

# SMALL BUSINESS RESEARCH BULLETIN

## Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act, Fiscal Year 2001

### Background

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires federal regulatory agencies to analyze the impact of their proposed regulations on small entities and to consider equally effective alternatives that do not unduly burden small businesses. The Office of Advocacy monitors agency compliance with the law.

The office has a number of avenues for becoming involved. Roundtable meetings are routinely held with small businesses and trade associations on specific issues. Advocacy also participates in small business advocacy review panels. As regulatory proposals are developed, Advocacy may prepare formal comment letters to the agencies, congressional testimony or, where warranted, "friend of the court" briefs.

*The Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act* provides insight into whether and how well federal agencies are complying with the law.

### Highlights

Involvement by the Office of Advocacy and small businesses in agency rulemakings helped save small businesses an estimated \$4.4 billion in new regulatory compliance costs in fiscal year 2001. Examples of significant regulatory savings include the following:

- The Bureau of Land Management's (BLM) hard-rock mining reclamation bond rule was the subject of the *Northwest Mining v. Babbitt* case, in which the court remanded the rule to BLM for failure to comply with the RFA. In October 2001, BLM announced it would overturn all but certain bonding requirements, saving small businesses \$877 million annually.
- The ergonomics standard proposed by OSHA would have required all business owners to have a plan to address musculoskeletal injuries. It was rescinded in March 2001, saving business owners \$3 billion.
- Modifications to three EPA rules concerning reporting of lead, sulfur in diesel fuel, and air toxics from mobile sources as a result of Advocacy interventions will

save industry some \$266 million in 2002 and an additional \$246 million in subsequent years.

Even more important than the immediate cost savings, the culture of federal regulatory agencies is changing. Early Advocacy involvement has helped federal agencies develop a greater appreciation of small businesses' role in the economy and the rationale for ensuring that regulations do not erect barriers to competition. For example, the Internal Revenue Service (IRS) has been working with the Office of Advocacy and small business owners to learn more about complying with the RFA. The IRS's awareness has resulted in small business outreach efforts and better rulemaking.

The report also details ongoing RFA compliance concerns. While some agencies are showing progress in developing better rules, there is much left to be done.

### Advocacy Comments

"President Bush recognized the importance of the RFA process with his announcement of plans to enhance the Office of Advocacy's RFA authority. At the same time, as agencies learn for themselves the value of taking an early look at the small business effect of a proposed regulation, there is less need to rely on enforcement powers at the end of the process."

Thomas M. Sullivan  
Chief Counsel for Advocacy  
March 2002

### For More Small Business Information

For the complete report, *Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act, Fiscal Year 2001*, visit the Office of Advocacy website at [www.sba.gov/advo](http://www.sba.gov/advo).

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