



*A Voice for Small Business*

---

409 3<sup>rd</sup> Street, SW • MC 3114 • Washington, DC 20416 • 202/205-6533 ph. • 202/205-6928 fax •  
[www.sba.gov/advo](http://www.sba.gov/advo)

***Testimony of  
Thomas M. Sullivan  
Chief Counsel for Advocacy  
U.S. Small Business Administration***

***U.S. House of Representatives  
Committee on Small Business  
Subcommittee on Regulatory Reform and Oversight***

**Date:** April 28, 2005  
**Time:** 10:30 A.M.  
**Location:** Room 311  
Cannon House Office Building  
Washington, D.C.  
**Topic:** "The Administration's Program to Reduce  
Unnecessary Regulatory Burden on Manufacturers  
– A Promise to Be Kept?"-

*Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the federal government. The Chief Counsel for Advocacy, who is appointed by the President and confirmed by the U.S. Senate, directs the office. The Chief Counsel advances the views, concerns, and interests of small business before Congress, the White House, federal agencies, federal courts, and state policy makers. Issues are identified through economic research, policy analyses, and small business outreach. The Chief Counsel's efforts are supported by offices in Washington, D.C., and by Regional Advocates. For more information about the Office of Advocacy, visit <http://www.sba.gov/advo>, or call (202) 205-6533.*

Chairman Akin and Members of the Subcommittee, good morning and thank you for giving me the opportunity to appear before you today. My name is Thomas M. Sullivan and I am the Chief Counsel for Advocacy at the U.S. Small Business Administration (SBA). Congress established the Office of Advocacy under Pub. L. No. 94-305 to advocate the views of small business before Federal agencies and Congress. Because Advocacy is an independent entity within the U.S. Small Business Administration (SBA), the views expressed by Advocacy do not necessarily reflect the position of the Administration or the SBA.

The Subcommittee requested Advocacy's view of the value of the process undertaken in 2004 by the Office of Management and Budget (OMB) and Federal agencies to reduce the regulatory burden on U.S. manufacturers through 76 targeted regulatory reforms (*see* Attachment A for a list of the proposed reforms). The 2004 call for improvements to manufacturing rules is the most recent in a series of regulatory reform efforts initiated by this Administration since 2001.<sup>1</sup> Advocacy believes that the manufacturing reforms, if implemented by Federal agencies, would yield reduced regulatory burden without sacrificing needed health, safety, and environmental protections (*see* Attachment B for Advocacy's overview of manufacturing reforms).

I would also like to provide specific information to the Subcommittee regarding the importance of manufacturing to small business, and the particular significance of some of the regulatory reforms identified as high priorities to the small business economy.

### ***How Important Is Manufacturing to Small Businesses?***

Small business is the driving force behind U.S. manufacturing. Economic data from 2002 indicate that nearly 99 percent (98.6%) of all manufacturing firms are small businesses.<sup>2</sup> Put another way, these small businesses employ over 42% of the more than 14 million Americans who are manufacturing employees.<sup>3</sup> Additionally, small firms innovate more than large ones do, producing 13 to 14 times more patents per employee

---

<sup>1</sup> OMB called for public nominations of rule reforms in the May 2001 and March 2002 Draft Reports to Congress. OMB received 71 and 316 nominations from the public, respectively. OMB did not issue a public call for nominations in 2003.

<sup>2</sup> See Office of Advocacy economic statistics, available at [http://www.sba.gov/advo/stats/us\\_tot\\_mi\\_n.pdf](http://www.sba.gov/advo/stats/us_tot_mi_n.pdf).

<sup>3</sup> *Id.*

than larger firms do.<sup>4</sup> Small firm patents are more likely to be driven by leading edge technology than large firm patents.<sup>5</sup> Finally, small manufacturing firms are more likely than large companies to produce specialty goods and custom-demand items. For these reasons, manufacturing is very important to the small business sector of the U.S. economy, and small business is important to U.S. manufacturing.

