

Agency Compliance with Regulatory Flexibility Act Saved Small Firms \$7 Billion in FY 2009

by Kathryn Tobias, Senior Editor

Small businesses realized some \$7 billion in first-year cost savings as a result of Advocacy's fiscal year 2009 efforts, working with federal agencies to improve proposed regulations under the requirements of the Regulatory Flexibility Act (RFA). The law requires federal agencies to review the economic impacts of their proposed regulations and consider less burdensome alternatives. The results for the year appear in the annual report on the RFA by the Office of Advocacy, which is responsible under the law for overseeing its implementation. Executive Order 13272 requires that Advocacy also train agencies in RFA compliance.

Congress enacted the RFA almost 30 years ago, prompted by urgent pleas for regulatory relief from the small business community. Their frustration arose from an ever-increasing burden of federal regulation that often had a disproportionate impact on smaller entities. The law gave small businesses, small nonprofits, and small government entities a much-needed voice in the rulemaking process.

Perhaps no law other than Advocacy's basic charter has had

more influence on the office's mission and activities. Together with Executive Order 13272, the RFA encourages agencies to enact regulations that are more rational without negating the intent of the rules. Agencies are required to transmit to Advocacy their regulatory agendas, initial regulatory flexibility analyses (IRFAs), and certifications of rules without significant effects on small entities. Inadequate or missing IRFAs were the subject of nearly one-third of the comments in Advocacy's FY 2009 comment letters.

While finding the most useful measures of the law's effectiveness has been a challenge, every year brings important examples of the RFA's importance as a regulatory development tool. In FY 2009, compliance with the RFA helped improve rules dealing with issues as diverse as tax withholding and EPA's definition of solid waste. Some 30 key RFA issues are highlighted in this year's report, along with six recent examples of RFA-related case law.

To view the full report, visit www.sba.gov/advo/laws/flex/09regflx.pdf.

State-level Regulatory Flexibility Advances

Advocacy's report also shows that 45 states and the District of Columbia either have some form of regulatory flexibility provision, or have been considering it. State provisions have been adopted in four-fifths of the states—and are in active use in many. For more information about the state regulatory flexibility provisions and best practices, see www.sba.gov/advo/laws/law_modeleg.html#best.

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Regulatory News

Advocacy Comments on Plans to Improve the Paperwork Reduction Act

by Jennifer Smith, Assistant Chief Counsel

On December 23, the Office of Advocacy submitted a comment letter in response to the Office of Management and Budget's request for comments on improving implementation of the Paperwork Reduction Act (PRA). The request was originally published in the *Federal Register* on October 27, 2009.

Congress enacted the PRA in 1980. One of its main purposes is to minimize the paperwork burden for small entities and to minimize the cost to the federal government of the creation, collection, maintenance, use, dissemination, and disposition of information. The PRA requires agencies to obtain approval from the Office of Management and Budget prior to conducting a collection of information.

This law is an important tool for assessing the amount of paperwork that may be generated by regulation and reducing the amount of paperwork that is required for businesses.

Advocacy's letter stated that an accurate calculation under the PRA enhances an agency's ability to provide the information that is required for assessing the projected reporting, recordkeeping, and other compliance requirements of a proposed rule as required under sections 603 and 604 of the Regulatory Flexibility Act (RFA). Advocacy made recommendations for improving the PRA in a manner that would benefit small entities. These recommendations included requiring agencies to list the small entities that were consulted, provide a copy of the

small entity alternatives discussed with these entities, and report on the small entities' input and the agency's response to this input. One-stop information collection techniques would also ease the burden on small entities.

Advocacy also stated that agencies should be required to periodically review all paperwork collection requests and justify the need for any that may be outdated or obsolete. If the agency cannot provide that justification, the requirement should be rescinded. In addition, agencies should be required to submit their findings to Advocacy, in order to help the office determine if an RFA section 610 review is warranted.

