

## Advocacy Saves Small Businesses \$6.6 Billion in FY 2005

Small businesses saved over \$6.6 billion in fiscal year 2005. Implementation of the Regulatory Flexibility Act (RFA) ensured that the voice of small business was heard in the rulemaking process. Rules were better tailored to meet their regulatory goals, while ameliorating the burden on small businesses (as compared with the original proposals).

“The Office of Advocacy is proud to live up to its reputation as a fighter for American small business,” said Chief Counsel for Advocacy Thomas M. Sullivan. “When the voice of small business is heard in the regulatory process, better decisions are made and better rules are written. By working closely with small business owners, their representatives, and federal agencies, our staff showed that one-size-fits-all rules are not the best solution. Cost savings from the

RFA show that original proposed rules can impose unintended costs on America’s innovative, job-creating small businesses.”

The \$6.6 billion in regulatory costs foregone by small business are outlined in the *Report on the Regulatory Flexibility Act, FY 2005*, released by the Office of Advocacy on April 20.

The report highlights other accomplishments in RFA compliance and President Bush’s Executive Order 13272, which mandates additional federal agency actions to limit the impact of proposed rules on small business.

These accomplishments include:

- An additional \$966 million in annual recurring cost savings for small entities.
- Twenty-one seminars to train federal officials on how to comply with the RFA and EO 13272.

*Continued on page 7*



The Office of Advocacy welcomed colleagues from Congress, regulatory agencies, and trade associations to an open house on April 20. Advocacy’s Senior Counsel Claudia Rodgers demonstrated the online training for regulators on how to comply with the Regulatory Flexibility Act (see page 7).

## In This Issue

### Regulatory News

RFA Annual Report . . . . . 1

Final Do-Not-Fax Rule . . . . . 5

### Message from the Chief Counsel

Devastation—and Opportunity—in the Gulf Coast Region . . . . . 3

### Research Notes

Health Insurance Tax Deductions Help Entrepreneurs . . . . . 2

### Regional Roundup

Colorado Extends Law To Help Small Business . . . . . 6

### Tax News

Chief Counsel Testifies on Proposals to Shrink Tax Gap . . . 6

### Legislative News

Equity for Our Nation’s Self-Employed Act (H.R. 4961) . . . 2

### News Items

Entrepreneurship: The Foundation for Economic Renewal in the Gulf Coast . . . 4

Advocacy Opens Its Doors to Rulemakers . . . . . 7

2006 National Small Business Person of the Year . . . . . 5

---

## Research Notes

---

### Health Insurance Tax Deductions Help Entrepreneurs

Deducting the cost of health insurance premiums may keep self-employed entrepreneurs in business, according to a new study, *Health Insurance Deductibility and Entrepreneurial Survival*, which was released by the Office of Advocacy in April. The study shows that the health insurance deduction for the self-employed has decreased the likelihood of entrepreneurial exit by 10.8 percent for single filers and 64.9 percent for married filers.

“Access to healthcare continues to be the top issue for small business,” said Thomas M. Sullivan, chief counsel for advocacy. “This study will help Congress and the Administration as they consider policies that help small business and strengthen the economy.”

Tami Gurley-Calvez wrote the study with funding from the Office of Advocacy. She examines how the introduction of tax deductibility

for self-employed health insurance premiums affects the chances of entrepreneurial exit. The study also noted that the absolute dollar amount of the health insurance premium deduction influences the probability of exit from entrepreneurial activities. For single filers, a 10 percent increase in the dollar amount of the deduction reduces the probability of exit by 10.6 percent. For married filers the probably of exit is reduced by 1.2 percent.

For more information and a copy of the complete report, visit the Office of Advocacy website at [www.sba.gov/advo/research/rs273tot.pdf](http://www.sba.gov/advo/research/rs273tot.pdf).

#### The Small Business Advocate

**Editor** Rebecca Krafft

**Managing Editor** Rob Kleinsteuber

**Contributing Editors** Candace Ewell, John McDowell, Eric Menge, Kathryn Tobias

**Production Assistant** Dawn Crockett

*The Small Business Advocate* (ISSN 1045-7658) is published monthly by the U.S. Small Business Administration's Office of Advocacy and is distributed to SBA field staff and members of the U.S. Congress. *The Small Business Advocate* is available without charge from the Office of Advocacy, U.S. Small Business Administration, MC 3114, Washington, DC 20416; [advocacy@sba.gov](mailto:advocacy@sba.gov); (202) 205-6533. For delivery changes, send your current address label with your request to the above address. For back issues, contact National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; [www.ntis.gov](http://www.ntis.gov).