### ***How Important Are the Costs of Regulation to Small Manufacturers?***

The 2001 Advocacy-funded study by W. Mark Crain and Thomas D. Hopkins, *The Impact of Regulatory Costs on Small Firms*,<sup>6</sup> found that small businesses are disproportionately impacted by the total Federal regulatory burden, which was estimated by Crain and Hopkins to exceed \$840 billion in 2000. For manufacturing firms employing fewer than 20 employees, the annual regulatory burden in 2000 was estimated to be \$16,920 per employee – nearly 2 1/2 times greater than the \$7,054 estimated for firms with more than 500 employees.<sup>7</sup> Looking specifically at environmental and tax compliance costs, the difference between small and large manufacturing firms was even more dramatic. Small manufacturing firms spend 4 1/2 times more per employee for environmental compliance and tax compliance than large businesses do. Environmental regulations comprise the largest share of small manufacturers' regulatory burden, adding up to 76% of the total.<sup>8</sup> This large discrepancy between large and small manufacturers for environmental costs is largely attributable to the fact that many environmental rules require large fixed capital investments (e.g., pollution control equipment) and other costs that small firms cannot spread over high-volume operations in the way that large firms can.

The 2001 Crain-Hopkins study remains the most comprehensive, up-to-date measure of the total cost of regulations on the U.S. economy. The report used data

---

<sup>4</sup> *Small Serial Innovators: The Small Firm Contribution to Technical Change* (February 2003) available at <http://www.sba.gov/advo/research/rs225tot.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *The Impact of Regulatory Costs on Small Firms* (October 2001) available at <http://www.sba.gov/advo/research/rs207tot.pdf>.

<sup>7</sup> *Id.* at page 31, Table 10A.

<sup>8</sup> The distribution of environmental compliance costs across industries and firm sizes in the Crain-Hopkins study is derived directly from firm-level data from the Pollution Abatement Control Expenditures (PACE) survey from 1994, the last year for which data were available when the Crain-Hopkins study was written.

gathered from numerous sources, including the Office of Management and Budget (OMB), the Organization for Economic Cooperation and Development (OECD), the Council of Economic Advisors, the Census Bureau, and various resource organizations. The data underlying the Crain-Hopkins study were the most recent available when the study was completed in 2001, such as the 1999 OECD report, *Regulatory Reform in the United States*<sup>9</sup> and OMB's 2000 Report to Congress.<sup>10</sup>

The Crain-Hopkins study is the only such study that allocates regulatory costs by industry sectors and firm size, thereby allowing focused consideration of regulatory costs on small entities and their employees. The Crain-Hopkins study's findings are important because they underscore the significance of small business to the American economy. Despite the disproportionate regulatory burdens borne by small firms, the small business sector is the primary engine of job creation, growth and innovation.<sup>11</sup>

### ***How important is the OMB Regulatory Reform Process to Small Manufacturers?***

OMB's regulatory reform process shows great promise as a way to relieve unnecessary regulatory burdens on small businesses, including small manufacturers, while maintaining health, safety and environmental protections. Public nominations, unrelated to the 2004 focus on manufacturing, have already yielded rule reforms. The Centers for Medicare and Medicaid Services (CMS), for example, responded to a public nomination for changes to the criteria Medicare uses for classifying a hospital, or unit of a hospital, as an inpatient rehabilitation facility (IRF). CMS followed the suggestion of Advocacy and members of the public in adopting a lower percentage of patients that hospitals had to have in IRFs in order for the hospital to qualify for Medicare payments. The rule reform reduced the economic impact on small entities such as hospitals and allowed many IRFs to remain open.

---

<sup>9</sup> Organization for Economic Cooperation and Development, *Regulatory Reform in the United States*, OECD Reviews of Regulatory Reform, Paris, 1999.

<sup>10</sup> Office of Management and Budget, Office of Information and Regulatory Affairs, *Report to Congress on the Costs and Benefits of Federal Regulations*, available at [http://www.whitehouse.gov/omb/infoereg/2000\\_cost-ben\\_final\\_rpt.pdf](http://www.whitehouse.gov/omb/infoereg/2000_cost-ben_final_rpt.pdf).

