

A VOICE FOR SMALL BUSINESS: HOW THE SBA OFFICE OF ADVOCACY IS CUTTING RED TAPE

HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES ONE HUNDRED NINETEENTH CONGRESS SECOND SESSION

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WEDNESDAY, JANUARY 7, 2026

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,

Washington, DC.

The Committee met, pursuant to call, at 10:01 a.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Meuser, Van Duyne, Ellzey, Alford, LaLota, Finstad, Downing, King-Hinds, Schmidt, Patronis, Velázquez, McGarvey, Scholten, McIver, Cisneros, Morrison, Latimer, Tran, Simon, Olszewski, and Goodlander.

Chairman WILLIAMS. Before we get started, I want to recognize Mrs. McIver from the great State of New Jersey to lead us in the pledge and the prayer. Following the pledge and prayer, we will have a moment of silence.

All. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Mrs. MCIVER. Dear God, thank you for another day. Thank you for allowing us to see 2026.

I ask that you place Your hands on each of us, each Member of this Committee, all of our staffers, and help us lead in a better way for the American people, and most importantly, for small businesses, as that is our duty on this Committee.

Thank you for breath, for good health. We pray for our colleagues. We pray for those that did not have the opportunity to come back with us in session in 2026. And we pray for those that are still trying to recover and get through to be here with us.

In Jesus' name, amen.

Chairman WILLIAMS. Would you remain standing, please?

We mourn the passage of our colleague, Representative Doug LaMalfa. He represented California's First Congressional District for 13 years. He was a strong advocate for rural America. I know many of us are proud to call him a friend. Please join me for a moment of silence to honor his memory.

[Moment of silence.]

Chairman WILLIAMS. Thank you.

Good morning, everyone.

I now call the Committee on Small Business to order.

Without objection, the Chair is authorized to declare a recess of the Committee at any time.

I now recognize myself for my opening statement.

I want to say welcome and thank you for being here for today's hearing, "A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape."

I want to thank our witness, Dr. Casey Mulligan, the chief counsel of SBA's Office of Advocacy, for appearing before us today.

This hearing comes at a critical time for small businesses nationwide. Main street endured inflation, burdensome regulations, and rising interest rates at the hands of the Biden-Harris administration.

It is estimated that the total cost of regulations is now over \$3 trillion a year, equal to 12 percent of the entire U.S. economy. To put this in perspective, the cost of regulations in the U.S. exceeds the entire economy of the United Kingdom.

To make matters worse, the Biden administration's regulatory onslaught cost over \$1.8 trillion due to new regulations.

Now more than ever, we must ensure that the federal government doesn't make it harder for our job creators to thrive, and that is where the SBA Office of Advocacy comes in.

So the Office of Advocacy is an independent voice for small businesses within the federal government and fights against burdensome regulations. Under the Regulatory Flexibility Act, or the RFA, federal agencies are statutorily required to ensure that regulations have a limited impact on small business.

However, last Congress, this Committee investigated agency compliance, and simply put, agencies skirt the law and end up implementing a mountain of crippling regulations on Main Street America.

Despite their best efforts, the Office of Advocacy lacks the legislative authority to hold the agencies accountable for ignoring the RFA, and that must change.

Under President Trump, the Office of Advocacy has been pivotal in repealing burdensome, misguided regulations. This includes their work with FinCEN to roll back the burdensome Beneficial Ownership Information reporting rule.

I am happy that so many of my colleagues are dedicated to fighting crippling regulations, including those who have joined my bill, H.R. 796, the 1071 Repeal to Protect Small Business Lending Act, which was reported favorably out of the Committee on Financial Services.

So I genuinely hope that hearings like this will show how important it is to remove regulatory barriers that stifle American entrepreneurship, which should have bipartisan support. I look forward to discussing how we can strengthen the Office of Advocacy's role and how Congress can give it the tools it needs to continue advocating for main street.

I want to thank you, Dr. Mulligan, again for being here today.

And, with that, I yield to my friend and distinguished Ranking Member from New York, Ms. Velázquez.

Ms. VELAZQUEZ. Good morning.

Thank you, Chairman Williams.

Welcome to the Committee, Dr. Mulligan.

The Office of Advocacy plays a unique role within the federal government, serving as the independent voice of small businesses and promoting the concerns of small firms before both federal and state policymakers.

Advocacy's important work, when done in a thorough and independent manner, as Congress intended, can help prevent well-meaning rules from unintentionally harming small competitors.

Small businesses need a strong advocate right now. Over the past year, small firms have lost government contracts, experienced supply chain kills, and endured a constant state of confusion amid President Trump's tariffs, rising prices, and an avalanche of policy changes. Manufacturing jobs have fallen every month since April 2025, extending Trump's losing streak that cost 58,000 jobs.

I would like to enter into the record a Wall Street Journal editorial entitled "Where Are Those Manufacturing Jobs?" The op-ed contends that tariffs are the primary factor leading to job losses and the broader decline in the economy.

That is why it is important to have an independent office that will serve as a strong and credible voice for small businesses within the administration, not one that will echo whatever the administration wants to hear.

I have concerns over the growing lack of independence between the Office of Advocacy and SBA, particularly in light of SBA initiatives that task Advocacy with cutting \$100 billion in regulations and setting up a deregulatory strike force. That is not the role of an independent office, but one more akin to a political arm of the administration.

This administration does not fully understand the long-term cost of rolling back regulations in pursuit of short-term gains. It is important to understand the full picture. Regulations can benefit small businesses, and the unchecked removal of regulations can increase uncertainty.

We have heard testimony time and time again that smart, well-crafted regulations provide clear rules of the road for small businesses, offering certainty and ensuring that they can compete on a level playing field. Smart, well-crafted regulations promote innovation, especially in the energy and manufacturing sectors.

With that said, I understand certain regulations can be onerous and difficult for small employers to comply with, but deregulation is not the answer. The chainsaw approach will roll back important safeguards and cause uncertainty for small firms.

Thank you, Mr. Chairman, and I yield back.

Chairman WILLIAMS. The gentlelady yields back.

I will now introduce our witness.

Our witness today is Dr. Casey Mulligan. Dr. Mulligan is the chief counsel of the Office of Advocacy at the U.S. Small Business Administration in Washington, D.C. Dr. Mulligan is responsible for representing the independent voice of small businesses before federal agencies, Congress, and the White House, and brings a deep background in economic research.

Prior to work at the SBA, Dr. Mulligan served as the chief economist on the White House Council of Economic Advisers from 2018 to 2019, where he provided economic analysis on federal regulatory initiatives, healthcare, labor markets, and tax policies.

Dr. Mulligan earned a bachelor of arts from Harvard University and a Ph.D. in economics from the University of Chicago.

I am looking forward to our meaningful conversation today.

And are you a golfer? You got a mulligan.

Mr. MULLIGAN. Yes, sir, a couple times on the first tee.

Chairman WILLIAMS. I got you. Okay.

So before I recognize the witness, I would like to remind you that your oral testimony is restricted to 5 minutes in length. If you see the light turn red in front of you, it means your 5 minutes has concluded and you should wrap up your testimony. If you don't and keep going, you will hear this, okay?

So with that, I now recognize you—we are glad to have you here, Doctor—for your 5-minute opening remarks.

STATEMENT OF THE HONORABLE CASEY MULLIGAN, CHIEF COUNSEL, U.S. SMALL BUSINESS ADMINISTRATION OFFICE OF ADVOCACY

Mr. MULLIGAN. Chairman Williams, Ranking Member Velázquez, and Members of the Committee. I am honored to discuss Advocacy's role in cutting red tape for small businesses. My testimony does not necessarily reflect the views of the administration or the SBA.

The Biden administration finalized 12,000 rules that would cost almost \$6 trillion—with a T. Against that backdrop, President Trump was elected to stop the, quote, "ever-expanding morass of complicated federal regulation," close quote. He directed agencies to identify regulations that impose undue burdens on small businesses.

Advocacy is well-positioned to help agencies follow that direction. During my nomination hearing, I committed to meet small businesses where they are. I have done so, together with our regional advocates who gather small business perspectives nationwide and bring them to policy discussions here in Washington.

For years, small businesses burdened by regulations remained silent, fearing retaliation. Now they tell Advocacy that this administration is the first to listen and understand. One even said Advocacy, quote, "quite literally saved Christmas," close quote.

We also help cut foreign regulation. When Canada blocked a U.S. firewood manufacturer's exports, we coordinated with USDA, State, and Congress to resolve it. Shipments resumed, making it America's only exporter of that type of firewood.

Agencies and the White House offices have increasingly come to Advocacy for input on regulatory policy. The office has flagged approximately 300 regulatory issues for this administration where deregulatory action would help small businesses.

Many of these rules are giving large organizations an artificial advantage over smaller ones. Take the Outpatient Prospective Payment System that pays hospitals more for the same services than it pays independent physicians.

Small businesses also flagged the proposed OSHA Heat rule. It would impose sweeping one-size-fits-all and often absurd requirements on workplaces where heat is above certain temperatures.

During a meeting with Advocacy, an Arizona watermelon farmer understood that the rule would require shade structures even

though harvesting occurs at night, in the dark, where there is no sun to be shaded.

In contrast, well-designed deregulation increases competition and productivity. President Trump's first term was a case in point. Prescription drug prices fell for the first time in decades. Deregulation sharply reduced internet access prices. The RFA's competition channel is a reason for both of these changes.

Another indicator of agencies' unprecedented engagement with Advocacy is compliance with the RFA's agenda-sharing requirement under 5 U.S.C. Section 602. With only one or two exceptions, agencies in the prior administration completely failed to comply.

In contrast, during my first 5 months as chief counsel, more than 60 agencies have sought Advocacy input on their regulatory agendas. This is an increase in compliance of at least 3,000 percent.

While regulators are quick to sanction businesses that violate their requirements, they too often fail to follow the rules that Congress set for them.

A frequent practice has been to unlawfully certify important rules as supposedly not having a significant economic impact on a substantial number of small entities. Such certifications are a pathway to capricious enforcement actions against small entities, and they are also obstacles to oversight.

My recent report, "Unlawful Disregard for Small Business Regulatory Burdens," examines thousands of certifications. In Orwellian fashion, 65 percent of the major rules from the Biden administration were nonetheless said to lack significant effects on small entities or otherwise not require considering those effects. Small businesses were saddled with costs between 200 and 600 billion dollars without acknowledgement of the magnitude.

The report identifies genres of certification "fiction"—and that's what it is—including rules that acknowledge heavy paperwork burdens but certify anyway, rules that threaten entire business categories through product bans, and rules with detailed cost estimates that are ignored for RFA purposes.

The report is not merely a critique of past process failures. It is a practical roadmap for finding and fixing red tape that is already on the books.

To that end, Advocacy has published a "most wanted" roster of regulations notorious for their unnecessary burdens on small businesses.

Thank you for the opportunity to testify today. As Chief Counsel for Advocacy, I will continue to listen and work toward better policy for all small businesses.

I would be happy to answer any questions.

Chairman WILLIAMS. Thank you. That is perfect.

And we will now move to the Member questions under the 5-minute rule. I will now recognize myself for 5 minutes.

Dr. Mulligan, the Office of Advocacy is intended to operate independently from the SBA, yet its statute requires the SBA Administrator to provide Advocacy with office space, equipment, communication facilities, and other support.

So the question is, how do you navigate this statutory requirement to receive necessary support from the SBA while ensuring

that Advocacy maintains its independent voice in analyzing and advocating on behalf of small business?

Mr. MULLIGAN. Thank you for your question.

My testimony and my reports have documented that the red tape problem is massive. And one office is not enough. And President Trump has a number of offices really making great contributions, the Office of Management and Budget and the National Economic Council—and my landlord, you might say, the SBA, is another one. They are very much—the Administrator is hearing from small businesses, hears about these red tape problems, and really is a great partner. And I welcome great partners whenever I can get them.

In terms of setting the direction for the office, that comes from me. I have the only hiring authority. I mean, Congress is very clear that the Administrator does not need to consent or approve my hires.

And, of course, especially in my office, where we don't have machines and things like that, the people are everything. So the hiring decisions are really crucial for putting together a great team to advocate for small businesses.

Chairman WILLIAMS. As we said today, the Office of Advocacy was created to be the voice for small businesses in the federal government.

Can you discuss how Advocacy is uniquely positioned to hear directly from small business owners, and specifically what concrete steps your office has taken since President Trump took office to expand outreach, gather meaningful feedback, and ensure small business concerns are effectively represented in federal policymaking?

Mr. MULLIGAN. I mentioned a number of regulatory partners in the administration. One of the unique things Advocacy has is its outreach. A significant fraction of my staff is not in Washington. They don't have an office or a desk here. Every day they are out listening to the small businesses.

And one of the things that we did, I believe we set a record, with no close second place, in filling the regional advocate positions, making sure there was somebody in place there. And we have put together quite a training program for them, and they are very well-integrated with what we are doing here in Washington.

So that outreach is crucial to the whole mission of Advocacy and really to having good government here.

Chairman WILLIAMS. This Committee has sounded the alarm on many of the burdensome regulations from the Biden-Harris administration. Regulations like the 1071 rule, Beneficial Ownership reporting requirements, and the independent contractor rule added unnecessary burdens and costs to Main Street America, and Advocacy has taken proactive steps to fight back against many of these regulations.

So my question is, can you tell us about those efforts and how Advocacy will continue to identify and remove burdensome regulations?

Mr. MULLIGAN. Thank you for your question.

The first step always is listening to the small businesses, and they raise with us every one of those rules that you mentioned. I suppose you have heard from your constituents about them as well.

And the next step is we communicate with the agencies who are—we don't make the rules at Advocacy. There are other agencies that make them. We communicate with them and let them know what we have heard.

One thing that has been really a blessing in this administration is often before I can do that, they are coming to Advocacy and saying, the different Cabinet agencies: Hey, what are you hearing from small businesses? How can we do better with our regulations?

And so a number of agencies, including some that you mentioned, really approached Advocacy. And we were ready, based on our outreach, to let them know what small businesses are experiencing.

Chairman WILLIAMS. Let me go quickly to my last question.

The Regulatory Flexibility Act is supposed to provide critical protection for small business, and last Congress the Committee's investigation found that agencies often skirt requirements and enact costly regulations to the detriment of small businesses.

So, quickly, what factors limit Advocacy's ability to ensure agencies are complying fully?

Mr. MULLIGAN. Well, I suppose in the prior administration that the administration itself wasn't very supportive. And President Trump has been very supportive of what we are trying to do, and that is a big reason why we had the 3,000 percent increase in compliance.

If you want something more robust, when President Trump is no longer our President, I think some statutes, like the ones you mentioned, the PROVE IT Act, I think would be helpful.

Chairman WILLIAMS. Well, thank you for that.

My time is up, and I now recognize the Ranking Member for 5 minutes of questions.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Dr. Mulligan, is the Office of Advocacy an independent office?

Mr. MULLIGAN. It is the Office of Advocacy. And we refer to ourselves—

Ms. VELÁZQUEZ. Is it independent? Just say yes or no.

Mr. MULLIGAN. The word "independent" is not in the statutes. We call ourselves an independent voice in the executive branch for small business.

Ms. VELAZQUEZ. Do you circulate to the Office of Management and Budget, White House, or Small Business Administration for clearance of your testimony?

Mr. MULLIGAN. No. They get it the same time that you guys get it.

Ms. VELÁZQUEZ. Congress intended that the chief counsel have a great deal of latitude and not be a yes man for the agency.

Prior to being confirmed, were you working as a senior adviser on economics to the SBA Administrator, reporting to her chief of staff, yes or no?

Mr. MULLIGAN. I don't remember the title, but, yes, I did work in a role—

Ms. VELÁZQUEZ. Okay. Thank you.

Mr. MULLIGAN.—in her side of the office, yes.

Ms. VELÁZQUEZ. In my view, this is a direct conflict of interest for a nominee to an office which is statutorily required to be independent of the SBA.

Moving forward, will you commit to representing the views and interests of small businesses even when those views directly conflict with or oppose actions taken by the Trump administration, yes or no?

Mr. MULLIGAN. I already do that.

Ms. VELÁZQUEZ. I am sorry?

Mr. MULLIGAN. I already do that, yes.

Ms. VELÁZQUEZ. In December, the Wall Street Journal editorial board warned that tariffs are contributing to manufacturing job losses, 58,000 jobs since January.

Have you conveyed these concerns to the White House? And what response have you received?

Mr. MULLIGAN. Thank you for your question.

I have so many dealings with the White House, I don't know how to summarize them in this short time. Let me——

Ms. VELÁZQUEZ. But you don't recall? You know, everyone is discussing——

Mr. MULLIGAN. I recall so many things.

Ms. VELÁZQUEZ.—tariffs and the impact——

Mr. MULLIGAN. I recall dozens of things. I don't have time to—let me tell you one story.

So during the shutdown——

Ms. VELÁZQUEZ. No, no, no, no. I just want to hear if you have conveyed——

Mr. MULLIGAN. Yes.

Ms. VELÁZQUEZ. Okay. Because the U.S. Chamber of Commerce believes broad-based tariffs raise prices for consumers and businesses and are especially a big problem for small businesses that do not have many resources to understand them.

Given the negative impact tariffs are having on small businesses, why hasn't Advocacy taken a more visible role in pushing back against these policies?

Mr. MULLIGAN. Thank you for your question.

My office, under my leadership, has achieved a 3,000 percent increase in compliance. And I understand that——

Ms. VELÁZQUEZ. I am not discussing compliance. I am asking you a question about tariffs.

Mr. MULLIGAN. I am answering your question, with all due respect.

Ms. VELÁZQUEZ. Okay.

Mr. MULLIGAN. I am answering your question.

Ms. VELÁZQUEZ. Okay.

Mr. MULLIGAN. I work with the agencies. I need to persuade them. I cannot make any rules. I cannot change any rates. I cannot do any of that stuff. I need to be persuasive. And I think my methods have been very effective, as you can see from the compliance changes.

I understand that you are recommending some different methods to persuade. Those aren't my methods, and that is not what I am doing.

Ms. VELÁZQUEZ. Okay. So, Chief Counsel, in your book “You’re Hired!” you state that tariffs are taxes.

Do you believe that tariffs are taxes, yes or no?

Mr. MULLIGAN. Tariffs are a revenue source. The President calls them external revenue as opposed to internal revenue. And his policy—and I was there in Milwaukee in the summer of 2024, helping him get that to be on the platform.

Ms. VELÁZQUEZ. Sir, I asked you a yes-or-no answer——

Mr. MULLIGAN. It is a revenue source.

Ms. VELÁZQUEZ.—based on what you wrote in your own book.

Mr. MULLIGAN. The platform is different than the policies that we had in the first Trump administration.

Ms. VELÁZQUEZ. We are discussing the impact of tariffs on small businesses and consumers. You stated in your book that tariffs are taxes.

Mr. MULLIGAN. President Trump’s policy——

Ms. VELÁZQUEZ. And now you are providing a different interpretation.

Mr. MULLIGAN. No, it is not a different interpretation. It is a different policy.

President Trump’s policy—and it is very clearly stated in the platform, anyone can read it right now, the Republican platform—is to reduce internal revenue and replace it with external revenue.

And that has been his policy. That is a different policy than the first administration. And it has different effects, because it is a different policy.

We know that small businesses are very burdened by internal revenue, and that is part of President Trump’s policy to relieve them from that burden.

Ms. VELÁZQUEZ. I think you are changing your tune, based on the fact that you are working for the administration. That is not what you put into this book.

I yield back.

Chairman WILLIAMS. The lady yields back.

I now recognize Mr. Alford from the great State of Missouri for 5 minutes.

Mr. ALFORD. Thank you, Mr. Chair and Ranking Member, for holding this.

Mr. Mulligan, would you like to respond to the Ranking Member, anything you would like to say after that last comment?

Mr. MULLIGAN. Thank you for your question and that opportunity.

Policy needs to be analyzed carefully. I have done that for my entire career. I am not a young man. I have been doing that a long time.

And the policies may have the same label but different things. There are different policies. And policies in the Trump two administration, I analyzed the Trump two policies.

And the policies that we had in the platform in Milwaukee are not the same policies as before, and they need a different analysis. It would be dishonest to do it any other way.

Mr. ALFORD. Very good.

As you know, this Committee really stands as a staunch advocate for Main Street America under the leadership of our Chairman.

That is what this has been about since I have been on this Committee.

I think all of us up here are firmly committed to make sure that Main Street America is fairly, justly supported, that we help small businesses start and grow. If we do not maintain our champion attitude for main street interests, we risk losing the small businesses that are really integral to the fabric of America.

The last 4 years, small businesses have been under attack from an administration determined to crush main street under the boot of big government. In the previous administration, federal agencies finalized over 1,000 regulations, costing taxpayers a whopping \$1.8 trillion in compliance. That is not a small number, \$1.8 trillion, and this is the same as the entire federal discretionary budget for fiscal year 2023.

It is unacceptable that federal agencies can put this burden on the taxpayers of this country. And that is why the taxpayers spoke when they elected Donald J. Trump, who appointed Administrator Loeffler to take the SBA in a new direction.

In just the first 100 days, reforms from the SBA Office of Advocacy have saved small businesses more than \$48 billion in regulatory cost. Thank you. Thank you for that.

And since taking office, the President has saved over \$111 billion in regulatory cost. That is a savings of about \$325 per American, money that instead of being wasted in useless compliance to support bureaucratic bloat, will stay in the pockets of Americans.

Dr. Mulligan, the Advocacy Office does exist as the voice of small businesses to make sure that any bureaucrats in the Beltway must consider main street when creating regulations.

What current regulations are you hearing about from small businesses across the country that really need attention the most?

Mr. MULLIGAN. Thank you for your question.

There are so many, as you mentioned, getting into the thousands.

Mr. ALFORD. Give me your top three.

Mr. MULLIGAN. We have a "most wanted" list that we put on our website. The OSHA Heat rule that I mentioned in my testimony is in there. The requirements for nursing home staffing is another one that is in there.

The filing of quarterly payroll forms is another one on our "most wanted" list. It could be annual is something we should look into, making it annual instead of quarterly.

Mr. ALFORD. I am also on the Appropriations Committee Subcommittee for FSGG, and I know the Office of Advocacy requested an additional \$4 million. This is not an Appropriations hearing, I understand that, but that could not be included in the House mark this go-around.

Can you please speak to what Advocacy would be able to do for the taxpayer with additional funding? And we have 40 seconds.

Mr. MULLIGAN. Thank you for your question.

We are a small office. There are thousands of regulations. And making sure that we follow through, and not just in identifying, but follow through in removing those regulations that need to be removed, reform the ones that need to be reformed, it would be

helpful to have additional staff than just the few dozen that we have.

Mr. ALFORD. I would like to have a continued conversation with you and Dave Joyce, our Subcommittee Chair, on this. Let's make that happen.

Thank you so much for your service, for looking out for Main Street America.

And with that, Mr. Chairman, I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. McGarvey from the great State of Kentucky for 5 minutes.

Mr. MCGARVEY. Thank you, Mr. Chairman.

I just want to point out one thing quickly. When we are talking about rules and regulations, the first Trump administration issued 1,313 rules and regulations. The Biden administration issued 1,167 rules and regulations, less than Trump one.

I am very interested in making sure that our small businesses don't have a regulatory burden. I just want us to be honest about the data and the numbers when we are talking about them.

So, Dr. Mulligan, one thing I want to talk with you about is in your written testimony you use the words "regulation" and "regulatory" 55 times. You never once mention the word "tariff." Zero times do you talk about tariff.

That is frustrating to me, because right now if you want to come to Louisville, Kentucky, and walk around and talk to small business owners with me, that is the number one thing they are talking about. And you are supposed to be the small businesses' voice and advocate here in Washington.

So the concern isn't just anecdotal. It is not just somebody telling me at their business what this is doing to them and their customers. All of the data bears this out.

And even though you don't mention tariffs at all in your written testimony, you have talked about tariffs before, and you have talked about the damage that a tariff policy, specifically when there is no strategy involved, does.

I can point you to chapter 8 in your book "You're Hired!" where you say a tariff is simply a tax on imports, where you say, quote, "The most damaging protectionist measures are import prohibitions and their equivalents, tariffs that are so high that imports stop altogether."

You also said, quote, "Tariffs are taxes on top of all the other taxes and regulations of our economy," and they, quote, "reduce employment, real incomes, and GDP."

Your last point is actually proving correct right now. And in the wake of President Trump's tariffs, according to his own Bureau of Labor Statistics, the unemployment rate has increased to 4.6 percent last year and the number of unemployed people increased to 7.8 million over the last year.

The Chamber of Commerce has reported that a majority of small businesses expect to raise prices and have less revenue than usual, so less disposable income is going to come back into our local economies and stimulate growth. And, of course, it is making things harder for small businesses from Louisville across this country.

Are you all hearing the same thing from small businesses about tariffs that we are hearing?

Mr. MULLIGAN. Thank you for your question.

There were a number of incorrect premises, with all due respect. On my—on our website—

Mr. MCGARVEY. I was just quoting you.

Mr. MULLIGAN. Biden did not make 1,000 regulations, he made 12,000, and about 8,600 of them are on my website.

Mr. MCGARVEY. I asked you, are you hearing about tariffs from small businesses? Are you?

Mr. MULLIGAN. Yes.

Mr. MCGARVEY. Of course you are, because that is what they are talking about. That is what is hurting them right now.

Mr. MULLIGAN. For example, the fishermen—I brought my fish tie today. The fishermen from Massachusetts, they came. We visited them. They visited us.

And one of the things they raised is how the Europeans are stealing our fish and selling it back to us. That is not an exaggeration. And they are asking could there be a tariff so that we could fight—have a President who fights back against terrible trade deals—

Mr. MCGARVEY. So what has your office done—

Mr. MULLIGAN.—and crushing our small businesses from Europe.

Mr. MCGARVEY. What work has your office done to help small businesses with the burden they are facing from tariffs? Are you doing anything? You are supposed to be the advocate.

Mr. MULLIGAN. You are right. I am the advocate. And job number one is I listen to—

Mr. MCGARVEY. What have you done? Because we have got limited time. What have you done?

Mr. MULLIGAN. Two things: listen and make sure the policy-makers are hearing what I am hearing.

Mr. MCGARVEY. Because the President, when he went in front of the Supreme Court, said this is regulatory. He called tariffs regulation. That is the point of his argument to the Supreme Court. He said that he, quote, “has the power to regulate.” That was the specific word they used on international trade.

And what I am hearing from you today is that you are basically ignoring what is happening with our small businesses with the tariff problem, because you have changed your opinion that you used to write about now that you are working for the administration. Our small businesses need you more than you need to be loyal to this administration.

You didn’t have much good to say in your book about Peter Navarro, the President’s trade guru and, quote/unquote, “unique China expert.”

Mr. Navarro is the principal author of our country’s current tariff policy. You called him—these are your words—you called him boorish and double-dealing. You wrote that you were, quote, “stunned” by how misinformed he was in policy discussions. You accused him of economic illiteracy.

You even pointed out that he was so out of touch that he went around Capitol Hill making a big stink about a bill—and I am not making this up—that he named The FART Act.

Setting aside your personal differences with Mr. Navarro, you seem to have diametrically opposed views on tariffs and what he does. Do you think he is the right man to be leading our trade policy right now?

Mr. MULLIGAN. Thank you for your question. It loaded in a ton of—

Mr. MCGARVEY. Quotes.

Mr. MULLIGAN.—false premises.

Mr. MCGARVEY. Quotes. They are called quotes.

Mr. MULLIGAN. A number of quotes that you quoted from that book were about Ronald Reagan's policy. If you look at that chapter that you are quoting from, there is a picture of Ronald Reagan next to a picture of Donald J. Trump. And the whole discussion in that chapter is about Reagan's import prohibitions and Reagan's policies and how President Trump's policies—

Mr. MCGARVEY. I must have the old copy, not the new copy.

Mr. MULLIGAN. There is only one copy. And I wrote that chapter. It is very much about Reagan versus Trump. And you were attributing to President Trump Reagan's—

Mr. MCGARVEY. You are ignoring the question about Peter Navarro. What about Peter Navarro? I didn't ask about Ronald Reagan.