*The Small Business Advocate* online: [www.sba.gov/advo/newsletter.html](http://www.sba.gov/advo/newsletter.html).

Electronic delivery of *The Small Business Advocate* is available by visiting [www.sba.gov/advo/newsletter.html](http://www.sba.gov/advo/newsletter.html). Subscriber information is kept confidential and not used for any purpose except newsletter delivery.



Federal Recycling Program  
Printed on recycled paper.

---

## Legislative News

---

### Advocacy Letter Supports Equity for Our Nation's Self-Employed Act

On April 4, 2006, the Office of Advocacy sent a letter supporting the Equity for Our Nation's Self-Employed Act (H.R. 4961) to Congresswoman Melissa Hart and House Small Business Committee Chairman Donald Manzullo. Advocacy's letter highlighted the need for a level playing field to ensure that small businesses have access to more affordable health insurance.

Advocacy's letter can be found at [www.sba.gov/advo/laws/comments/hart06\\_0404.pdf](http://www.sba.gov/advo/laws/comments/hart06_0404.pdf). A summary is at [www.sba.gov/advo/laws/comments/factshart06\\_0404.pdf](http://www.sba.gov/advo/laws/comments/factshart06_0404.pdf).

H.R. 4961 will make health insurance more affordable for small businesses. It corrects a current inequity by permitting health insurance premiums to be deducted when calculating self-employment payroll taxes. Currently, salaried workers exclude the cost of health insurance premiums for payroll tax purposes, while the self-employed are not permitted to exclude the health insurance premiums when calculating their payroll taxes. Advocacy research demonstrates that health insurance deductibility improves the viability of small businesses. The complete research

report can be accessed at [www.sba.gov/advo/research/rs273tot.pdf](http://www.sba.gov/advo/research/rs273tot.pdf).

For more information, visit Advocacy's webpage at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Assistant Chief Counsel for Tax Candace B. Ewell at [candace.ewell@sba.gov](mailto:candace.ewell@sba.gov) or (202) 401-9787.

---

## Message from the Chief Counsel

---

### Devastation—and Opportunity—in the Gulf Coast Region

by Thomas M. Sullivan, Chief Counsel for Advocacy

Images of the devastation wrought by Hurricanes Katrina, Rita, and Wilma on the Gulf Coast last fall have become so pervasive in the media that they are almost symbols rather than recognizable places where people lived, worked, and belonged to a community. Seeing the reality brought back the initial shock, as we rode past miles of empty houses and businesses in the worst-hit parts of New Orleans on April 10.

Looking at the destruction, “opportunity” would not be the first word that comes to mind.

In a visit to the Factory Service Agency owned by Mike Mitternacht—an HVAC service shop in Metairie, Louisiana—we heard about some of the challenges faced by the region’s entrepreneurs, as well as the innovative strategies they are using to respond.

Mike’s business was luckier than many—he had only a foot of water on the floor, so the physical damage was limited largely to rugs and bottom file drawer contents, furniture and hardware that was stored on the floor, and wind damage.

His house was located away from the flooding, but there were family concerns—his son lost two houses, and his in-laws lost their house. An elderly relative broke her hip and his daughter-in-law gave birth to one of the first post-storm babies born in Lakeside Hospital.

The company has nine employees who live in the area—all were unharmed, but most had physical damage at home to deal with. Some were housed in FEMA trailers or as far away as Mississippi. The business learned to accommodate their needs and new commuting patterns to give them time to do what they needed to do.

Service trucks had been evacuated before the storm, so the company was ready to go back in operation by September 10. And there was plenty to do—many of Mike’s customers had wind and flood damage to their HVAC systems.

“I could do more work if I had the employees to do it,” Mike says. With the extreme housing shortage in the area, the work force in general is much smaller, and skilled workers can command higher wages and bonuses—which has an effect on the region’s business competitiveness with firms based outside the area.

A big problem was the lack of mail service—none at all for 3-4 weeks after the business was up and running. Accounts receivable became “accounts inconceivable” until Mike began finding other ways to receive payments.

After that there was the question of how to get timely reimbursement for repair work they were doing that was covered by insurance. Mike found himself financing the work until the money cleared. To complicate matters further, some big national suppliers were requiring payment on pre-storm timeframes. Mike learned quickly which suppliers would work with him.

In short, the post-Katrina period required all the nimbleness a small business could muster. “What we learned was to improvise—think on our feet—pick up checks for services, call in favors, and seek earlier payments using non-Postal Service delivery from out-of-town customers,” Mike said.

