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Advocacy Report Shows Small Business Numbers Rose in 2003

The recently released annual report, *Small Business Economic Indicators, 2003*, found that the cautious atmosphere of the two previous years gave way to increased entrepreneurial risk taking in 2003. Output increased, the stock markets rose, the number of firms expanded, proprietors' income grew, corporate profits rose, and bank lending standards were relaxed. These factors set the stage for expansion and subsequent hiring increases. "Small business plays a key role in our economy," said Thomas M. Sullivan, chief counsel for advocacy. "Entrepreneurs launch new ideas and they propel our economy's evolution. This dynamic risk-taking results in 60 to 80 percent of the net new jobs, so when

economic conditions are favorable for growth, job gains are not far behind. That is exactly what has happened."

The report estimates that 572,900 employer firms were created and 554,800 terminated in 2003. This dynamic resulted in a net increase in employer firms of 18,100, or 0.3 percent, while the number of non-incorporated self-employed rose by 369,000, or 3.7 percent. Not only did firms increase in number, they increased their returns. Proprietors' income was up 6.2 percent from the previous year, and corporate profits rose by 18.3 percent.

The outlook for future small business expansion was positive at

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In July, Chief Counsel for Advocacy Thomas M. Sullivan traveled to Harrisburg, Pa., to meet with state and local business leaders. Pictured from left, Chase Carter, vice president of operations, Super Dog Pet Foods; Richard Atkins, Atkins Deck Treatment Service; Pennsylvania State Senator Noah Wenger; and Sullivan.

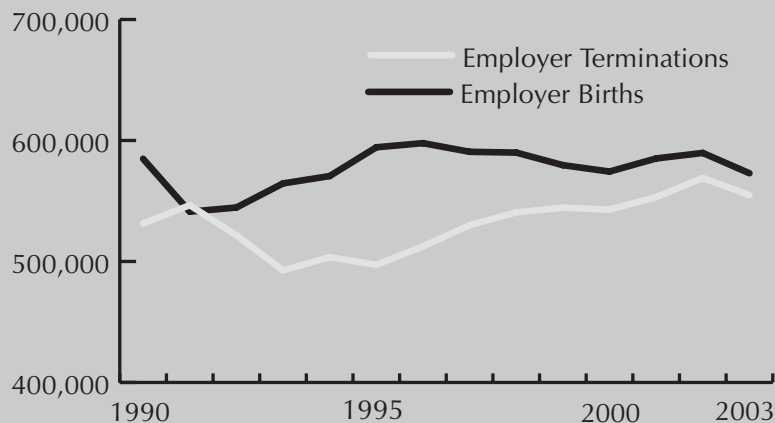
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the end of 2003. Banks began relaxing lending standards in late 2003 for the first time since 1998, and the demand for small business loans halted its decline. The National Federation of Independent Business' index that gauges small firms' view of expansion in the next three months reached its highest level since January 2000. With good financials and an optimistic outlook, the stage was set at the end of 2003 for small business expansion. Even with a solid economy for small business, risks remain. A main issue has been and continues to be small businesses struggling to cope with rising health insurance costs. And another potential issue,

surprisingly enough, is a labor shortage. The unemployment rate at the end of 2003 was the same as at the end of 2001, when the National Federation of Independent Business found the availability of qualified labor to be the single most important problem for small business.

Much of the data in the report are at the national level, but state-by-state data are presented for many economic variables, such as firm turnover and financial information. The complete report is available on Advocacy's website in Acrobat format, and the report's 14 data tables are available in spreadsheet format there. To access both, visit www.sba.gov/advo/stats/#general.

Employer Firm Starts and Stops, 1990–2003



Source: U.S. Small Business Administration, Office of Advocacy, from U.S. Census Bureau data. Estimates for 2002 and 2003 by Office of Advocacy from Department of Labor data.

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Editor Rebecca Krafft

Managing Editor Rob Kleinsteuber

Contributing Editors Brian Headd, Chad Moutray, John McDowell, Claudia Rayford, Kathryn Tobias, Viktoria Ziebarth

Production Assistant Dawn Crockett

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New Firm Size Data Forthcoming from Bureau of Labor Statistics

In another small business data note, the Bureau of Labor Statistics (BLS) is expanding the Business Employment Dynamics program. Agency staff are working to produce job and business turnover figures by business size.

A recent BLS paper shows the results from different methodologies, such as defining a business as a location (an establishment) or as the aggregation of all of its locations (a firm) and defining a business's size by its beginning-period size or by its average size during the period. Currently the methodology to produce the figures is in debate and BLS is soliciting comments.

To learn more, see the *Monthly Labor Review* article, "Why Size Class Methodology Matters in Analyses of Net and Gross Job Flows," at www.bls.gov/opub/mlr/mlrhome.htm. Business Employment Dynamics data are available from www.bls.gov/bdm/home.htm.

Message from the Chief Counsel

Executive Order 13272 Celebrates Second Anniversary

by Thomas M. Sullivan, Chief Counsel for Advocacy

This is an exciting time for the Office of Advocacy, as Executive Order 13272 turns two years old. On Aug. 13, 2002, President Bush signed E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking." This executive order was intended to add additional meat to the bones of the Regulatory Flexibility Act (RFA), which has been in existence since 1980. While impressive progress to reduce the regulatory burden on small businesses had occurred because of the RFA, more needed to be done. E.O. 13272 added important requirements for federal regulatory agencies, such as early notification to Advocacy when a rule was likely to have a significant impact on small businesses and addressing Advocacy's comments when a rule becomes final.