Chairman WILLIAMS. The gentleman's time is up.

Mr. MCGARVEY. I yield back, Mr. Chairman.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Finstad from the great State of Minnesota for 5 minutes.

Mr. FINSTAD. Thank you, Chairman Williams. Thank you for holding this important hearing today.

And thank you to our witness, Dr. Mulligan, for being here.

I am excited to be here today to discuss the important role the SBA Office of Advocacy plays in ensuring small businesses have a strong voice in government.

For many small businesses, especially those in rural communities, like the communities that I represent in southern Minnesota, federal regulations can be confusing and costly.

The SBA Office of Advocacy serves as a vital resource for engaging with small business owners, and it holds agencies accountable to the Regulatory Flexibility Act.

Since 2009—and we have heard this a few times already—federal government regulations have cost small businesses \$732.2 billion, and, probably more egregiously, has added 483.8 million hours in administrative time to our small businesses.

The Biden administration alone accounts for \$450 billion of these costs and nearly 280 of the administrative hours, 280 million of these hours.

I introduced the PROVE IT Act to give small businesses a seat at the table during this regulatory process and provide them with the much-needed regulatory relief by giving teeth to existing law, the RFA, the Regulatory Flexibility Act.

So with that, Dr. Mulligan, the PROVE IT Act passed this Committee, the Judiciary Committee, and the full House of Representatives last Congress. This year, I reintroduced this legislation with the hope that it again passes the House and hopefully spurs the Senate for action.

With the Chairman's permission, I would like to offer a letter received this morning from the U.S. Chamber of Commerce for the record that supports the PROVE IT Act.

Chairman WILLIAMS. Agreed.

Mr. FINSTAD. So, Dr. Mulligan, as the House considers the PROVE IT Act, I want to know your thoughts on this legislation and hear how you believe it could help small businesses.

Mr. MULLIGAN. Thank you for your question.

Fictional certifications is an even bigger problem than was thought, and this Committee was early to identify it as a serious problem, and legislation such as the PROVE IT Act is directly trying to solve that problem.

It is a problem that needs solving. If we don't solve it—in this administration, President Trump is extremely supportive of small businesses. But he is not always going to be our President, and after that I think we need some legislation to prevent these fictional certifications.

If fictional certifications continue, we have several problems with that for small businesses. Number one, it undermines the regulatory review process. So that protection for small businesses to be able to go back and look at old regulations and take them out when they are outdated, et cetera, will be undermined.

Another key issue is being able to understand the rules to follow. Back in the old days, Martin Luther said the common man should be able to read the word on his own. Well, we have something like that in the federal government, small entity compliance guides, but the agencies avoid that through these false and fictional certifications.

And last but not least would be, particularly for some of these special agencies like EPA, that when you have a false certification that the PROVE IT Act would prevent, it bypasses the panels and the great feedback we would get for small businesses and make better rules. The Ranking Member talked about well-crafted rules. The way to craft them well is to listen to the small businesses.

Thank you.

Mr. FINSTAD. It is probably a simple yes or no, but, Dr. Mulligan, you understand that small businesses—95 percent of the businesses in my district are small businesses. We are talking mom-and-pops, 10, 15, in some cases two, three employees.

You understand that they don't have time day in and day out, because at some point in the day they are the CFO, they are the CEO, they are the janitor, they are the mechanic, they are the cook. You name it, they are doing it all in that day.

You understand they don't have the time to keep up with the thousands upon thousands of regulations that a big, bloated government puts onto our small businesses. You get that, right?

Mr. MULLIGAN. Yes, I do.

Mr. FINSTAD. All right.

So a tool like the PROVE IT Act is something that will provide opportunities for common sense to prevail for our small businesses again.

So how would the PROVE IT Act aid your office to influence or challenge agency rules that underestimate their impact on small businesses?

Mr. MULLIGAN. Well, the PROVE IT Act gives an additional role to small business voice, maybe delivered through the Office of Advocacy, in terms of questioning these fictional certifications and going ahead with the rule that acknowledges the cost that it creates and helps with the compliance and finding alternatives, less costly alternatives of achieving the same goals.

Mr. FINSTAD. I appreciate what you do. Thank you for being here today.

And, Mr. Chairman, I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Ms. Scholten from the great State of Michigan for 5 minutes.

Ms. SCHOLTEN. Thank you, Mr. Chair, Madam Ranking Member, and Dr. Mulligan, for joining us here today. Great to have a fellow Midwesterner in our presence.

The topic of the day is tariffs, how do we combat the terrible impact that tariffs are having on our small business. You are here because we are looking to you to help us protect small businesses.

I have here five different letters that I would like to enter into the record from small businesses across the country who reached out to this Committee desperate for help to try and combat the devastating impact of this administration's tariff policies on their small businesses.

One small business owner, Lynne Fletcher O'Brien from McLean, Virginia, wrote in, and she actually used—and people here use the words, "They are targeting us. They are attacking us." They see this administration as literally targeting small businesses.

Lynne Fletcher O'Brien writes in and talks about actually punishing small businesses, talks about a procedure that Customs and Border Protection employs where officials are actually destroying items when they can't properly assess the value because of this chaotic tariff policy. She said, "I am urging you to push for tariff relief that doesn't punish small American businesses and consumers."

You are in the Office of Advocacy. They are looking to you to help. In west Michigan, our agricultural sector in particular is struggling. Rural America is struggling. President Trump's tariffs, including many businesses in the agricultural sector, he is punishing these businesses.

Michigan is not only the nation's second-largest producer of apples. In my district, Grand Rapids is the apple capital of the State. As a result of the President's tariffs, fresh apple exports have declined by 58 percent this year.

West Michigan produces nearly three-quarters of Michigan's harvested apples in 2024, so you can imagine how devastating these tariffs have been to my district's food and agricultural small businesses.

Dr. Mulligan, you said that, when my colleague Mr. McGarvey was asking you what are you doing about it, you said you were making sure that individuals have information about it.

Is that all? Is that all that you are doing? Is that all that the Office of Advocacy can do to help from small businesses feeling like they are being punished by this administration?

Mr. MULLIGAN. Thank you for your question.

Advocacy has two basic roles. The outreach. Listening, in other words. Listening to small businesses. And I would be glad to look at the letters that you are putting in the record. I think every small business voice counts.

Ms. SCHOLTEN. Great. We have them here for your review.

Mr. MULLIGAN. And the second role is to communicate to the agencies and try to be persuasive in terms of making sure they know what the small business concerns are and urging them to seek policies that promote success of small businesses.

I have found the partnership in the administration to be incredible. As I said in my testimony, they are coming to me before I can go to them in many cases, including in the tariff area.

I had an entrepreneur from Chicago who came to Washington. I met with her. And she mentioned—she sells coffee, purchases imported coffee. She said coffee is getting pretty expensive.

That was during the shutdown, so I couldn't meet with the people at that time. But the very first day the shutdown was over, I was told to come to the White House and share what I have been hearing. And before I could share that Chicago entrepreneur's story, the Commerce principal said: Hey, we are cutting the tariff on coffee and some other items immediately.

So that is the kind of experience that I have had. They are very eager to hear about small businesses and to take fast action to make things better.

Ms. SCHOLTEN. And what action is that? I mean, we are still seeing these small business owners writing in and saying: We feel like we are being punished here.

I mean, what would you say to Lynne in her letter here who says please do something about these policies that are punishing us?

Mr. MULLIGAN. Thank you for your question.

I would be glad to read the letter. I don't reply to letters I haven't read.

Ms. SCHOLTEN. I mean, I am reading them to you right now. I am reading it verbatim. She says: I am urging you.

This certainly can't be the first time you have heard from someone who feels—and I would question whether you truly are listening if you are telling me you have never heard from people who say they feel——

Mr. MULLIGAN. Wait a second. I just got done explaining about the Chicago entrepreneur who was importing the coffee. I heard from her. I went to the—I was called to the White House to share what I am hearing and——

Ms. SCHOLTEN. And you share with them that people feel like they are being punished and destroyed by these tariffs?

Mr. MULLIGAN. I shared what the Chicago entrepreneur said, not what you are saying.

Ms. SCHOLTEN. So have you shared with the White House that American small businesses feel like they are being punished by this tariff policy?

Mr. MULLIGAN. I have not heard a business tell that they me that they are being punished.

Ms. SCHOLTEN. You do not feel that this—you have not heard from any small businesses that feel that this would be a—

Chairman WILLIAMS. The gentlelady's time is up.

Ms. SCHOLTEN.—devastating impact on their small business?

Then I am glad I entered these into the record. We encourage you to come to west Michigan and talk to small businesses who are experiencing devastating consequences of this tariff policy.

I yield back.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Ms. King-Hinds from the Northern Mariana Islands for 5 minutes.

Ms. KING-HINDS. Thank you, Mr. Chairman.

And I want to thank you, Dr. Mulligan, for making time to be with us today.

So, as the Chairman has stated, I represent the Northern Mariana Islands. And 99 percent of our problem out of—we have 99 problems. Ninety-eight percent of our problems can be directly attributed to rules—federal rules and regulations.

We have one industry, which is the tourism industry. And just the other day, a few days ago, on my way back here, I was informed by one of our largest employers in the private sector that they are considering closing down.

And this is an issue that the economy of the CNMI is something that I am deeply passionate about. And I have been communicating the challenges that we are having to the federal government as early as during the tenure of Secretary Pete Buttigieg, because when tourism is your primary industry DOT rules and regulations have a very significant impact.

So I don't really have any questions for you, but I do have an ask, because all too often these federal policies have mainland firms in mind or mainland small businesses in mind. So I would ask for you to consider or committing to a direct outreach to small businesses in the CNMI, whether it be through virtual or whatever means.

I also ask that your research and economic analysis, don't just lump us all in with Region 9, and I think that is the region that we fall under, because we are not like the West Coast. We are a remote island community.

And also, it would be amazing if you guys could track and report the real world impact so that we can start actually getting ahead of some of these issues so that we can prevent a complete economic collapse of the CNMI, which I don't think anybody at the federal government wants.

That is it. Thank you for your time.

I yield my time.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mrs. McIver from the great State of New Jersey for 5 minutes.

Mrs. MCIVER. Thank you, Chairman and Ranking Member, for convening this hearing.

And thank you to our witness, Mr. Mulligan, for appearing before the Committee today.

The SBA Office of Advocacy was created by Congress to be an independent voice for small businesses before the government, to make sure the real world cost of government policies are actually understood, and to ensure small business owners have someone in their corner when they are competing with big businesses.

That mission is especially important right now. Small businesses are facing some of the toughest economic conditions since the Great Recession. Costs are up, margins are thin, and uncertainty is high.

At the same time, Trump's administration has made deregulation a central policy priority and has directed its Office of Advocacy to gut key services to small businesses under the guise of cutting red tape across the federal government.

When done thoughtfully, regulatory reform can help small businesses grow. I think all of my colleagues here can agree to that. But when it is rushed or done without transparency, it risks shutting small businesses out of the very processes meant to protect them.

I have listened to the concerns of actual small businesses in my district and nationwide across a range of industries. Their concerns are very clear, Dr. Mulligan. They tell me that what is hurting them most right now is persistent inflation, tariffs, and rising healthcare costs after the Republican majority let the enhanced ACA tax credits expire.

Small businesses need to know that the Office of Advocacy is fulfilling its statutory role as an independent, Dr. Mulligan, advocate. They also need to know whether the SBA's work is focused on the real economic conditions small businesses are facing or if it is serving a more partisan interest, Dr. Mulligan.

Dr. Mulligan, Congress intentionally structured the Office of Advocacy as an independent entity within the SBA so that it could speak candidly, even when that means disagreeing with the administration. I want to inform you, Dr. Mulligan, that it is okay to disagree with the administration.

Will you certify here that you did not have to clear the statements you made here today by any organ of the White House, especially the Office of Management and Budget and SBA?

Mr. MULLIGAN. Thank you for your question.

As I mentioned earlier, the OMB, Office of Management and Budget, they get a copy of my testimony at the same time that this Committee does.

Mrs. MCIVER. That is your answer?

Mr. MULLIGAN. Yes. I would not call that clearing. That is a courtesy copy. "Guess what, guys, I am going to the Hill. I am going to be part of a hearing. And here is what I am going to be saying."

Mrs. MCIVER. Did you have to get approval, yes or no?

Mr. MULLIGAN. No, I did not get approval.

Mrs. MCIVER. Dr. Mulligan—

Mr. MULLIGAN. I sent it to you before they could possibly—

Mrs. MCIVER. Dr. Mulligan—

Mr. MULLIGAN.—open their mouth and comment on it.

Mrs. MCIVER. Dr. Mulligan, when I say your name, that means I am reclaiming my time.

How can America's small businesses trust you to speak truth to the administration when you couldn't even speak to us here today without their approval?

Mr. MULLIGAN. Well, that is loaded with false—thank you for your question, but it is loaded with false premises. I did not need their approval for my testimony today.

Mrs. MCIVER. Dr. Mulligan, can you describe clearly on the record how you define independence in your role as chief counsel and what concrete safeguards are in place to ensure your office's positions are not directed or constrained by this administration?

Mr. MULLIGAN. Yeah. Thank you for your question.

The Office of Advocacy was really blessed with special statutes from Congress. They are so special I have them laminated. I carry them with me everywhere.

Mrs. MCIVER. I mean, you obviously have a lot of things laminated right there in front of you.

Mr. MULLIGAN. So actually this is the only laminated thing in front of me.

Mrs. MCIVER. Well, you have all your statements there.

Mr. MULLIGAN. And these special statutes include being open during the shutdown. That was special. If you want to call that independent, that is fine. It is not in the statute.

But the hiring authority, it used to be, in the old days, to hire people the chief counsel needed the consultation and approval of the Administrator. That is no longer true. I have that in my laminated statute.

The reporting rules, that there should not be clearance from OMB and the other federal agencies, that is another special rule that the office has, and we appreciate that and we follow that.

Mrs. MCIVER. Mr. Mulligan, that concludes my questions. I will say that that question specifically should not need a laminated document for you to respond to.

With that, Mr. Chairman, I yield back.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Ms. Van Duyne from the great State of Texas for 5 minutes.

Ms. VAN DUYNE. Thank you very much.

And, Dr. Mulligan, I appreciate your testimony today.

You have a really important job. I mean, I am listening to my colleagues on the other side of the aisle and it sounds like you have the most important job for small businesses in the government. Like, your job is to be the massive advocate.

Can you tell me a little bit about your predecessor in your position? Since this is such an important job under the Trump administration and everybody on my Democrat colleagues recognize the fact that this is such an important job that small businesses have this advocate voice. Can you tell me about your predecessor?

Mr. MULLIGAN. Thank you for your question.

We have an empty chair right here. That is what it was for 9 years. President Biden didn't even bother to nominate somebody for this.

I think it is an important job. I enjoy doing it. And I am blessed that President Trump asked me to do this job.

Ms. VAN DUYNE. I recognize that. And I recognize that we have finally realized that we need to have a voice for our small businesses, because it seems like during the 4 years of the Biden administration they got absolutely crushed.

How many additional regulations did you say that the Biden administration put on our small businesses?

Mr. MULLIGAN. If we just count the final rules that were published in the Federal Register, it is 12,025.

Ms. VAN DUYNE. 12,000 in 4 years. And what was the cost of all those?

Mr. MULLIGAN. I mean, there are so many it is a little bit hard to say. But my best estimate is for the entire economy \$6 trillion—with a T.

Ms. VAN DUYNE. Wow. Okay. And that crushed small businesses, right? Because they are at a disadvantage when you are looking at corporations, because corporations actually can have, like, an entire regulatory agency—or an entire regulatory department, a division.

Small businesses don't have that. So they are relying on folks like you to be able to say: Look, when we have these regulations that we think are little that are coming out of these agencies, this can crush us.

I mean, it is averaging what? It was \$50,000 an employee, is what the small businesses were having to pay in addition to during the Biden administration?

It is absolutely astonishing to me that after the previous 4 years of that administration that we are finally having advocacy from our Democrat colleagues for small businesses, the \$1.8 trillion that they added.

We are hearing about tariffs and crushing the economy. I am sorry. What was the GDP growth last quarter?

Mr. MULLIGAN. Thank you for your question.

I believe it was 4.3 percent annualized rate.

Ms. VAN DUYNE. Wow. Okay. And we finally have wages now that are outgrowing inflation, right? So this is great for our small businesses.

And the unemployment that they were talking about, what sector was that unemployment in, the increase in unemployment? It is the public sector, right? It was government jobs, right, that we had lost? But in the private sector, didn't we see an increase? Didn't we see more small businesses hiring?

Mr. MULLIGAN. Yes, that is correct. I mean, one very important statistic that we are seeing is new business applications. They were skyrocketing in 2025 to historic levels. We have never seen something like that.

A lot of people say, including the previous administration, that those sort of applications, employer identification number applications, are quite an important predictor of future employment growth.

Ms. VAN DUYNE. So it seems like this administration actually gets it, that we are helping on the tariff side to make sure that our small businesses are able to compete globally, that we are helping

them on the tax side with the One Big Beautiful Bill and the 199A on pass-through, recognizing that we want them to be able to compete with corporations.

And then I actually have a bill that was passed off the House floor. It is the H.R. 2965, the Small Business Reduction Act of 2025. And basically what that says, it is a bill that any new rule-making by the SBA is at no cost to small businesses.

Now, it is not saying that you can't have additional regulations as necessary, as needed; but what it does say is you are going to have to cut some that are duplicative, that are unnecessary, that don't even reflect the intent of the law.

Can I ask you how we can make that permanent, that we can actually codify the decrease in regulations on small businesses? And how do we create, like, a systemic culture of regulatory discipline where agencies will have to review with regulatory scrutiny?

Mr. MULLIGAN. Thank you for your question.

Just a few seconds we have left.

I think regulatory budgeting is worth looking at. President Trump did that in the first term, EO 13771, and he is doing it again in this term.

That is something that could be in the statute that Congress could be involved with, not just setting the money budget but also setting the regulatory budget.

Ms. VAN DUYNE. Okay. Fantastic. I appreciate that.

What has your office—in, like, the 10 seconds that you have got—what would you say are the top three things that you have gotten accomplished since you have been here?

Mr. MULLIGAN. I think being part of the regulatory agendas, saying what rules we are going to add and subtract and reform, that is huge. I am very, very gratified that so many agencies have asked for our input.

Ms. VAN DUYNE. Fantastic. Thank you very much for what you do, and I appreciate your testimony here today.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Dr. Morrison from the great State of Minnesota for 5 minutes.

Ms. MORRISON. Thank you, Chairman Williams and Ranking Member Velázquez, for holding the hearing.

Thank you, Dr. Mulligan, for being here to testify.

Since you represent the Office of Advocacy, which is intended to be the voice of small businesses, I am sorry to be redundant this morning, but I have to begin by asking you about the number one concern that I am hearing from small businesses in my district, which of course are the tariffs.

Dr. Mulligan, during your testimony, you said that, "When regulation tilts markets toward incumbents and away from new entrants, it directly undermines the small businesses that drive American innovation and job creation."

Do you agree that allowing large tech companies like Nvidia and Apple to negotiate directly with the President for tariff exemptions tilts markets towards incumbents? Yes-or-no question.

Mr. MULLIGAN. I am not familiar with the premise of the question, so I am not sure how to analyze. I haven't been part of the

President's discussions with large businesses. My attention is on the small businesses.

Ms. MORRISON. I will just give you one more chance.

Do you agree that allowing large tech companies like Nvidia and Apple—we are all aware this happened—to negotiate directly with the President for tariff exemptions tilts markets towards incumbents?

Mr. MULLIGAN. Thank you for your question.

I am not familiar with the policy. I can't really opine on something I am not familiar with.

Ms. MORRISON. Okay. We will move on.

Do you think tariffs are helping small businesses stimulate job creation?

Mr. MULLIGAN. Thank you for your question.

Probably the quickest way to answer it would be to go back to what I have heard about European terrible trade deals. I have heard these—again, this is not my opinion, my study. This is what I hear from the small businesses.

Europe has a bunch of supply chain regulations that are going to cost small businesses a trillion dollars—with a T—and we didn't even get to vote for those people.

President Biden was weak and ineffective on that policy—

Ms. MORRISON. Dr. Mulligan, I am sorry to interrupt you, but I am not asking about Europe. I am talking about American small businesses.

Mr. MULLIGAN.—and small businesses want a President who will fight back against these terrible international policies.

Ms. MORRISON. Dr. Mulligan, I am reclaiming my time, respectfully.

What I have been hearing repeatedly from small businesses is that they are the ones bearing the brunt of President Trump's tariff war. They are the ones being forced to eat the costs or lay off staff while larger corporations are able to lobby the President and receive exemptions.

I really hope that during the coming months the Office of Advocacy does more than it has done this past year to protect small businesses from the impact of tariffs and ensure that small businesses are able to not just survive but to grow and prosper.

During our first Small Business Committee hearing last year, I asked Mr. Karl Hutter, the CEO of Click Bond, a small, family-owned manufacturing business, how we can strike the right balance with regulations to encourage small businesses to thrive.

His response was very clear. Small businesses, he said, need predictability, clarity, and workability.

Dr. Mulligan, during your time here today you have made it clear that this administration has a very ambitious deregulatory agenda. In other words, we are going to see, and we are already seeing, a great deal of change and uncertainty in the regulatory space.

What is the Office of Advocacy doing to help small businesses navigate the uncertainty deregulation brings with it?

Mr. MULLIGAN. Thank you for your question.

We have our Constitution and Presidents serve two terms at most.

Ms. MORRISON. That is a relief to hear.

Mr. MULLIGAN. And so the executive branch turns over.

What has proven to be more durable are the statutes. And so one of the things that the Office of Advocacy does is advocate for small businesses here on the Hill, in writing statutes. And this Congress has been quite productive in that regard, 22 Congressional Review Act disapprovals passed.

And those are things that will last beyond the current administration, and that's providing a much-wanted certainty for our small businesses.

Ms. MORRISON. Thank you, Dr. Mulligan. I did not hear how you are helping small businesses navigate the uncertainty that deregulation brings.

But one final question. I am a physician by trade, so I am very familiar with the pain and frustration caused by administrative burden. I am sympathetic to the concerns raised by small business owners that extensive regulations can be onerous and burdensome.

But I also recognize that regulations are critical to keeping people safe and healthy and keeping our air, land, and water clean.

I hope we can all agree that finding that right balance between protecting Americans' health and safety while ensuring that small businesses can flourish is a goal worth pursuing.

In the midst of the Trump administration's calls for deregulation, what steps will your office take to ensure there is that balance struck between this deregulatory agenda and protecting the health and safety of our small business owners and their employees.

Mr. MULLIGAN. Thank you for your question.

Yes, the balance is quite important. You need to listen to the small businesses. The false certifications are not achieving balance. That is ignoring costs and pretending they don't exist. You can't balance something that you are ignoring.

Ms. MORRISON. So no comment on the air, land, and water?

Mr. MULLIGAN. No, there is a balance between the mission—this is in the RFA itself—the mission of the regulatory—

Chairman WILLIAMS. The time is up.

Ms. MORRISON. Thank you. I yield back, Mr. Chair.

Chairman WILLIAMS. The gentlelady yields back.

I now recognize Mr. Downing from the great State of Montana for 5 minutes.

Mr. DOWNING. Well, thank you, Mr. Chair.

And thank you, Dr. Mulligan, for being here today.

I represent Montana's Second District, central and eastern Montana, very rural, and small businesses are very vital to our rural communities.

And being somewhat of a glutton for punishment, I come out of the private sector. I have created a lot of—I have run a lot of small businesses in everything from manufacturing to distillation to securities to insurance to manufacturing. And I have personally seen how heavy-handed and unreasonable regulation can stifle growth and make it difficult, especially on small businesses, in being successful.

And a lot of that, if you are boots on the ground, watching how this—everybody cares about bad actors. Everybody cares about pro-

tecting consumers. I would say bad actors are bad for industry. Nobody wants bad actors in their business.

And so the thought that deregulating is going to create this petri dish of bad actors, I think, is misplaced. We do need to have reasonable side boards, but we also need to allow small businesses to be successful.

And one of the things that caught my attention here is about raising the barrier to entry for competing in an industry and how that is different between larger companies who can manage the costs and the administrative burdens caused by this regulation, and main street really can't.

And, Dr. Mulligan, in your testimony you mentioned this artificial advantage that government regulation creates for large businesses over small ones. Can you elaborate on the negative impact this artificial advantage has on economic innovation?

Mr. MULLIGAN. Yeah. Thank you for your question.

I think a vivid example that is worked on in some detail in a letter I sent to Commissioner Oz over at CMS about what has happened to independent physicians.

They used to be a majority of physicians, and now they are quite a fairly small minority. And a lot of these regulations that we are discussing are part of the issue.

The fact that the big hospitals, when they employ the physicians, they get extra government money that the independent physicians don't. That has been a factor in driving down the capability of independent physicians to stay in their small business mode.

Mr. DOWNING. Right, right.

By the end of 2024, the Biden administration had imposed \$1.8 trillion in regulatory costs on American businesses.

In your view, how much has the regulatory environment changed since President Trump's swearing-in, and what impact has it had on small business?

Mr. MULLIGAN. Thank you for your question.

It has been a 180-degree turn, such a huge change. I mean, there was so much regulation. I think \$6 trillion is the best estimate that we have of the Biden regulations, just 4 years' worth of them.

And now, there are some new regulations coming out, but a lot more regulations being taken away.

What has been the impact on small businesses so far? I think it has been over \$100 billion reduced costs as a result of President Trump's agencies' actions.

Mr. DOWNING. Well, thank you.

And under your leadership, in what ways has the Office of Advocacy influenced rulemaking under the Trump administration in support of small businesses?

Mr. MULLIGAN. Really the two steps I like to talk about is listening. We continue to listen. That is my favorite part. I learn so much talking to the small businesses and hearing what they experience.

And then relaying those experiences and trying to put it in practical terms for the agencies. Here are some rules you should look at. Here is what the small businesses are saying about the reasons to reform those rules.

Mr. DOWNING. Right. Thank you.

Well, I really appreciate your testimony here today.

And, on that, Mr. Chair, I yield back the remainder of my time.

Chairman WILLIAMS. The gentleman yields back his time.

I now recognize Mr. Cisneros from the great State of California for 5 minutes.

Mr. CISNEROS. Thank you, Mr. Chairman. And I want to thank you and the Ranking Member for holding this hearing today.

Dr. Mulligan, in your response to the Ranking Member's letter from November you declined to answer her question about the number of submissions related to tariffs because it was not in the scope of a hotline.

After my colleagues across the aisle rejected my amendment to the bill that would codify the hotline, I introduced my own bill that would increase the scope of the hotline to give Advocacy an explicit role in hearing concerns from small businesses regarding tariffs.

Is this something you would support, Dr. Mulligan?

Mr. MULLIGAN. Thank you for your question.

I haven't been able to read your bill. I would like to study it before declaring my support or resistance.

Mr. CISNEROS. Well, I mean, it is a simple question, right? Would you support the hotline reporting the information on tariffs, that you want to take a bigger concern in that? Is that something you would support?

Mr. MULLIGAN. Thank you for your question.

What I am clear on—one of the reasons our office has had such great successes in just 5 months is we used the right tool for the job, something my parents taught me, the right tool for the job.

And the right tool for the red tape hotline is red tape. That is the job that you use the red tape tool for. So I wouldn't advocate using a hammer when you need a screwdriver or a wrench.

Mr. CISNEROS. Well, it is a simple thing, right, to include more information right there? Tariffs are obviously hurting small businesses, and to gather that information to report it to the Committee is something that I hope you would support.

And I hope you will take a look at my bill and do that, because it seems to align with what you said in the past, which is, it is consistent with your statement where you ask this Committee to consider legislation that gives the Office of Advocacy a more official role in trade policy.

So with that, I will move to my next question.

I hope you agree that the regional advocates are crucial because they serve as direct liaisons between local and small businesses and federal regulators.

Region 9 covers California and several other States and Territories. I would like to read you the bio of the Region 9 advocate for the Office of Advocacy website. It reads, "Vacant, bio coming soon."

Mr. Chairman, I ask for unanimous consent that this Region 9 advocate bio is entered into the record.