Tax News

IRS Recommends New Requirements for Tax Return Preparers

by Dillon Taylor, Assistant Chief Counsel

In June 2009, the IRS commissioner called for a comprehensive review of the paid tax return preparer industry, drawing on all relevant data and input from interested parties. The goal was to produce a comprehensive set of recommendations to better leverage the tax return preparer community, fostering higher compliance with the law by taxpayers and better service to taxpayers through higher standards of conduct by paid return preparers.

Based on this review, on January 4, the IRS has announced a number of new tax return preparer requirements that it plans to implement for

future filing seasons. These steps will not be in effect for the current 2010 filing season.

The IRS's recent review of the tax return preparation industry and its recommendations are highlighted in the full report found at this webpage: www.irs.gov/pub/irs-pdf/p4832.pdf.

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Research Notes

Tough Labor Markets Tied to Startups of Smallest Firms

by Kathryn Tobias, Senior Editor

Much has been said about small employers of up to 500 workers, but little is known about the three-quarters of firms in the economy that are “nonemployers,” or firms without employees. These single-person firms generate full- or part-time work for their owners. A new study published by the Office of Advocacy examines the entry and exit of these very small firms. In contrast to employer firms, which often start as a response to an economic opportunity in the marketplace, nonemployer firms are often started as an occupational decision, either as a part-time venture for someone who is employed, or as a way of staying afloat after a job loss.

“Nonemployers represent the largest but possibly least understood segment of the business population,” said Susan M. Walthall, acting chief counsel for advocacy. “Their numbers show that they

make significant economic contributions, so it is important that the role of these very small businesses be understood.”

The paper, *The Nonemployer Startup Puzzle* by Zoltan Acs, Brian Headd, and Hezekiah Agwara, uses special tabulations produced by the U.S. Census Bureau’s Nonemployer Statistics with funding from the Office of Advocacy. For data years 2002-2004, the Census Bureau matched nonemployers across years to determine entry and exit by major industry and state.

Among the findings are the following:

- Nonemployer firms have entry rates about three times those of employer firms. Of existing companies in 2004, 34.3 percent of nonemployers were new and 12.6 percent of employers were new.
- Exit rates in the time period studied were lower but similar to

entry rate levels for both nonemployers and employers.

- Entry and exit rates, collectively referred to as turnover, seem to be associated with an industry’s economies of scale, or the amount of capital needed for entry. For example, mining, with high economies of scale, had low turnover rates, while services, with low economies of scale, had high turnover rates.

- The econometric model found, after controlling for population growth, that states’ unemployment rates were positively correlated with nonemployer entry. When a states’ labor markets worsened, individuals responded by finding clients to work for rather than employers.

The report is available on Advocacy’s website at www.sba.gov/advo/research/rs354tot.pdf.

Income and Wealth in Households with Small Businesses

How did the distribution of income and wealth in households owning small businesses change between 1998 and 2007? A new Advocacy-supported report by George W. Haynes, *Income and Wealth: How Did Households Owning Small Businesses Fare from 1998 to 2007?* updates previous studies and is based on additional data from the 2007 Survey of Consumer Finances. The study finds that households owning small businesses in the 1998-2007 period had a higher probability than other households of being within the top 50 percent in income and wealth. Other findings include the following:

- Households owning any business were significantly more likely to be high income earners in 2007

than in 1998; the largest percentage gain was among owners with more than one business.

- The characteristics of households and businesses were somewhat different in 1998 than in 2007. By 2007, higher wealth households were headed by older people, while high-income households were headed by younger people. Households with high income and wealth were more likely to own public stock and real estate.

- By 2007, the income gap between households with and without small businesses had widened slightly and the wealth gap had remained about the same.

- Households owning small businesses did much better from 2004 to 2007. The likelihood of

households owning a small business having high income increased by 4.2 percent and their likelihood of being in the high wealth category increased by more than 20 percent, compared with increases of 2.1 and 5.2 percent in households not owning businesses.