These and other provisions of the executive order have been working well over the past two years. Agencies are coming to Advocacy earlier in the rule development process, which means the small business impact of draft regulations gets considered sooner. While not all agencies have been quick to utilize the new notification procedures and work with Advocacy prior to proposing a rule, a change in some agencies' behavior is already apparent.

This change is especially evident among some of the agencies that have attended Advocacy's training sessions as a direct result of the executive order. One of the executive order's requirements was for Advocacy to train agencies on how to comply with the RFA. By the end of September, Advocacy will have trained nearly 30 federal agencies. Training is expected to continue beyond September with an online web-based training compo-

nent for employees that missed the initial sessions. Staff at agencies who have been through this rigorous training are more aware of their compliance requirements under the RFA and the executive order. Many of them are increasingly willing to

work with Advocacy on draft rules and share important information which enables Advocacy to assist the agency in assessing small business impacts of the draft rules. A big part of these important training

Continued on page 4

Federal Agencies Receive RFA Training

In fulfillment of E.O. 13272, Advocacy is training federal departments and agencies on how to comply with the Regulatory Flexibility Act. Since July 2003, regulatory staff from the following agencies have participated in Advocacy training.

- Department of Commerce
 - National Oceanic and Atmospheric Administration
- Department of Health and Human Services
 - Center for Medicare and Medicaid Services
 - Food and Drug Administration
- Department of the Interior
 - Bureau of Indian Affairs
 - Bureau of Land Management
 - Fish and Wildlife Service
 - Minerals Management Service
 - National Park Service
 - Office of Surface Mining, Reclamation, and Enforcement
- Department of Justice
 - Bureau of Alcohol, Tobacco, and Firearms
- Department of Labor
 - Employee Benefits Security Administration
 - Employment and Training Administration
 - Employment Standards Administration
 - Mine Safety and Health Administration
 - Occupational Safety and Health Administration
- Department of Transportation
 - Federal Aviation Administration
 - Federal Motor Carrier Safety Administration
 - Federal Railroad Administration
 - Research and Special Programs Administration
- Department of the Treasury
 - Alcohol, Tobacco, Tax, and Trade Bureau
 - Financial Crimes Enforcement Network
 - Financial Management Service
 - Internal Revenue Service
 - Office of the Comptroller of the Currency
- Independent Federal Agencies**
 - Environmental Protection Agency
 - Federal Communications Commission
 - General Services Administration / FAR Council
 - Small Business Administration

Chief Counsel's Message, from page 3

sessions is laying the foundation for productive relationships between Advocacy and the regulatory agencies. Putting faces with names and knowing they have a place to come for assistance with the RFA is making a big difference for those agencies willing to take advantage of our expertise.

Another change brought on by E.O. 13272 is the addition of Advocacy's notification email

address, notify.advocacy@sba.gov. This has made it easier for agencies to notify Advocacy of important draft rules that may affect small business. Agencies are slowly adopting this system to advise Advocacy of such rules. Those that have been using it exclusively have found it to be a simplified process for accomplishing the notification requirements under the RFA and the executive order.

Overall, I am quite pleased with the progress of the executive order

on its two-year anniversary. If the goal is for agencies to consider the impact of their rules on small entities and to do so earlier in the rule-making process, then the E.O. is beginning to produce results. Changing an agency's culture takes time, but with important tools like Executive Order 13272, Advocacy can assist agencies in complying with the RFA and reducing the regulatory burden on small businesses.

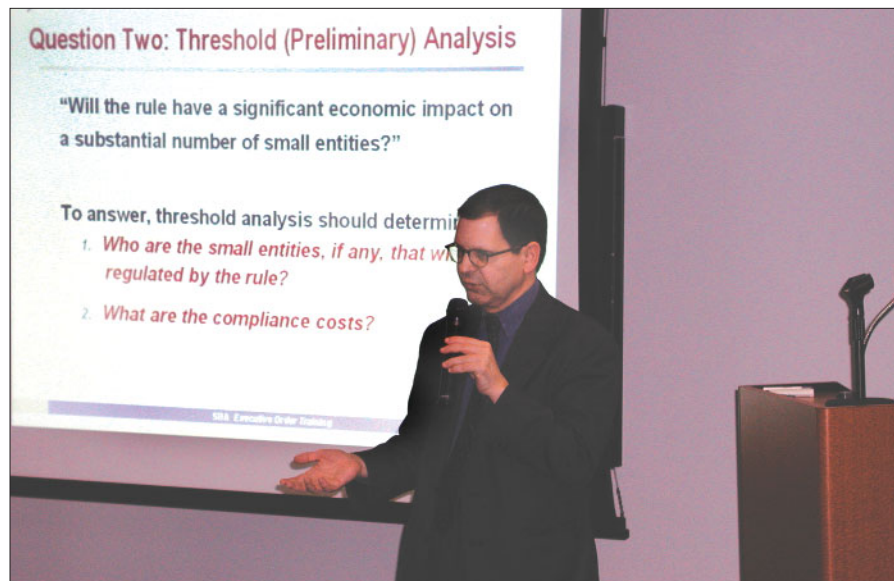
Regulatory Update

Small Business Administration

SBA Responds to Customer Comment, Re-Examines Size Standards Rule. On June 30, the Small Business Administration announced that it is withdrawing proposed rules that would have changed the standards by which a business is designated "small" for the purposes of government programs.