Chairman WILLIAMS. So moved.

Mr. CISNEROS. Dr. Mulligan, are you aware of how many small businesses there are in the State of California?

Mr. MULLIGAN. I don't have the exact number off the top of my head, but I would guess it is in the millions.

Mr. CISNEROS. 4.3 million—4.3 million small businesses.

Now, Dr. Mulligan, while there is no regional advocate for California's 4.3 million small businesses, when do you expect an appointment to be made for Region 9 advocates to ensure California's 4.3 million small businesses have their voice heard?

Mr. MULLIGAN. Thank you for your question.

We set a record over all other Presidencies before in terms of getting our outreach advocacy team, our regional advocacy team, filled in.

We still do need to fill in Region 9. There was a long delay in my confirmation. I wasn't allowed to interview people for that position. But as soon as the Senate finally finished the job, I was interviewing people. And it wouldn't surprise me if it is just a matter of days or weeks that we have that position filled.

Mr. CISNEROS. Do you have somebody that you have already talked to, that you have interviewed?

Mr. MULLIGAN. I have talked to a number of people. It is a big priority to hear from small businesses everywhere.

Mr. CISNEROS. So you have somebody in the pipeline that should be there, and so within the next few days I should hear a name, that somebody has been appointed to this?

Mr. MULLIGAN. There is a lot of red tape in hiring people, so it is hard to commit to a date. But it is a priority, and I interview and I am pushing—

Mr. CISNEROS. Well, I guess we are here to hear about cutting the red tape. So how do we kind of make this—do you make those cuts so you can make this?

Look, I served in the previous administration. I know what it takes, and I know how it can be difficult sometimes. But this needs to be a priority, right?

And this is, like, California has 4.3—and that is not including the other States in the region that add businesses to this too, and they deserve to have an advocate for them that is supporting them.

You know, when we have had previous discussions before you came on board, it just did not seem to be a priority of this administration to put somebody in charge there. And, look, we have seen numerous times where the President has singled out California because it does not support him.

And so I hope you are arguing or telling the administration to look beyond the political disagreements and that we need to support our small businesses, and we should have a Region 9 director, and that they start making this a priority.

And with that, Mr. Chairman, I yield back.

Chairman WILLIAMS. The gentleman yields back.

I now recognize Mr. Meuser from the great State of Pennsylvania for 5 minutes.

Mr. MEUSER. Thank you, Mr. Chairman.

Thank you very much, Dr. Mulligan. Appreciate your testimony. Appreciate the idea of—well, getting to know you better and working with you.

I, too, am a small business advocate. I think we all are up here. And it is quite important, to say the least.

Recently the NFIB put out some data that—and of course they have got tens of thousands of members—that small business optimism is way up, almost 10 percent since last November.

So over the course of a year—or November of 2023, so over the course of President Trump's first year—we are up in optimism over 10 percent.

And that is largely due, let's face it, to the taxes that all Republicans voted for in the 1990s. Without those tax reductions, small businesses' taxes would have gone up 25 percent, approximately, maybe slightly more in some cases depending upon level of income being earned.

And that is enormous. I mean, many small businesses, of course, said they would be out of business if that weren't the case. Yet all Democrats felt it was in their interest to vote against it. That is amazing, I mean.

Would you say that is a small business advocate that would vote to increase small business taxes by nearly 25 percent?

Mr. MULLIGAN. Thank you for your question.

We hear a lot from small business. Maybe the top thing, the internal revenue burden on small businesses, that is tough for so many of them. And so they would have problems with any new statutes that add to that.

Mr. MEUSER. It would probably send some products overseas, wouldn't it, as well, right, even in spite of the so-called tariffs? And I want to get to that.

But the work you have done on regulations is so very important. I would like you to make a side note where we need to codify some—whether the regulations, whatever.

If you were sitting in my seat, what would you work on codifying? And we can talk about that afterwards. I won't just ask you to name it off the top of your head.

But permitting, energy costs. Energy costs have been unbelievably important for small business. They have come down 30 percent, something of that nature, over the course of the last 14 months.

Workforce improvements. No tax on overtime is now kicking in. No tax on tips.

There is a big difference—under President Trump we started rethinking trade, right? And we were taught: Oh, free trade, free trade, free trade. What did that do to U.S. manufacturing? Okay. Sent it overseas, I mean, like a giant sucking sound as we heard before.

Japan had a hundred percent tariff on us. China had all kinds of tariffs on us. Everything was being made in China. Now we are bringing it back.

And you know what many people don't understand? Because I was in small business for a long time too. Many small businesses' best customers are large businesses, right? So when those large businesses start sending their products overseas, guess what, it flattens, it destroys the small business.

So the so-called tariffs—by the way, we had our shock and awe, we got the whole world's attention—now they have come down considerably.

And, frankly, my office, we are small business advocates. We are not getting the calls on it. Initially, yeah, what is going to happen, particularly certain sectors.

But would you say that in the small business world and in the calls that you are getting—and, by the way, your red tape hotline, I suggest you rename it the blue tape hotline, just a suggestion.

But if you would, what sort of calls are you getting these days to your hotline?

Mr. MULLIGAN. Thank you for your question.

We get a variety of regulations. As I mentioned, 12,025, there is a whole variety.

Mr. MEUSER. Right.

Mr. MULLIGAN. Regulations related to procurement is a fairly common one. A lot of health, Food and Drug Administration-type of regulations, CMS, HHS. Paperwork around IRS, we hear a fair bit about that.

Mr. MEUSER. Well, while I have 45 seconds left, what would you suggest that we work on codifying that you are working on, and how else can we support your efforts?

Mr. MULLIGAN. Thank you for your question.

I would like to get together with you afterward because I think it is important. President Trump won't always be our President. Congress can do things on a more durable basis. And we do hear from small businesses that they do appreciate when Congress comes in and provides durable solutions.

Mr. MEUSER. Well, I absolutely welcome you up to Pennsylvania's Ninth Congressional District. It is a lovely ride. Maybe we can do that sometime in the near future.

With that, Mr. Chairman, I yield back.

Ms. VELAZQUEZ. Mr. Chairman?

Chairman WILLIAMS. The gentleman yields back.

Ms. VELAZQUEZ. Mr. Chairman?

Chairman WILLIAMS. Yes, ma'am.

Ms. VELAZQUEZ. A correction here. It is not red—blue tape. It is blue waste that is coming.

Chairman WILLIAMS. I now recognize Mr. Tran from the great State of California for 5 minutes.

Mr. TRAN. Good morning. Thank you, Chairman and Ranking Member, for convening today's important meeting.

Dr. Mulligan, welcome. Thank you for being here.

While the future rates of tariffs are still uncertain, the costs are becoming clearer. Analysts estimated tariffs cost small business owners an additional \$25,000 per month from April to September. Small business bankruptcies are up 10 percent this year and up 23 percent in November alone.

According to data from ADP, small businesses lost 120,000 jobs in November, while larger ones continued gaining.

I am deeply concerned because the data is showing that the U.S. bankruptcies and employment levels are reaching levels not seen since the Great Recession.

What are you hearing from small businesses about the overall impact of tariffs on their businesses?

Mr. MULLIGAN. Thank you for your questions.

One of the key duties of the Office of Advocacy—in fact, it was the first one, even before the RFA—is economic research. And I appreciate your pointing to some of the statistics. That is something we try to track very carefully.

One of the things that we have noticed, very large increase in new business applications in 2025, and we know that is essential for innovation. The new companies, not just small ones, but the small new ones, the new small ones, whichever way you want to call it.

And there is a real boom in that area, and we are researching to understand more about exactly what parts of our economy, what parts of the country that is occurring, but that is something we are tracking pretty closely.

Mr. TRAN. Great. And what steps have you taken to make sure that you convey these concerns and these views with the White House and the administration?

Mr. MULLIGAN. Thank you for your question.

I am meeting with them regularly. As I mentioned in my testimony, they are reaching out to our office and saying: What input do you have? So this is happening literally every day.

I guess, with the exception during the shutdown, it was a little quiet because the people on the other end of the phone weren't able to talk. But my office was open.

Mr. TRAN. Dr. Mulligan, according to the U.S. Census Bureau, over 30 percent of small businesses are minority-owned and 42 percent are owned by women.

My first question to you is, how will the office, your office, ensure that the outreach will reflect the geographical and demographic composition of small businesses throughout the country?

Mr. MULLIGAN. Thank you for your question.

There are a variety of things we do. One of the keys was very quickly try to fill in these regional advocate jobs. And I understand Region 9 is empty. But as I said, as soon as I was constitutionally allowed to start working on that, I have been working on that. I would like to see all regions filled. And I want to visit, myself, all the regions.

So regional is one thing that is pretty easy to track, and it is important that I hear from all parts of the country, not just specific States or hot geographic areas. The whole country counts.

Mr. TRAN. Great. And you are planning to have listening sessions or roundtables to listen to these folks all throughout the country?

Mr. MULLIGAN. Yeah. Thank you for your question.

Roundtables is one of our favorite activities. Also, just crossing thresholds. I have gone out to different parts of the country and visit a business. Go to the Iowa State Fair, cold call on businesses who are—small businesses who are there.

So we try to use all the tools that we have because, again, it is something that a lot of the other agencies in Washington don't have this outreach. So we need to do outreach well, and I appreciate your interest in it, and we are going to do everything we can to listen because that is what is really missing here in Washington.

Mr. TRAN. That is great. And I welcome you to come out to my cities out in southern California to listen to the small businesses and their concerns out there.

Then my final ask of you is, can you commit to providing this Committee with a breakdown of your outreach efforts, including location, participant types, business sizes, sectors, and demographics, so that Congress can evaluate the effectiveness of your outreach and determine whether you are meeting the needs of the entire small business community?

Mr. MULLIGAN. Thank you for your question.

I would be very happy for the entire Committee to be aware of what regions we are making contact with.

Mr. TRAN. Thank you, Dr. Mulligan.

And with that, Chairman, I yield back. Thank you.

Chairman WILLIAMS. The gentleman yields back.

Now, at this time, we are going to stand in recess because of the briefing we have at the CDC with Secretary Hegseth and Secretary Rubio.

I ask that Members please return after the briefing to continue Member questions.

[Recess.]

Chairman WILLIAMS. The Committee will now come to order. I want to thank everybody for hanging in there with us. We will now resume Member questions under the 5-minute rule.

I now recognize my friend from Maryland, Mr. Olszewski, for 5 minutes.

Mr. OLSZEWSKI. Thank you very much, Mr. Chairman. I want to thank you, our Ranking Member, and Dr. Mulligan for today's conversation.

I also, as I mentioned, Dr. Mulligan, want to appreciate your outreach to our Maryland fishermen. You mentioned the tie earlier in the briefing. So I do appreciate your outreach to us on that important issue.

I am going to actually open my remarks this afternoon by acknowledging that I am a Democrat who is willing to admit that it was wrong and it is a mistake for the Biden administration not to name someone to fill your role in the past. And I think it is important that Members of our own parties are willing to do that.

So just as I am willing to make that admission here, I know that we don't have as many Members on the other side of this recess, but I think it is really important that Republican Members of this Committee and this Congress also be willing to acknowledge when there is a disconnect or disagreement with the Trump administration. And so I just want to put that on the record.

And I say all that because I know I often hear from small business owners who are impacted by misguided regulations that limit their ability to thrive in this economy.

So we are looking for even the smallest of ways that we can make progress together. And, unfortunately, the Trump administration has in many places made costs go up—and not necessarily in small ways, but in massive, crushing ways.

As we talked about earlier, tariffs was a huge issue we were discussing, and the Center for American Progress estimates that between April and September of 2025, small businesses paid about

\$25,000 more per month for imports compared to those in the same period of 2024.

Tariffs on key commodities like steel and aluminum have added new layers of red tape, not fewer. And while I appreciate the outreach on the fisheries, this is an area where I feel like the Office of Advocacy could do better to substantively address these issues.

Moreover, tariffs, as awful as they have been, are, sadly, not the only problem. The Republican majority of this Congress, with the full-throated support of President Trump, sat on the sidelines as tax credits to keep healthcare affordable expired.

Now, why does this matter? It matters because half of all adult enrollees in the Affordable Care Act marketplace either own a small business or work for one.

The Republican resistance to addressing these healthcare costs have led to, on average, a 75 percent increase in premiums. That is over \$4,750 for the average American family.

It is why I hope that my colleagues this week will join me in voting to roll back this shortsighted Republican tax on hardworking Americans and small businesses by extending these credits.

Students at the University of Maryland School of Business recently came together to survey the impact on federal policy changes on the Maryland business economy.

When asked about the most significant challenges they faced as business owners in 2025, Maryland business owners said answers like DOGE, federal policy changes, and our own government working against us to kill our industry.

So we have some real challenges ahead. I look forward to working with the Chairman and you to find legitimate solutions that are for the small business owner.

Chief Counsel, I know earlier you mentioned advocating for businesses. I guess my first question is, what, if anything, has your office done to calculate the impact of tariffs on small businesses?

Mr. MULLIGAN. Thank you for your question.

The two big steps I have been engaged in my first 5 months are, number one, listening to the small businesses wherever they are, whatever they have to say, and then communicating that to those who make the rules.

My office doesn't make the rules—

Mr. OLSZEWSKI. But do you have any anything quantified, though, that you are using in terms of advocating for those small businesses?

Mr. MULLIGAN. A project—and I have only been here 5 months—one of the projects I have been quite interested in is the revenue burden on small businesses. Believe it or not, there is not a summary statistic of that, and we have hired some very good people to work on that. We are not finished yet.

And revenue consists of particularly the internal revenue, but there is an external revenue component to it too.

Mr. OLSZEWSKI. Yeah. I hope that we would have that kind of data before the administration would choose to make those choices, and certainly want to support you so you have that kind of data, so you can argue against these tariffs that are hurting the average American business, the average American, in the same way that we know that these healthcare costs are crushing small businesses.

And I want to work with you to help quantify that so that we can advocate for solutions. Our healthcare system costs have also gotten out of control.

But in the meantime, we have to have a solution to address the fact that these are really tax increases crushing our businesses and Americans across this country.

I thank you again for your presence, look forward to working with you.

And with that, Mr. Chairman, yield back.

Chairman WILLIAMS. The gentleman yields back.

And I would like to let everybody know that Representative Schmidt is running up the hallway.

Mr. OLSZEWSKI. I am happy to take a few more minutes, if you want, Mr. Chairman.

Chairman WILLIAMS. And if you would like to take one more minute, I will give it to you.

Mr. OLSZEWSKI. I appreciate that, sir. Thank you very much.

I know another area where we have talked a little bit about are the reductions and the rollbacks to the Inflation Reduction Act. President Trump has chosen to suspend a lot of those. There have been particularly green energy businesses across this country who have seen that.

I am just curious, Dr. Mulligan, what your engagement has been like with those affected industries, and what you are hearing, and how you are helping them navigate those rollbacks.

Mr. MULLIGAN. Thank you for your question.

I am not sure I have organized my interactions under different statutes like the Inflation Reduction Act, but one that does come to mind, again, the fishermen.

Fishermen are so unbelievably regulated. And they have repeatedly expressed to me concerns—environmental concerns—around the Inflation Reduction Act with especially the wind farms. And they are churning out hot water in places that are not supposed to be hot water, and it is hurting the whole fishing operation.

And I think Secretary Burgum has been very quick to take action and to investigate that and stop any further damage to the fishing grounds due to wind farms.

Mr. OLSZEWSKI. I appreciate that.

I appreciate the extra time, Mr. Chairman.

And, again, Dr. Mulligan, I will just say I look forward to working with you to actually getting those quantifiable numbers around both the tariff impacts as well as the healthcare cost increases that we are trying to do something about this week.

I thank you so much.

Chairman WILLIAMS. The gentleman yields back.

And do we have a Dr. Schmidt sighting, or did he fall down in the hall or—

VOICE. I hope not.

Chairman WILLIAMS. Well, I will just take this time too to—okay, he is coming in?

STAFF. He is not in this hallway. I don't know which hallway he is in.

Chairman WILLIAMS. Okay. I want to thank you for coming, to witness today. We appreciate it very much.

I am a small business owner myself. I am in the car business back in Texas. And regulations and all the things which both sides have talked about today are damaging to the industry, and we appreciate you continuing to speak up and fight for us very much so.

All right. Okay.

You want to say anything, Mr. Witness? You want to talk about those mulligans you get on the first hole or anything in closing?

Mr. MULLIGAN. Well, thank you for your question.

Small businesses are very appreciative that now there is bipartisan agreement that Advocacy is an important office, and the chief counsel role needs to be filled.

And they are thrilled that I am out there with my people listening to them. They feel heard. They feel like this is a real opportunity for change. And everything your Committee has contributed to that process, we appreciate that.

Chairman WILLIAMS. Well, thank you very much. We have a bipartisan Committee pretty much on just about everything, and we just want main street to thrive.

I want to thank you again for your being here today, your testimony.

Without objection, Members have 5 legislative days to submit additional materials and written questions for the witness to the Chair, which will be forwarded to the witness.

I ask the witness to please respond promptly if that happens.

No further business, without objection, the Committee is adjourned. Thank you.

[Whereupon, at 1:04 p.m., the Committee was adjourned.]

A P P E N D I X



Testimony of

**Casey B. Mulligan
Chief Counsel
Office of Advocacy
U.S. Small Business Administration**

***United States House of Representatives
Committee on Small Business***

Date: January 7, 2026
Time: 10:00 am
Location: 2360 Rayburn House Office Building, Washington, DC
Topic: A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape

Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration is an independent voice for small business within the executive branch. Appointed by the President and confirmed by the U.S. Senate, the Chief Counsel for Advocacy directs the office. The Chief Counsel advances the views, concerns, and interests of small businesses before Congress, the White House, federal agencies, federal courts, and state policy makers. Economic research, policy analyses, and small business outreach help identify issues of concern. Regional advocates and an office in Washington, DC, support the Chief Counsel's efforts.

For more information on the Office of Advocacy, visit <https://advocacy.sba.gov/>.

**Casey B. Mulligan
Chief Counsel
Office of Advocacy
U.S. Small Business Administration**

Chair Williams, Ranking Member Velázquez, and Members of the Committee on Small Business: I am honored to be here today on behalf of the Office of Advocacy (Advocacy) to present testimony about Advocacy's role in cutting red tape for small businesses. The views in my testimony do not necessarily reflect the views of the Administration or the Small Business Administration (SBA).

Today's hearing is about cutting red tape, and that mission depends on getting the fundamentals right: regulators must honestly identify when rules will significantly affect small entities, analyze those effects, and consider less burdensome alternatives as Congress required in the Regulatory Flexibility Act (RFA). As the RFA watchdog, the Office of Advocacy is positioned to help ensure that agencies follow both the letter and the spirit of those statutory safeguards so that small businesses are not ambushed by avoidable paperwork, compliance costs, and enforcement risks.

This testimony draws on my recent report, "Unlawful Disregard for Small Business Regulatory Burdens," which examines thousands of Biden-era final rules that agencies certified as having no significant economic impact on a substantial number of small entities under 5 U.S.C. § 605(b). The report evaluates the lawfulness and prevalence of certifications (not the merits or policy objectives of the underlying rules). It explains how unsupported or fictional certifications can impede oversight while leaving small entities to shoulder burdens that were never candidly analyzed. The report's central relevance to cutting red tape is straightforward: when agencies evade or short-circuit the RFA's small-business safeguards, red tape grows in the dark; when those safeguards are enforced, red tape is more likely to be identified early and reduced.

I. The Urgency of Cutting Red Tape

According to a widely cited statistic, the Biden Administration made almost 1,200 new rules that cost the nation more than \$1.8 trillion combined.¹ But that does not count another 11,000 rules with zero acknowledged costs. A more accurate cost estimate would be almost

¹ See Dan Goldbeck, Am. Action F., *The Biden Regulatory Record* (Jan. 29, 2025), <https://www.americanactionforum.org/insight/the-biden-regulatory-record/>, which tracks rules published in the Federal Register that include a quantified estimate of either net regulatory costs or paperwork burden.

\$6 trillion.² Many of these rules were put in place at the behest of big businesses and special interests to hold back competition from the small businesses that drive American innovation.

Against that backdrop, President Trump was elected to stop the “ever-expanding morass of complicated Federal regulation [that] imposes massive costs on the lives of millions of Americans, creates a substantial restraint on our economic growth and ability to build and innovate, and hampers our global competitiveness.”³

Red tape is not only a compliance problem. It is also a competition and cost-of-living problem. Regulations can raise the cost of living through channels the RFA itself highlights: reducing competition by giving large companies an artificial advantage, and discouraging innovation and productivity improvements that would otherwise lower prices and expand output. When regulation tilts markets toward incumbents and away from new entrants, it directly undermines the small businesses that drive American innovation and job creation.

These are not abstract concerns. They show up in practice. For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable shining a light on unlawful, unnecessary, and unjust regulatory overreach. Many other small businesses say that this is the first time that the federal government has listened and understood. One even said that Advocacy “quite literally saved Christmas.”

The urgency is compounded when rulemaking shortcuts prevent small-business burdens from being identified and minimized in the first place. My recent certification report documents widespread use of certifications under 5 U.S.C. § 605(b) that lacked the factual basis the statute requires, including certifications that contradict agencies’ own cost or paperwork discussions elsewhere in the same rule. When agencies label major or otherwise consequential rules as having no significant impact on a substantial number of small entities, they reduce transparency for Congress and the White House and weaken the mechanisms that would otherwise force agencies to confront small entity impacts and consider less burdensome alternatives.

² THE COUNCIL OF ECON. ADVISERS, THE ECONOMIC BENEFITS OF CURRENT DEREGULATORY EFFORTS (June 2025), <https://www.whitehouse.gov/research/2025/06/the-economic-benefits-of-current-deregulatory-efforts/>; CASEY B. MULLIGAN, COMM. TO UNLEASH PROSPERITY, BIDEN-HARRIS REGULATIONS COST THE AVERAGE FAMILY ALMOST \$50,000 (July 2024), https://committeetounleashprosperity.com/wp-content/uploads/2024/07/240724_CTUP_BidenHarris_Regulations_Doc.pdf.

³ Exec. Order No. 14,192, Unleashing Prosperity Through Deregulation, 90 Fed. Reg. 9065 (Feb. 6, 2025).

This is also a moment of opportunity. The Trump administration has directed agencies to identify “regulations that impose undue burdens on small businesses and impede private enterprise and entrepreneurship.”⁴ Small businesses are responding to that change in posture, and Advocacy's outreach shows that small businesses are now willing to share concrete examples of unlawful, unnecessary, or unjustified regulatory burdens.

For these reasons, cutting red tape is both urgent and achievable. The burdens are large, the mechanisms for relief already exist in law, and the administration and agencies are increasingly seeking practical, small-business-informed ways to implement regulatory relief.

II. Advocacy at the Regulatory Policy Table

Advocacy brings unique capabilities to the administration's regulatory policy table: nationwide small business outreach, longstanding expertise resisting unnecessary small business regulatory burdens, modern analytic capacity (including AI review of rules), and economic research that helps quantify small business experiences. As Chief Counsel for Advocacy and the RFA watchdog, I apply those capabilities to a practical mission that is especially important in this administration: identifying existing regulations that impose undue burdens on small businesses.

This retrospective, burden-reduction work is grounded in what Advocacy is designed to do: serve as the independent voice for small business inside the executive branch, bringing real-world small business conditions into regulatory decision-making. Advocacy's regional outreach is central to this effort. Small businesses can often describe, with specificity, where legacy requirements have become outdated, duplicative, overly prescriptive, or effectively unworkable in the field, and that intelligence helps agencies prioritize what to fix first. It required scarcely more than 100 days to put in place the office's Regional Advocacy team. They have already visited at least 40 states, providing our office much of the intelligence we bring to interagency policymaking processes in Washington, DC.

Agencies and White House offices have increasingly come to Advocacy for input on regulatory policy and deregulatory priorities, reflecting a renewed seriousness about following the law and reducing unnecessary burdens on small businesses. Advocacy has flagged approximately 300 issues for this administration where deregulatory action would help small businesses. Many of these issues are rules which give large organizations an artificial

⁴ Exec. Order No. 14,219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative, 90 Fed. Reg. 10583 (Feb. 2, 2025). See also THE COUNCIL OF ECON. ADVISERS, *supra* note 2, which lists several 2025 executive orders, presidential memoranda, and proclamations laying out a deregulatory agenda for the administration.

advantage over small ones. An example is the Outpatient Prospective Payment System that pays hospitals more for the same services than it pays independent physicians.⁵ Others include the Department of Labor's 2013 Companion Care rule and the Department of War's 2024 Cybersecurity Maturity Model Certification.⁶

The Occupational Safety and Health Administration's proposed 2024 Heat rule illustrates how Advocacy's outreach brings real-world operational knowledge into the regulatory process.⁷ During a meeting with Advocacy, an Arizona watermelon farmer understood the rule to require shade structures for workers even though harvesting takes place at night, when there is no sun to shade. In another scenario, asphalt or concrete arrives at a construction site and must be applied immediately, without mandatory breaks. Additionally, the rule could lead to situations where water is required to be introduced near industrial processes or chemical reactions, creating an explosion hazard.

Advocacy's outreach also helped cut foreign regulations that burden small businesses here at home. A family-operated firewood manufacturer in New Mexico secured a contract to export American-made piñon pine firewood to Canada. Despite the product being 100% legal, heat-treated, and pest-free, Canadian customs rejected four truckloads without a clear explanation. Through coordinated engagement spearheaded by our Regional Advocate, we worked with the Department of Agriculture, the U.S. Ambassador's office, the Department of State, and New Mexican Congressional staff to resolve the impasse. The manufacturer became the only U.S. company holding an export permit for packaged firewood to Canada, enabling shipments to resume for the first time in 26 months and creating immediate economic benefits for this small business.

Another indicator of agencies' unprecedented engagement with Advocacy is compliance with the RFA's agenda-sharing requirement in 5 U.S.C. § 602(b), under which agencies are to share their regulatory flexibility agendas with the Chief Counsel for comment. With only one or two exceptions, agencies in the prior Administration failed to comply with this requirement, limiting Advocacy's ability to provide timely input on the rules agencies planned to develop. In contrast, during my first five months as Chief Counsel, more than sixty agencies have

⁵ U.S. Small Bus. Admin, Off. of Advoc., Comments on Medicare and Medicaid Programs; CY 2026 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; and Medicare Prescription Drug Inflation Rebate Program (Sept. 11, 2025) <https://advocacy.sba.gov/wp-content/uploads/2025/09/Comment-Letter-CMS25-CY-2026-PFS-NPRM-Final.pdf>.

⁶ Application of the Fair Labor Standards Act to Domestic Service, 78 Fed. Reg. 60454 (Oct. 1, 2013); Cybersecurity Maturity Model Certification (CMMC) Program, 89 Fed. Reg. 83092 (Oct. 15, 2024).

⁷ Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, 89 Fed. Reg. 70698 (Aug. 30, 2024).

sought Advocacy input on their upcoming regulatory agendas. This is an increase in § 602(b) compliance of at least 3,000 percent. More importantly, the agencies seek Advocacy's input for the proper reason. They do not want to overlook opportunities to cut unnecessary and burdensome regulations.

III. Certification Abuse is an Obstacle to Regulatory Review

That renewed engagement is essential because, as my recent certification review documents, a recurring practice in the prior administration was to label rules as having “no significant economic impact on a substantial number of small entities” (a “certification” under 5 U.S.C. § 605(b)) without the factual basis Congress required. This short-circuits the very safeguards that help prevent red tape. My report, “Unlawful Disregard for Small Business Regulatory Burdens: A Comprehensive Review of Biden Administration Rulemaking,” examines thousands of these certifications and evaluates their lawfulness and prevalence, not the merits or policy objectives of the underlying regulations.

The report's key conclusion is straightforward: fictional certifications are both prevalent and unlawful. Congress amended 5 U.S.C. § 605(b) in 1996 to require agencies to publish a statement providing the factual basis for a certification. Certifications that contradict a rule's own analysis, ignore quantified costs, or provide no supporting facts fail this statutory requirement. Regulators routinely published certifications that were unsupported or inconsistent with the agency's own findings.