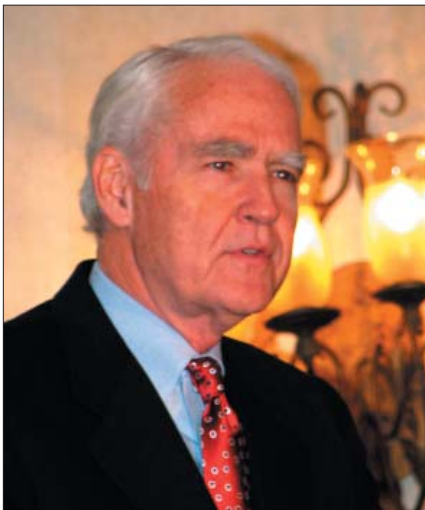
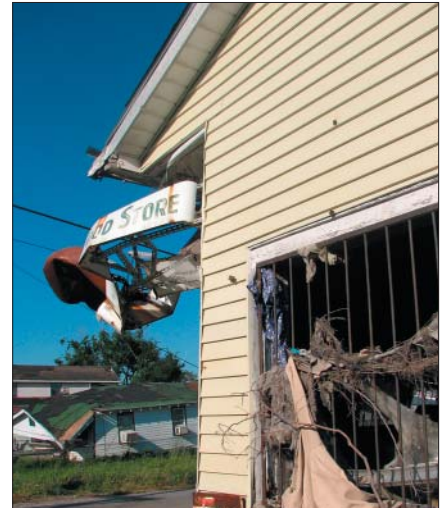
One day after touring devastated areas of New Orleans, Advocacy’s April 11 conference on “Entrepreneurship: The Foundation for Economic Renewal in the Gulf

Coast Region” struck a remarkably upbeat chord. The researchers, policymakers, and entrepreneurs who came together brought a wide-ranging blend of insights into the prospects for economic recovery and growth in the region while preserving its authentic qualities. It seemed the word of the day was, in fact, “opportunity.”

Researcher Pari Sabety of the Brookings Institution’s Urban Markets Initiative estimated that some 635,000 businesses were in the affected region—and it’s doubtful that any, even those without major physical damage, escaped the storms’ effects completely. As the initial periods of rescue and immediate relief fade, existing small businesses face new challenges—not only repairing, rebuilding, and replacing physically damaged plant and equipment—but in many cases reassessing the viability of the product line and the business itself in a setting with a smaller or different work force and customer base. Obtaining capital is another challenge, especially where the pre-disaster credit- and risk-scoring system may not accurately reflect worth.

Speaker after speaker noted that the Gulf Coast’s recovery will depend not only on the leadership and resolve of government at all levels, but on the recognition by entrepreneurs and the private sector of opportunities for creating new enterprises based on what is needed now by the people in the region. That development of new enterprises is already happening—and will accelerate as uncertainties about levees, flood maps, and insurance are resolved.

## Entrepreneurship: The Foundation for Economic Renewal in the Gulf Coast Region



Advocacy's conference in New Orleans, "Entrepreneurship: The Foundation for Economic Renewal in the Gulf Coast Region" commenced on April 10 with a bus tour of areas devastated by Hurricane Katrina. Participants visited the Lakeview, lower Ninth Ward, and eastern New Orleans areas viewing mile on mile of houses made uninhabitable, as well as dozens of damaged small businesses.

The next morning, Donald Powell, federal coordinator of Gulf Coast rebuilding (bottom left), set the tone for the conference, noting President Bush's commitment to local planning for the rebuilding effort. Powell applauded

efforts by the conference sponsors—the Ewing Marion Kauffman Foundation, the Public Forum Institute, and the Gulf Coast Urban Entrepreneur Partnership, in addition to Advocacy—to bring the Gulf Coast entrepreneurial community together. "The economic engine is the people in this room—that's what drives America," he said.

Remarks by Powell and Chief Counsel for Advocacy Thomas M. Sullivan were followed by a series of panels that featured presentations by more than 20 researchers, policymakers, leaders from the business and nonprofit sectors, and entrepreneurs. Pari Sabety (middle) presented statistics about the area

affected by Hurricanes Katrina and Rita and talked about "Katrina's teachable moment" with respect to credit scoring.

Some 170 participants attended the conference, which offered opportunities for networking across disciplines. Desiree Young (bottom right) of VentureWalk Business Partners, was among the New Orleans area participants. She provided perspective on the marketing challenges facing area entrepreneurs in the post-disaster Gulf Coast marketplace.

The conference proceedings will be available from Advocacy in the near future.