"Administrator Barreto has worked hard to make the SBA more like the small businesses it serves every day, and that means being responsive to our customers," SBA Associate Deputy Administrator for Government Contracting Allegra McCullough said. "That is why we have decided to revisit this issue. All new rules have a 60-day comment period. Because we knew this issue was so important to America's small business owners, we actually extended that period to 105 days. During that time, we strongly encouraged our small business customers to contact us with their thoughts on the revisions. They did just that, and what they told us was, 'good intention, good idea, but needs a little more work.'"

"We are here to serve those small business owners, and we take their concerns very seriously," McCullough continued. "That is



Training on implementation of the Regulatory Flexibility Act remains an ongoing commitment for Advocacy. Here, Assistant Chief Counsel Keith Holman explains step two of how to properly certify that a rule won't harm small businesses. See the next page to test your own RFA knowledge.

why we are going to step back and study this rule further. There is no doubt that our current system of size standards is in need of simplification, but we want to make absolutely sure that we do it in the right way. This issue is important to our mission, and it's important to America's small business owners."

Environment

EPA Extends SPCC Deadline. On Aug. 11, the Environmental Protection Agency (EPA) issued a final

rule to extend by 18 months the compliance deadline for the oil spill prevention requirements imposed by the July 2002 amendments to EPA's Spill Prevention, Control and Countermeasures (SPCC) rule.

The SPCC rule sets requirements to prevent discharges of oil from certain facilities from reaching U.S. waters. The 2002 amendments imposed new requirements for many small businesses that do not

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Test Your Knowledge of the RFA

Ten Frequently Asked Questions About the Regulatory Flexibility Act

In the May 2004 issue of *The Small Business Advocate*, we published a list of questions that repeatedly arise during RFA training. These questions address some of the more challenging parts of rule analysis, as well as areas that are commonly misunderstood. Many of them continue to pose problems for agency regulators. In the following article, Senior Counsel Claudia Rayford answers these questions.

1. What is the difference between direct and indirect impact?

A regulation imposes a direct impact on a business it regulates. Those compliance costs associated with the rule are an example of direct economic impacts of the rule on those businesses. However, a regulation may also have an economic impact on businesses that are not subject to the rule and its requirements. As a result of the regulation, those other businesses may also incur costs. For example, a rule that regulates car manufacturers may indirectly affect car rental agencies which must purchase those cars for use in their business.

Courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates them. This issue was first decided in *Mid-Tex Electric Cooperative, Inc., v. Federal Energy Regulatory Commission (FERC)*.¹ In that case, FERC stated that “the RFA does not require the Commission to consider the effect of this rule, a federal rate standard, on nonjurisdictional entities whose rates are not subject to the rule.” The court agreed, reasoning that “Congress did not intend to require that every agency consider every indirect effect that any regulation might have on small busi-

nesses in any stratum of the national economy.” The court concluded that “an agency may properly certify that no regulatory flexibility analysis is necessary when it determines that the rule will not have a significant economic impact on a substantial number of small entities that are subject to the requirements of the rule.” Although *Mid-Tex* occurred before passage of the Small Business Regulatory Enforcement Fairness Act of 1996, courts have upheld this reasoning since then. The court in *Cement Kiln Recycling Coalition v. EPA*² reasoned that “requiring an agency to assess the impact on all of the nation’s small businesses possibly affected by a rule would be to convert every rulemaking process into a massive exercise in economic modeling, an approach we have already rejected.”

Although it is not required by the RFA, the Office of Advocacy believes that it is good public policy for agencies to include reasonably foreseeable indirect impacts in the regulatory flexibility analysis.

2. Define “substantial number” and “significant economic impact.”

An agency’s second RFA step in a threshold analysis is to determine whether there is a significant economic impact on a substantial number of small entities. The RFA does not define “significant” or “substantial.” In the absence of statutory specificity, what is significant or substantial will vary depending on the problem being addressed, the rule’s requirements, and the preliminary assessment of the rule’s impact.

The agency is in the best position to gauge the small entity impacts of its regulations. Significance should not be viewed in

absolute terms, but should be seen as relative to the size of the business, business profitability, regional economics, and other factors. One measure for determining economic impact is the percentage of revenues or percentage of profits affected. Other measures may be used. For instance, the impact could be significant if the cost of the proposed regulation (a) eliminates more than 10 percent of the businesses’ profits; (b) exceeds 1 percent of the gross revenues of the entities in a particular sector, or (c) exceeds 5 percent of the labor costs of the entities in the sector.

The absence of a particularized definition of either “significant” or “substantial” does not mean that Congress left the terms completely ambiguous or open to unreasonable interpretations. Thus, Advocacy relies on legislative history of the RFA for general guidance in defining these terms.