<sup>11</sup> See Office of Advocacy, *Small Business Frequently Asked Questions* available at <http://www.sba.gov/advo/stats/sbfaq.pdf> and *Small Serial Innovators: The Small Firm Contribution to Technical Change* (February 2003) available at <http://www.sba.gov/advo/research/rs225tot.pdf>.

Lessons learned from earlier reform nominations will benefit those reforms specifically impacting the manufacturing sector. By August of this year, Advocacy anticipates that the Environmental Protection Agency (EPA) will propose two additional major regulatory reforms urged by small businesses through the OMB nomination process: revisions to the Spill Prevention, Control and Countermeasure (SPCC) program, as well as to the Toxic Release Inventory (TRI) reporting requirements. Likely improvements to the SPCC program, which protects our waters against spills from oil storage tanks, include allowing small facilities with storage capacity below a certain threshold to use streamlined, less expensive requirements. EPA's objective of environmental protection will be met, and in some cases enhanced,<sup>12</sup> while many small manufacturers will not be required to incur needless cost.

Similarly, the current TRI reporting burden, which can be particularly difficult for some small manufacturers who must file detailed annual reports despite having no releases to the environment, may be eased by allowing facilities with no year-to-year changes to submit a streamlined No Significant Change form. EPA is also considering expanding the availability of a streamlined reporting form (Form A), which has the potential to reduce the paperwork burden on small firms without sacrificing environmental benefit. These reforms, along with the 74 other manufacturing reforms highlighted by OMB, would be of significant value to small manufacturers and other small entities if implemented.

### ***Advocacy is committed to the OMB Reform Process***

The Office of Advocacy has actively participated in OMB's regulatory reform process, including holding public outreach meetings to receive suggestions on needed reforms, working with small business representatives to hear their views, and helping OMB prioritize the regulatory reforms of particular concern to small entities. Advocacy is committed to OMB's regulatory reform process because the process can really only work if the interests of small business are included. Congress realized the importance of small business when the Regulatory Flexibility Act (RFA) and the Small Business

---

<sup>12</sup> At present, because of the complexity and cost of the current SPCC program, Advocacy believes that many small businesses do not fully comply with the requirements. Compliance will likely improve with a simpler, less expensive program that is tailored to small facilities.

Regulatory Enforcement Fairness Act (SBREFA)<sup>13</sup> were enacted into law. When planned rules are evaluated by Advocacy under the RFA and SBREFA, we look for ways to reduce small business burdens without compromising the regulatory objectives intended by the regulating agency. We believe that OMB's regulatory reform process, with appropriate Congressional oversight, can achieve the same result, which will be extremely beneficial for small manufacturing firms.

Thank you for allowing me to present these views. I would be happy to answer any questions.

---

<sup>13</sup> Codified at 5 U.S.C. §§ 601-612.

## ATTACHMENT A

### Summary of 76 Regulatory Reform Nominations (Office of Advocacy Reform Nominees Indicated in Bold)

OMB No(s).	Rule Nominated for Reform	Agency
4	Coastal Zone Management Act Federal Consistency	National Oceanic and Atmospheric Admin.
6	NAFTA Certificates of Origin	Dept. of Homeland Security
7	Maritime Security	Dept. of Homeland Security
12	Motor Vehicle Brakes	Dept. of Transportation/ FMCSA
<b>14</b>	<b>Hours of Service</b>	<b>Dept. of Transportation/ FMCSA</b>
16	Lighting and Reflective Devices	Dept. of Transportation/ NHTSA
18	Occupant Ejection Safety Standard	Dept. of Transportation/ NHTSA
22	Vehicle Compatibility Standard	Dept. of Transportation/ NHTSA
26	Employer Information Report (EEO-1)	Equal Employment Opportunity Commission
28	“Coke Production” Emission Factors (AP-42)	EPA
30	Document AP-42: Science and Site-Specific Conditions	EPA
33	Clean Up Standards for Polychlorinated Biphenyls	EPA
34	Common Company ID Number in EPA Databases	EPA
35	Enforcement and Compliance History Online (ECHO) Website	EPA
36	Electronic Formats for Agency Forms	EPA
38	Expand Comparable Fuels Exclusion under RCRA	EPA
39	Export Notification Requirements	EPA
<b>42</b>	<b>Hazardous Waste Rules Should Be Amended to Encourage Recycling</b>	<b>EPA</b>
<b>43</b>	<b>Lead Reporting Burdens Under the Toxic Release Inventory Program</b>	<b>EPA</b>
44	Maximum Achievable Control Technology Standard for Chromium	EPA
45	Polychlorinated Biphenyl Remediation Wastes	EPA
46	Permit Use of New Technology to Monitor Leaks of Volatile Air Pollutants	EPA
<b>47</b>	<b>Water Pretreatment Streamlining Rule</b>	<b>EPA</b>