- From 1998 to 2007, households owning a business increased real mean wealth by 63.4 percent; the comparable increase for those not owning a business was just under 40 percent.

The full report is located at www.sba.gov/advo/research/rs357tot.pdf and the research summary can be found at www.sba.gov/advo/research/rs357.pdf.

—Kathryn Tobias

Free Tax Help Available Nationwide

from Internal Revenue Service News Releases

Nearly 12,000 free tax preparation sites will be open nationwide this year as the Internal Revenue Service continues to expand its partnerships with nonprofit and community organizations performing vital tax preparation services for low-income and elderly taxpayers.

The IRS Volunteer Income Tax Assistance (VITA) Program offers free tax help to people who earn less than \$49,000. The Tax Counseling for the Elderly (TCE) Program offers free tax help to taxpayers who are 60 and older.

Trained community volunteers can help eligible taxpayers with all special credits, such as the Earned Income Tax Credit (EITC), Child Tax Credit, or Credit for the Elderly. Also, many sites have language specialists to assist people with limited English skills.

In addition to free tax return preparation assistance, most sites use free electronic filing. Individuals taking advantage of the e-file program will receive their refunds in half the time compared with returns filed on paper. Taxpayers who use e-file and direct deposit can receive their refund in as few as 10 days. This year, taxpayers also can use the refunds to purchase U.S. savings bonds.

As part of the IRS-sponsored TCE Program, AARP offers the Tax-Aide counseling program at

nearly 7,000 sites nationwide during the filing season. Trained and certified AARP Tax-Aide volunteer counselors help people of low-to-middle income with special attention to people age 60 and older. To locate the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website, www.aarp.org.

The military also partners with the IRS to provide free tax assistance to military personnel and their families. The Armed Forces Tax Council (AFTC) consists of the tax program coordinators for the Army, Air Force, Navy, Marine Corps, and Coast Guard. The AFTC oversees the operation of the military tax programs worldwide, and serves as the main conduit for outreach by the IRS to military personnel and their families. Volunteers are trained and equipped to address military-specific tax issues, such as combat zone tax benefits and the effect of the EITC guidelines.

For taxpayers who want to prepare and e-file their own tax returns, there is IRS Free File. This is a free service offered by approximately 20 companies who make their software available for free. Taxpayers with incomes of less than \$57,000 are eligible to use Traditional Free File, which is the easy-to-use, interview-style software. For people with incomes of more than \$57,000 or people

who need little assistance, there is Free File Fillable Forms. For either service, taxpayers must go through irs.gov/freefile to access the programs.

Taxpayers who file electronically also can opt to file now and pay later. If taxpayers owe, they can make a payment April 15 by authorizing an electronic funds withdrawal (direct debit) from a checking or savings account, paying by credit card, check, or money order using Form 1040-V, Payment Voucher.