3. Does an agency have to consider a rule’s impact on international firms doing business in the United States?

The definition of small business in the RFA comes from the Small Business Act³ and regulations issued by the Small Business Administration. With regard to international firms, the Act defines a small business as “a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.” So where a business meets the above criteria, agencies must consider a rule’s impact.

4. How soon must an agency notify Advocacy after certifying a rule?

If the head of an agency makes a certification that a rule will not have a significant economic impact upon a substantial number of small entities, section 605(b) of the RFA requires the agency to “provide such certification to the chief counsel for advocacy.” The RFA does not provide a time requirement. However, Advocacy encourages agencies to provide this information at a reasonable time in advance of publication or submission to the Office of Management and Budget for review.

5. Does an agency have to choose the alternative that gives the most relief to small business?

The RFA does not require an agency to choose the alternative that gives the most relief to small business. In an agency’s final regulatory flexibility analysis, an agency must give a statement of factual, policy, and legal reasons for adopting one or more alternatives and rejecting others. However, it would be contrary to the spirit of the RFA to reject an alternative that does the best job of reducing small business burden while accomplishing the agency’s regulatory goal.

6. Under what circumstances do interim final rules and direct final rules require an initial regulatory flexibility analysis (IRFA) or final regulatory flexibility analysis?

The RFA applies to any rule subject to notice and comment rulemaking under section 553(b) of the Administrative Procedure Act (APA)⁴ or any other law. Rules are exempt from APA notice and comment requirements (and therefore from the RFA requirements) when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.

In the case of an interim final

rule where an agency has relied on this good cause exception, the rule is exempt from RFA analysis.

However, Advocacy advises agencies that the exemption is narrowly construed by courts and may be challenged. Advocacy has been particularly concerned about agencies who might utilize this exemption to avoid performing the regulatory analysis required by the RFA.

Advocacy encourages agencies to perform the analysis so the public can comment on the accuracy of the agency’s assumptions regarding the economic impact of the rule. Once an agency moves to a *final* final rule, following an interim final rule, the emergency nature of the rule is usually no longer in effect and the agency must then perform the regulatory analysis necessary under the RFA. In practice, some agencies have been slow (or have failed) to issue a final, final rule and therefore have avoided performing the required analysis.

7. Is an IRFA required when the small business impact is positive?

Admittedly, Advocacy is primarily concerned with agencies’ failure to identify *adverse* impacts of their regulations on small entities and lack of efforts to mitigate those adverse impacts. This, after all, is the primary concern of the law. Legislative history, however, makes it clear that Congress intended that regulatory flexibility analyses also address *beneficial* impacts. Therefore, an agency cannot certify a proposed rule if the economic impact will be significant but positive. If an agency finds the impact will be positive, it should conduct a regulatory flexibility analysis to determine if alternatives can enhance the economic benefits to small entities.

8. Does Advocacy ever file an *amicus curiae* brief on behalf of an agency?

The chief counsel for advocacy is authorized to file an *amicus curiae*,

or friend of the court, brief in any action brought in a U.S. court to review a rule. Advocacy may present its views with respect to RFA compliance, the adequacy of the rulemaking record with respect to small entities, and the effect of the rule on small entities. To date, Advocacy has only sought to file *amicus* briefs to support the views of small business.

9. Where can an agency get small business data?

An agency should first look into its internal resources to identify what data it has on the industry it is intending to regulate. If such data need to be supplemented with additional information, the agency should conduct research or hire a contractor to acquire the information and should conduct outreach to trade associations and small businesses. Alternatively, an agency can contact the Office of Advocacy which will assist them in finding adequate sources of data, e.g., the Bureau of the Census or the Bureau of Labor Statistics. Advocacy also has the ability to convene small business roundtables to solicit additional data and information from potentially affected small entities.

10. If a rule does not require notice and comment under the Administrative Procedure Act, does the RFA require it?

The RFA requires analysis of a proposed regulation only where notice and comment rulemaking is required by the APA or any other statute. If a rule is not required to follow notice and comment rulemaking under the APA or any other statute, then the rule is exempt from the requirements of the RFA.

NOTES

1. Mid-Tex Elec. Coop v. FERC, 773 F.2d 327, (D.C. Cir. 1985).

2. Cement Kiln, 255 F.3d at 868.

3. 13 C.F.R. 121.105.

4. 5 U.S.C. §553(b).

