expressed concerns with the increased regulatory burdens under EPA's revised Risk Management Plan (RMP) rule. Small businesses also expressed significant concerns about EPA's new source performance standards for wood heaters that will take effect in 2020. Step 2 of this rule represents a significant tightening of the air emission standards for these consumer products and threatens to put a large number of small businesses out of the market. Retailers that sell wood heaters are very concerned that there are no provisions for pass-through to consumers of older wood stoves after the effective date. Market realities will force manufacturers to produce only those products that are compliant with step 2 in the next year or two, and most are not ready to do so. These small businesses support a reconsideration of the step 2 standards and a delay of any strengthening of the air emission standards. Advocacy also heard from small oil & gas producers that are concerned about the economic impacts of the 2012 Subpart OOOO regulations that are already in effect, in addition to the Subpart OOOOa methane regulations that EPA is currently reviewing. These small businesses suggested a review of the 2012 final rule.

There were also several small business commenters that identified issues with EPA's land disposal and management regulations. For example, one individual expressed concerns about the lack of federal approval of Class V improved sinkholes in Idaho. These are canals and irrigation structures used to irrigate fields. Another Idaho mining industry representative addressed problems with the proposed financial assurance requirements under the Comprehensive Environmental Response, Compensation & Liability Act of 1980 and Toxic Release Inventory requirements.

Finally, Advocacy also heard from small businesses concerning issues under the Clean Water Act. Most significantly, Advocacy heard from several stakeholders at all of its roundtables regarding the need to revise the 2015 Definition of Waters of the United States. Stakeholders are in favor of repealing this proposed rule, and replacing it with a more narrow definition. The 2015 rule is problematic in that almost any body of water could be considered a "water of the United States." Stakeholders have indicated that the costs to comply with this definition may make it impossible for them to obtain permitting. Small businesses also expressed concerns with the permit and reporting requirements. For example, a Cleveland participant criticized overly burdensome stormwater reporting requirements, and a mining industry representative identified problems with the multisector general (stormwater) permit for mines. Another small businesses representative in Baton Rouge suggested that the Corps of Engineers devise a simplified permit for the removal of abandoned oil and gas equipment.

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.

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,

A handwritten signature in black ink that reads "Major L. Clark, III". The signature is written in a cursive style with a large initial 'M' and a distinct 'L'.

Major L. Clark, III  
Acting Chief Counsel for Advocacy

cc: Samantha Dravis, Associate Administrator  
Office of Policy  
Environmental Protection Agency