FOURTH QUARTER 2009: THE ECONOMY AND SMALL BUSINESS

Trends

- The U.S. economy rebounded in the fourth quarter; real GDP grew by an annualized 5.7 percent. Much of this growth stemmed from inventory replacement. Other contributing factors were growth in real personal consumption (2 percent) and real exports (18.1 percent) and slowing growth of imports (10.5 percent, all at annualized rates). Both the Federal Reserve's industrial production index and the Institute for Supply Management's manufacturing composite index reflected strong growth during the quarter.
- Unemployment remained high, ending the year at 10 percent. The economy lost 310,000 net jobs during the quarter and 4.8 million during 2009. The overall pace of net job loss slowed somewhat, and the service sector showed signs of a turnaround. Net job gains occurred in professional and business services, education and health services, and natural resources and mining. Nonfarm labor productivity rose an annualized 6.2 percent, suggesting that those who were employed were working harder. Self-employment for 2009 was down slightly from recent years.
- Small business owners and the public were cautiously optimistic. Both the University of Michigan's consumer sentiment survey and the National Federation of Independent Business's small business optimism index ended the year at higher levels than their 2009 averages, reflecting stronger confidence in the economy. However, small business owners remained tentative about business expansion and hiring, with lingering concerns about poor sales, access to credit, and other issues.
- Interest rates stayed historically low, while small business credit issues persisted. The Senior Loan Officers' survey reported continued weakness in small firm demand for commercial and industrial loans. Meanwhile, small businesses cited a lack of credit as one of their chief problems. SBA-guaranteed lending remained a bright spot, with the average 7(a) lending in the fourth quarter up 144 percent over the dollar value of loans in the first quarter; for 504 loans, the increase was 87.8 percent. (The end-of-year volatility shown in the table stems from very high monthly totals in September and November.) The number of venture capital deals rose steadily throughout 2009, but the overall volume was significantly off the 2008 level.
- Consumer prices rose modestly. The consumer price index rose at a 3.3 percent annual rate; when food and energy costs are omitted, consumer prices increased an annualized 1.3 percent. Producer prices rose at a much faster rate (an annualized 8.3 percent), suggesting that firms have been unable to pass along higher costs to their customers. Employers increased wages, salaries, and benefits modestly between fourth quarter 2008 and 2009. Oil prices rose \$5 a barrel in the quarter and \$33 in 2009.

Small Business Indicators

	Last Five Years					Last Five Quarters					Trends	
	2005	2006	2007	2008	2009	Q4-08	Q1-09	Q2-09	Q3-09	Q4-09	This Quarter	Q4-08 to Q4-09
Business bankruptcy filings (thousands)	39.2	19.7	28.3	43.5	--	12.9	14.3	16.0	15.2	--	--	--
Proprietors' income (\$billion, current dollars)	959.8	1014.7	1056.3	1072.4		1083.6	1037.8	1028.0	1037.9	1065.5	↑ 11.1% (a)	↓ 1.7%
Prime bank loan rate	6.2	8.0	8.1	5.1	3.3	4.0	3.3	3.3	3.3	3.3	0	↓ 0.4
Rates for smallest loans (\$10,000 to \$99,999):*												
Variable rate loans, repricing terms of 2-30 days	6.0	7.7	7.7	5.0	3.8	4.7	3.2	3.6	3.9	4.4	↑ 0.5	↓ 0.3
Variable rate loans, repricing terms of 31-365 days	7.1	8.4	8.6	6.9	5.6	6.4	5.6	5.5	5.5	5.9	↑ 0.4	↓ 0.5
Senior loan officers (percent of respondents):												
Net small firm C&I lending standards (those whose standards were eased minus those tightened)	9.0	4.6	-4.3	-55.5	-40.4	-74.6	-69.2	-42.3	-33.9	-16.1	↑ 17.8	↑ 58.5
Net small firm demand for C&I loans (those whose demand was stronger minus those weaker)	27.3	0.2	-11.0	-15.6	-52.9	-7.4	-57.6	-63.5	-54.6	-35.7	↑ 18.9	↓ 28.3
Venture investment: number of deals	3208	3746	4027	3985	2795	910	632	680	689	794	↑ 105	↓ 116
Venture investment: total invested (\$billion)	23.0	26.3	30.5	28.0	17.7	5.9	3.4	4.2	5.1	5.0	↓ 0.1	↓ 0.9

*Effective Q4-08, "smallest" loans are defined as \$10,000 to \$99,999; previous quarters use less than \$100,000.

Notes: a=annualized growth rate. Senior loan officers' responses are from the October 2009 survey. C&I = commercial and industrial loans. Trends may reflect rounding error.