This finding matters for at least two reasons—one prospective and one retrospective. Prospectively, much more is at stake than technical compliance with procedures. Regulatory flexibility analyses are essential to the goals of the RFA and the Small Business Regulatory Enforcement Fairness Act (SBREFA) because they help the White House and Congress stay apprised of the costs of new federal regulations for small entities and assess obstacles to competition and innovation. Moreover, a 5 U.S.C. § 605(b) certified final rule is not required to publish a final regulatory flexibility analysis and therefore is not required to publish a small entity compliance guide explaining the actions a small entity is required to take to comply. This leaves small entities on their own to become aware of their obligations and determine how to comply.

Retrospectively, accurate identification of small entity burdens facilitates the regulatory review processes that Congress codified at 5 U.S.C. § 610 and §§ 801-808. When agencies issue fictional or improper certifications, they not only evade the RFA's front-end safeguards. They also leave the impression that the rule is not one of those that need subsequent review by the executive branch (under § 610) or by Congress under the Congressional Review Act.

Fictional certifications are therefore a target-rich environment for identifying rules that impose substantial burdens on small entities and are ripe for retrospective review. Advocacy estimates that rules unlawfully certified by the Biden administration would by themselves have imposed between \$200 billion and \$600 billion in net-present-value regulatory costs on small entities, mitigated only by deregulatory actions taken since January 20, 2025.

Unlawful certifications were widespread even among the most important rules. Among rules disapproved by Congress under the Congressional Review Act, 75 percent were certified or were claimed to be exempt from the RFA.⁸ Among all major rules, nearly two-thirds fell into this category, despite major rules being economically significant.

To make the problem concrete, the report identifies five recurring genres of fictional certifications:

- (1) ignoring direct compliance costs and enforcement or liability risks;
- (2) treating product bans, facility closures, or firm exit as economically insignificant;
- (3) dismissing millions of hours of paperwork acknowledged elsewhere in the same rule;
- (4) applying arbitrary below-threshold tests that ignore cumulative burdens (“death by a thousand cuts”) and the smallest of small businesses; and
- (5) excluding large, foreseeable indirect effects that are quantified and relied upon in regulatory impact analyses.

In short, the certification report is not merely a critique of past process failures. It is a practical roadmap for finding and fixing red tape that is already on the books. It identifies rules where the statutorily required factual basis was missing or fictional, and where small-business burdens were therefore more likely to be hidden from both oversight and review. That diagnosis supports the Action Agenda below: concrete steps for preventing recurrence and for accelerating the identification and reform of existing rules that impose undue burdens on America’s small businesses.

IV. Action Agenda

President Trump’s cabinet goes to great lengths to hear from Advocacy, but he will not always be our president. Small businesses will continue to be vital to the U.S. economy even when a future president is less supportive. This committee might consider legislation that

⁸ The denominator is 16 rules. It does not include the six Bureau of Land Management rules disapproved in December 2025, which had no RFA commentary because they were originally published in the Federal Register as a “notice of availability,” or not published in the Federal Register at all.

encourages compliance with the RFA and strengthens the voice of small businesses in federal policymaking. Policy options include:

- **Reconsidering the role of the Government Accountability Office (GAO) in the process of Congressional review of agency rules.** GAO published hundreds of “RFA compliance” reports with conclusions opposite to my report and opposite to the May 2024 report of the House Committee on Small Business.⁹ GAO’s methodology is misleading due to several fundamental flaws identified in my October 2025 letter to GAO and Congressional Committees.¹⁰ GAO’s methods fail to stop certification abuse and likely promote it.
- **Prohibiting certification of major rules,** except in specific situations requiring the approval of the Chief Counsel for Advocacy.
- **Limiting allowable sanctions against small entities** for violations of rules that were certified as not significantly affecting them.
- **Starting the timeframe for regulatory review under the Congressional Review Act** only when the rulemaking agency has published either a certification with a factual basis, or a Final Regulatory Flexibility Analysis.
- **Pursuing legislative options such as the PROVE IT Act of 2025.**¹¹
- Allowing the Chief Counsel for Advocacy to **add agencies to the list of covered agencies** as defined in 5 U.S.C. § 609. Covered agencies are subject to additional requirements to engage small businesses in their rulemaking.
- **Clarifying perceived ambiguities** in the Regulatory Flexibility Act, such as the meaning of “economically significant,” “factual basis,” and transmitting regulatory flexibility agendas to the Chief Counsel for comment.
- **Supporting President Trump’s budget,** which significantly increases the budget of the Office of Advocacy in support of its mission to be the voice of small business in federal policymaking.
- Giving the Office of Advocacy a more official role in **trade policy**.

⁹ HOUSE COMM. ON SMALL BUS., REGULATORY FLEXIBILITY ACT (RFA) REPORT: AGENCIES’ NONCOMPLIANCE WITH THE RFA (2024), https://smallbusiness.house.gov/uploadedfiles/05.22.2024_-_house_committee_on_small_business_rfa_report.pdf.

¹⁰ Letter from Casey B. Mulligan, Chief Counsel, Off. of Advoc., U.S. Small Bus. Admin., to Chairmen Paul, Comer, Ernst & Williams et al. (Oct. 7, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/10/FINAL-10-7-2025-Advocacy-Statement-of-Actions-Letter-in-re-GAO-25-106950.pdf>.

¹¹ Prove It Act of 2025, S. 495, 119th Cong. (2025); Prove It Act of 2025, H.R. 1163, 119th Cong. (2025).

V. Conclusion

Thank you for the opportunity to testify today. Advocacy looks forward to continuing to work with you and other Members of Congress to be the voice for small businesses in the federal regulatory process and work with agencies to reduce small businesses' regulatory burdens. I would be happy to answer any questions you may have.

Appendix. About The Office of Advocacy

Congress recognized the importance of small businesses to our nation's economy. The Office of Advocacy was created by Congress in 1976 to be an independent voice for small business within the executive branch. Title II of Public Law 94-305 and the Regulatory Flexibility Act confer responsibilities and authorities on Advocacy. Both laws are standing, non-expiring legislation and have been amended since passage.

An important theme leading to Public Law 94-305 was the need for an advocate within the federal government to represent the interests of small business. The law provides that the Chief Counsel is to be appointed from civilian life by the President with the advice and consent of the Senate, and Advocacy employees serve at the pleasure of the Chief Counsel. Further, the law authorized the Chief Counsel to prepare and publish reports as deemed appropriate. The reports "shall not be submitted to the Office of Management and Budget (OMB) or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President."¹² For this reason, Advocacy does not circulate its work for clearance with the SBA Administrator, OMB, or any other federal agency prior to publication. Since 2010, Advocacy has also had its own budget authority.¹³

That said, Advocacy is a relatively small office and continues to rely on SBA for a variety of administrative support services, including office space, equipment, IT, communications support, human resources support, and acquisitions, which are outlined in a Memorandum of Understanding between SBA and Advocacy. Advocacy's administrative support staff utilize SBA's administrative and computer systems to keep Advocacy functioning at a high level of productivity.

It is also important to note the other ways in which Advocacy and SBA interact. Advocacy's economic research team's work is widely used by SBA offices. For example, the number of small businesses in the United States is a common statistic used by SBA and other agencies but is calculated by Advocacy's research team.¹⁴ Additionally, Advocacy's press team works

¹² § 206, Public L. No. 94-305, 15 U.S.C. § 634f.

¹³ The Small Business Jobs Act of 2010 established a separate appropriations account for Advocacy, in addition to a requirement that SBA provide operating support for Advocacy. Advocacy's funds are to remain available until expended. Pub. L. No. 111-240, title I, § 1601(b) (Sept. 27, 2010), 124 Stat. 2551, 15 U.S.C. § 634g. These provisions became operational with Advocacy's budget request for Fiscal Year 2012. Since then, Advocacy's annual Congressional Budget Justification and its accompanying Annual Performance Report have appeared in a separate budget appendix following the main SBA budget request.

¹⁴ There are 36.2 million small businesses in the United States. U.S. SMALL BUS. ADMIN., OFF. OF ADVOCACY, 2025 SMALL BUSINESS PROFILE: UNITED STATES 1 (2025), https://advocacy.sba.gov/wp-content/uploads/2025/06/United_States

with SBA's Office of Communications and Public Liaison to field media requests regarding small business data. Advocacy also works closely with the SBA Ombudsman and prides itself on the level of cooperation and assistance that its professionals provide to all SBA program and policy staff.

[2025-State-Profile.pdf](#). Advocacy calculates small business statistics using the most recent data available from government sources.

Unlawful Disregard for Small Business Regulatory Burdens: A Comprehensive Review of Biden Administration Rulemaking

by

Dr. Casey B. Mulligan

Chief Counsel for Advocacy

U.S. Small Business Administration Office of Advocacy





January 5, 2026

VIA ELECTRONIC SUBMISSION

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

The Honorable Edward Markey
Ranking Member
Committee on Small Business &
Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, D.C. 20510

The Honorable Joni Ernst
Chair
Committee on Small Business &
Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, D.C. 20510

The Honorable Roger Williams
Chairman
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515

The Honorable Nydia Velázquez
Ranking Member
Committee on Small Business
United States House of Representatives
2069 Rayburn House Office Building
Washington, D.C. 20510

Dear President Trump, Chair Ernst, Ranking Member Markey, Chairman Williams, and Ranking Member Velázquez:

Competition and innovation in the U.S. economy were undermined in significant part because the Biden administration imposed unnecessary regulatory burdens on small businesses through actions that violated both the letter and spirit of the Regulatory Flexibility Act (RFA). The RFA requires federal agencies to analyze and minimize the effects of new rules on small entities, with the Chief Counsel for Advocacy serving as the RFA watchdog.

Scope of this Report

The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate.¹ This report examines thousands of rules that the Biden administration asserted would have no significant economic impact on a substantial number of small entities, otherwise known as “certifying” the rule under 5 U.S.C. § 605(b). The report identifies patterns in, and assesses the prevalence of, unlawful certifications, not the merits or policy objectives of the underlying regulations. This information significantly overlaps with information requested by President Trump’s Executive Order 14219 regarding “regulations that are based on anything other than the best reading of the underlying statutory authority...” and “regulations that impose undue burdens on small business...”

Next Steps

This report concludes with policy options for preventing unlawful certifications. I look forward to working with President Trump’s cabinet and Congress to fully realize, on behalf of America’s small businesses, the aspirations of the RFA.

Sincerely,

/s

Casey B. Mulligan
Chief Counsel
Office of Advocacy
U.S. Small Business Administration

cc: Heads of the 71 Agencies listed in Appendix B
The Government Accountability Office

¹ 15 U.S.C. § 634(f).

Unlawful Disregard for Small Business Regulatory Burdens: A Comprehensive Review of Biden Administration Rulemaking

Executive Summary

Federal agencies have routinely certified new regulations as not having “a significant economic impact on a substantial number of small entities” without the “factual basis” that the law requires. Important rules promulgated by the Biden administration either contradicted their own economic findings or supplied no quantitative evidence at all. This practice impedes congressional and executive oversight while undermining competition and innovation in the U.S. economy.

Many certifications were fictional. The agency acknowledged major or economy-wide effects yet asserted that small entities would be unaffected. Examples include Environmental Protection Agency rules mandating rapid transitions to electric vehicles, Department of Health and Human Services rules imposing staffing mandates on nursing homes, and National Labor Relations Board rules expanding joint-employer liability. Each of these rules cites substantial costs or disruption while simultaneously claiming that small entities will experience no significant impact.

Thousands of other certifications are baseless, providing no numerical estimates of either (1) the number of affected small entities or (2) the typical impact per entity. Many consist solely of boilerplate language such as “the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities,” without any accompanying data or explanation.

The report’s **key findings** are:

- **Fictional certifications are unlawful.** Congress amended 5 U.S.C. § 605(b) in 1996 to require agencies to publish a *statement providing the factual basis* for a certification. Certifications that contradict a rule’s own analysis, ignore quantified costs, or provide no supporting facts fail this statutory requirement.
- **Unlawful certifications were widespread.** Agencies routinely published certifications that were unsupported or inconsistent with the agency’s own findings. Falsely certified rules would by themselves have imposed **\$200 billion - \$600 billion** in

regulatory costs on small entities, mitigated only by deregulatory actions taken since January 20, 2025.

- **Unlawful certifications were widespread even among the most important rules.**
Among rules disapproved by Congress under the Congressional Review Act, 75 percent were certified as having no significant small entity impact or were claimed to be exempt from the Regulatory Flexibility Act (RFA). Among all major rules, nearly two-thirds fell into this category despite major rules being economically significant.
- **Five recurring patterns characterize many fictional certifications:**
 1. Ignoring direct compliance costs and enforcement or liability risks.
 2. Treating product bans, facility closures, or firm exit as economically insignificant.
 3. Dismissing millions of hours of paperwork acknowledged elsewhere in the same rule.
 4. Applying arbitrary “below-threshold” tests that ignore cumulative burdens (“death by a thousand cuts”) and the smallest of small businesses.
 5. Excluding large, foreseeable “indirect” effects that are quantified and relied upon in regulatory impact analyses.

These practices have rendered the RFA’s small-business safeguards largely illusory. When agencies declare major, economically significant rules to have no small-entity impact, they bypass the analyses, consultations, and compliance guides that the law requires. The result is a body of federal regulation built, in many cases, on fiction rather than fact. Falsely-certified rules from the Biden administration impose costs on millions of small entities without disclosure or consideration. They also expose small entities to capricious enforcement actions.

This report thoroughly documents the extent of improper and fictional certifications. Drawing on machine-assisted classification of every Biden-era final rule published in the Federal Register, it identifies both the frequency and character of fictional and baseless certifications. Each identified certification fails to meet the statutory standard of a “factual basis.” Dozens of examples illustrate how the plain language and purpose of the RFA have been disregarded—an Orwellian reversal in which agencies describe major burdens on small businesses as having “no significant economic impact” on them.

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Introduction

This report begins with a brief explanation of the serious consequences that flow from fictional certifications. Section II then explains why fictional certifications are unlawful under the Regulatory Flexibility Act (RFA).

Sections III and IV conduct the comprehensive review of Biden administration rulemaking. For that purpose, I assembled a dataset of all Biden administration final rules available from FederalRegister.gov. Each rule with a RFA section, or at least a sentence pertaining to the RFA, was examined and classified using artificial-intelligence methods that were explained more fully in my previous report.² Among other things, the classification identified rules that were certified under 5 U.S.C. § 605(b). Every certified rule is listed in Appendix B of that report, organized by agency and selected categories of the Code of Federal Regulations.

Section III documents concrete examples of certification abuse across five recurring patterns, aided in its investigation by several additional rule-level variables: identifiers for major rules, identifiers for disapproval by Congress, agency assessments of paperwork as recorded by the American Action Forum, and measures of page views on the Federal Register website. Section IV presents population-wide evidence on the frequency and scale of unlawful certifications using machine-assisted classification of all Biden-era final rules. Section V presents policy options for preventing unlawful certifications. Appendices A and B supply the detailed agency breakdowns and additional examples that underpin the report's quantitative and qualitative assessments.

I. Fictional Certifications have Serious Consequences

Much more is at stake than technical compliance with procedures. Regulatory flexibility analyses published in the Federal Register are essential for achieving the goals set forth by the RFA and the Small Business Regulatory Enforcement Fairness Act. Accurate analyses would help the White House and Congress stay apprised of the costs of new federal regulations for small entities and thereby assess obstacles to competition and innovation in

² U.S. SMALL BUS. ADMIN., OFF. OF ADVOC., BIDEN ADMINISTRATION RULES CERTIFIED UNDER THE REGULATORY FLEXIBILITY ACT (Aug. 5, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/08/Biden-Administration-Rules-Certified-Under-the-RFA_080525.pdf.

the U.S. economy. They also facilitate the regulatory review processes codified at 5 U.S.C. § 610 and §§ 801-808.

Regulatory flexibility analyses are also a mechanism for small entities to be aware that new rules apply to them and that compliance will meaningfully affect their operations. Furthermore, a § 605(b) certified final rule is not required to publish a final regulatory flexibility analysis and therefore is not required to publish a small entity compliance guide that would “explain the actions a small entity is required to take to comply with a rule or group of rules.”³ Unless the agency publishes a regulatory flexibility analysis and a small entity compliance guide, small entities are left on their own to become aware of their obligations and determine how to comply. Certifications also bypass opportunities for small-entity feedback that improves the rules.

II. Why So Many Certifications Were Unlawful

The RFA requires federal agencies to assess how their regulations affect small entities, including small businesses, small organizations, and small governmental jurisdictions. When a rule is expected to have a significant economic impact on a substantial number of small entities, the RFA requires the agency to prepare and publish regulatory flexibility analyses describing those effects and considering less burdensome alternatives.

Given the variety of rules, Congress did not intend every rule to include analysis of small-entity effects. The RFA includes a section for “avoidance of duplicative or unnecessary analyses” that provides for a certification path in which the head of the agency indicates that he or she does not expect the rule, if promulgated, to have a “significant economic impact on a substantial number of small entities.”

To lawfully certify a rule, however, the agency must publish a “factual basis” for its determination. Certification is therefore not a conclusory or discretionary label; it must be grounded in facts demonstrating that the rule does not significantly affect small entities.⁴

³ Small Business Regulatory Enforcement Fairness Act, Pub. L. No. 104-121 § 212, 110 Stat. 857, 858 (1996) (codified at 5 U.S.C. § 601 note).

⁴ Congress amended 5 U.S.C. § 605(b) in 1996 to require agencies to publish a “factual basis” for certification, replacing the prior requirement of a mere statement of reasons. See Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121. An interpretation under which an agency may satisfy this requirement with mere assertions or statements contradicted elsewhere in the rulemaking record would deprive the

Fictional certifications are unlawful. They were also prevalent. The Biden administration routinely published fictional bases, or no basis at all. Unlawfully certified rules would by themselves have imposed between \$200 billion and \$600 billion in net-present-value regulatory costs on small entities.⁵

When a rule is highly important for economy-wide purposes, it hardly can be economically insignificant for small entities. Highly important rules include major rules—those expected to have an annual economic effect of \$100 million or more, among other statutory criteria.⁶ This designation is given to less than four percent of all final rules. Even fewer rules – less than 0.5 percent of those finalized by the Biden administration – are costly and conspicuous enough to garner disapproval from Congress under the Congressional Review Act (CRA). Although neither of these is synonymous with economic significance under the RFA, as a matter of principle they ought to be closely related. After all, small businesses contribute almost half of the economy’s production and employ almost half of its workforce.⁷

This report shows that, for 75 percent of Biden rules disapproved under the CRA, regulators either certified as having no significant economic impact on a substantial number of small entities or claimed an exemption from the RFA.⁸ Among all the Biden administration’s major rules, almost two-thirds were in this category. These are red flags that certification abuse was rampant during the Biden administration.

amendment of independent operative effect. The requirement of a “factual basis” therefore demands that certifications be supported by facts that are coherent with the agency’s own findings and the record as a whole.

⁵ Many of these costs will likely be avoided due to subsequent deregulatory actions taken by Congress and the Trump administration.

⁶ Under 5 U.S.C. § 804(2), a “major rule” is one that OIRA determines has resulted in or is likely to result in: (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete. The vast majority of major-rule designations are based on criterion (A). Anticipated interest under the Congressional Review Act is also a factor in some designations.

⁷ Kathryn Kobe & Richard Schwinn, SMALL BUSINESS GDP 1998-2014, U.S. SMALL BUS. ADMIN., OFF. OF ADVOC., (Dec. 2018), <https://advocacy.sba.gov/wp-content/uploads/2018/12/Small-Business-GDP-1998-2014.pdf>; U.S. SMALL BUS. ADMIN., OFF. OF ADVOC., 2025 SMALL BUSINESS PROFILE: UNITED STATES (2025), https://advocacy.sba.gov/wp-content/uploads/2025/06/United_States_2025-State-Profile.pdf.

⁸ The denominator is 16 rules. It does not include the six Bureau of Land Management rules disapproved in December 2025, which had no RFA commentary because they were originally published in the *Federal Register* as a “notice of availability,” or not published in the *Federal Register* at all.

A prevalent genre of certification fiction consists of rules that explicitly acknowledge imposing heavy paperwork and administrative burdens on regulated entities, including small businesses. Another genre consists of rules that recognize their threat to the very existence of a category of small businesses, such as through product bans. A third genre consists of rules containing detailed estimates of substantial “indirect” costs. In all three, the rule is certified with an RFA section that dismisses or ignores those burdens.

These three are examples of the five patterns used to identify and organize the concrete examples of fictional certifications provided in Section III of this report.⁹ Section IV then demonstrates that unlawful certifications are not isolated failures but systematic practice, using machine-assisted classification of every Biden-era final rule to measure the frequency and scale of certification abuse. Appendices A and B provide an agency-by-agency breakdown and supply dozens of additional examples of fictional certifications.

III. Prime Examples of Certification Abuse

Appendices A and B of this report tabulate compliance with 5 U.S.C. § 605(b) for each of the 85 agency and CFR categories with certified rules during the Biden administration. This section, together with Appendix B, select 50 final rules from the Biden administration – many of them major – and provide a detailed explanation of why their certification is Orwellian, absurd, and unlawful. Throughout this report, the set of 50 is referred to as “Prime Examples of Certification Abuse.”¹⁰ The examples reveal clear and recurring patterns in the character of fictional certifications, several of which are highlighted below.

One genre of fictional certification is the outright disregard of direct regulatory costs or the significance of sanctions imposed on small entities that fail to comply. Another is the

⁹ All the report’s examples are regulatory rather than deregulatory. Although § 605(b) requires a factual basis for any certification, the RFA is less explicit about the form and depth of analysis appropriate for rules that reduce compliance burdens rather than impose them. Congress’s focus in §§ 603-604 on minimizing burdens suggests that the statute’s analytical requirements may be oriented toward adverse economic impacts. While Advocacy believes that clear guidance regarding analyses of deregulatory actions can be understood from a holistic view of RFA, it appreciates that this is a more involved legal and economic reasoning process than we have for rules that increase costs.

¹⁰ Additional examples of certification abuse are available in HOUSE COMM. ON SMALL BUS., REGULATORY FLEXIBILITY ACT (RFA) REPORT: AGENCIES’ NONCOMPLIANCE WITH THE RFA (2024), https://smallbusiness.house.gov/uploadedfiles/05.22.2024_-_house_committee_on_small_business_rfa_report.pdf.

treatment of a rule's threat to the very existence of a category of small businesses, such as through a product ban, as not significant. A third genre is for agencies to acknowledge large paperwork burdens in the Paperwork Reduction Act section of a rule while ignoring those same burdens in the RFA section, even though paperwork costs disproportionately affect small entities. A fourth genre is a logically flawed application of arbitrary thresholds that harms the smallest of small entities and clears a path for "death by a thousand cuts." A fifth genre is the estimation of massive indirect costs in the rule that are ignored in the RFA section.

III.A. Direct costs and sanction threats are outright ignored

The following examples illustrate a recurring pattern in which agencies certify rules as economically insignificant for small entities while ignoring direct compliance costs, enforcement exposure, or liability risks, many of which are acknowledged in the rule itself. To be clear, this report evaluates the adequacy of certifications under 5 U.S.C. § 605(b) and does not assess the underlying policy objectives.¹¹

The major rule "Implementation of the Pregnant Workers Fairness Act" (89 FR 29096) was certified by the Equal Employment Opportunity Commission, while failing to estimate acknowledged compliance obligations, cumulative effects, and enforcement risks. Compliance costs necessarily accumulate for businesses with multiple pregnant employees and for firms in female-dominated industries, where accommodations are more frequent. In addition, the rule requires small employers to update policies, conduct training, implement administrative tracking systems, and meet immediate response timeframes for accommodation requests, all of which impose fixed compliance burdens that cannot be spread across large workforces. The rule also exposes small entities to substantial liability risk, including uncapped back pay and equitable relief plus up to \$50,000 of compensatory and punitive damages per plaintiff for employers with 15-100 employees (up to \$200,000 with 201-500 employees). The certification provides no factual basis for concluding that their combined financial and operational effects are economically insignificant for small entities.

In its final rule on "Personal Protective Equipment in Construction" (89 FR 100321), the Occupational Safety and Health Administration certified that the rule would not have a

¹¹ Indeed, each agency might have better supported its purposes by publishing a full final regulatory flexibility analysis, which necessarily includes a statement of the need for, and objectives of, the rule.

significant economic impact on a substantial number of small entities, a conclusion belied by facts about direct compliance costs and by the material risk created by the Occupational Safety and Health Administration penalty structure. The rule requires that protective equipment “must fit properly,” while noncompliance carries maximum penalties of roughly \$16,550 per serious violation and \$165,514 per willful or repeated violation—amounts that can be financially devastating for small construction contractors, which dominate the industry, if even a handful of citations are issued. The certification also disregards foreseeable costs arising from ambiguity about what documentation will demonstrate proper fit and how inspectors will apply the standard, increasing counseling, training, recordkeeping, and risk-avoidance expenses.¹²

The Department of Labor (DOL) certified the major rule “Tip Regulations Under the Fair Labor Standards Act; Partial Withdrawal” (86 FR 60114), even though an economically significant impact is evident from the rule’s own admissions regarding direct compliance costs and wage effects. The rule imposes specific, recurring compliance obligations on small businesses, including management costs per firm to track and limit non-tipped duties, along with initial regulatory familiarization and adjustment costs. The rule also acknowledges potential per-entity wage cost increases of up to \$1,557, which, when combined with other compliance costs, can exceed 1.3 percent of revenues for small businesses—an economically significant burden. Although the rule admits substantial aggregate wage transfer costs (up to \$733 million) as well as ongoing paperwork and monitoring burdens, it dismisses their significance by spreading those costs across all affected entities and excluding them from core RFA calculations. This approach ignores how fixed compliance tasks and enforcement risks fall disproportionately on small employers. These were all concerns raised by the Office of Advocacy and small-business commenters.

The DOL and the National Labor Relations Board (NLRB) certified major rules rescinding and redefining joint-employer status—Rescission of Joint Employer Status Under the Fair Labor Standards Act Rule (86 FR 40939) and Standard for Determining Joint Employer Status (88 FR 73946), respectively. Although the rules assign minimal per-entity cost estimates, such as \$9 for regulatory familiarization under the Fair Labor Standards Act rescission and \$150 for small employers under the National Labor Relations Board rule, the rules themselves describe

¹² This rule also illustrates one of the consequences of fictional certifications. Namely, the certification bypassed the Small Business Advocacy Review Panel process, which would have addressed these ambiguities and likely produced a more precise and less burdensome rule.

changes that materially expand joint-employer exposure.¹³ The rules expressly abandoned clearer standards in favor of broader, fact-intensive tests that include reserved or indirect control. They acknowledged that these changes expand the circumstances under which businesses may be deemed joint employers. The rules also acknowledged increased legal uncertainty and the need for affected entities—particularly franchisees, subcontractors, staffing firms, and users of third-party labor—to evaluate their business relationships under the new standards.

These acknowledged changes have direct and foreseeable costs that contravene the certifications. Expanded and uncertain joint-employer liability predictably requires small businesses to review and often revise franchise agreements, subcontracting arrangements, and employment policies, and to incur ongoing legal, human-resources, and risk-management expenses to mitigate exposure to wage-and-hour liability, collective-bargaining obligations, and mutual liability for violations committed by affiliated firms. The rules provide no factual basis for concluding that the compliance, contracting, and litigation risks are economically insignificant for small entities.

Together, these five examples show that certification abuse often takes the form of ignoring direct costs and small entities' exposure to substantial enforcement and liability risks.

III.B Product bans and other existential threats

In some cases, rules are certified even though they predictably force the closure of regulated facilities, eliminate entire product lines, or drive firms from the market altogether. When a small entity must exit a market or abandon a core product to comply with a rule, the economic impact is necessarily significant. Certifying such a rule is a categorical failure to apply the standard Congress set forth in the RFA because it treats business elimination as a negligible burden.