## Regulatory News

### FCC Issues Final Rule Implementing Junk Fax Prevention Act

On April 6, the Federal Communications Commission (FCC) released its final rule implementing the Junk Fax Prevention Act. The agency's rule corresponds closely with the comments Advocacy filed in March. The points are as follows:

- The FCC upheld the exemption allowing faxes to be sent to customers and others with whom the sender has an "established business relationship" (EBR). It agreed that the sender has the duty to prove that an EBR exists, but senders need not maintain specific records.

- The sender must demonstrate that the number was communicated in the context of an EBR.

- Fax numbers obtained from the recipient's own directory, advertisement or Internet site are voluntary unless the recipient places a notice that says otherwise.

- Senders can use third-party directories if they take reasonable steps to verify the recipient consented. Subscription-based directories are only made available to purchasers and subscribers.

- Faxes transmitted under an EBR must be related to the products and services of the entity. Inquiry about store locations or the identity of the fax sender does not constitute an EBR. Visiting a website does not constitute an EBR. Nor does an EBR extend to affiliates of the entity or to a fax broadcaster.

- The rule includes no time limit on an EBR, but the FCC will closely monitor the situation to see if one is needed.

- The statute requires a "clear and conspicuous notice" that the fax recipient can opt out of receiving any more faxes from the sender. The rule requires the opt-out notice to be on the first page of the fax. It must be clear and conspicuous, that is, apparent to a reasonable consumer. The FCC adopted no other specific requirements.

- A website, email address, toll-free phone number, or toll-free fax number would qualify as cost-free opt-out mechanisms as required by the statute. A local telephone number could be used if the fax was

sent locally. Senders only need to make available one of these mechanisms, but the mechanism must be available 24/7. Senders only need to respond to requests made using the chosen opt-out mechanism.

- Opt-out requests must be honored within the shortest possible time period, but no longer than 30 days. An opt-out request applies even if a recipient continues to do business with the sender.

- Fax broadcasters are still liable if there is a high degree of involvement, such as providing the numbers and making representations about the legality of the fax numbers they provide.

While the FCC denied the request to exempt small businesses and trade associations from providing cost-free opt-out mechanisms, the rule allows for mechanisms besides toll-free numbers.

The text of the final rule is posted at the following url: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-06-42A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-42A1.pdf).

### Pennsylvania Machinist Is 2006 National Small Business Person of the Year

Eric A. Hoover of Conneaut Lake, Pennsylvania, who overcame childhood rheumatoid arthritis and built a thriving machine tool company from scratch in the scenic northwestern Pennsylvania resort town where he was born and raised, was recognized as National Small Business Person of the Year during ceremonies at SBA Small Business Week 2006. The agency's conference marking National Small Business Week took place on April 12-13.

For more information on SBA's Small Business Week, please visit <http://www.sba.gov/sbw>.



---

## Regional Roundup

---

### Colorado Extends Law To Help Small Business

On April 6, Colorado Governor Bill Owens signed into law H.B. 06-1041. The new law continues the requirement that state agencies prepare cost-benefit analyses of proposed rules that may affect small businesses when requested by the state Department of Regulatory Agencies (DORA). This requirement protects Colorado's 493,000 small businesses from undue state regulatory burdens.

State Representative Alice Borodkin sponsored H.B. 06-1041 in the Colorado House of Representatives, and Senator Peter C. Groff, president pro tem, sponsored the bill in the Senate. "This legislation is a win-win for small business and for effective government. It's good practice to make sure regulations don't pinch our efforts to grow economically," said Senator Groff.

In Colorado, each state agency, its functions, and its boards are reviewed according to a statutory review schedule and statutory criteria. A sunset review considers whether the agency, its functions, or board should be continued without changes, continued with changes, or terminated. The provisions in the Colorado Administrative Procedure Act which govern the preparation of a cost-benefit analysis had been set to terminate on July 1, 2006, unless extended by legislative action. H.B. 1041 extends the cost-benefit analysis requirement through July 1, 2013.

The small business community, led by the National Federation of Independent Business/Colorado (NFIB) and the Colorado Association of Commerce and Industry, supported the passage and signing of the bill.

"Duplicative, unnecessary and overly complicated regulations hit small business the hardest. By continuing these cost-benefit provisions state agencies can better see when they need to provide flexibility in their rules," said Tony Gagliardi, NFIB/Colorado state director. "For small business, having the ability to participate and help shape the rules they have to comply with is important. The bill's passage helps to maintain Colorado's small business friendly environment."