<b>48</b>	<b>Provide More Flexibility In Managing F006 Wastewater Sludge to Encourage Recycling</b>	<b>EPA</b>
51	Remove Disincentives to Recycling Spent Hydrotreating and Hydrorefining Catalysts	EPA
<b>52</b>	<b>Reporting and Paperwork Burden in the Toxic Release Inventory Program</b>	<b>EPA</b>
<b>54,55 56,57 58</b>	<b>Spill Prevention Control and Countermeasure (SPCC) Rule</b>	<b>EPA</b>
59	Water Permit Rules	EPA
61	Annual Reporting of Pesticide Information	EPA
68	Cooling Water Intake Structures, Phase III	EPA
75	Electronic Filing by Manufacturing Firms	EPA
83	Leak-Detection and Repair Programs	EPA
<b>86</b>	<b>Method of Detection Limit/Minimum Level Procedure under the Clean Water Act</b>	<b>EPA</b>
87	Operating Permits under the Clean Air Act	EPA
88	Potential to Emit Test	EPA
90	Prohibit Use of Mercury in Auto Manufacturing	EPA
92	Reduce Inspection Frequency from Weekly to Monthly for Selected RCRA Facilities	EPA
<b>97</b>	<b>Reportable Quantity Threshold for NOx at Combustion Sources</b>	<b>EPA</b>
101	Sulfur and Nitrogen Monitoring at Gas Turbines	EPA
103	Program for Developing and Validating Analytic Methods	EPA
<b>108</b>	<b>Deferral of Duplicative Federal Permitting</b>	<b>EPA</b>
110	Superfund Amendments and Reauthorization Act	EPA
112	Vapor Recovery at Gasoline Stations	EPA
116	Publicly Owned Treatment Works removal credits	EPA
117	Categorical Wastewater Sampling and Testing	EPA
118	Definition of Volatile Organic Compound	EPA
119	Thermal Treatment of Hazardous Waste Guidance	EPA
<b>121</b>	<b>“Do Not Fax” Rule</b>	<b>Federal Communications Commission</b>
122	Broadband	Federal Communications Commission
<b>125</b>	<b>Health Insurance Portability and Accountability Act of 1996</b>	<b>Department of Health and Human Services</b>
<b>134- 137 141- 144</b>	<b>Reform of Family and Medical Leave Act (FMLA)</b>	<b>Department of Labor, Employment Standards Administration</b>
139	Reform of FMLA	Dept. of Labor/ESA
145	Permanent Labor Certification	Dept. of Labor

151	Annual Training for Separate Standards	Dept. of Labor/OSHA
152	Coke Oven Emissions	Dept. of Labor/OSHA
153	Flammable Liquids	Dept. of Labor/OSHA
155	Hazard Communication Training	Dept. of Labor/OSHA
156	Hazard Communication/Material Safety Data Sheets (MSDS)	Dept. of Labor/OSHA
<b>157</b>	<b>Hexavalent Chromium</b>	<b>Dept. of Labor/OSHA</b>
<b>159</b>	<b>Sling Standard</b>	<b>Dept. of Labor/OSHA</b>
160	Guardrails Around Stacks of Steel	Dept. of Labor/OSHA
169	Walking and Working Surfaces	Dept. of Labor/OSHA
175	Duty Drawback	Dept. of the Treasury/Dept. of Homeland Security
<b>178</b>	<b>Election to Expense Certain Depreciable Business Assets</b>	<b>Dept. of the Treasury/ Internal Revenue Service</b>
<b>188</b>	<b>Ready to Eat Meat Establishments to Control for <i>Listeria Monocytogenes</i></b>	<b>Dept. of Agriculture/Food Safety and Inspection Service</b>