QUARTERLY INDICATORS: THE ECONOMY AND SMALL BUSINESS

Second Quarter 2004

Trends

- The overall economy continued to recover. Real gross domestic product increased at an annualized rate of 2.8 percent in the second quarter, and although that number was lower than previous quarters, it did mark the eleventh consecutive quarter of positive real output growth since the recession in 2001. Industrial production was also higher. Moreover, consumers and businesses remained confident. For instance, the National Federation of Independent Business's Optimism Index was at or above 103 in April, May, and June, which, according to a recent Advocacy study by Joel Popkin and Company, signifies growing small business output. (For more information on the July 2003 Advocacy study, see: <http://www.sba.gov/advo/research/rs231.pdf>.)
- The unemployment rate remained at 5.6 percent, but that does not tell the full story. Nonfarm payroll jobs grew by 610,000 in the second quarter and 1.45 million since August 2003. Each employment sector, except for government, hired new workers. The number of Americans who have been unemployed for at least 15 weeks continued its decline from 3.3 million in the first quarter to 3.1 million in the second quarter, but remained above pre-recessionary levels.
- In the five major industries with more than 50 percent small business employment, there were 180,000 new jobs created between March and June with the following breakdown: leisure and hospitality services—70,000; construction—59,000; other services—28,000; wholesale trade—15,000; and natural resources and mining—8,000.
- Worker productivity remained strong, showing a 4.6 percent increase in nonfarm business output per hour between the second quarters of 2003 and 2004. Meanwhile, private sector benefit cost increases continued to outstrip the increases of providing wages and salaries over that same time period. Benefits increased 7.4 percent versus a 2.8 percent rise in wages and salaries.
- Proprietors' income increased at an annualized rate of 14.8 percent from the first quarter, from \$872.1 to \$902.8 billion. In addition, self-employment grew slightly. In June, there were 5.3 million incorporated and 10.5 million unincorporated self-employed individuals.
- Interest rates remained low with the prime rate at 4.0 percent, and small business loans less than \$100,000 averaged 4.2 percent. There was an upward trend, though, on 3-month and 10-year Treasury securities, as the market expects higher rates in the near future. The Federal Reserve's Senior Loan Officers' Survey showed greater demand for small firm lending in the second quarter. Meanwhile, venture investment increased to 5.6 billion – almost 17 percent higher than in the second quarter of 2003.
- The spot oil price of West Texas intermediate crude ended the quarter at \$38.02 per barrel, a \$1.26 increase from March. Both figures are higher than the average price per barrel of \$31.14 in 2003.

Small Business Indicators

	Last five years					Last five quarters				
	1999	2000	2001	2002	2003	Q2-03	Q3-03	Q4-03	Q1-04	Q2-04
Business bankruptcy filings (thousands)	37.6	35.5	40.1	38.5	35.0	9.3	8.4	8.3	10.6	8.2
Proprietors' income (billions of dollars)	678.3	728.4	771.9	769.6	834.1	825.7	852.0	864.7	872.1	902.8
Prime bank loan rate	8.0	9.2	6.9	4.7	4.1	4.0	4.0	4.0	4.0	4.0
Rates for smallest loans (less than \$100,000)	8.7	9.7	7.4	5.1	4.4	4.8	4.2	4.3	4.3	4.2
Senior loan officers (percent of respondents):										
Small firm C&I lending standards have eased	1.9	0.5	0.0	0.9	0.0	1.8	1.8	8.8	12.7	19.6
Small firm C&I lending standards stayed the same	90.5	78.7	60.5	78.2	86.2	83.6	93.0	84.2	85.5	80.4
Small firm demand for C&I loans is stronger	14.5	15.5	6.6	4.6	12.7	5.5	15.8	15.7	27.3	43.6
Small firm demand for C&I loans stayed the same	75.4	65.8	50.4	50.0	60.0	67.3	56.1	64.7	67.3	50.9
Venture investment: number of deals	5736	8303	4857	3098	2876	727	706	759	686	761
Venture investment: total invested (billions of dollars)	56.2	107.8	42.9	21.6	18.8	4.8	4.4	5.4	5.0	5.6

Note: The second quarter figure for the Senior Loan Officers Survey is for April, which measures January through April.

Sources: Administrative Office of the U.S. Courts; Board of Governors of the Federal Reserve System; National Venture Capital Association; U.S. Bureau of Economic Analysis.

	Last five years					Last five months				
	1999	2000	2001	2002	2003	Feb-04	Mar-04	Apr-04	May-04	Jun-04
NFIB Small Business Optimism Index (1986 = 100)	101.2	100.3	98.4	101.2	101.3	102.6	102.6	105.3	104.5	103.0
NFIB: next 3 months "good time to expand" (percent of respondents)	22.8	19.2	12.3	14.3	15.7	19	18	24	22	21
Self-employed, incorporated (millions)	4.3	4.5	4.5	4.6	5.0	5.0	5.2	5.2	5.2	5.3
Self-employed, unincorporated (millions)	10.1	10.2	10.1	9.9	10.3	10.1	9.9	10.1	10.4	10.5

Sources: National Federation of Independent Business; Current Population Survey, U.S. Bureau of Labor Statistics

Employment by Major Sector (millions)