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

	Last Five Years					Last Five Months (2009)					Trends	
	2005	2006	2007	2008	2009	Aug	Sept	Oct	Nov	Dec	This Quarter	Dec 08 to Dec 09
SBA 7(a) loan volume dollar value (\$billion, calendar year)	15.0	14.5	14.2	11.4	11.2	1.0	1.3	1.2	1.7	1.0	↓ \$242.5 mil.	↑ \$305.6 mil.
SBA 504 loan volume dollar value (\$billion, calendar year)	5.5	5.7	6.4	4.7	4.1	0.4	0.7	0.3	0.5	0.4	↓ \$282.9 mil.	↑ \$99.2 mil.
NFIB Small Business Optimism Index (1986 = 100)	101.6	98.9	96.7	89.8	86.7	88.6	88.8	89.1	88.3	88.0	↓ 0.8	↑ 2.8
NFIB: next 3 mos. "good time to expand" (% of respondents)	20.6	17.4	13.9	6.5	5.3	5.0	9.0	7.0	8.0	7.0	↓ 2.0	0
NFIB: net percent planning to hire in the next 3 months	14.4	14.6	12.9	3.8	-3.6	0	-4.0	-1.0	-3.0	-2.0	↑ 2.0	↑ 6.0
Self-employed, incorporated (millions)	5.3	5.5	5.8	5.8	5.5	5.4	5.4	5.5	5.4	5.5	↑ 0.1	↓ 0.3
Self-employed, unincorporated (millions)	10.5	10.6	10.4	10.1	9.8	10.1	10.0	9.6	9.7	9.6	↓ 0.4	0

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

For previous quarterly indicators, visit www.sba.gov/advo/research/sbei.html. Note that historical data are revised periodically, and this version reflects such changes.

Employment by Major Sector (millions, except where noted)

	Percent Small Business	Last Five Years					Last Five Months (2009)					Trends (in actual terms)	
		2005	2006	2007	2008	2009	Aug	Sept	Oct	Nov	Dec	This Quarter	Dec 08 to Dec 09
Goods-producing industries	58.48	22.19	22.53	22.23	21.33	18.62	18.25	18.12	17.99	17.96	17.91	↓ 218,000	↓ 2.39 mil.
Natural resources and mining	49.21	0.63	0.68	0.72	0.77	0.70	0.68	0.68	0.67	0.68	0.68	↑ 1,000	↓ 91,000
Construction	85.36	7.33	7.69	7.63	7.16	6.04	5.89	5.81	5.75	5.73	5.70	↓ 114,000	↓ 1.00 mil.
Manufacturing	44.43	14.23	14.16	13.88	13.40	11.88	11.68	11.63	11.58	11.55	11.53	↓ 105,000	↓ 1.29 mil.
Service-providing industries	48.24	111.51	113.55	115.36	115.45	112.28	111.84	111.73	111.64	111.74	111.64	↓ 92,000	↓ 2.39 mil.
Trade, transportation and utilities	43.93	25.96	26.28	26.63	26.29	24.95	24.82	24.75	24.67	24.68	24.63	↓ 127,000	↓ 992,000
Wholesale trade	61.12	5.76	5.90	6.02	5.94	5.62	5.59	5.58	5.57	5.57	5.56	↓ 23,400	↓ 239,800
Retail trade	40.05	15.28	15.36	15.52	15.28	14.53	14.48	14.43	14.37	14.37	14.36	↓ 72,200	↓ 506,900
Information	26.32	3.06	3.04	3.03	2.98	2.81	2.78	2.78	2.77	2.76	2.75	↓ 24,000	↓ 155,000
Financial activities	41.80	8.15	8.33	8.30	8.14	7.76	7.70	7.68	7.66	7.67	7.66	↓ 24,000	↓ 341,000
Professional and business services	43.11	16.95	17.57	17.94	17.74	16.57	16.37	16.35	16.36	16.47	16.49	↑ 137,000	↑ 734,000
Education and health services	47.76	17.37	17.83	18.32	18.84	19.19	19.22	19.25	19.28	19.31	19.34	↑ 92,000	↑ 306,000
Leisure and hospitality	60.89	12.81	13.11	13.43	13.44	13.10	13.08	13.10	13.05	13.02	12.98	↓ 116,000	↓ 265,000
Other services	85.44	5.39	5.44	5.49	5.51	5.36	5.35	5.34	5.33	5.32	5.31	↓ 30,000	↓ 131,000
Government	0	21.81	21.97	22.22	22.50	22.54	22.52	22.48	22.52	22.48	22.48	0	↓ 81,000