## ATTACHMENT B



# OFFICE OF ADVOCACY FACTSHEET

409 3<sup>rd</sup> Street, SW • MC 3114 • Washington, DC 20416 • 202/205-6533 ph. • 202/205-6928 fax •  
[www.sba.gov/advo](http://www.sba.gov/advo)

## ***Advocacy Identifies 48 Small Manufacturing Regulations Ripe for Reform***

On January 5, 2005, the Office of Advocacy (Advocacy) sent a letter to Dr. John Graham, Administrator of the Office of Information and Regulatory Affairs (OIRA), an office within the Office of Management and Budget (OMB). Advocacy's letter was sent in response to Dr. Graham's request that Advocacy identify rules that, if reformed, would reduce regulatory burdens on small manufacturers. OMB's request was part of its *2004 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*. In its report, OMB identified 189 manufacturing regulatory reform nominations. Advocacy listened to the recommendations of small businesses and identified 48 priority regulations that were ripe for reform and would significantly reduce the regulatory burden on small manufacturers. A copy of Advocacy's letter and its 48 reform nominations can be found at, [www.sba.gov/advo/laws/comments](http://www.sba.gov/advo/laws/comments). Advocacy has been working with OMB to reduce the Federal regulatory burden on small businesses. The chronology of Advocacy's involvement with respect to OMB's 2004 Report to Congress on the costs and benefits of Federal regulations follows:

- OMB released its draft Report to Congress for public comment on February 20, 2004 (*see* 69 Fed. Reg. 7987, February 20, 2004). Chapter II of the draft report sought public nominations of regulatory reforms relevant to the manufacturing sector, especially on small and medium sized businesses. The public was requested to suggest specific reforms to regulations, guidance documents or paperwork requirements that would improve manufacturing regulation by reducing unnecessary costs, increasing effectiveness, enhancing competitiveness, reducing uncertainty and increasing flexibility.
- On February 25, 2004, the Chief Counsel for Advocacy presented testimony to Congress on OMB's commitment to seek out, and act on, regulatory reform nominations made by small businesses. The testimony can be found at: [www.sba.gov/advo/laws/test04\\_0225.html](http://www.sba.gov/advo/laws/test04_0225.html).

- On April 28, 2004, Advocacy held a roundtable with small business representatives to hear nominations for regulatory reform. Over 35 recommendations for reform were identified by the roundtable participants. On May 14, 2004, Advocacy filed a comment letter with OMB in response to its 2004 draft report to Congress. The comment letter outlined Advocacy's outreach to small business and provided OMB with the 35 recommendations for regulatory reform. The comment letter can be located at: [www.sba.gov/advo/laws/comments](http://www.sba.gov/advo/laws/comments).

- On November 17, 2004, the Chief Counsel for Advocacy testified before Congress on the status of regulatory reforms nominated by the public in previous OMB reports to Congress. The testimony can be found at: [www.sba.gov/advo/laws/test04\\_1117.html](http://www.sba.gov/advo/laws/test04_1117.html).

- Federal agencies are expected to review the merits of OMB's 189 reform nominations and prepare a response to OMB by January 24, 2005. OMB will then work with the agencies to identify the Administration's regulatory-reform priorities, which will be announced in February 2005.

- Advocacy's January 5, 2005, letter to OMB will help agencies prioritize their regulatory reforms to particularly benefit small business.

For more information, visit Advocacy's web page at: [www.sba.gov/advo](http://www.sba.gov/advo) or contact Linwood Rayford at 202-401-6880 or [linwood.rayford@sba.gov](mailto:linwood.rayford@sba.gov).