	Percent small business	Last five years					Last five months				
		1999	2000	2001	2002	2003	Feb-04	Mar-04	Apr-04	May-04	Jun-04
Goods-producing industries	54.1	24.47	24.65	23.88	22.56	21.82	21.68	21.78	21.82	21.89	21.90
Natural resources and mining	50.6	0.60	0.60	0.61	0.58	0.57	0.57	0.58	0.59	0.59	0.59
Construction	85.1	6.54	6.79	6.83	6.72	6.72	6.79	6.85	6.87	6.91	6.91
Manufacturing	41.6	17.32	17.27	16.44	15.26	14.52	14.32	14.34	14.37	14.40	14.40
Service-producing industries	49.2	104.53	107.14	107.96	107.79	108.12	108.59	108.85	109.13	109.27	109.34
Trade, transportation and utilities	47.1	25.77	26.22	25.99	25.50	25.28	25.33	25.42	25.45	25.48	25.50
Wholesale trade	62.9	5.89	5.93	5.77	5.65	5.61	5.61	5.62	5.63	5.64	5.64
Retail trade	43.4	14.97	15.28	15.24	15.02	14.92	14.96	15.01	15.04	15.05	15.05
Information	26.5	3.42	3.63	3.63	3.39	3.20	3.17	3.17	3.17	3.18	3.18
Financial activities	40.2	7.65	7.69	7.81	7.85	7.97	7.99	8.00	8.02	8.03	8.04
Professional and business services	44.2	15.95	16.67	16.48	15.98	15.99	16.20	16.24	16.36	16.43	16.45
Education and health services	47.5	14.79	15.11	15.65	16.20	16.58	16.76	16.81	16.85	16.87	16.89
Leisure and hospitality	61.2	11.54	11.86	12.03	11.99	12.13	12.23	12.27	12.30	12.33	12.34
Other services	85.5	5.09	5.17	5.26	5.37	5.39	5.38	5.39	5.40	5.41	5.42
Government	0	20.31	20.79	21.12	21.51	21.57	21.54	21.55	21.57	21.54	21.53

Note: Seasonally adjusted. See <http://www.bls.gov/ces/cessuper.htm> for NAICS code equivalents for each sector.

Sources: Office of Advocacy, using data from the U.S. Bureau of the Census; U.S. Bureau of Labor Statistics.

Macroeconomic Indicators

	Last five years					Last five quarters				
	1999	2000	2001	2002	2003	Q2-03	Q3-03	Q4-03	Q1-04	Q2-04
Annual change, real gross domestic product	4.5	3.7	0.8	1.9	3.0	4.1	7.4	4.2	4.5	2.8
Real personal consumption expenditures (billions of dollars)*	6438.6	6739.4	6910.4	7123.4	7355.5	7311.4	7401.7	7466.8	7543.0	7562.5
Real gross private fixed investment (billions of dollars)*	1642.6	1735.5	1598.4	1560.7	1628.8	1577.6	1659.4	1714.1	1764.5	1818.4
Federal government surplus or deficit (billions of dollars)	103.7	189.5	46.7	-254.5	-364.6	-364.4	-433.0	-379.2	-384.2	--
Real exports of goods and services (billions of dollars)*	1008.2	1096.3	1036.7	1012.4	1031.8	1006.5	1033.8	1076.2	1095.4	1129.9
Real imports of goods and services (billions of dollars)*	1304.4	1475.8	1435.8	1484.4	1550.3	1531.7	1542.5	1604.5	1645.5	1682.6
Corporate profits after tax (billions of dollars)	592.7	552.8	563.2	690.7	786.2	761.7	818.4	876.8	909.1	--
Nonfarm business sector output per hour for all persons (1992 = 100)	112.2	115.3	117.8	123.6	129.1	127.9	130.8	131.6	132.8	133.8
Employment Cost Index: private sector wages and salaries (1989 = 100)	140.3	146.0	151.4	156.4	161.0	160.3	161.7	162.5	163.5	164.4
Employment Cost Index: private sector benefits (1989 = 100)	147.6	156.0	163.7	171.7	182.5	181.1	183.8	186.3	191.2	194.5

*Chained 2000 dollars.

Note: Seasonally adjusted.

Sources: U.S. Bureau of Economic Analysis; U.S. Bureau of Labor Statistics.

	Last five years					Last five months				
	1999	2000	2001	2002	2003	Feb-04	Mar-04	Apr-04	May-04	Jun-04
Unemployment rate (seasonally adjusted)	4.2	4.0	4.8	5.8	6.0	5.6	5.7	5.6	5.6	5.6
Civilian employment – 16 years and older (millions, seasonally adjusted)	133.5	136.9	136.9	136.5	137.7	138.3	138.3	138.6	138.8	139.0
Civilian unemployed – 15 weeks and over (millions, seasonally adjusted)	1.5	1.3	1.8	2.9	3.4	3.3	3.3	3.0	3.1	3.1
Nonfarm payrolls (millions, seasonally adjusted)	129.0	131.8	131.8	130.3	129.9	130.2	130.6	131.0	131.2	131.2
Producer Price Index (1982 = 100)	125.5	132.7	134.2	131.1	138.1	141.4	142.7	144.5	146.6	147.1
Consumer Price Index (seasonally adjusted, 1982 = 100)	166.6	172.2	177.0	179.9	184.0	186.3	187.2	187.6	188.8	189.4
Consumer Sentiment Survey (1966 = 100)	105.8	107.6	89.2	89.6	87.6	94.4	95.8	94.2	90.2	95.6
Spot Oil Price per barrel: West Texas Intermediate Crude	19.25	30.30	25.92	26.10	31.14	34.74	36.76	36.69	40.28	38.02
ISM Purchasing Managers Index – manufacturing composite (seasonally adjusted)	54.6	51.7	43.9	52.4	53.3	61.4	62.5	62.4	62.8	61.1
Industrial production (1997 = 100, seasonally adjusted)	110.6	115.4	111.5	110.9	111.1	114.8	114.7	115.5	116.5	116.2
M2 money stock (billions of dollars, seasonally adjusted)	4526.0	4802.2	5220.2	5615.3	5999.4	6120.4	6167.7	6215.9	6285.8	6292.9
3-month Treasury bills (secondary market rate)	4.64	5.82	3.39	1.60	1.01	0.93	0.94	0.94	1.02	1.27
10-year Treasury note (constant maturity rate)	5.64	6.03	5.02	4.61	4.02	4.08	3.83	4.35	4.72	4.73

Sources: Board of Governors of the Federal Reserve System; Dow Jones Energy Service; Institute for Supply Management; U.S. Bureau of Labor Statistics; University of Michigan's Survey of Consumers.