Notes: Seasonally adjusted. See www.bls.gov/ces/cessuper.htm for NAICS code equivalents for each sector. The small business percentage by sector is based on 2006 firm size data; leisure and hospitality uses 2005 information due to 2006 data suppressions. See www.sba.gov/advo/research/us06_n6.pdf. Trends may reflect rounding error.

Sources: U.S. Small Business Administration, Office of Advocacy, using data from the U.S. Department of Commerce, Bureau of the Census; U.S. Department of Labor, Bureau of Labor Statistics.

Macroeconomic Indicators

	Last Five Years					Last Five Quarters					Trends (percent)	
	2005	2006	2007	2008	2009	Q4-08	Q1-09	Q2-09	Q3-09	Q4-09	This Quarter	Q4-08 to Q4-09
Real gross domestic product												
Level (\$billion)*	12638.4	12976.3	13254.1	13312.2	12988.7	13141.9	12925.4	12901.5	12973.0	13155.0	↑ 5.7% (a)	↑ 0.1%
Annual percentage change*	3.1	2.7	2.1	0.4	-2.4	-5.4	-6.4	-0.7	2.2	5.7		
Real personal consumption expenditures (\$billion)*	8819.0	9073.5	9314.0	9290.9	9237.3	9195.3	9209.2	9189.0	9252.6	9298.5	↑ 2.0% (a)	↑ 1.1%
Real gross private fixed investment (\$billion)*	2172.2	2230.4	2146.2	1989.5	1522.9	1857.7	1558.5	1456.7	1474.4	1601.8	↑ 39.3% (a)	↓ 13.8%
Federal government surplus or deficit (\$billion, annual rate)	-283.0	-203.8	-236.5	-642.6	--	-674.1	-969.0	-1268.9	-1327.0	--	--	--
Real exports of goods and services (\$billion)*	1305.1	1422.1	1546.2	1629.3	1468.6	1568.0	1434.5	1419.5	1478.8	1541.6	↑ 18.1% (a)	↓ 1.7%
Real imports of goods and services (\$billion)*	2027.8	2151.2	2193.8	2123.5	1822.4	2038.9	1821.0	1749.8	1836.2	1882.7	↑ 10.5% (a)	↓ 7.7%
Corporate profits after tax (\$billion)	1043.7	1135.0	1090.2	1068.2	--	900.4	912.4	920.6	1037.9	--	--	--
Nonfarm business sector output per hour for all persons (1992=100)	133.9	135.1	140.1	142.6	146.8	143.1	143.2	145.6	148.2	150.4	↑ 6.2% (a)	↑ 5.1%
Employment cost index: private sector wages & salaries (2005=100)	99.2	102.0	105.5	108.7	110.3	109.6	109.8	110.0	110.5	111.0	↑ 1.8% (a)	↑ 1.3%
Employment cost index: private sector benefits (2005=100)	99.2	102.1	104.5	107.2	108.5	107.9	108.1	108.3	108.6	109.0	↑ 1.5% (a)	↑ 1.0%

Notes: Seasonally adjusted; *Chained 2005 dollars; a=annualized growth rate. Real GDP and its components are preliminary data. Trends may reflect rounding error.