The Center for Medicare and Medicaid Services (CMS) certified its major rule establishing “Minimum Staffing Standards for Long-Term Care Facilities” (89 FR 40876), despite acknowledging effects that would predictably force facility closures. At a time of widespread shortages of qualified nurses and other caregiving staff, the rule requires more than 80 percent of nursing facilities to increase staffing levels beyond what labor markets can readily

¹³ The NLRB rule was subsequently disapproved by Congress with bipartisan support, underscoring the practical and economic significance of the rule's effects and the implausibility of the \$150 per-entity cost estimate.

supply. For many small and independently operated facilities, compliance would require incurring labor costs that cannot be absorbed or passed through to residents or payers, particularly in Medicaid-dependent markets.

The rule would be enforced with substantial penalties for noncompliance, making partial or delayed compliance financially untenable. Faced with infeasible hiring requirements and enforcement risk, many facilities would be forced to reduce services or cease operations altogether—an outcome the rule itself acknowledges as a realistic possibility. This rule became one of the most actively debated Biden-era regulations in Congress, reflecting concern about its economic and access implications for nursing facilities, including small and independently operated providers.

The Department of Energy certified the major rule “Energy Conservation Standards for Consumer Gas-Fired Instantaneous Water Heaters” (89 FR 105188), despite adopting standards that would effectively eliminate an entire class of products from the market.¹⁴ The rule requires compliance with more stringent efficiency levels that necessitate substantial redesign, testing, and certification, imposing high fixed costs. For small entities operating in this market, or dependent on it, the practical effect of the rule is not incremental compliance expense but the loss of the ability to sell or support covered products.

The certification rests in part on the agency’s assertion that there are currently no small domestic manufacturers of gas-fired instantaneous water heaters, a narrowing that excludes from consideration the many small U.S. businesses engaged in importing, distributing, installing, and servicing these products. For those firms, the rule predictably results in product unavailability, higher replacement costs, disrupted supply chains, and increased administrative burdens, all of which flow directly from the elimination of the covered product line.

The Environmental Protection Agency (EPA) certified its final rule revising “Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act” (89 FR 37028), despite adopting an approach that would predictably drive firms or product lines from the market. The rule fundamentally changes how EPA evaluates chemical risk by replacing use-by-use determinations with a single, aggregated finding for each chemical. Under this approach, EPA

¹⁴ This rule drew significant congressional attention and was the subject of a Congressional Review Act resolution, underscoring the significance of its effects.

may find a chemical to present an “unreasonable risk” based on certain consumer or high-exposure uses, even when other industrial or commercial uses are well controlled and pose minimal risk. The practical effect is to expose all uses of a chemical—and all firms that rely on it—to regulatory restriction or prohibition based on the most sensitive or least controlled application. The existential threats put the small entity costs in the billions of dollars.

Across these three examples, certification depends on treating facility closure, product elimination, or firm exit as analytically irrelevant, rather than as the most salient economic effect on small entities.

III.C. Regulatory Flexibility Act and Paperwork Reduction Act contradictions

A number of rules certify under the RFA while acknowledging substantial administrative and paperwork burdens elsewhere in the same rule. Under the Paperwork Reduction Act (PRA) and related economic analyses, these rules quantify millions of hours of compliance activity. Yet in the RFA section, those same burdens are often dismissed or ignored, without explanation of how fixed compliance tasks can be absorbed by small entities with limited staff and resources. This internal inconsistency is illustrated by five major rules promulgated by the Biden administration.

The Department of Agriculture certified its major rule “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages” (89 FR 28488), despite acknowledging a substantial administrative burden concentrated overwhelmingly on small entities. The rule’s PRA section estimates at least 1,670,776 hours of compliance activity associated with new stocking, recordkeeping, and administrative requirements. Nearly 90 percent of affected WIC vendors are small entities, primarily small grocery stores, pharmacies, and independent retailers. The rule further acknowledges that small vendors may face difficulty complying with the new requirements and directly estimates that approximately 150 small vendors may exit the program as a result. More plausibly, a million-hour administrative burden and small-vendor attrition are economically significant for the very entities bearing those costs.

Similarly, the Department of Education certified its major rule “Eligibility to Receive Emergency Financial Aid Grants to Students Under the Higher Education Emergency Relief Programs” (86 FR 26608), even while acknowledging extensive paperwork and administrative obligations falling heavily on small institutions. The PRA analysis estimates approximately 1,306,588 hours of compliance activity, reflecting the need for institutions to establish

administrative processes, document eligibility determinations, track disbursements, and ensure ongoing compliance. Nonetheless, the RFA section dismisses these burdens. More plausibly, fixed administrative obligations of this scale are significant for small institutions with limited compliance infrastructure.

The Federal Trade Commission (FTC) certified its major rule “Combating Auto Retail Scams Trade Regulation Rule” (89 FR 590), despite acknowledging substantial paperwork and recordkeeping burdens that fall predominantly on small businesses. Under the PRA analysis, the rule estimates at least 1,595,085 hours of compliance activity associated with required disclosures, policy revisions, employee training, systems changes, and the retention of records for up to 24 months. The rule acknowledges compliance obligations that, based on the agency’s own estimates, require hundreds of hours per dealer—burdens that are especially difficult for firms lacking in-house compliance, legal, or information-technology staff. Nonetheless, the RFA section dismisses these same administrative burdens as not significant.¹⁵

CMS certified its major rule advancing interoperability and improving prior authorization processes (89 FR 8758), despite acknowledging an extraordinary paperwork and administrative burden concentrated in fixed compliance tasks. Under the PRA analysis, the rule estimates at least seven million hours of compliance activity associated with new data exchange standards, reporting, documentation, and process redesign requirements imposed on Medicare Advantage organizations, Medicaid managed care plans, providers, and related entities. These obligations require substantial investments in compliance staff, information systems, and ongoing administrative processes that small entities lack the scale and resources to absorb. CMS dismisses their significance by invoking indirect economic effects—such as payment flows, enrollee premiums, or market adjustments—that do not mitigate the compliance workload itself. By treating aggregate transfers as offsets to entity-level administrative costs, the certification fails to explain how small entities can absorb millions of hours of mandatory paperwork without experiencing a significant economic impact.¹⁶

¹⁵ To its credit, the Federal Trade Commission did publish a full final regulatory flexibility analysis alongside its certification. However, Advocacy is unaware of any publication of a small entity compliance guide, which would have been required if the rule had not been certified.

¹⁶ Furthermore, CMS RFA analyses ordinarily assess direct compliance costs borne by regulated entities, without considering indirect payment or market equilibrium effects.

The Department of Health and Human Services (HHS) certified its major “HIPAA Privacy Rule to Support Reproductive Health Care Privacy” (89 FR 32976), even though the rule was classified by the Office of Management and Budget as economically significant based on nationwide compliance activities that are fundamentally administrative in nature. The rule requires covered entities and business associates to adopt new policies and procedures, revise notice-of-privacy-practices and authorization forms, implement new intake and attestation protocols, modify electronic health record and release-of-information systems, conduct workforce training, and establish documentation and audit mechanisms to demonstrate compliance. These obligations apply across essentially the entire universe of HIPAA-regulated entities and impose recurring compliance costs whose core components cannot be meaningfully scaled down for small entities with limited administrative staff.

Taken together, these paperwork examples reveal a distinct genre of fictional certifications. As a result, neither Congress nor the White House receives a coherent account of how small entities are affected by administrative and paperwork requirements.

III.D. Fallacy of the heap, otherwise known as death by a thousand cuts

A common agency rationale for certifying rules is that each rule, considered in isolation, imposes small-entity effects that fall below an arbitrary threshold for “economic significance,” such as three percent of revenue. HHS routinely “uses a change in revenues of more than 3 to 5 percent as its measure of significant economic impact on a substantial number of small entities.” (86 FR 36946) When the threshold rationale appears in major rules – such as the 2024 “Real Estate Transfers” rule from Treasury (89 FR 70258), EPA’s “Phasedown of Hydrofluorocarbons” (88 FR 73098), and the aforementioned CMS “Interoperability rule” – the threshold is revealed to be too high.

More important, the arbitrary-threshold approach is a logical fallacy – the fallacy of the heap – and contrary to the purpose of the RFA.¹⁷ Incremental burdens that are individually below an agency’s chosen cutoff can nonetheless accumulate into an overwhelming total, also known as “death by a thousand cuts.” If a small entity were affected by only 50 rules (out of the thousands promulgated by an administration), each imposing costs equal to two percent of revenue, a three-percent threshold would preclude any regulatory flexibility analysis even

¹⁷ Failure to recognize this possibility is known in applied logic and decision theory as the “fallacy of the heap” (or “continuum fallacy”), in which incremental effects are treated as insignificant even when their accumulation produces a decisive outcome.

though the cumulative effect would equal 100 percent of revenue. The structure of the RFA provides no basis for assuming that rule-by-rule certification excuses agencies from considering cumulative effects on small entities. To the contrary, the RFA expressly permits a single analysis for a series of closely related rules, and Executive Orders 12866 and 13563 direct agencies to consider the cumulative costs of regulations.¹⁸

The RFA can also be undermined when agencies apply arbitrary significance thresholds at an aggregate or group level rather than at the level of individual firms. By averaging effects across heterogeneous entities, agencies can conclude that a rule has no significant impact on a substantial number of small entities even when it imposes severe burdens on identifiable subsets of small firms. For example, the aggregate costs may together be only two percent of total small-entity revenue even though a substantial subset of small entities bears compliance costs exceeding twenty percent of their own revenue.¹⁹

III.E. Massive “indirect” effects quantified elsewhere in the rule

The Department of Transportation (DOT) certified its major rule “Corporate Average Fuel Economy Standards for Model Years 2024-2026 Passenger Cars and Light Trucks” (87 FR 25710) by treating quantified cost analysis elsewhere in the rule as irrelevant. In particular, the Regulatory Impact Analysis section acknowledges that the rule would increase the average purchase price of light-duty vehicles by more than \$1,000. That price effect could—and should—have been addressed in the RFA section. With several million small entities owning or purchasing light-duty vehicles, the resulting costs borne by small entities alone amount to several billion dollars. Instead, the certification rests on fiction.

Vehicle price increases resulting from fuel-economy standards are not speculative or unforeseeable “indirect” effects. On the contrary, the agency analyzed them in detail and relied on them in its Regulatory Impact Analysis. By omitting these quantified effects from its small-entity analysis, DOT deprived Congress and the White House of a coherent account of

¹⁸ Section 605(c) of the RFA expressly permits an agency to prepare a single regulatory flexibility analysis for a series of related rules, confirming that Congress anticipated and authorized consideration of cumulative effects rather than rule-by-rule certification. Executive Orders 12866 and 13563 further direct agencies to “tak[e] into account, among other things, and to the extent practicable, the costs of cumulative regulations.”

¹⁹ This reasoning reflects Simpson’s paradox, where conclusions based on aggregated data obscure materially different outcomes experienced by individual units.

how the rule affects small entities and foreclosed meaningful consideration of less costly regulatory alternatives.

The omission is particularly consequential because the rule attempts to justify its costs by asserting that reduced fuel consumption financially benefits consumers in addition to reducing emissions, based on the assumption that vehicle buyers systematically undervalue fuel savings. DOT recognizes, however, that this assumption is far less credible for business purchasers of vehicles. A full final regulatory flexibility analysis (FRFA) could have explored alternatives—such as differentiated standards or penalty structures for vehicles sold to business buyers—even if the agency ultimately concluded that statutory constraints required rejecting them. Such analysis would have informed Congress of the quantitative significance of those alternatives and enabled legislative consideration, including in Congress’s subsequent revisions to civil monetary penalties.

IV. Metrics of Certification Abuse

Plenty of examples demonstrate *how* agencies evade the RFA's factual-basis requirement—by ignoring direct costs, dismissing existential threats to business viability, contradicting their own paperwork analyses, applying arbitrary thresholds, and omitting quantified indirect effects. This section shifts from pattern recognition to systematic measurement, quantifying the *scale* of certification abuse across the entire Biden regulatory agenda.

This section’s metrics assess RFA compliance from multiple angles. First, they examine whether major rules—those with economy-wide significance—contradict themselves by simultaneously claiming economic importance and asserting no significant small-entity effects. Second, they weight rules by public attention rather than raw counts, revealing which regulations generated the greatest stakeholder concern. Third, they analyze Congressional disapproval patterns, showing that three-quarters of rules rejected under the CRA had been improperly certified or claimed RFA exemptions. Finally, they aggregate the regulatory costs imposed on small entities by unlawfully certified rules, demonstrating that between \$200 billion and \$600 billion in burdens escaped the analytical scrutiny that Congress mandated.

Government-wide metrics are estimated by counting each rule once, even when a rule is authored by multiple parent agencies. Agency-by-agency tabulations include the multi-author rules once for each author. For example, the 2022 major rule “Requirements Related to Surprise Billing” (87 FR 52618) was jointly promulgated by the Internal Revenue Service (IRS), DOL, and HHS. As such it would appear only once in government-wide tabulations. For

agency tabulations, it would appear in three rows (or tables): one for the IRS, a second for DOL, and a third for HHS.²⁰ Therefore, the sum across rows of agency tabulations will slightly exceed the corresponding entries in the government-wide tabulations.

Together, these metrics establish that certification abuse was not episodic or agency-specific, but systematic and government-wide. The pattern-based examples in Section III provide the “how.” The quantitative analysis that follows provides the “how much.”

IV.A. Major rules are routinely self-contradictory regarding their economic significance

Regulators designate rules as “major” based the magnitude of its economic effects as assessed by the Office of Information and Regulatory Affairs. Although economic significance to the economy (Executive Order 12866) and to small businesses (RFA) are not synonymous, as a matter of principle they ought to be closely related. A valuable metric of RFA compliance is therefore the degree of overlap between major rules and the rules that example small entity effects (SEEs).

On my first day as Chief Counsel for Advocacy, I submitted a report to President Trump and the U.S. Congress providing data on widespread abuse of certification under 5 U.S.C. § 605(b) that is well suited for calculating the amount of overlap.²¹ Table 1 below summarizes the results of merging that data with the 419 Biden administration final rules shown on the web site of the Government Accountability Office as received from regulators as major rules under the CRA.²²

At least sixty-five percent of major rules did *not* consider SEEs. 49 points of the 65 percent are rules with certifications under the RFA. Another 15 points claim an RFA exemption. A handful of major rules do not even bother mentioning the RFA. Moreover, even among the 35 percent that published FRFAs rather than certifying, some dismissed small-entity impacts as minimal

²⁰ This report tracks IRS rules separately from the rest of Treasury.

²¹ U.S. Small Bus. Admin., Off. of Advoc., *supra* note 2.

²² The 419 major rules were designated as such during the Biden administration. This set excludes a handful of Biden administration rules that were later designed as major by the Trump administration, or were otherwise not shown on GAO’s major-rules website as of the end of the Biden administration.

despite acknowledging the overall economic significance of the rule—extending the pattern of fictional analysis beyond certified rules.²³

Table 1. Most Major Rules Do Not Consider Small-Entity Effects

Rule category	Count	Percent
SEEs considered	145	35%
SEEs not considered	274	65%
RFA is not even mentioned	6	1%
Certified	204	49%
RFA exemption claimed	64	15%
All Major Rules	419	100%

Notes: The sample is all final rules published in the Federal Register during the Biden administration and deemed major for the purposes of the CRA, except "correction" rules. Three rules claiming RFA exemption and indicating no significant economic impact on a substantial number of small entities are counted as exempt but not certified.

Clearly many of these major rules are contradicting themselves. Especially, at least 204 rules acknowledge significance for the economy yet assert no significant impact on a substantial number of small entities.

Table 2 shows the dozen federal agencies certifying the most major private-sector rules during the Biden administration.²⁴ HHS is the leader in this regard, with 38 major rules certified by its CMS and 22 more certified by other parts of HHS. Seven of these rules are discussed in detail in Section III and Appendix B of this report. Even excluding its state implementation plans, EPA is also a leader, certifying 27 of its 33 rules. Biden's EPA failed to

²³ An example is the 2024 major rule "Employee or Independent Contractor Classification Under the Fair Labor Standards Act" (89 FR 1638).

²⁴ Excluded from the table are 12 major rules certified by the Federal Housing Finance Agency because it tends to regulate government-sponsored enterprises (FANNIE and FREDDIE) and Federal Home Loan Banks; 8 major rules certified by the Veterans Affairs (VA) Department because they were primarily rules governing VA benefits administration, clinical operations, and employee conduct; and 5 rules from the Social Security Administration because it tends to govern individuals and states rather than small entities. As previously noted, any major rule jointly promulgated by agencies listed in Table 2 is counted once in each authoring agency's row.

publish a full FRFA until Fiscal Year 2024. Because EPA and the Consumer Financial Protection Bureau (CFPB) are two of the three agencies required to convene Small Business Advocacy Review Panels for rules with initial regulatory flexibility analyses, unlawful EPA and CFPB certifications are particularly problematic because, in effect, they usurp authority to waive panels.²⁵ They also miss opportunities for small-entity feedback that would have improved the rules.

Table 2. Agencies with the Most Certified Major Rules

Agency or CFR category	# Major	Fraction Certified	# Certified	Cert w/ FRFA
HHS/CMS	64	0.59	38	0
Environmental Protection Agency (w/o 40 CFR § 52)	33	0.82	27	1
Health and Human Services Department (w/o CMS)	29	0.76	22	2
Securities and Exchange Commission	26	0.46	12	3
Treasury/IRS	21	0.52	11	1
Labor Department (w/o OSHA)	23	0.39	9	1
Transportation Department (w/o 14 CFR 25, 39, 71, 97)	11	0.73	8	0
Consumer Financial Protection Bureau	9	0.89	8	1
Energy Department (w/o FERC)	17	0.41	7	0
Education Department	9	0.78	7	0
Treasury Department (w/o IRS)	9	0.67	6	0
Agriculture Department (w/o AMS)	7	0.71	5	0

Notes: The sample is all final rules published in the Federal Register during the Biden administration and deemed major for the purposes of the CRA, except "correction" rules and rules from FHFA, VA, or SSA.

²⁵ 5 U.S.C. § 609. The Panel must gather input from small entity representatives (SERs) and issue a report with findings and recommended regulatory alternatives for the agency's consideration. By law, only the Chief Counsel for Advocacy at the Small Business Administration has the authority to waive Small Business Advocacy Review panels, and only under the conditions specified in the statute.

When a rule has a significant economic impact on a substantial number of small entities, certifying it may have fewer adverse consequences if the rule also includes a FRFA. The final column of Table 2 shows that certified rules occasionally include or cite a FRFA or parts of a FRFA, but this is rare. For example, zero of the 38 certified CMS rules and only one of the 27 rules certified by EPA (excluding 40 CFR § 52) included or cited a FRFA.

IV.B. Weighted by Page Views, 83 Percent of Rules Did Not Consider Small-Entity Effects

Table 3 includes all 12,025 final rules promulgated by the Biden administration, regardless of whether they were designated as major rules. Like Table 1, any rule with multiple authors is nonetheless counted only once in Table 3. The table's first column shows that only 577, less than five percent of final rules, considered small-entity effects. In most cases, a regulatory flexibility analysis was omitted because the rule was certified. An additional 5,231 rules omitted the analysis by claiming an exemption from the RFA or failing to mention the RFA at all. The remaining columns of Table 3 assess these same rules when weighted by public attention, as discussed further on the following page.

Table 3. Weighted by Page Views, 83 Percent of Rules

Do Not Consider Small-Entity Effects

Rule category	Page views to rules in Category		
	Count	Millions	% of all rules
SEEs considered	577	3.1	17%
SEEs not considered	11,448	14.9	83%
RFA is not even mentioned	3,165	2.5	14%
Certified	6,217	7.8	43%
RFA exemption claimed	2,066	4.6	26%
All Rules	12,025	18.0	100%

Notes: the sample is all final rules published in the Federal Register during the Biden administration and deemed major for the purposes of the CRA, except "correction" rules. 48 rules claiming RFA exemption and indicating no significant economic impact on a substantial number of small entities are counted as exempt but not certified.

Standing alone, the raw five percent is not necessarily an indicator of certification abuse because the RFA does not require all rules to have regulatory flexibility analyses. Out of 12,025 final rules, undoubtedly many would genuinely have no meaningful effect on small businesses, small government jurisdictions, or small organizations. For those cases, the RFA provides the certification pathway to avoid “unnecessary analyses.”

Widespread certification of important rules provides stronger evidence of certification abuse. Table 1 already shows such a pattern when important rules are identified with major-rule status. Page views at [federalregister.gov](https://www.federalregister.gov) are another proxy for importance because they tend to be high when a rule captures public attention.²⁶ The second column of Table 3 therefore calculates the total number of page views for the various types of rules. Biden final rules were viewed 18 million times at the time I measured, 14.9 million (83 percent) of which were views of rules that did not consider small-entity effects.

IV.C. Most Rules Disapproved by Congress Had Been Certified

As of the time of this report’s publication, the 119th Congress had disapproved of 22 of the Biden administration’s final rules. Six of those were not published in the *Federal Register* as rules and did not include any RFA commentary. Of the remaining 16, only four (25 percent) of those had published FRFAs. The remaining 12 rules were either certified (9) or claimed exemption from the RFA (3). Table 4 lists the 16 disapproved rules containing RFA commentary.

²⁶ Major rules receive ten times the page views than non-major rules (excluding the routine and voluminous DOT rules, which have even fewer page views). The number of public comments filed at [regulations.gov](https://www.regulations.gov) is another metric of public interest in a rule, but is only available for proposed rules. Many important final rules were not preceded by a proposed rule.

Table 4. Biden Rules Disapproved by Congress**Certified**

CFPB's "Overdraft Lending: Very Large Financial Institutions" (89 FR 106768).

CFPB's "Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications" (89 FR 99582).

EPA's "Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions" (89 FR 91094).

EPA's "National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing" (89 FR 94886).

EPA's "Reclassification of Major Sources as Area Sources Under Clean Air Act §112" (89 FR 73293).

DOE's "Energy Conservation Program: Energy Conservation Standards for Consumer Gas-Fired Instantaneous Water Heaters" (89 FR 105188).

DOE's "Energy Conservation Program: Certification, Labeling, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment" (89 FR 81994).

NPS's "Glen Canyon National Recreation Area; Motor Vehicles" (90 FR 2621).

OCC's "Business Combinations under the Bank Merger Act (2024)" (89 FR 78207).

Published FRFA

BOEM's "Protection of Marine Archaeological Resources" (89 FR 71160).

IRS's "Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales" (89 FR 106928).

DOE's "Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers" (89 FR 104616).

DOE's "Energy Conservation Program: Energy Conservation Standards for Commercial Refrigerators, Freezers, and Refrigerator-Freezers" (90 FR 7464).

RFA exemption claimed: three EPA California State Motor Vehicle and Engine Pollution Control Standards

Note: The table excludes 6 Bureau of Land Management rules with no RFA commentary.

IV.D. Regulatory costs of between \$200 billion and \$600 billion were to be imposed by the Biden administration on small entities without acknowledgement by regulators of the magnitude of those costs

Advocacy estimates about \$50 billion in small entity costs would have come from the combination of just four certified rules: the CFPB’s January 14, 2025 rule “Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information,”²⁷ the aforementioned 2024 CMS nursing-home staffing rule, the EPA’s 2023 Waters of the United States rule,²⁸ and the aforementioned 2024 EPA rule “Procedures for Chemical Risk Evaluation under the Toxic Substances Control Act.”

None of the four rules reasonably quantified the small-entity costs, despite the average cost among the four exceeding \$10 billion. Executive Order 12866 treats rules with roughly \$100 million in annual effects—about \$1 billion in net present value—as economically significant. Although economic significance under the RFA is not synonymous with this threshold, treating the RFA’s “significant economic impact” standard as more than ten times higher would be arbitrary, absurd, and contrary to the statutory rights of small entities.

President Biden’s Environmental Protection Agency (EPA) certified three major “EV mandate” rules.²⁹ The rules would essentially require vehicle manufacturers to produce one electric vehicle for every internal-combustion engine (ICE) vehicle that they sold in the U.S., even in the heavy-duty truck category. The rules acknowledged that vehicle prices would ultimately increase by an average of more than \$2,000, and even more for the ICE vehicles that vehicle-buyers strongly prefer. With 14 million Schedule C businesses owning at least one vehicle, and most of those owning two or more,³⁰ the three rules would impose at least \$60 billion in costs on small businesses.

²⁷ 90 Fed. Reg. 3276 (Jan. 14, 2025).

²⁸ Revised Definition of “Waters of the United States”; Conforming, 88 Fed. Reg. 61964 (Sept. 8, 2023).

²⁹ Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards, 86 Fed. Reg. 74434 (Dec. 30, 2021); Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles, 89 F. Reg. 27842 (Apr. 18, 2024); Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles-Phase 3, 89 Fed. Reg. 29440 (Apr. 22, 2024).

³⁰ U.S. Env’t. Prot. Agency, Draft Regulatory Impact Analysis for “Reconsideration of the 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards,” 24 (July 2025), <https://www.epa.gov/system/files/documents/2025-07/420d25003.pdf>.

The \$60 billion, however, only reflects additional manufacturing costs that are passed onto vehicle purchases. President Trump's EPA has acknowledged that restricting access to preferred vehicles also imposes opportunity costs: reduced productivity and lost sales when a needed ICE vehicle is unavailable or unaffordable. From this perspective, small businesses would bear a \$400 billion burden from the three rules.

The aforementioned rules rescinding and redefining joint-employer status were also certified, yet would be exceptionally costly if they went into effect. Using different approaches, the Council of Economic Advisers and the American Action Forum estimate *annual* costs of the rule on the order of \$10 billion.³¹ Advocacy estimates that the small-entity share of their cost estimates would exceed \$100 billion in net present value. Taken together, these nine fictional certifications alone account for between \$200 billion and \$600 billion in present-value costs to small entities—none of which agencies analyzed as the RFA requires.

IV.E. The prevalence of baseless certifications

A basis for a certification—i.e., a confident conclusion of no significant economic impact on a substantial number of small entities—consists of a pair of quantitative estimates or ranges. One estimates the number of small entities expected to be affected by the rule. The other estimates the typical cost impact an affected small entity is expected to experience.³² When both are grounded in truth, the certification has a factual basis; when either fails to be truthful, the certification is fictional. A certification is baseless when it omits at least one of these estimates, leaving no basis to evaluate as factual or fictional.

Artificial-intelligence methods were used to examine each one of the 6,265 final rules from the Biden administration that were certified with no RFA exemption asserted. Table 5 shows the results for all certified rules, and for the smaller sample limited to major rules. As with Tables 1, 3, and 4, any rule with multiple authors is nonetheless counted only once in Table 5.³³ The first two rows of Table 5 are the certified final rules, distinguished according to the publication of a basis. The final row tabulates uncertified final rules, which publish a final

³¹ WHITE HOUSE COUNCIL OF ECON. ADVISERS, ECONOMIC REPORT OF THE PRESIDENT (MAR. 2019), <https://www.govinfo.gov/content/pkg/ERP-2019/pdf/ERP-2019.pdf>.

³² The typical impact would be null if zero small entities are expected to be affected.

³³ Table 5 third column shows 204 certified major rules from the Biden administration, which corresponds to the certified entry in Table 1. Due to Table 5's CFR-reference restriction, it shows one less major rule with a FRFA than Table 1 does.

regulatory flexibility analysis. The first two columns limit the sample to rules published during fiscal year 2024, whereas the last two include Biden administration rules regardless of publication date. Appendix B has the same breakdown agency-by-agency alongside the prime examples of certification abuse.

Table 5. Number of Certifications, Bases, and FRFAs

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	63	310	144	1,169
Certified without a Basis	16	626	60	2,687
Published a FRFA	66	124	144	428
Total	145	1,060	348	4,284

Notes: 14 CFR §§ 25, 39, 71, and 97 (DOT airspace rules, airworthiness directives, and air instrument rules) are excluded due to their high volume and routine nature. They are included in Appendix tables that report results separately by agency and CFR-code categories. Certifications with FRFAs are not counted in the FRFA row.

Seventy-one percent (144) of the 204 certified major rules at least had a basis: quantitative estimates of the number of affected small entities and the typical impact. The remaining failed to provide a basis, either factual or fictional. Excluding the high-volume and routine rules from the DOT, as Table 5 does, more than two-thirds (2,687 of 3,856) of nonmajor rules lacked a basis.