For the First Quarter 2004 Economic Indicators, visit <http://www.sba.gov/advo/stats/sbqei0401.pdf>.

This data supercedes all previously released versions of the Second Quarter report.

Research Notes

National Academy of Sciences Explores Federal Business Statistics

One of the conclusions of this year's Advocacy conference, "Entrepreneurship in the 21st Century," was the reaffirmation that policymakers need access to quality data and research on small businesses to better inform their decisions. Indeed, the regional focus groups that the Office of Advocacy conducted over the last year with academics stressed the need for more data on small businesses to encourage more research and to better inform business and policy leaders.

Two decades ago, small business analysis was limited. The Office of Advocacy has been instrumental in developing new data sources in the past. Advocacy provided some initial funding to help establish the Business Information Tracking Series (BITS), the Characteristics of Business Owners, the first Survey of Small Business Finances, and the Panel Study on Entrepreneurial Dynamics. Advocacy also continues to purchase Statistics of U.S. Businesses firm size data from the Census Bureau—an arrangement that benefits both parties. Nonetheless, the need for more data persists.

The E.M. Kauffman Foundation recognizes this lack of data on small firms and has asked the Committee on National Statistics at

the National Academy of Sciences to examine federal business statistics and has contributed the bulk of the funding for it. The Office of Advocacy has also partially funded this analysis. A panel of experts will convene over the next two years to study this issue and make recommendations. The co-chairs of the panel are John Haltiwanger from the University of Maryland and Lisa Lynch from Tufts University. Other panel members, complete biographies, and more information on the panel can be found via the Academy's current project system: www4.nationalacademies.org/cp.nsf. (In the search engine, type "federal business statistics.")

The panel has begun its investigation with a first meeting on Aug. 4. John Haltiwanger noted that the economy is constantly in flux with businesses opening and closing, which presents a challenge for federal agencies to produce key national statistics. Much of the data focuses on large, mature businesses, and there is a need for greater understanding of small and young businesses. In particular, research on the role of innovation and entrepreneurship is needed, a view shared by Robert Litan, vice president for Research and Policy at the Kauffman Foundation. At the same

time, Lynch added that all firms are experiencing dramatic structural changes, and it is important to understand how these are affecting all firms (new and old, small and large) in various industries.

Representatives of many federal agencies attended, and economists from the Bureau of Economic Analysis, the Bureau of Labor Statistics, and the Census Bureau all discussed their data collection processes and products. One of the central themes was that federal agencies could gain from more data sharing, as long as they continued to safeguard privacy. These agencies are making greater use of administrative data, and to the extent that more collaboration between them is possible, researchers hope to learn more about small firm dynamics.

In their remarks to the group, Advocacy economists Chad Moutray and Brian Headd cited the difficulty of ascertaining the current state of small business given the lack of current data. Much of the data lags several years. Advocacy is encouraged by the Business Employment Dynamics database at the Bureau of Labor Statistics, which shows job flows with only a three-quarter lag. BLS plans to release this information by firm size this fall. This will greatly improve Advocacy's ability to discuss recent small business employment trends. Innovations such as these are beneficial to policymakers and researchers, and Advocacy asked the panel to explore this area further. The panel will conduct a series of meetings over the next year, and its report is expected in 2006.

IRS Publishes Charity "Life Cycle" Guidance

Advocacy monitors federal rulemaking for small tax-exempt organizations (as well as small businesses and small governmental entities). The process of receiving and maintaining tax-exempt status is often confusing for smaller, newer charities. IRS recently published a "life cycle" guide to charities' interactions with IRS, with the aim of guiding the perplexed. It can be accessed at www.irs.gov/charities.

Advocacy's contact on tax issues is Assistant Chief Counsel Jerry Parshall. He can be reached at (202) 401-9787 or gerald.parshall@sba.gov.

Regional Roundup

Connie Marshall Named Region 10 Advocate

Connie Marshall is the new Office of Advocacy regional advocate for the federal government's Region 10, covering Alaska, Idaho, Oregon, and Washington. "Connie Marshall is a great addition to our team," said Thomas M. Sullivan, chief counsel for advocacy. "Small business owners in the Northwest and Alaska have an outstanding advocate in Ms. Marshall. Her experience as an elected official, educator, and entrepreneur will allow her to contribute immediately to Advocacy's role as the federal office that stands between small business owners and unnecessary and overly burdensome government regulations."