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

	Last Five Years					Last Five Months (2009)					Trends	
	2005	2006	2007	2008	2009	Aug	Sept	Oct	Nov	Dec	This Quarter	Dec 08 to Dec 09
Unemployment rate (seasonally adjusted)	5.1	4.6	4.6	5.8	9.3	9.7	9.8	10.1	10.0	10.0	↑ 0.2	↑ 2.6
Civilian employment—16 years and older (millions, seasonally adjusted)	141.7	144.4	146.0	145.4	139.9	139.4	138.8	138.2	138.4	137.8	↓ 976,000	↓ 5.40 mil.
Civilian unemployed—15 weeks and over (millions, seasonally adjusted)	2.6	2.3	2.3	3.2	7.3	7.8	8.4	8.8	9.0	9.0	↑ 564,000	↑ 4.37 mil.
Nonfarm payroll jobs (millions, seasonally adjusted)	133.7	136.2	137.6	136.8	130.9	130.1	129.9	129.6	129.7	129.5	↓ 310,000	↓ 4.78 mil.
Producer price index (1982=100)	157.4	164.8	172.7	189.6	173.0	175.1	174.6	175.3	177.7	178.1	↑ 8.3% (a)	↑ 4.2%
Consumer price index (all urban consumers and all items; seasonally adjusted, 1982-84=100)	195.3	201.6	207.3	215.2	214.6	215.4	215.8	216.4	217.3	217.5	↑ 3.3% (a)	↑ 2.8%
Consumer price index (all urban consumer; all items less food & energy; seas. adj., 1982-84=100)	200.9	205.9	210.7	215.6	219.2	219.7	220.1	220.5	220.5	220.8	↑ 1.3% (a)	↑ 1.8%
Univ. of Mich. Consumer Sentiment (1966=100)	88.6	87.3	85.6	63.8	66.3	65.7	73.5	70.6	67.4	72.5	↓ 1.0	↑ 12.4
Spot oil price/barrel: West Texas intermediate crude	56.5	66.1	72.4	99.6	61.7	71.1	69.5	75.8	78.1	74.3	↑ \$4.84	↑ \$33.28
New privately owned housing units started (millions, seasonally adjusted at the annual rate)	2.1	1.8	1.3	0.9		0.6	0.6	0.5	0.6	0.6	↓ 29,000	↑ 1,000
ISM purchasing managers index—manufacturing composite (seasonally adjusted)	54.4	53.1	51.1	45.5	46.3	52.9	52.6	55.7	53.6	55.9	↑ 3.3	↑ 23.0
Industrial production (2002=100, seasonally adj.)	107.2	109.7	111.3	108.8	98.3	98.3	98.9	99.1	99.7	100.3	↑ 5.9% (a)	↓ 2.0%
3-month Treasury bills (secondary market rate)	3.15	4.73	4.35	1.37	0.15	0.17	0.12	0.07	0.05	0.05	↓ 0.07	↑ 0.02
10-year Treasury note (constant maturity rate)	4.29	4.79	4.63	3.67	3.26	3.59	3.40	3.39	3.40	3.59	↑ 0.19	↑ 1.17

Notes: a = annualized growth rate. Trends may reflect rounding error.

Sources: Federal Reserve Board; Dow Jones Energy Service; U.S. Department of Commerce, Bureau of the Census; Institute for Supply Management; U.S. Department of Labor, Bureau of Labor Statistics; University of Michigan, Survey of Consumers.

Regulatory News

Advocacy Asks EPA to Conduct Full Small Business Review of Greenhouse Gas Rulemakings

By Keith Holman, Assistant Chief Counsel

On December 23, the Office of Advocacy filed a comment letter with the U.S. Environmental Protection Agency (EPA) discussing the concerns of small entities about EPA's current rulemakings to regulate greenhouse gases (GHGs) for the first time under the Clean Air Act.

Advocacy's comments relate to three proposed, interrelated GHG rules:

- EPA's finding that GHGs endanger human health and the environment;
- The regulation of carbon dioxide (CO₂) and other greenhouse gases from light-duty vehicles; and
- A temporary deferral rule from GHG permitting requirements for small stationary GHG sources (those with emissions of less than 25,000 tons per year of CO₂-equivalent). The temporary deferral would extend for up to six years,

at which point small facilities will have to obtain GHG permits to operate and to modify and/or construct.