V. Policy Options to Reduce Certification Abuse

I look forward to working with President Trump’s cabinet and Congress to fully realize, on behalf of America’s small businesses, the aspirations of the RFA. To this end, either President Trump or Congress might:

- **Reconsider the role of the Government Accountability Office (GAO) in the process of Congressional review of agency rules.** GAO published hundreds of “RFA compliance” reports with conclusions opposite to this report and opposite to the May

2024 report of the House Committee on Small Business.³⁴ GAO's methodology is misleading due to several fundamental flaws identified in my October 2025 letter to GAO and Congressional Committees.³⁵ GAO's methods fail to stop certification abuse and likely promote it.

- **Prohibit certification of major rules**, except in specific situations requiring the approval of the Chief Counsel for Advocacy at the Small Business Administration.
- **Limit allowable sanctions against small entities** for violations of rules that were certified as not significantly affecting them.
- **Start the timeframe for regulatory review under the Congressional Review Act** only when the rulemaking agency has published either a certification with a factual basis, or a Final Regulatory Flexibility Analysis.
- Consider the PROVE IT Act of 2025.³⁶
- Allow the Chief Counsel for Advocacy at the Small Business Administration to **add agencies to the list of covered agencies** as defined in 5 U.S.C. § 609. Covered agencies are subject to additional requirements to engage small businesses in their rulemaking.

³⁴ House Comm. on Small Bus., *supra* note 10.

³⁵ Letter from Casey B. Mulligan, Chief Counsel, Off. of Advoc., U.S. Small Bus. Admin., to Chairmen Paul, Comer, Ernst & Williams et al. (Oct. 7, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/10/FINAL-10-7-2025-Advocacy-Statement-of-Actions-Letter-in-re-GAO-25-106950.pdf>.

³⁶ Prove It Act of 2025, S. 495, 119th Cong. (2025); Prove It Act of 2025, H.R. 1163, 119th Cong. (2025).

Appendix A: Certifications without a Basis: Interagency Comparisons

A basis for a certification—i.e., a confident conclusion of no significant economic impact on a substantial number of small entities—consists of a pair of quantitative estimates or ranges. One estimates the number of small entities expected to be affected by the rule. The other estimates the typical cost impact an affected small entity is expected to experience.³⁷ Advocacy notes that rules with a factual basis are a subset of rules with a basis.

Table A.1 shows the six agencies and CFR categories with the most major rules lacking a basis.

Table A.1. Top 6 agencies with major-rule certifications lacking a basis (factual or fictional)

Agency or CFR category	# Certified	Lacking a basis	
		Fraction	Number
HHS/CMS	38	0.37	14
Treasury/IRS	11	0.64	7
Health and Human Services Department (w/o CMS)	22	0.27	6
Transportation Department (w/o 14 CFR §§ 25, 39, 71, 97)	8	0.62	5
Veterans Affairs Department	8	0.38	3
Agriculture Department (w/o AMS)	5	0.6	3

Note: A certification has a basis if it has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. A factual basis is a basis grounded in truth.

Table A.2 shows the twelve agencies and CFR categories with the most non-major rules lacking a basis. Table A.2 reveals the high volume of DOT airspace and air instrument rules.³⁸ Both tables reformat the same statistics reported agency by agency in Appendix B of this

³⁷ The typical impact would be null if zero small entities are expected to be affected.

³⁸ Airworthiness directives (14 CFR § 25 or 14 CFR § 39) also have high volume and are certified. They typically lack a dedicated RFA section but contain quantitative information about small entities near their certification statements.

report. A rule appears in multiple rows of Table A.1 or Table A.2 if the rule is authored by multiple agencies.

Table A.2. Top 12 agencies with non-major-rule certifications lacking a basis (factual or fictional)

Agency or CFR category	# Certified	Lacking a basis	
		Fraction	Number
DOT/FAA Airspace rules (14 CFR § 71)	767	1	767
DHS/USCG Safety Zones (33 CFR § 165)	725	1.00	722
EPA Implementation Plans (40 CFR § 52)	729	0.89	646
DOT/FAA Standard Instrument Procedures (14 CFR § 97)	208	1	208
Commerce/NOAA	197	0.84	165
Transportation Department (w/o 14 CFR §§ 25, 39, 71, 97)	177	0.66	116
DHS/USCG water safety rules (33 CFR § 100)	106	1	106
Environmental Protection Agency (w/o 40 CFR § 52)	281	0.37	105
Interior Department (w/o FWS)	113	0.73	83
DHS/USCG Drawbridge rules (33 CFR § 117)	69	1	69
Agriculture Department (w/o AMS)	71	0.69	49
Health and Human Services Department (w/o CMS)	90	0.51	46

Note: A certification has a basis if it has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. A factual basis is a basis grounded in truth. For CFR categories 14 CFR §§ 71 and 97, many rules have a basis outside the RFA section but are shown in this table as lacking a basis.

Appendix B: Agency-by-Agency Certification Report Cards

Rules are categorized by agency, except for subagencies or CFR categories that are particularly numerous. In those cases, the prolific subagencies, or rule categories, are listed first. The rules promulgated by the “rest of” the parent agency are tabulated on the following pages. For example, Centers for Medicaid and Medicare Services rules are tabulated on pages before the Health and Human Services table. Another example: Approval and Promulgation of Implementation Plans (rules editing 40 CFR § 52) are tabulated on the pages before the rest of the Environmental Protection Agency table. The full list of subagencies and categories is:

- USDA/Agriculture Marketing Service (AMS),
- Commerce/National Oceanic and Atmospheric Administration’s (NOAA),
- EPA/Approval and Promulgation of Implementation Plans (40 CFR § 52)
- HHS/CMS,
- DHS/USCG Water Safety rules (33 CFR § 100),
- DHS/USCG Drawbridge rules (33 CFR § 117),
- DHS/USCG Safety Zones rules (33 CFR § 165),
- Interior/Fish and Wildlife Service (FWS) rules,
- DOT/FAA Airworthiness rules (14 CFR § 25 or 14 CFR § 39),
- DOT/FAA Airspace rules (14 CFR § 71),
- DOT/FAA Standard Instrument Procedures (14 CFR § 97)
- Treasury/IRS

Any rule promulgated by multiple agencies is counted in each authoring agency’s rule-count table. Therefore, while the rule-count tables have the same format as the government-wide Table 5, summing the 85 rule-count tables that follow (82 when excluding the three DOT/FAA CFR categories) will yield totals greater than Table 5.

The fifty rules selected as prime examples of certification abuse are discussed below the authoring agency’s rule-count table. Three of those fifty are authored by multiple agencies but have their discussion displayed only on the IRS page (87 FR 52618 and 89 FR 77586) or only on the Treasury page (86 FR 53412). In the PDF version of this appendix, each Federal Register citation of a prime example **links to the rule text** as hosted by FederalRegister.gov. In almost all cases, the hyperlink jumps to the exact paragraph where the author asserts that the rule will not have an economically significant impact on a substantial number of small entities.

Agency for International Development rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	2
Certified w/o a Basis	0	3	0	7
FRFA	0	0	0	0
Total	0	5	0	9

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Agriculture/AMS rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	12	0	32
Certified w/o a Basis	0	0	0	7
FFRA	1	25	1	76
Total	1	37	1	115

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
88 FR 83210: Transparency in Poultry Grower Contracting and Tournaments	This major rule imposes substantial paperwork, reporting, and compliance burdens on small live poultry dealers and small broiler growers, with first-year costs estimated at \$29,000 per small dealer and \$117 per grower. While the rule includes a partial exemption for small live poultry dealers, they are still required to issue disclosures in certain contracting situations. No exemption applies to small broiler growers, who must review, acknowledge, and adhere to extensive new contract and disclosure conditions. The agency itself acknowledges that alternative approaches—such as exempting more small dealers—would reduce costs. Preparing and reviewing the required disclosures demands legal, administrative, and IT resources that contribute to the rule’s disproportionate impact on small businesses.

Citation: Rule Title (click to see rule)	Description
88 FR 83305: National Bioengineered Food Disclosure Standard; List of Bioengineered Foods	The rule places added compliance responsibilities on small companies that produce or process sugarcane. Manufacturers and processors must keep documentation or secure certifications to justify non-disclosure and perform testing to verify whether any genetically modified content is present. Although some flexibility is provided to smaller manufacturers, the rule still introduces significant administrative and financial challenges, particularly around updating packaging, maintaining records, and informing consumers. The rule itself notes that, should bioengineered sugarcane become more widely available, these mandates could result in additional costs for small operators, including specific administrative and certification fees, which are especially difficult for small businesses to absorb due to their limited capacity. Labeling these expenses as "not significant" overlooks the reality that such demands may be considerable for small businesses engaged in the manufacture or processing of sugarcane.

Agriculture Department (w/o AMS) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	6	2	22
Certified w/o a Basis	1	12	3	49
FRFA	2	3	2	8
Total	4	21	7	79

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 28488: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages	This major rule imposed a compliance burden of at least 1,670,776 hours. Almost 90 percent of the vendors that must comply are small entities, primarily small grocery stores, pharmacies, and independent retailers. The rule acknowledges that small vendors may face difficulty meeting the new stocking requirements, and directly estimates that approximately 150 small vendors may exit the program as a result. Certification of 'no SISNOSE' is inconsistent with the substantial quantified administrative burden and vendor attrition acknowledged by the rule itself.
86 FR 11603: Rural eConnectivity Program	The Rural eConnectivity Program rule requires detailed eligibility information, a complex application process, and creditworthiness assessments. These obligations translate directly into administrative costs, paperwork, and potential legal or consulting expenses for small entities, especially where application competition is "intense". These burdens fall disproportionately on small businesses, which typically lack dedicated compliance staff. The rule's certification that federal financing benefits outweigh these burdens does not negate the concrete up-front costs and operational strains imposed on a substantial number of small entities.

Architectural and Transportation Barriers Compliance Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	1
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	1
Total	0	1	0	3

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Central Intelligence Agency rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Chemical Safety and Hazard Investigation Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Commerce/NOAA rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	6	0	32
Certified w/o a Basis	0	46	0	165
FRFA	0	19	1	63
Total	0	71	1	260

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Commerce Department (w/o NOAA) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	1	10
Certified w/o a Basis	0	5	1	27
FRFA	0	0	4	3
Total	0	7	6	40

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Committee for Purchase From People Who Are Blind or Severely Disabled rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	1
Certified w/o a Basis	0	0	0	1
FFEA	0	0	0	0
Total	0	1	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Commodity Futures Trading Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	6	0	14
Certified w/o a Basis	0	1	0	3
FRFA	0	0	0	0
Total	0	7	0	17

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Consumer Financial Protection Bureau rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	2	3	6	8
Certified w/o a Basis	0	1	2	4
FRFA	0	0	1	1
Total	2	4	9	13

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 34848: Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X	This rule inhibited and, for a period, outright prohibited mortgage foreclosure, which is a primary tool for mortgage servicers to collect what they are owed. A rule cannot be certified as having no SISNOSE if the rulemaker lacks even a general understanding of how many small entities are affected, as is the case for this rule.
90 FR 3276: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)	Finalized in early January 2025, the rule prohibits creditors from considering medical information in credit eligibility determinations and prohibits consumer reporting agencies from furnishing to a creditor a consumer report containing information on medical debt. The rule would unnecessarily impose data handling requirements and expose businesses to greater liability risks on an issue that is already being addressed by the private sector. The annual costs to small entities would be in the billions of dollars, especially in terms of financial losses on medical debt. Although CFPB asserted no SISNOSE, it did convene a Small Business Review Panel and published both an IRFA and a FRFA, "in an abundance of caution."

Consumer Product Safety Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	1
Certified w/o a Basis	0	2	0	9
FRFA	0	0	3	6
Total	0	3	3	16

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Corporation for National and Community Service rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	2
Certified w/o a Basis	0	2	0	9
FRFA	0	0	0	0
Total	0	3	0	11

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Council of the Inspectors General on Integrity and Efficiency rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Council on Environmental Quality rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	0	1	4
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	1	0	1	4

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 35442: National Environmental Policy Act Implementing Regulations Revisions Phase 2	The rule creates additional NEPA review requirements, thereby increasing the time and expense for completing NEPA reviews. Although the rule claims to 'apply only to Federal agencies,' NEPA reviews are often prepared or funded by project sponsors such as small businesses that directly bear the impact of the rule's substantially increased compliance costs, paperwork, and delays. The rule will force project applicants, including small businesses, to spend more time and resources preparing environmental documentation and complying with agency review processes. CEQ refused to prepare a regulatory flexibility plan, despite evidence that expanded review and documentation requirements will significantly increase economic impacts on small businesses, contradicting its certification of no SISNOSE.

Court Services and Offender Supervision Agency for the District of Columbia rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	1
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Defense Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	8	0	56
Certified w/o a Basis	0	7	0	36
FRFA	1	18	2	63
Total	1	33	2	155

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Defense Nuclear Facilities Safety Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	1
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	1	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Education Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	14	6	28
Certified w/o a Basis	0	5	1	17
FRFA	2	1	2	2
Total	2	20	9	47

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 26608: Eligibility To Receive Emergency Financial Aid Grants to Students Under the Higher Education Emergency Relief Programs	This major rule imposes substantial paperwork and administrative burdens on small entities, requiring them to establish processes for administering and disbursing emergency grants and perform extensive compliance work. The rule itself acknowledges that an estimated 1,306,588 hours of compliance are required. Such paperwork and administrative demands fall disproportionately on small institutions with limited staff and resources. Despite noting these burdens, the rule dismisses their significance without considering that fixed paperwork and compliance costs represent a much higher per-entity and per-student burden for small entities, demonstrating a significant economic impact on a substantial number of small entities.
87 FR 65904: Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Federal Direct Loan Program	This major rule imposes substantial compliance burdens on small entities through expanded reporting requirements, mandatory system updates (taking approximately 50 hours per entity), and significant paperwork obligations that fall disproportionately on small lenders and institutions, as directly acknowledged in the rule. The text also references a total compliance burden of at least 111,263 hours, yet dismisses these burdens as "not significant" despite acknowledging that nearly 40% of small institutions will be directly affected by new requirements to change contracts and processes.

Citation: Rule Title (click to see rule)	Description
87 FR 65426: Pell Grants for Prison Education Programs; Determining the Amount of Federal Education Assistance Funds Received by Institutions of Higher Education (90/10); Change in Ownership and Change in Control	This major rule imposes substantial paperwork, reporting, and compliance costs on small institutions, as evidenced by estimated costs per institution reaching up to \$4,593 and compliance burdens that collectively require at least 70,272 hours. These burdens include new disclosure requirements, complex revenue calculations for 90/10 compliance, and expanded reporting and notification obligations due to changes in ownership—mandates that fall disproportionately on small entities less able to absorb such fixed compliance costs. The rule itself acknowledges these significant paperwork and compliance duties, yet dismisses their impact as "minimal", despite directly admitting the high aggregate compliance hours and broad scope of entities affected.

Energy/FERC rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	3	2	21
Certified w/o a Basis	0	5	0	16
FRFA	0	0	0	0
Total	1	8	2	37

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 49280: Building for the Future Through Electric Regional Transmission Planning and Cost Allocation	The rule imposes ongoing annual compliance costs of \$446,390 per year for each transmission provider with an Open Access Transmission Tariff (OATT), a burden that is not scaled for entity size and includes extensive paperwork and reporting requirements, as evidenced by the rule's own estimation of at least 186,340 compliance hours. These significant and recurring costs, which are not mitigated by the theoretical ability of providers to recover expenses, fall disproportionately on small entities, particularly because small entities have fewer staff and resources to manage the substantial administrative, recordkeeping, and procedural obligations. Despite acknowledging at least 18 affected small entities (14% of the regulated population), the rule's assertion that this impact is not significant or substantial is inconsistent with both the concrete cost data provided and with RFA guidance on paperwork burdens.

Citation: Rule Title (click to see rule)	Description
87 FR 2244: Managing Transmission Line Ratings	The rule imposes concrete, quantifiable one-time costs ranging from \$16,734 to \$178,719 on small transmission owners, generator owners, and transmission service providers, with approximately 68% of affected entities classified as small. The rule acknowledges a substantial compliance burden of at least 184,853 hours, and these paperwork and procedural obligations (reporting, database maintenance, hourly updates) inherently fall disproportionately on small entities, which have fewer administrative resources to absorb such burdens.

Energy Department (w/o FERC) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	2	9	5	61
Certified w/o a Basis	0	1	2	22
FRFA	6	0	10	8
Total	8	10	17	91

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
87 FR 27439: Energy Conservation Program: Energy Conservation Standards for General Service Lamps	The rule codifies a strict 45 lumens per watt requirement for general service lamps, which imposes mandatory compliance obligations on manufacturers, including small businesses. This technical standard will require small lamp manufacturers to redesign products, switch suppliers, or invest in new production processes, actions that typically incur substantial dollar costs and compliance burdens that disproportionately affect small entities with limited capital. The rule itself acknowledges nationwide manufacturer impacts, yet dismisses the burden on small businesses solely on the basis that costs are statutorily mandated, ignoring the fact that these costs still result in significant economic impact for a substantial number of small entities.
87 FR 27461: Energy Conservation Program: Definitions for General Service Lamps	The rule requires small manufacturers of general service lamps (GSLs) to determine whether their products meet the newly adopted definitions and to use DOE's test procedures to certify compliance, imposing direct compliance, testing, and reporting burdens on at least 8 small entities identified by DOE. The need to certify products and comply with relevant standards and procedures entails additional paperwork, testing costs, and ongoing monitoring. By DOE's own admission, these costs affect a substantial number of small lamp manufacturers and cannot be reasonably dismissed as insignificant burdens.

Citation: Rule Title (click to see rule)	Description
89 FR 105188: Energy Conservation Program: Energy Conservation Standards for Consumer Gas-fired Instantaneous Water Heaters	The major rule got the attention, and disapproval, of the 119th Congress. It would have required all manufacturers of gas-fired instantaneous water heaters, including any small entities, to comply with amended, more stringent energy conservation standards, which can impose significant redesign, testing, and certification costs. Small businesses are particularly sensitive to such increased compliance burdens due to their limited economies of scale. The rule itself acknowledges that its analysis is based on the current absence of small domestic Original Equipment Manufacturers (OEMs) in this product category, but this overlooks U.S. small businesses engaged in importing, distributing, or servicing these products, who face indirect compliance burdens such as product availability constraints, increased costs, and administrative overhead. By focusing solely on direct manufacturer effects and excluding these indirect yet substantial burdens, the rule inappropriately dismisses significant economic impact on a substantial number of small entities.

EPA Implementation Plans (40 CFR 52) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	9	2	83
Certified w/o a Basis	0	118	0	646
FRFA	0	0	0	0
Total	0	127	2	729

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Environmental Protection Agency (w/o 40 CFR 52) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	15	44	25	176
Certified w/o a Basis	0	22	2	105
FRFA	5	2	6	4
Total	20	68	33	285

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
88 FR 73098: Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020	The rule's most significant effects on small entities arise from the forced transition away from HFC refrigerants to flammable ones. This shift requires equipment redesign, new safety-engineering features, and compliance with updated flammability standards. Small manufacturers must retrofit, recertify, and incorporate fire-mitigation components. Small HVAC contractors and installers must purchase A2L-compatible tools, obtain specialized training, meet upgraded state and local safety codes, and bear higher insurance and liability exposure. EPA acknowledges some of these costs, but does not quantify any of them. Through its fictional certification, EPA failed to convene a SBREFA panel that would have revealed economic costs and safety risks.

Citation: Rule Title (click to see rule)	Description
89 FR 91094: Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions	This major rule got the attention, and disapproval, of the 119th Congress. It would have established a new system for calculating and imposing methane waste-emissions charges on petroleum and natural gas facilities. Operators must develop data systems to quantify, verify, and report emissions with a precision and frequency far exceeding prior reporting regimes. Although seemingly applicable only to high-emission operators, the exemption is narrow and administratively complex, particularly for small operators with dispersed low-output assets. EPA acknowledges that “small producers and processing facilities will need to make substantial adjustments to measurement, monitoring, and recordkeeping systems,” yet nonetheless certified the rule without convening a Small Business Advocacy Review panel that would have more accurately assessed small–entity compliance costs. Liability exposure is increased for small businesses that have PFOA or PFOS on their property because the rule would classify them as hazardous substances. Additionally, as EPA is still defining new types of PFAS, new “hazardous substances” could be designated after the rule’s promulgation. The rule also imposes a paperwork and reporting obligation that requires at least 6,889 compliance hours, with a per–report cost of \$2,658, an obligation that falls disproportionately on small entities. Despite acknowledging that small businesses will be among those subject to multiple reporting requirements, the rule dismisses the aggregate impact by focusing only on a single report’s cost as a percentage of revenue, without accounting for cumulative or repeated requirements over time. Coupled with the aforementioned liability costs, the significant aggregate compliance hours and per–incident cost constitute a substantial economic burden on a large number of small businesses in affected industries. The 2024 rule changed how EPA judges chemicals. Instead of deciding risk one use at a time, it gave one overall decision for the chemical. This expansive reading of the Toxic Substances Control Act would make unreasonable–risk findings more likely even when well–controlled industrial uses posed minimal risk, effectively letting consumer exposures drive findings that implicate the entire chemical. Chemical manufacturers risk being put out of business. The small entity costs would be in the billions of dollars.
89 FR 39124: Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances	
89 FR 37028: Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA)	

Equal Employment Opportunity Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	2
Certified w/o a Basis	1	0	1	1
FRFA	0	0	0	0
Total	1	1	1	3

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 29096: Implementation of the Pregnant Workers Fairness Act	EEOC underestimated the compliance costs of this rulemaking, and should have considered further costs in a Supplemental Initial Regulatory Flexibility Analysis. The rule imposes direct annual costs for providing pregnancy-related accommodations, calculated at \$60 per accommodation per year, plus a one-time compliance cost of up to \$170.27 per small entity not previously covered, and these costs accumulate for entities with multiple pregnant employees or those in female-dominated sectors. These burdens include mandated updating of policies, training, administrative tracking, and immediate response timeframes, as well as the legal risk of fines up to \$50,000 per violation for businesses with 15–100 employees, which disproportionately impact small entities both financially and operationally, demonstrating a significant economic effect on a substantial number of small businesses.

Executive Office of the President rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Export-Import Bank rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Farm Credit Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	4	0	11
Certified w/o a Basis	0	1	0	3
FFEA	0	0	0	0
Total	0	5	0	14

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Communications Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	1	5
Certified w/o a Basis	0	1	0	9
FRFA	8	36	14	132
Total	8	39	15	146

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Deposit Insurance Corporation rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	5	2	14
Certified w/o a Basis	0	0	0	0
FRFA	0	0	1	0
Total	1	5	3	14

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Election Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	2
Certified w/o a Basis	0	1	0	3
FRFA	0	0	0	0
Total	0	3	0	5

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Housing Finance Agency rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	3	2	12	3
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	3	2	12	3

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Labor Relations Authority rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	4	0	7
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	4	0	8

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Maritime Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	3
Certified w/o a Basis	0	3	0	3
FRFA	0	0	0	1
Total	0	4	0	7

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Mediation and Conciliation Service rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	2	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Mine Safety and Health Review Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	2
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Register, Administrative Committee rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Reserve System rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	4	2	10
Certified w/o a Basis	0	0	0	3
FREA	0	0	0	1
Total	1	4	2	14

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Federal Retirement Thrift Investment Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	3	0	6
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	3	0	6

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Federal Trade Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	2	2	4
Certified w/o a Basis	0	6	1	15
FRFA	1	1	1	3
Total	2	9	4	22

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 590: Combating Auto Retail Scams Trade Regulation Rule	The rule imposes substantial recordkeeping and compliance obligations—including required disclosures, policy updates, and retention of records for 24 months—resulting in at least 1,595,085 compliance hours industry-wide, a figure explicitly acknowledged in the rule. These burdens translate to thousands of dollars in first-year compliance costs per dealer (e.g., over \$4,300 for the smallest), and documentation requirements, estimated at hundreds of hours per dealer, are disproportionately difficult for small entities that typically lack in-house compliance and legal staff. The rule admits that the vast majority of affected entities are small businesses, and paperwork, training, and IT investments fall especially hard on them, yet dismisses these costs as "not significant" despite industry and SBA Advocacy comments to the contrary.

Citation: Rule Title (click to see rule)	Description
89 FR 90476: Negative Option Rule	The rule imposes extensive compliance, recordkeeping, and disclosure requirements on all sellers of negative option programs, affecting small entities across numerous industries. Despite partial reductions, the rule acknowledges cumulative compliance obligations—such as retaining records for three years, immediate disclosures, and detailed consent processes—that, according to the record, demand at least 265,000 hours of compliance, a burden that disproportionately impacts small businesses due to their limited administrative resources. Paperwork and reporting requirements are universally recognized as falling more heavily on small entities, and the rule itself admits a lack of adequate data on how many small businesses are affected. Nevertheless, the agency proceeds to certify without resolving this data gap, disregarding significant public comments expressing concern about underestimated economic impacts.

General Services Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	7	0	30
Certified w/o a Basis	0	1	0	13
FRFA	1	7	1	28
Total	1	15	1	71

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Government Ethics Office rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	3	0	10
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	3	0	10

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

HHS/CMS rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	11	3	24	6
Certified w/o a Basis	2	4	14	13
FRFA	8	0	26	2
Total	21	7	64	21

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

Citation: Rule Title (click to see rule)	Description
89 FR 8758: Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Advancing Interoperability and Improving Prior Authorization Processes for Medicare Advantage Organizations, Medicaid Managed Care Plans, State Medicaid Agencies, Children's ...	The rule acknowledges that compliance will require at least 7 million hours, a massive paperwork and labor burden that heavily impacts small entities who lack the compliance infrastructure of larger organizations. CMS certifies by suddenly discovering, and selectively applying, indirect economic effects such as government payments and enrollee premiums that adjust through market forces. In doing so, CMS ignores the essence of the RFA, failing "to recognize differences in the scale and resources of regulated entities." In other words, by imposing fixed costs, the policy is a force for driving smaller entities out of the market.
89 FR 40876: Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting	At a time of real shortage of qualified nurses and other nursing home caregivers, this major rule required more than 80 percent of facilities to increase their staffing. Penalties for noncompliance were severe. Unable to pass along or absorb these costs, many facilities would have to close. In Congress, this rule became one of the most discussed Biden rules precisely because of its significant economic impact on a substantial number of small entities.

Citation: Rule Title (click to see rule)	Description
87 FR 27704: Medicare Program; Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency; Additional Policy and Re...	This major rule includes business-to-business contracting restrictions that independent pharmacies have long requested as essential to stay in business. Policies affecting the viability of a business segment are well beyond any reasonable threshold for economic significance.
88 FR 22120: Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly	Many plans, often small entities, are required to update their marketing and advertising materials. They also face new restrictions on the tools available for cost management. CMS certifies by suddenly discovering, and selectively applying, indirect economic effects as government payments and enrollee premiums adjust through market forces. In doing so, CMS ignores the essence of the RFA, failing "to recognize differences in the scale and resources of regulated entities." Separately, and in addition, the CMS certification ignores the indirect effects on third-party marketing organizations (TPMOs) – insurance agencies, field marketing organizations, call centers, and individual independent agents or brokers who sell or promote Medicare Advantage or prescription drug plans. TPMOs are required by the rule to record and retain all sales, marketing, and enrollment calls with beneficiaries for 10 years and to state a standardized disclaimer at the beginning of each interaction.

Health and Human Services Department (w/o CMS) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	7	13	16	44
Certified w/o a Basis	3	12	6	46
FRFA	4	4	7	7
Total	14	29	29	97

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 32976: HIPAA Privacy Rule To Support Reproductive Health Care Privacy	The rule would have imposed a suite of requirements that would be quite significant for small providers. Namely, it would have required providers to make system-wide updates to HIPAA policies, internal workflows, role-based training, and legal review to implement the new prohibition standard and decision trees for determinations; create intake triage, drafting attestation protocols, validating elements, recordkeeping, ceasing disclosure upon discovering material falsity, and integrating this into release-of-information operations for specified non-health disclosures (oversight, judicial/administrative, law enforcement, coroners/medical examiners); rewrite updated NPPs to incorporate reproductive health protections and aligned 42 CFR Part 2 changes; update patient authorization templates and request-for-information forms to identify when reproductive PHI is implicated and ensure workflows route to the attestation pathway when applicable; and change EHR and release-of-information systems, flags for reproductive PHI, audit capabilities for attestations, and retention practices to demonstrate compliance in investigations or audits.