---

## Tax News

---

### Chief Counsel Testifies on Proposals to Shrink Tax Gap

On April 5, Thomas M. Sullivan, chief counsel for advocacy, testified before the House Committee on Small Business. The hearing was titled, "IRS's Latest Enforcement: Is the Bulls-Eye on Small Businesses?" In his testimony, Sullivan addressed the problem of the "tax gap," i.e., the difference between the amount of tax that taxpayers should pay for a given year and the amount that is paid voluntarily and timely. For 2001, the net tax gap amount was estimated

at \$290 billion. The Department of the Treasury and the National Taxpayer's Advocate have made proposals to address this problem. Most of the proposals would make payments to the self-employed subject to additional recordkeeping and/or withholding requirements.

Sullivan questioned whether this reliance on enforcement unfairly targets small businesses—directly and through such unintended consequences as restricting cash flow. Sullivan argued instead for greater

resources to be focused on taxpayer education.

The entire testimony can be found at [www.sba.gov/advo/laws/test06\\_0405.pdf](http://www.sba.gov/advo/laws/test06_0405.pdf).

**RFA Annual Report,**  
from page 1

- Two dozen comment letters submitted to federal agencies by Advocacy, outlining how compliance with the RFA would result in better rules and reduce burdens on small business.

Advocacy research shows that the smallest businesses (with fewer than 20 employees) annually spend \$7,647 per employee to comply with all federal regulations. That is 45 percent more than the \$5,282 per employee that firms with 500 or more employees spend.

For more information and a full copy of the report, visit the Office of Advocacy website at [www.sba.gov/advo/laws/flex/05regflx.pdf](http://www.sba.gov/advo/laws/flex/05regflx.pdf). Print copies are also available. To receive one, contact Dawn Crockett at [dawn.crockett@sba.gov](mailto:dawn.crockett@sba.gov) or (202) 619-2310.

**Summary of Estimated Cost Savings, FY 2005** (Thousands of Dollars)

Agency	Rule / Intervention	First-Year Costs*	Annual Costs
Animal and Plant Health Inspection Svc. (APHIS)	Mexican Avocado Import Program <sup>1</sup>	34,550	34,550
Environmental Protection Agency (EPA)	Cooling Water Phase III <sup>2</sup>	10,500	10,500
Environmental Protection Agency (EPA)	Other Solid Waste Incinerators <sup>2</sup>	7,600	7,600
Department of Defense (DOD)	Radio Frequency ID Tags (RFID) <sup>3</sup>	62,000	--
Federal Communications Commission	Do Not Fax <sup>4</sup>	3,556,430	711,286
National Archives and Records Admin. (NARA)	Records Center Facility Standards <sup>5</sup>	63,000	--
Fish and Wildlife Service	Bull Trout Critical Habitat Designation <sup>6</sup>	--	--
Mine Safety and Health Administration (MSHA)	Diesel Particulate Matter <sup>7</sup>	9,274	1,621
Department of Transportation/Federal Motor Carrier Safety Administration (FMCSA)	Hours of Service <sup>8</sup>	200,000	200,000
Securities and Exchange Commission	Extension of Compliance <sup>9</sup>	2,680,000	--
<b>Total Regulatory Cost Savings</b>		<b>6,623,355</b>	<b>965,557</b>

Source: *Report on the Regulatory Flexibility Act, FY 2005*, U.S. Small Business Administration, Office of Advocacy. <sup>1</sup>APHIS data. <sup>2</sup>EPA data. <sup>3</sup>DOD. <sup>4</sup>U.S. Chamber of Commerce survey. <sup>5</sup>PRISM International and NARA data. <sup>6</sup>Cost savings for this rule are not publicly available because savings were accrued during the draft stage of the rule. <sup>7</sup>MSHA data. <sup>8</sup>FMSCA data. <sup>9</sup>Calculations based on data from a Financial Executives International survey.  
\*First-year costs do not add to total because of rounding.



**Advocacy Opens Its Doors to Rulemakers**

Following the publication of the annual report on the Regulatory Flexibility Act on April 20, Office of Advocacy staff welcomed congressional staff, federal regulatory officials, trade association representatives, former colleagues, and the press to an open house.

# Small Business: Your issues are our issues at the SBA Office of Advocacy.

Access Advocacy Listservs for the latest regulatory alerts and small business statistics. Email notices will provide a hotlink to the new material, so your in-box won't fill up with large documents. At <http://web.sba.gov/list>, check:

- Advocacy Newsletter
- Advocacy Press
- Advocacy Regulatory News
- Advocacy Research



---

*Advocacy: the voice of small business in government*

U.S. Small Business Administration  
Office of Advocacy  
Mail Code 3114  
409 Third Street, S.W.  
Washington, DC 20416

FIRST CLASS  
POSTAGE AND FEES PAID  
U.S. Small Business Administration  
Permit No.G-82

Official Use  
Penalty for Private Use, \$300

Return Service Requested