EPA did not conduct a Small Business Advocacy Review (SBAR) panel for any of the three rules. Instead, EPA certified under the Regulatory Flexibility Act (RFA) that each rule would not have a significant economic impact on a substantial number of small entities.

Advocacy believes that EPA's RFA certifications are improper because they lack a factual basis. More than 6 million small businesses will be regulated by GHG permitting requirements after the six-year deferral ends, while at least 1,200 small businesses will immediately become subject to GHG permitting. The economic impact on each small entity can be significant, including permitting

application costs, delay costs, and consultant's and attorney's fees.

Advocacy recommends that EPA defer more small entities from GHG requirements. EPA should also interpret the date when the GHG rules become effective to be further into the future. This would give the states and small entities more time to understand and deal with the GHG rules. EPA also needs to use this additional time to convene an SBAR panel to assess the impacts of GHG rules on small entities and to consider less burdensome alternatives, as required by the RFA.

Advocacy's letter is located at www.sba.gov/advo/laws/comments/epa09_1223.html. For further information, contact Assistant Chief Counsel Keith Holman at keith.holman@sba.gov or (202) 205-6533.

Legal Intern Joins Advocacy Staff

by Rebecca Krafft, Editor

William Wolfsheimer, a second-year law student at George Mason University School of Law, has joined the Office of Advocacy's staff as a legal intern. At George Mason, Wolfsheimer is a candidate member of the *George Mason Journal of International Commercial Law*, one of the only legal-academic journals dedicated exclusively to the legal issues affecting international commerce. He is also a member of the Phi Alpha Delta law fraternity.

In the professional world, Wolfsheimer has interned at a McLean, Virginia, legal firm, where he primarily worked on franchise law

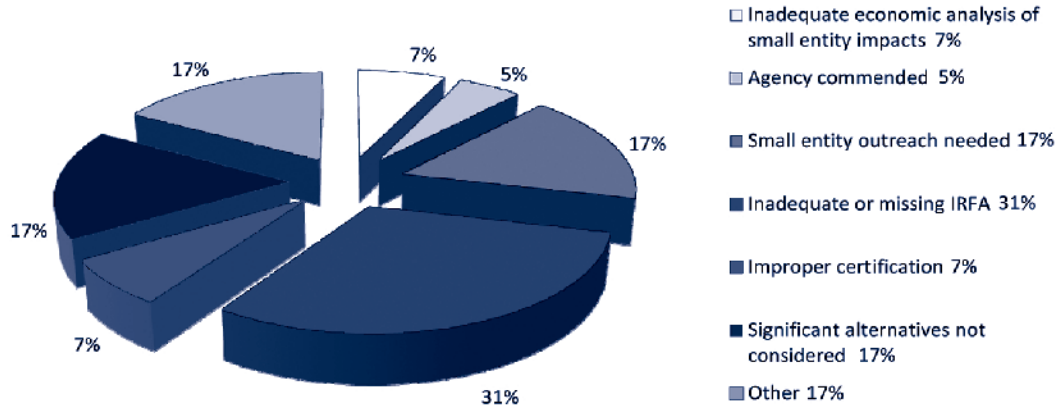
and employment law issues. Additionally, he has worked in property management and banking.

Wolfsheimer completed his bachelor's of science in finance at the University of Maryland, where he made the dean's list in all eight semesters. He was a member of the College Park Scholars Program's environmental section during his first two years. He also spent time doing photography, playing flag football, and volunteering with the elderly.

During his time with Advocacy, Wolfsheimer will be working primarily in the area of environmental law.



Advocacy Comments by Key RFA Compliance Issue, FY 2009



In FY 2009, the Office of Advocacy submitted 34 comment letters to federal agencies regarding their compliance with the Regulatory Flexibility Act when issuing regulations. This chart illustrates the most common concerns raised in Advocacy's comment letters. To learn more about the FY 2009 RFA report, turn to page 1.

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