Citation: Rule Title (click to see rule)	Description
87 FR 50698: Medical Devices; Ear, Nose, and Throat Devices; Establishing Over-the-Counter Hearing Aids	This rule removed barriers to selling hearing aids without a prescription, fitting, and exam. Such barriers greatly reduce sales of hearing aids by retailers -- both on-line and brick-and-mortar -- and manufacturers of hearing aids. In NAICS code 334510 ("Electromedical and Electrotherapeutic Apparatus Manufacturing"), 92 percent of firms are small. They receive 34 percent of the industry's revenue. In short, the rule had a significant economic impact on a substantial number of small entities for much of the same reason that it is economically significant and major.
89 FR 7528: Medications for the Treatment of Opioid Use Disorder	This rule removed or relaxed multiple longstanding federal restrictions on Opioid Treatment Programs (OTPs) and the administration of medication-assisted treatment, making it easier for small entities to treat patients with methadone and buprenorphine. The rule had a significant economic impact on a substantial number of small entities for much of the same reason that it is economically significant and major. Perhaps HHS came to a different conclusion because it considered only increases in compliance costs, not decreases.

DHS/USCG water safety rules (33 CFR 100) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	24	0	106
FREA	0	0	0	0
Total	0	24	0	106

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

DHS/USCG Drawbridge rules (33 CFR 117) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	25	0	69
FRFA	0	0	0	0
Total	0	25	0	69

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

DHS/USCG Safety Zones (33 CFR 165) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	3
Certified w/o a Basis	0	168	0	722
FRFA	0	0	0	0
Total	0	169	0	725

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Homeland Security Department (w/o 3 USCG CFRs) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	11	3	43
Certified w/o a Basis	0	8	0	30
FRFA	1	3	1	8
Total	1	22	4	81

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Housing and Urban Development Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	4
Certified w/o a Basis	0	14	1	28
FRFA	0	0	0	0
Total	0	15	1	32

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 101270: 30-Day Notification Requirement Prior To Termination of Lease for Nonpayment of Rent	The rule acknowledges that “small PHAs [public housing authorities] and owners often have limited staff and resources when operating rental assistance programs. HUD is also aware that smaller PHAs and owners may be more susceptible to financial variations to their operating budgets ... due to nonpayment of rent by a tenant during the notification period.” Because eviction filing is delayed by the rule, tenants will accrue more arrears, damage property more, or more frequently vacate without paying, which are financial losses for the PHAs and owners. The annual losses could easily be in the hundreds of millions of dollars.

Interior/FWS rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	12	0	57
Certified w/o a Basis	0	7	0	24
FRFA	2	0	12	0
Total	2	19	12	81

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Interior Department (w/o FWS) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	14	1	30
Certified w/o a Basis	2	23	2	83
FRFA	1	1	1	1
Total	4	38	4	114

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 42602: Renewable Energy Modernization Rule	The major rule's RFA certification ignores the real, substantial risks offshore wind development poses to commercial fishermen and related small entities. Numerous fishermen and industry groups have described large-scale offshore wind as a "fight of our lives" that could "sink" their businesses, citing displacement from key grounds, gear damage, navigation hazards, and higher operating costs. These effects are neither remote nor speculative; they arise directly from turbine arrays, export cables, and associated closures in heavily used fishing areas. At least two commercial fishermen died near the Block Island wind farm, which creates operational constraints for rescuers.
89 FR 35634: Rights-of-Way, Leasing, and Operations for Renewable Energy	In economic terms, this major rule changes property/use rights on BLM lands. Land use is essential to small businesses such as ranching. Among other things, by facilitating more renewable-energy authorizations in grazing areas, the rule would increase the frequency with which BLM modifies or cancels leases. BLM did not attempt to estimate the number of small businesses affected in this way.

Citation: Rule Title (click to see rule)	Description
89 FR 40308: Conservation and Landscape Health	Although the 12866-significant rule claims not to directly regulate industry, it would apply new land health standards, conservation tools, and procedural obligations (such as documentation, monitoring, and decision-making processes) to all users of BLM-managed lands. Small businesses dependent on public lands such as ranchers, miners, and energy producers would be less able to obtain or renew leases. Several court challenges were framed around harms to small businesses. Similar land management issues in a 2016 rule were so significant as to garner a disapproval from Congress under the CRA. This rule's own acknowledgment of high compliance hours by itself contradicts its certification of negligible economic impact on small entities.

International Development Finance Corporation rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	1	0	1
FRFA	0	0	0	0
Total	0	1	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Justice Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	8	2	44
Certified w/o a Basis	0	5	0	32
FRFA	1	1	3	2
Total	1	14	5	78

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

Citation: Rule Title (click to see rule)	Description
88 FR 46983: Partial Filling of Prescriptions for Schedule II Controlled Substances	The rule imposes mandatory paperwork and recordkeeping obligations on small pharmacies and prescribers, requiring additional compliance for each partial fill of a Schedule II prescription, including documentation and labeling requirements. The practitioner may authorize a partial fill at a date after the prescription was issued, after consultation with a pharmacist. DEA only estimates the time of 10 seconds, and 40 cents of costs. This is an underestimation of time, as the practitioner would have to evaluate the prescription, contact and consult with a pharmacist. This may take 30 minutes or more. The DEA itself estimates the rule will require at least 50,521 compliance hours annually and result in direct costs (up to 0.487% of revenue for the smallest pharmacies), disproportionate to small entities whose limited administrative resources amplify the burden of even 'minor' paperwork or cumulative hourly requirements. Paperwork burdens particularly impact small entities, and the rule acknowledges widespread impact—over 318,000 small entities—yet improperly dismisses these costs as 'minimal,' despite their aggregation and disproportionate effect on small business operations.

Labor/OSHA rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	4
Certified w/o a Basis	0	0	0	2
FRFA	0	0	0	1
Total	0	2	0	7

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 22538: Worker Walkaround Representative Designation Process	This RFA only quantifies "rule familiarization" costs, which are not significant by themselves but are merely a small fraction of the overall compliance costs. Many other costs flow directly and predictably from the rule, including the costs of screening, processing, and accompanying the additional non-employee third-party representative(s) during the inspection and related activities. During the comment period, small entities explained that costs include: advanced planning and coordination, providing additional screening and security, revising third-party access policies and procedures, training employees on new third-party visitor protocols, obtaining additional legal advice and consultation, providing additional protections for confidential business information, preparing additional non-disclosure and other forms, providing additional staff and experts (including possible outside experts) to correspond to the variety of non-employee third-party participants during inspections and related activities, potential liability for injuries to third parties during their presence at the workplace and during the inspection, purchasing additional insurance, and providing additional personal protective and other safety and health equipment.

Citation: Rule Title (click to see rule)	Description
89 FR 100321: Personal Protective Equipment in Construction	High OSHA penalties make noncompliance materially risky for small contractors, with maximums now at roughly \$16,550 per serious item and \$165,514 per willful or repeated violation, so even a handful of citations can be financially devastating for small firms. Ambiguity around what documentation proves “proper fit” and how inspectors will apply the rule raises counseling, training, and risk—avoidance costs beyond simple equipment purchases. Because construction is dominated by especially small businesses, spreading fixed compliance tasks across many micro-employers amplifies the per-firm burden of documenting fit assessments, training, and recordkeeping tied to the new “must fit properly” duty. Sourcing non-standard sizes and specialty items often entails higher unit prices, longer lead times, and vendor minimums, challenges that large primes can absorb but small subs cannot, especially when fit issues surface mid-job and work must pause to procure replacements.

Labor Department (w/o OSHA) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	3	5	8	17
Certified w/o a Basis	0	6	1	14
FRFA	10	0	14	0
Total	13	11	23	31

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 24303: Independent Contractor Status Under the Fair Labor Standards Act (FLSA): Withdrawal	Withdrawing the Independent Contractor Status rule imposes concrete compliance obligations on small businesses, including analysis of worker classification using the complex 'economic reality' test, which demands legal consultation, significantly increased paperwork and recordkeeping. Over 5.9 million small firms must incur 'regulatory familiarization' costs, which are dismissed as minimal without accounting for misclassification risk, potential back pay, penalties, and legal expenditures, all of which disproportionately burden small entities lacking dedicated compliance departments. In the National Small Business Association's (NSBA) 2025 poll, small businesses identified the classification of independent contractor/employee as the most costly and time consuming regulation.

Citation: Rule Title (click to see rule)	Description
86 FR 40939: Rescission of Joint Employer Status Under the Fair Labor Standards Act Rule	The rule estimates that small businesses would incur a regulatory familiarization cost of \$9 per entity. However, by rescinding the prior joint–employer rule and reverting to a fact–intensive, multi–factor standard, the rule substantially increases legal uncertainty and expands potential joint–employer liability under the FLSA for millions of small firms operating as franchisees, subcontractors, staffing firms, or users of third–party labor arrangements. The rule provides no evidence that the resulting legal, contractual, and risk–management costs associated with this expanded liability—particularly for franchisees, subcontractors, and staffing arrangements—are insignificant for small businesses, thus directly contradicting its certification of no SISNOSE. This rule would require small businesses to evaluate and possibly rewrite their franchise, third–party contracts (like subcontractors) in relation to employees, to minimize the risk of having joint liability. For example, this would impact the type of legal, HR, and employee handbooks provided by franchisors to franchisees. The rule imposes specific compliance obligations, including management costs of \$376.36 per year per small business, for tracking and limiting non–tipped duties, as well as initial regulatory familiarization and adjustment costs. In addition, the rule acknowledges potential per–entity wage cost increases of up to \$1,557, which combined with other compliance costs can total over 1.3% of revenues for small businesses in certain industries—an economically significant burden for entities with low margins. The rule admits substantial total wage transfer costs (up to \$733 million) and paperwork and monitoring burdens, yet dismisses their impacts by spreading them across all affected entities and excluding them from core RFA calculations, contrary to concerns raised by SBA Advocacy and small business commentators who note these costs are understated or omitted.
86 FR 60114: Tip Regulations Under the Fair Labor Standards Act (FLSA); Partial Withdrawal	

Management and Budget Office rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	1
Certified w/o a Basis	0	2	0	2
FRFA	0	0	0	0
Total	0	2	0	3

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

National Aeronautics and Space Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	3	0	16
Certified w/o a Basis	0	3	0	5
FRFA	1	6	1	26
Total	1	12	1	47

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

National Archives and Records Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	4	0	9
FRFA	0	0	0	0
Total	0	4	0	9

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

National Credit Union Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	4	0	11
Certified w/o a Basis	0	1	0	14
FRFA	0	0	0	0
Total	0	5	0	25

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

National Foundation on the Arts and the Humanities rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	2	0	14
FFFA	0	0	0	0
Total	0	2	0	14

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

National Intelligence, Office of the National Director rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	1
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

National Labor Relations Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	2	0	2	0
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	2	0	2	0

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
88 FR 73946: Standard for Determining Joint Employer Status	The rule creates significant economic impacts on a substantial number of small entities—specifically, franchisees, contractors, temporary agencies, and unions—by dramatically broadening the standard for joint-employer status to include reserved or indirect control, not just exercised or direct control. This means small businesses operating under common business models (franchisees, subcontracting, staffing) now face greatly increased legal uncertainty, exposure to collective bargaining obligations, and mutual liability for NLRA violations. The results include greater compliance costs, legal fees, and risks of litigation—burdens that the rule text itself repeatedly acknowledges, but then dismisses as 'indirect' or speculative, despite being concrete, foreseeable, and disproportionately challenging for small entities compared to larger firms. This rule would have required small businesses to evaluate and possibly rewrite their franchise, third-party contracts (like subcontracts) in relation to employees, to minimize the risk of having joint liability. For example, this would impact the type of legal, HR, and employee handbooks provided by franchisors to franchisees. In another example, prime contractors would have had increased liability with all of their dozens of subcontractors down the line. The NLRB only estimates costs of \$150 for small employers.

National Science Foundation rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

National Transportation Safety Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	4
Certified w/o a Basis	0	1	0	4
FRFA	0	0	0	0
Total	0	2	0	8

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Nuclear Regulatory Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	12	0	37
Certified w/o a Basis	0	0	0	3
FRFA	1	0	4	0
Total	1	12	4	40

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Peace Corps rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	2	0	3
FRFA	0	0	0	0
Total	0	2	0	3

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Pension Benefit Guaranty Corporation rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	1	0	3
FRFA	0	0	0	0
Total	0	1	0	5

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Personnel Management Office rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	9	1	19
Certified w/o a Basis	1	4	2	26
FRFA	0	0	0	0
Total	1	13	3	45

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Railroad Retirement Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	6
Certified w/o a Basis	0	1	0	1
FRFA	0	0	0	0
Total	0	3	0	7

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Securities and Exchange Commission rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	6	4	10	11
Certified w/o a Basis	1	0	2	4
FRFA	6	1	14	7
Total	13	5	26	22

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
88 FR 13872: Shortening the Securities Transaction Settlement Cycle	The rule imposes significant new recordkeeping and compliance requirements on small broker-dealers and investment advisers, expressly acknowledging that compliance will require "at least 230,160 hours" across affected entities—costs that fall disproportionately on small entities with limited staff and infrastructure. Specific obligations include making changes to business operations, upgrading or deploying new technology, financing changes due to a shortened settlement cycle, and—crucially—establishing, maintaining, and enforcing written policies and procedures for institutional trade processing, as well as extensive new paperwork requirements for recordkeeping, reporting, and date/time stamping documents. The rule repeatedly concedes that small entities must bear these new burdens, including substantial paperwork costs, but nonetheless dismisses their impact as insignificant, which is inconsistent with the documented scale and disproportionate effect of these compliance obligations.

Citation: Rule Title (click to see rule)	Description
87 FR 78770: Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers	This too is a major rule. A sitting Commissioner (Uyeda) objected that small entities would face “not insignificant” manager compliance costs and noted the lack of staggered compliance for smaller entities. The manager reporting obligation (say-on-pay on Form N-PX) would impose non-trivial new systems, data-mapping, and coordination costs, especially for smaller advisers. Commenters proposed alternatives such as de minimis thresholds and broader exemptions from filing for managers, but these were not adopted. Furthermore, the scope of the manager rules comes from a 1978 threshold of \$100 million in securities under discretionary management, which should have been updated by one or two orders of magnitude to reflect changed asset values over the intervening 44 years. The rule creates significant compliance obligations for small entities that cross the reporting thresholds, such as requiring monthly filings of Form SHO, ongoing daily monitoring of short positions, and detailed calculations of gross and net activity. These operational and reporting requirements impose additional costs, time, and administrative burdens, which disproportionately affect small entities with limited resources. The rule itself acknowledges that small managers can, in practice, meet the threshold (e.g., the \$10 million gross short position can represent 40% of a small entity's assets), and that calculating and monitoring compliance is complex and burdensome, directly contradicting the claim of no significant impact.
88 FR 75100: Short Position and Short Activity Reporting by Institutional Investment Managers	

Selective Service System rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	1
Certified w/o a Basis	0	2	0	3
FREA	0	0	0	0
Total	0	3	0	4

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Small Business Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	9
Certified w/o a Basis	0	6	0	15
FRFA	0	1	0	11
Total	0	8	0	35

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Social Security Administration rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	4	1	4	16
Certified w/o a Basis	0	1	1	1
FRFA	0	0	0	0
Total	4	2	5	17

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Special Counsel Office rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	1
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

State Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	2	0	5
Certified w/o a Basis	0	2	2	15
FRFA	0	1	0	1
Total	0	5	2	21

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 59613: Schedule of Fees for Consular Services–Passport Security Surcharge	This major rule increases the passport book security surcharge (PSS) from \$60 to \$80, imposing an additional \$20 cost per passport product processed. Small businesses that regularly require employees to obtain or renew passports—such as travel agencies, consultants, or firms with international operations—will face significant aggregate cost increases, which the rule itself quantifies as \$318 million in additional annual fees. The rule does not analyze whether a substantial number of small entities rely on these services for routine business operations, nor does it discuss options to minimize the impact on small entities as required by the Regulatory Flexibility Act, resulting in an unsupported certification of no SISNOSE.

Citation: Rule Title (click to see rule)	Description
88 FR 18243: Schedule of Fees for Consular Services—Nonimmigrant and Special Visa Fees	This major rule increases consular processing fees for nonimmigrant visas and Border Crossing Cards, which will result in direct, recurring costs for small entities such as travel agencies, law firms, and employers reliant on foreign workers. The State Department fails to identify small entities that apply for and pay for workers under these visas. For example, Advocacy has worked with many small businesses, small nonprofits and small governmental entities (schools) that apply for H visas (H–2A, H–2B, H–1B), L visas (high tech companies with employees who lateral), and O visas (small nonprofit companies). The State Department does not evaluate costs. These fee increases represent clear financial burdens that disproportionately impact small businesses with limited ability to absorb additional costs, yet the rule does not consider or estimate the cumulative economic impact or discuss alternatives for small entities, thus improperly certifying no SISNOSE despite imposing significant expenses.

Surface Transportation Board rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	1	0	5
Certified w/o a Basis	0	1	0	3
FRFA	0	0	0	0
Total	0	2	0	8

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Tennessee Valley Authority rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Trade Representative, Office of United States rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	2
Certified w/o a Basis	0	0	0	0
FRFA	0	0	0	0
Total	0	0	0	2

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

DOT/FAA Airworthiness Directives (14 CFR 25 or 39) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	1
Certified w/o a Basis	0	225	0	1181
FRFA	0	1	0	4
Total	0	226	0	1186

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

DOT/FAA Airspace rules (14 CFR 71) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	154	0	767
FREA	0	0	0	0
Total	0	154	0	767

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

DOT/FAA Standard Instrument Procedures (14 CFR 97) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	49	0	208
FRFA	0	0	1	0
Total	0	49	1	208

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse
** NONE **

Transportation Department (w/o 14 CFR 25, 39, 71, 97) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	1	16	3	61
Certified w/o a Basis	1	39	5	116
RFRA	2	4	3	9
Total	4	59	11	186

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
87 FR 25710: Corporate Average Fuel Economy Standards for Model Years 2024–2026 Passenger Cars and Light Trucks	The rule acknowledges that small internal combustion engine manufacturers do not meet the new standards and must petition for relief, imposing ongoing compliance, paperwork, and administrative costs, relying on the ability to petition does not eliminate these burdens but instead institutionalizes them. Moreover, the rule’s RIA acknowledges that the rule would increase the average purchase price of light-duty vehicles by more than \$1000. This purchase price effect could easily have been acknowledged in the RFA section of the rule. With several million small entities owning a light-duty vehicle, the cost of the rule for small entities is several billion dollars.

Treasury/IRS rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	3	4	4	16
Certified w/o a Basis	2	11	7	37
FRFA	4	2	10	5
Total	9	17	21	58

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
89 FR 77586: Requirements Related to the Mental Health Parity and Addiction Equity Act	This major rule imposes almost 3 million hours of new paperwork, data collection, and reporting obligations to demonstrate parity in mental health and substance use disorder benefits. The rule itself acknowledges average per-entity costs in the tens of thousands of dollars for these analyses, and explicitly requires ongoing annual costs, but certifies nonetheless.
87 FR 52618: Requirements Related to Surprise Billing	This major rule imposes significant burdens on small entities, especially thousands of independent physicians that bill out of network. Independent physicians face increased paperwork, lower reimbursement, and more complex arbitration procedures—while large hospital systems assimilate compliance more easily. It is one of a suite of rules that makes independent physician practices less viable.

Treasury Department (w/o IRS) rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	2	9	5	21
Certified w/o a Basis	1	10	1	44
FRFA	2	0	3	0
Total	5	19	9	65

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 53412: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond	This major rule requires compliance activities of at least 2 million hours in aggregate, mostly for health insurance issuers. Such paperwork and reporting requirements are especially onerous for small issuers, as these entities have fewer staff and resources to absorb such obligations relative to larger firms.

United States Agency for Global Media rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	0	0	0	0
Certified w/o a Basis	0	0	0	1
FRFA	0	0	0	0
Total	0	0	0	1

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse

** NONE **

Veterans Affairs Department rules

Category	FY 2024		Biden Admin.	
	Major	Nonmajor	Major	Nonmajor
Certified with a Basis	2	13	5	46
Certified w/o a Basis	1	6	3	34
FRFA	0	0	0	0
Total	3	19	8	80

Note: A basis has point estimates or ranges for the number of small entities affected and the typical impact on an affected small entity. Rules in the first row may nonetheless be prime examples of certification abuse due to the inaccuracy of their estimates.

Prime Examples of Certification Abuse	
Citation: Rule Title (click to see rule)	Description
86 FR 28692: Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program	The rule would reimburse mortgage servicers tens of millions of dollars for missed payments by veterans. The rule had a significant economic impact on a substantial number of small entities for much of the same reason that it is economically significant and major. Perhaps the VA came to a different conclusion because it considers significant economic impacts to be only adverse effects.

Questions for the Record
House Small Business Committee Hearing: “A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape”

Questions for the Record from Rep. Nydia Velázquez, Ranking Member, for Dr. Casey Mulligan, Chief Counsel, Office of Advocacy, Small Business Administration

Tariffs

- President Trump’s tariff roller coaster is still ongoing, despite his promise of making 90 trade deals in 90 days. Overall tariff rates changed at least 17 times between January and September, while new proposed tariffs through section 232 are being studied, and businesses await a Supreme Court decision on the President’s IEEPA tariffs. As a result, the National Federation of Independent Business’s (NFIB) uncertainty index remains elevated while optimism declines. Is your office soliciting feedback from small businesses about the uncertainty caused by the Administration’s numerous planned regulatory changes, and how it might be compounded with broader economic uncertainty?

Response: This question centers on data on small business sentiment. Evaluating data is not only a key function of Advocacy, but one of the very reasons Congress created the office 50 years ago. The data bear little resemblance to this question’s premise. Especially, the National Federation of Independent Business’s (NFIB) latest report is “December 2025: Small Business Optimism Continues to Rise” and that “the Uncertainty Index fell 7 points from November to 84, the lowest reading since June 2024.”¹

- While the future rates of tariffs are still uncertain, the costs are becoming clear: Analysts estimated tariffs cost small business owners an additional \$25,000 per month from April to September. Small business bankruptcies are up 10 percent this year, and up 23 percent in November alone. According to data from ADP, small businesses lost 120,000 jobs in November, while larger ones continued gaining. What are you hearing from small businesses about the overall impact of tariffs on their businesses?

Response: Fishermen from New Bedford and Gloucester, Massachusetts visited our office (SBA headquarters) and articulated concerns about foreign regulatory policies threatening their livelihoods. They specifically mentioned that European policies create an artificial trade deficit in seafood. These fishermen recommended that tariffs be considered as leverage in the international sphere.

Another visitor to SBA headquarters was a Chicago entrepreneur who owns coffee shops. She explained that the price of imported coffee beans had risen.

During both government shutdowns, I was able to continue listening to small businesses thanks to Congress’s special funding authority for our office. I heard about the fishing regulations and the Chicago coffee shops during the first shutdown.

- What steps have you taken to convey these views to the White House and the Administration?

Response: When the federal agencies that oversee a policy of concern to small businesses are not funded, I am unable to get a meeting with them to convey small business concerns.

¹ Nat’l Fed’n of Indep. Bus., *Small Business Optimism Index* (Dec. 2025), https://www.nfib.com/news/monthly_report/sbet/.

This administration has been unprecedented in seeking input from the Office of Advocacy. Agencies frequently ask what small businesses are telling us and how they can make policy better. The evening before the government reopened in November, the White House called me at 8:00 p.m. and directed me to report the next day to share with agencies what small businesses have been saying. I arrived prepared to share the Chicago entrepreneur's story about rising coffee prices. Before I could mention her concerns, the Department of Commerce announced to the entire group that tariffs on certain agricultural products, including coffee, would be set to zero.

President Trump himself signed Executive Order 14358 the following day. In that EO, President Trump stressed the kind of outreach that is at the heart of Advocacy's mission. Especially, the President was "considering the information and recommendations these officials have provided to me, the status of negotiations with various trading partners, current domestic demand for certain products, and current domestic capacity to produce certain products, among other things...."

- The Administration argued in front of the Supreme Court that IEEPA allows them to "regulate" international trade, thus giving them the power to use tariffs. Given that this regulation has a significant economic impact on a substantial number of small entities, has the office of Advocacy done anything to calculate the impact?

Response: The Regulatory Flexibility Act (RFA) specifies the circumstances in which the promulgation of a new rule must include an analysis of economic impact on small entities. The federal government can regulate without promulgating a rule as defined by the RFA, as often occurs when Congress passes a bill and the President signs it. The IEEPA policies before the Supreme Court are not rules as defined by the RFA. Even if they were applicable rules, the obligation for economic impact estimation falls on the agencies rather than the Office of Advocacy.

With that said, the Office of Advocacy curates and reports data about small businesses outside the RFA process. One of my priority research projects since taking office has been to address a fundamental gap in our understanding. Believe it or not, there is no comprehensive summary statistic of what fraction of federal revenue is paid by small businesses and their employees. We have hired good people to work on this research, though we are not finished yet.

- Alongside uncertainty and cost, small businesses must also deal with the regulatory complexity of tariffs. In January 2017 this was a simple three step process, but as of November 2025, this could be up to 7 complex steps to determine the actual tariff rate. As a result, many small businesses are hiring brokers to handle compliance, which are increasing prices due to new demand. Have you been tracking the cost of tariff compliance for small firms?

Response: No business has cited paperwork burdens associated with tariffs during my outreach efforts.

- President Trump's tariffs are raising prices on small businesses, and those costs are being passed on to American consumers. What is Advocacy doing to help small businesses specifically address the costs of the tariffs?

Response: Your premise is confused, at best. Even the New York Times acknowledges that the economy "is far better than the dire forecasts of last spring, when many economists warned that President Trump's tariffs would lead to runaway inflation, a recession — or both. Instead, ... gross domestic

product, which measures overall economic output, grew at a robust pace in the third quarter.”² An important source of the massive forecast errors has been analysis of a policy caricature, rather than the actual policies implemented and experienced by small businesses in the real world.

Regarding Advocacy’s actions to help small businesses, two of our core functions are listening to small businesses and communicating their experiences to policymakers, which we execute daily.

- A number of letters were entered into the record from small business owners who have raised specific concerns over President Trump’s tariffs, what specific steps are you taking to address each and every concern regarding the imposition of the tariffs?

Response: Two of Advocacy’s core functions are listening to small businesses and communicating their experiences to policymakers.

- How many letters have you sent and plan to send to the White House and agencies on President’s Trump’s tariffs?

Response: The Office of Advocacy has been governed by Executive Order 13272 since 2002. That EO requires Advocacy to respect the confidentiality of interagency communications.

- How many calls, meetings (in-person or online) have you had with the Administration regarding the tariffs, and with whom have you communicated?

Response: The Office of Advocacy has been governed by Executive Order 13272 since 2002. That EO requires Advocacy to respect the confidentiality of interagency communications.

- How many submissions related to tariffs is Advocacy receiving through its hotline and regular channels?

Response: Since its inception, the scope of the Red Tape Hotline has been “federal regulation” and “red tape for small businesses” for the purpose of “shap[ing] smarter, more responsive regulation.”³ I have not attempted to classify or tally categories of out-of-scope submissions.

Hotline

- In your response to my November 14th letter, you wrote “Since its inception, the scope of the Red Tape Hotline has been ‘federal regulation’ and ‘red tape for small businesses’ for the purpose of ‘shaping smarter more responsive regulation.’ Advocacy has not attempted to classify or tally categories of our-of-scope submissions.” Now, let me share Advocacy’s statutory duties, “The Office of Advocacy shall serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses.” To hear that you are not tracking submissions related to tariffs, which directly affect small businesses’ costs, competitiveness, and supply chains, and fall squarely on Advocacy’s statutory mission is a dereliction of your duties. Please share what specific steps you will take to improve upon fulfilling this statutory requirement?