Marshall is a member of the Bellevue, Wash., city council and currently serves as mayor. She served as chair of the Growth Management Policy Board of the Puget Sound Regional Council, which coordinates land use policies for a four-county region. Before her career in public service, she was a



At a luncheon celebrating Power Women Day 2004, Region 10 Advocate Connie Marshall (left) met with U.S. Rep. Jennifer Dunn (Wash.-8th Dist.), Kay Hirai, president of Studio 904 and National Minority Female Entrepreneur of the Year; and SBA Deputy Administrator Melanie Sabelhaus.

founder and partner for the Orca Medical Software Company, which created, produced, and sold medical software. She also was an assistant professor at Northwestern

University Dental Hygiene School in Chicago.

Regional advocates identify issues and concerns of small business owners, and they monitor the impact of federal and state policies on small businesses at the local level. They work closely with local government officials, state officials and legislators, and the chief counsel for advocacy to develop programs and policies that reduce regulation and promote small business growth.



In August, SBA Administrator Hector V. Barreto (left), U.S. Rep. Dave Weldon (Fla.-15th Dist.), and Region 4 Advocate Pat Gartland participated in a small business workshop at Canaveral Port Authority in Cape Canaveral, Fla.

Region 10 Advocate

Connie Marshall
Regional Advocate
Small Business Administration
1200 Sixth Avenue, Suite 1805
Seattle, WA 98101-1128
Phone: (206) 553-5231
Fax: (206) 553-4155
connie.marshall@sba.gov

Missouri's Small Business Climate to Improve

On June 30, Missouri Governor Bob Holden signed the Small Business Regulatory Fairness Initiative (H.B. 978). The new law gives Missouri's small businesses a foothold in the state's regulatory process. The initiative creates the Small Business Regulatory Fairness Board, which will serve as a liaison between agencies and small businesses. The law implements some elements of small business-friendly regulatory legislation put forward as a model by the Office of Advocacy. Similar to the federal

Regulatory Flexibility Act (RFA), the model encourages entrepreneurial success by requiring state agencies to consider their impact on small business before they issue final regulations. The legislation did not contain a judicial review provision; however, the small business community plans to introduce legislation next year to make Missouri's regulatory flexibility statute complete.

"Small business is big business in Missouri," said Missouri State Sen. Anita Yeckel, the bill's Senate

sponsor. As a state government, we need to foster growth of these businesses instead of making it more difficult for them."

The bill's passage is a result of a joint effort by Missouri small business stakeholders. The bill was introduced by Missouri State Rep. Brian Baker in the General Assembly and by Senator Yeckel in the Missouri Senate.

Environment, from page 4

pose an oil spill risk to U.S. waters. Advocacy wrote EPA on June 10 seeking relief of unnecessary regulatory burdens imposed by the 2002 amendments on hundreds of thousands of small businesses, including farms, construction sites, and car dealerships.

In its June 10 letter, Advocacy expressed support for EPA granting the extension and recommended that EPA issue an interim final rule to provide immediate regulatory relief related to the requirements for small facilities and tank integrity testing, among other things. The 18-month extension is intended to prevent small businesses from having to come into compliance with requirements that may be altered or eliminated through further rulemaking planned by EPA. EPA also announced an additional effort to provide further relief to small facilities that would be addressed in a future *Federal Register* notice.

Advocacy will continue to assist EPA's efforts to revise the regulations to address the concerns of small businesses while protecting the environment. Advocacy's next environmental roundtable on this issue is scheduled for Sept. 24.

To learn more, you may review Advocacy's June 10 comment letter

at www.sba.gov/advo/laws/comments or contact Assistant Chief Counsel Kevin Bromberg, kevin.bromberg@sba.gov or (202) 205-6964. The final rule is found at www.epa.gov/oilspill/pdfs/fr081104.pdf.

Aquaculture Effluent Limitations Guidelines. On June 30, the EPA signed a final rule promulgating national effluent requirements for the aquaculture sector (fish and other aquatic animals). Based on the comments of the Office of Advocacy and other federal agencies, EPA determined that it would be inappropriate to implement numerical limits for this sector. The rule relies instead on a set of management requirements to reduce the total suspended solids (the main pollutant of interest). Based on estimates by the affected federal agencies and comments received from the aquaculture community, Advocacy estimates that this rule avoids capital expenditures of approximately \$5 million and operating expenses of approximately \$2 million, assuming that it would have required some 50 small business facilities to purchase additional land and equipment for onsite wastewater treatment. For further information, contact Kevin Bromberg.

E-Subscribers Top 20,000 in August

In spring of 2001, the Office of Advocacy launched its first email subscription service—for *The Small Business Advocate* newsletter. This past month, the number of people receiving the newsletter electronically reached 20,000. When combined with the number receiving print copies of the newsletter, circulation is at a record level, almost 30,000.

Please continue to refer your friends and associates to the newsletter's subscription page, <http://web.sba.gov/list>. From this page, they may also sign up to receive Advocacy's regulatory communications, press releases, and research advisories. As always, subscriber information is kept confidential and not used for any purpose except delivery of the requested emails.

To begin delivery of the print version of the newsletter, contact advocacy@sba.gov or (202) 205-6533. To update your print subscription, mail your address label with changes to U.S. Small Business Administration, Office of Advocacy, Mail Code 3114, 409 Third Street, S.W., Washington, DC 20416.

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 Communications
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