² Ben Casselman & Colby Smith, *The Economy Avoided A Recession in 2025, but Many Americans are Reeling*, N.Y. TIMES (Dec. 22, 2025), <https://www.nytimes.com/2025/12/22/business/economy-unemployment-wages-affordability.html>.

³ See U.S. Small Bus. Admin., Off. of Advoc., *Report Burdensome Regulations*, <https://advocacy.sba.gov/resources/hotline/> (last visited Dec. 21, 2025).

Response: We agree that international-trade policies are in the scope of policies referenced in 15 U.S.C. § 634c. However, no statute dictates how the Office must collect “complaints, criticisms, and suggestions”—just that it must do so. I have been listening to small businesses and communicating their experiences to policymakers. As I stated during the hearing, the Hotline is one of many tools that Advocacy uses to solicit feedback from small businesses. The example of the Chicago coffee shop owner shows that I effectively use the right tool for international-trade policies.

Since its inception, the scope of the Red Tape Hotline has been “federal regulation” and “red tape for small businesses” for the purpose of “shap[ing] smarter, more responsive regulation.”⁴ Nothing in Advocacy’s founding statutes requires it to use a hammer on a job that is better suited by a screwdriver.

- In a recent meeting with Committee staff, Advocacy staff mentioned that SBA is filtering the hotline submissions before they reach Advocacy. Given that Congress expressly intended for Advocacy to be independent of SBA, how is that not a violation of Congressional intent?

Response: Pursuant to Public Law 94-305, SBA is to provide Advocacy with computer support services, web services, telecommunications utilities, and administrative support services. SBA’s answer desk is a telecommunication utility and allows Advocacy to receive both phone calls and emails, allowing us an additional channel by which to receive small business concerns. SBA’s Office of the Executive Secretariat screens for cases related to SBA issues (e.g., loans, disaster response, etc.) and refers all others to the Office of Advocacy. Because all the inquiries run through the same platform, Advocacy staff can see all submitted requests. SBA merely hosts and provides administrative support.

- What type of outreach are you conducting to increase awareness of this hotline and ensuring all entities, not just those supporting deregulatory efforts can use it?

Response: Advocacy continues to prepare marketing materials for partners and constituents to circulate. We are happy to hear from any and all small businesses on their regulatory issues.

- With regard to the deregulatory hotline, could you please provide a description of the procedural steps that are followed from the time an inquiry is received to the point where action is taken, and the role of SBA in this process.

Response: While each submission is handled differently depending on the issue, Advocacy’s basic procedures for Hotline submissions include the following steps:

- *A submitter calls or emails the Red Tape Hotline, which generates a case in Microsoft Dynamics (the current platform SBA and Advocacy utilize to manage Hotline submissions).*
- *An SBA staffer screens for submissions that relate to SBA programs or would otherwise be considered spam. The rest of the submissions are then assigned to Advocacy’s administrative team, who then assigns the submission to the appropriate staffer in Advocacy’s Office of Interagency Affairs. Advocacy always has access to every submission that is received through the Hotline, including ones that SBA filters out.*
- *The Office of Interagency Affairs staffer will review the case based on the initial information that was collected via phone or email.*
- *The staffer will then contact the Hotline submitter by phone, email, or both to better understand the issue and confirm whether the submitter is a small business, small organization, small governmental jurisdiction, or their representative.*

⁴ *Id.*

- In instances where the issue is not a regulatory one, the staffer will explain to the submitter the reasons why Advocacy is not the appropriate office to contact and, where appropriate, provide additional resources and information for the Hotline submitter.
- In instances where the issue is a regulatory one or otherwise in the scope of Advocacy's work, the next steps vary depending on a variety of factors.
 - In some cases, the issue can be incorporated into a public comment letter if there is a relevant open comment period. For example, Advocacy received a submission from the Hotline on the FDA's medical device establishment fees. The submitter's comments were incorporated into a public comment letter to the Department of Health and Human Services on its request for information on the deregulation of its rules and policies.⁵
 - Advocacy staff will contact the relevant agency to share the information with the appropriate agency staff. If the submitter has asked to connect with the agency themselves, Advocacy will connect the submitter with relevant agency staff.
 - In some instances, Advocacy has been successful at resolving the submitter's individual issue. A recent example includes a case where a small toy manufacturer experienced delays at a port due to an agency incorrectly interpreting its own regulations. Advocacy reached the appropriate agency officials to correct the issue and get the manufacturer's products released within the same week.⁶
 - If the submission relates to an unfair regulatory enforcement action, Advocacy may refer the submission to SBA's Office of the National Ombudsman.
 - It is my understanding that submissions to the deregulatory hotline are first received and filtered by SBA before being forwarded to the Office of Advocacy. I am concerned that this process is inconsistent with Congress's intent for Advocacy to be independent of SBA and the Administration. Could you please explain how the confidentiality of the small business is protected – particularly when the submissions are first handled outside of the Office of Advocacy?

Response: Advocacy has a long track record of safeguarding confidential information, and the office prides itself in keeping information secure for stakeholders and regulators. Small businesses who contact Advocacy confide in our staff and often provide proprietary information to help advance the mission of the office: preventing one-size-fits-all regulations from harming small businesses. Advocacy values the trust its partners place in our team, and, as the last fifty years demonstrate, will not jeopardize that trust under any circumstances. Advocacy staff treat all conversations with Hotline submitters as confidential unless the submitter wants their information disclosed to the agency. Additionally, Advocacy staff treat all conversations with agencies as confidential interagency communications, including conversations related to Hotline submissions.

In doing so, Advocacy has earned the trust of small businesses. For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach.

- Concerns have been raised that trade associations and law firms – which represent both big and

⁵ U.S. Small Bus. Admin., Off. of Advoc., Comment Letter on Health and Human Services' Request for Information: Ensuring Lawful Regulation and Unleashing Innovation to Make American Healthy Again, 44 (July 14, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/07/Comment-Letter_Advocacy-Comments-to-HHS-Deregulatory-RFI.pdf.

⁶ Charlotte Scott, SBA's Red Tape Hotline 'Quite Literally Saved Christmas' for One Business Owner, SPECTRUM NEWS 1 (Dec. 5, 2025), <https://spectrumnews1.com/wi/milwaukee/news/2025/12/05/wisconsin-red-tape-hotline-christmas>.

small businesses – participate in your roundtable events and that Advocacy is sharing the views of big businesses in its comment letters. What specific steps are you taking to ensure that the views of small businesses are not being overshadowed by the larger and more well-resourced law firms and trade associations participating in the rule-making process?

Response: Advocacy's roundtables are open to the public. However, roundtables are not our only method of conducting outreach to small entities. Advocacy staff, including our regional affairs team and our staff in Washington, DC, will hold individual meetings and site visits with small business owners to hear their concerns daily. Part of Advocacy's protocol when working with groups that represent small entities is to speak directly with their small entity members to verify their perspectives.

- Will you commit to sharing the names of the firms and trade associations participating in roundtables, as well as the businesses they claim to represent, with this Committee?

Response: Advocacy's roundtables are open to the public. Attendee lists may be provided for individual roundtables upon request.

- On December 15, SBA launched a deregulatory hotline to support President Trump's affordability agenda and charged Advocacy with working across federal agencies to cut regulations that have driven up prices in certain industries.
 - Who authorized the creation of the Deregulatory Task Force and under what statutory or administrative authority?
 - What authority does the task force have to cut regulations, as opposed to merely recommending actions to agencies?
 - Are federal agencies required to respond to Advocacy's findings, and under what authority?
 - Given that the Office of Advocacy is intended to be an independent voice for small businesses, how does operating an SBA-created task force within the agency preserve that independence?
 - Are task force members subject to direction or review by political appointees?
 - What safeguards are in place to ensure that the task force reflects small business input from all sectors rather than agency or political priorities?

Response: Not being the SBA Administrator, I cannot speak to what authorities the Administrator relies on in announcing her initiatives. However, I can address Advocacy's actions: Advocacy continues to exercise its existing authorities under Public Law 94-305, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272. Public Law 94-305 requires that the management of the Office be vested in a Chief Counsel for Advocacy – a political appointee.⁷ Members of Advocacy are thereby subject to the direction and review of a political appointee.

Our role remains advisory. We identify costly regulations and communicate small business concerns to agencies but have no authority to directly rescind or change regulations. 5 U.S.C. § 604(a) requires an agency's final regulatory flexibility analysis to contain a response to any comments filed by the Chief Counsel for Advocacy.

These longstanding statutory functions strongly support an affordability agenda. Especially, our outreach efforts bring small-business regulatory costs to light while its interagency activities are

⁷ 15 U.S.C. § 634a says that the Chief Counsel "shall be appointed from civilian life by the President, by and with the advice and consent of the Senate."

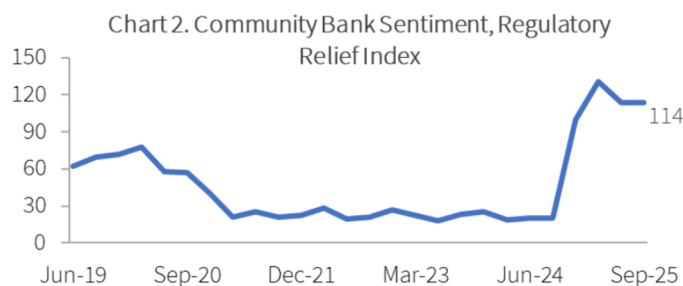
intended to shift policy toward less burdensome methods of achieving agency missions. President Trump's affordability agenda is part of the reason why agencies' engagement with Advocacy has been unprecedented.

Regulatory Process

- President Trump's planned rollback of rules will harm small businesses. Agencies are required to follow the Regulatory Flexibility Act and host SBREFA panels. What steps have you taken to make sure the views of small businesses that will be harmed by these regulatory rollbacks are heard throughout the deregulation process? Please provide specific examples.

Response: Your premises are incorrect: President Trump's regulatory agenda is of great benefit to small businesses. For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach. Regulations already finalized in this Administration save small entities more than \$110 billion.⁸

Also notable is the Regulatory Relief Index component of the Community Bank Sentiment index. It surged and has remained elevated since President Trump won the 2024 election, as shown in Chart 2 of the latest edition of Advocacy's Economic Bulletin.



Thanks to renewed compliance with 5 U.S.C. § 602(b), I have also seen drafts of the Unified Agenda. I expect the new actions to also have substantial benefits for small entities, although what really counts are the voices of small businesses that we will hear during and after each comment period.

You are also incorrect that agencies are required to host SBREFA panels. Of the 78 agencies I contacted on my first day as Chief Counsel regarding RFA compliance, only three would ever convene a SBREFA panel: EPA, OSHA, and CFPB. Those agencies need not convene a SBREFA panel if they can certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

One point where we agree is that the core of the Regulatory Flexibility Act is the requirement to hear from small entities as the rules go through the federal rulemaking process. Advocacy uses several tools

⁸ This total counts only the regulations where the Office of Advocacy had notified regulators of the benefits to small entities of rescission or reform.

to encourage and facilitate their participation. The tools include regulatory alerts to raise awareness that rule changes are coming and that comments (to Advocacy, or the regulators directly) are welcome. They include visiting small entities where they are, especially through our Regional Affairs team and the Red Tape Hotline. They include virtual and in-person roundtables on specific regulatory topics. Advocacy engaged about 12,000 small entities during the first year of the Trump administration, including 25 regulatory roundtables.

Advocacy's toolkit also includes its role in conducting the SBREFA panels. My public testimony and reports emphasize the importance of factual certifications, because a fictional certification by EPA, OSHA, or CFPB would bypass the panel process, missing opportunities for small-entity feedback that would have improved the rules. Fictional certifications were rampant at EPA during the Biden Administration, to the point that it convened zero SBREFA panels until Fiscal Year 2024. It is no accident that President Biden failed to even nominate a Chief Counsel for Advocacy, while President Trump's nominee reported on certification abuse from the day he was sworn in.

- On December 15, 2025, you sent a letter to Russell Vought, the Acting Director of the CFPB, regarding a proposed rule to scale back small business lending reporting requirements under Section 1071 of the Dodd-Frank arguing the original rule would be “unnecessary burdensome to small financial institutions.” You also stated that you received extensive feedback from stakeholders. What stakeholders did you hear from and describe the feedback you received?
 - The Committee, along with the Financial Services Committee, has received extensive testimony on multiple occasions that the 2023 rule would actually increase lending to small businesses because it would help identify the locations where gaps exist. Did the Office of Advocacy conduct broad outreach to ensure feedback from a diverse cross-section of small business entities, or did it primarily rely on input from those seeking to roll back the rule?
 - Given the fact that small businesses are on record in support of the rule, why then did you waive the statutory requirement that CFPB hold a SBAR panel?

Response: In 2020, a SBAR panel was conducted for CFPB's 1071 rule. Multiple recommendations from the 2020 panel report formed the basis of the CFPB's 2025 proposed revisions to the 1071 rule. Additionally, during the 2025 rulemaking process, Advocacy reengaged small entity representatives (SERs) from the 2020 panel and verified that their concerns and recommendations have not changed. Advocacy also heard similar feedback from non-SER small entities during our efforts to identify deregulatory priorities in early 2025.

Additionally, throughout 2025 Advocacy heard concerns from non-SERs about the implementation of the 2023 final rule as we sought input from small entities on President Trump's deregulatory priorities. These concerns mirrored issues raised by the SERs during the SBAR panel. To give non-SERs an additional chance to provide input on the proposed rule, Advocacy held a small entity roundtable on November 25, 2025, where similar issues were raised and there was general support for the aforementioned proposed changes to the 1071 rule.

Convening an additional SBAR panel in this instance would not advance the effective participation of small businesses in the rulemaking process. Rather, it would create an additional requirement for small businesses to convey information that they have already provided and further delay implementation of the Section 1071 rule and delay its benefits to small businesses.

- Please provide a detailed list of the small entity representatives, including names and organizations, that Advocacy reached out to who participated in the 2020 SBAR panel and a detailed list of the stakeholders who participated in the November 25, 2025 roundtable.

Response: There were 20 small entity representatives that participated in the 2020 SBAR panel.⁹ Advocacy was able to reconnect with three of these SERs that served on the original panel to verify whether their concerns had changed. To protect confidentiality, we will not publicly disclose the names of the SERs we consulted to inform the Chief Counsel's decision to waive the panel requirement.

There were 32 total attendees at the November 25, 2025, roundtable, including Advocacy staff. Stakeholder attendees included representatives from the following:

- Actum LLC
- America's Credit Unions
- American Financial Services Association
- American Bankers Association
- National Association for Latino Community Asset Builders
- Independent Community Bankers of America
- Vermont Bankers Association
- National Community Reinvestment Coalition
- NALCAB
- Association for Enterprise Opportunity
- Rapid Finance
- Pacific Community Ventures
- Council of Federal Home Loan Banks
- New York Life Insurance Company
- Small Business Majority
- Prism Group
- Nexi
- Hope Enterprise Corporation
- Accion Opportunity Fund
- SomerCor
- Brownstein
- Responsible Business Lending Coalition
- Partnership for Financial Equity

Other stakeholders registered for the roundtable but did not attend and/or chose to provide Advocacy with feedback individually.

- Have any agencies certified that deregulatory actions on certain rules would have a significant economic impact on a substantial number of small entities?
 - This same APA process needs to be followed, correct?
 - If these actions are proceeding without a proper certification, why hasn't Advocacy sent formal letters, and isn't it your responsibility to hold agencies accountable if they do not follow the RFA?

Response: Certification under 5 U.S.C. § 605(b) refers to rules that are NOT expected to have a "significant economic impact on a substantial number of small entities." What follows assumes that

⁹ CONSUMER. FIN. PROT. BUREAU, FINAL REPORT OF THE SMALL BUSINESS REVIEW PANEL ON THE CFPB'S PROPOSALS UNDER CONSIDERATION FOR THE SMALL BUSINESS LENDING DATA COLLECTION RULEMAKING 15-16 (Dec. 14, 2020), https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa-report.pdf.

your question does not refer to certification in that sense.

Yes, the Trump administration has published approximately one hundred Initial Regulatory Flexibility Analyses (IRFAs) and Final Regulatory Flexibility Analyses (FRFAs) because it thinks that its action – typically deregulatory actions¹⁰ – may have a significant economic impact on a substantial number of small entities.

Your premises about Advocacy's actions are incorrect. I have personally sat with agency personnel and helped prepare IRFAs and FRFAs, both as part of Advocacy's RFA-training mission and as part of communicating what Advocacy has heard from small entities about regulatory burdens.

No Chief Counsel in Advocacy's history matches me in terms of the volume of communications with agencies about the importance of factual certifications. None matches me in terms of offering concrete instruction, tailored to individual-agency circumstances, as to the crucial distinction between factual and fictional certifications. None has so extensively articulated how "much more is at stake than technical compliance." In doing so, I employ a range of tools that include, but are not limited, to "formal letters."

The Office of Advocacy has long emphasized that small businesses tend to get the most benefit when the office engages regulators early in the process.¹¹ That is why the Chief Counsel's tools also include interagency communications on regulatory agendas and the drafting of proposed rules. I agree with this approach so strongly that on my first day I began to seek an end to longstanding non-compliance with 5 U.S.C. § 602(b), which requires regulatory flexibility agendas to be shared with the Chief Counsel for his comment. I deeply appreciate the cooperation of President Trump's team as together we achieved a compliance increase of more than 3,000 percent.

- We learned that FEMA exempted Camp Mystic from its flood regulations, essentially removing dozens of buildings from its 100-year-old flood map prior to document expansion. Experts have said Camp Mystic's request could have been an attempt to avoid the requirement to carry flood insurance or to lower its premiums or to add new structures under less costly regulations. Either way, the deaths of those children were not only senseless, but were preventable. This tragedy raises serious concerns over the Trump Administration's deregulatory agenda and the consequences of repealing regulations that have clear benefits to public safety. What steps will Advocacy take to make sure that the regulatory changes – particularly those with life and death consequences— are not made solely on lowering costs or reducing regulatory burdens for small businesses?
 - Do you agree that the risk to health and safety – especially for children – should remain paramount and an overriding concern for agencies?
 - To clarify, while the cost to small business is certainly a factor that agencies must consider, it should not be the primary factor – especially when health and safety are at stake. Agencies in their review of a rule should never allow small businesses' concerns to trump safety protections, correct?

Response: The Camp Mystic tragedy was devastating, and any policy or process that contributed to

¹⁰ OMB/OIRA reports that, so far in the Trump Administration, regulatory agencies have far exceeded the Administration's goal of ten deregulatory action for every one regulatory action. See The White House, *White House Office of Management and Budget's Office of Information and Regulatory Affairs Releases End of Year Deregulatory Stats: Showing the Trump Administration Has Best Deregulation Year in History* (Dec. 19, 2025), <https://www.whitehouse.gov/briefings-statements/2025/12/32750/>.

¹¹ U.S. SMALL BUS. ADMIN. OFF. OF ADVOC., A GUIDE FOR GOVERNMENT AGENCIES: HOW TO COMPLY WITH THE REGULATORY FLEXIBILITY ACT (Aug. 2017), <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf>.

those deaths deserves scrutiny. Agencies should follow the laws that apply to them. The U.S. Code, as clarified by the federal courts, is where Congress directs agencies as to their mission and to their engagement with small entities.

Your phrasing omits part of what Congress wrote in the Regulatory Flexibility Act, “The Congress finds and declares that (1) when adopting regulations to protect the health, safety and economic welfare of the Nation...” [emphasis added] Furthermore, the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) gave the Occupational Safety and Health Administration special obligations to engage small entities that it does not require of many other agencies that do not have “health” or “safety” in their names.

- President Trump issued an Executive Order ordering the repeal of the “Maintaining Acceptable Water Pressure in Showerheads” rule within 30 days of the publication of the executive order. He specifically states that “notice and comment is unnecessary because I am ordering the repeal. The rescission shall be effective 30 days from the date of publication of the notice.” Why didn’t the Office of Advocacy weigh in when the Trump Administration announced the repeal of the showerhead rule within 30 days, bypassing the notice and comment requirements under the Administrative Procedures Act?
 - It has been reported that some plumbing trade associations have stated that the rollback would have a negative impact on manufacturers who invested in new products to comply with the water efficiency standards. Why didn’t Advocacy weigh in on this EO given the fact that this type of regulatory whiplash imposes real costs on small businesses?
 - Will you commit to weighing in when the Administration bypasses the notice and comment period for small businesses in the future?

Response: The following answer assumes that you refer to an Executive Order from April 2025.

Although my confirmation hearing occurred in early March, it would have been unconstitutional for me to write a public letter in April or May on Advocacy letterhead because I was not confirmed for the Chief Counsel position until August 1.

A point of bipartisan agreement that arose during your committee’s January 7 hearing was that President Biden, and then Senate Democrats, were gravely mistaken to leave the Chief Counsel position vacant for so long.

Already on my first day as Chief Counsel, I notified President Trump and Congress about the frequency of rules that claim exemption from the Regulatory Flexibility Act, largely as part of bypassing notice and comment. My report listed more than 2,000 such rules and tallies of the agencies most engaged in the practice. I am unaware of any previous Chief Counsel providing such extensive information on the RFA-exempt rulemaking pathway.

- Why didn’t the Office of Advocacy object to the President’s Executive Order repealing the Showerhead rule given it is a clear violation of the Administrative Procedures Act?
 - The repeal of the rule created significant uncertainty for small plumbing manufacturers, did Advocacy conduct any outreach to those affected businesses in response to the Executive Order? If not, why?

Response: The following answer assumes that you refer to an Executive Order from April 2025.

Although my confirmation hearing occurred in early March, it would have been unconstitutional for me to write a public letter in April or May on Advocacy letterhead because I was not confirmed for the Chief Counsel position until August 1.

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to write a public letter in April or May on Advocacy letterhead because I was not confirmed for the Chief Counsel position until August 1.

A point of bipartisan agreement that arose during your committee's January 7 hearing was that President Biden, and then Senate Democrats, were gravely mistaken to leave the Chief Counsel position vacant for so long.

- In announcing the Executive Order to repeal the Biden-era showerhead rule, President Trump stated, "In my case, I like to take a nice shower, to take care of my beautiful hair. I have to stand under the shower for 15 minutes til it gets wet. It comes out drip, drip, drip. It is ridiculous." Regardless of how we like our shower pressure, clearly, the process under the Administrative Procedures Act was not followed. Did you raise concerns with OIRA or the Department of Energy about the lack of process or involvement of small business manufactures?
 - Moving forward will you commit to pushing back publicly when the Administration tries to repeal rules affecting small businesses without following the basic notice and comment period?

Response: The following answer assumes that you refer to an Executive Order from April 2025.

Although my confirmation hearing occurred in early March, it would have been unconstitutional for me to write a public letter in April or May on Advocacy letterhead because I was not confirmed for the Chief Counsel position until August 1.

A point of bipartisan agreement that arose during your committee's January 7 hearing was that President Biden, and then Senate Democrats, were gravely mistaken to leave the Chief Counsel position vacant for so long.

Already on my first day as Chief Counsel, I notified President Trump and Congress about the frequency of rules that claim exemption from the Regulatory Flexibility Act, largely as part of bypassing notice and comment. My report listed more than 2,000 such rules and tallies of the agencies most engaged in the practice. I am unaware of any previous Chief Counsel providing such extensive information on the RFA-exempt rulemaking pathway.

- How does the Office of Advocacy view the "good cause" clause, particularly in light of its use in the rush to roll back regulations? Do you believe that the "good cause" should apply to deregulatory actions that deny small businesses an opportunity to provide input?

Response: Every situation is different. Advocacy will always strive to seek the input of small entities when agencies use the "good cause" exemption. To the extent that there is a pattern to their response, small entities have been unlikely to object to the use of the "good cause" exemption for deregulatory actions. They would rather see the regulatory relief in question be finalized as soon as possible. For instance, in 2023, the "good cause" exemption was used by the Biden administration to clarify the definition of the "waters of the United States" after the Supreme Court's Sackett v. EPA decision. Small entities did not object to this because they realized the importance of having the EPA attempt to comply with the Court's ruling. Permits could not be issued for construction projects until EPA finalized this clarifying rule. Small entities understood it was essential for EPA to issue the rule as soon as possible to allow permits to proceed. Thus, there was no objection to the "good cause" exemption.

Advocacy systematically tracks the use of RFA exemptions. Already on my first day as Chief Counsel, I notified President Trump and Congress about their frequency. My report listed more than 2,000 such

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rules and tallies of the agencies most engaged in the practice. The data is publicly available at data.sba.gov. We are also happy to consider analyses of the data that may be of interest to the committee.

- Courts have increasingly pushed back against the use of the “good cause” clause as a shortcut to bypass the notice and comment period. What steps has Advocacy taken to ensure small businesses have a voice in the process, and have you had discussions with the White House and Agency heads?

Response: Already on my first day as Chief Counsel, I notified President Trump and Congress about the frequency of rules that claim exemption from the Regulatory Flexibility Act, largely as part of bypassing notice and comment. 78 agencies heads were also provided a copy of the report, which listed more than 2,000 such rules and tallies of the agencies most engaged in the practice. I am unaware of any previous Chief Counsel providing such extensive information on the RFA-exempt rulemaking pathway.

- The RFA requires agencies to consider the impacts of their regulatory proposals on small entities. But Advocacy’s recent comment letters focus on the costs of regulations for small businesses. That is only half of the equation. Why are you not focusing on the benefits of regulations to small businesses, and what needs to be done to get a complete analysis of the impact on small businesses?

Response: Advocacy focuses on what small entities have to say. With many rules and large number of small entities who might weigh in (we hear from 12,000 a year), we hear about costs and benefits. For example, regarding CFPB’s 2025 proposed rule “Small Business Lending Under the Equal Credit Opportunity Act (Regulation B),” at least one small entity noted the value of CFPB having “visibility into lending patterns for businesses in the \$1-5 million revenue range with access-to-capital challenges.”¹² We relayed that comment to CFPB with a suggestion as to how to achieve that statutory goal as “without imposing unnecessary burdens on the public.”¹³

With that said, we have noticed that well more than half of the comments are about regulatory costs. That is to be expected based on the wisdom expressed in the Regulatory Flexibility Act itself. Small businesses do not have dedicated compliance departments or retain K-street lobbyists. Hardly any of them are located in the DC-metro area. They went years without even having a Senate-confirmed Chief Counsel for Advocacy. In a small-business-advocacy vacuum, we expect that regulations would be put in place to serve those at the table – such as big businesses, environmental groups, and the bureaucracy itself – at the expense of those who were not. The prevalence of fictional certifications is another symptom of the problem.

- The American Action Forum’s regulation tracker assigned a cost of \$1.8 trillion to rules made under the prior administration. However, AAF makes its underlying data available, and we can see that they mistook the full cost of all energy-related provisions from the Inflation Reduction Act as the cost of a single emissions rule. That rule was actually estimated to cost about a fifth of the amount AAF listed. Given the magnitude of this error, which overstated the cost of one rule by \$670 billion, what process do you use to verify claims like this one before amplifying them?

Response: I do not amplify AAF’s findings. Instead, I did my own analysis and publicly corrected

¹² U.S. Small Bus. Admin., Off. of Advoc., Comments on Proposed Small Business Lending Under the Equal Credit Opportunity Act (Regulation B) (Dec. 15, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/12/Comment-Letter-Small-Business-Lending-Under-the-ECOA_121525.pdf.

¹³ The quote is from the Regulatory Flexibility Act of 1980.

them.¹⁴

- In your testimony before the Committee, you stated President Biden “finalized 12,000 rules that would cost about \$6 trillion,” and later in your testimony you state, “that you counted the rules in the Federal Register.” However, you failed to mention that under the same method, President Trump issued 12,961 rules in his first term, why?
 - Moreover, if you eliminate rules that were reissued due to a technical correction or omission the number of final rules for the Biden Administration drops by 2,601 and by 2,175 for the first Trump Administration. Why did you misrepresent the facts?
 - Your analysis counts rules governing temporary closures, such as Coast Guard rules to close waterways for special events, which total 1,694 rules under President Biden, and 2,217 rules under President Trump. Why did you include this type of temporary, event specific rules in your calculation, and do you acknowledge that doing so is misleading the Committee on the true scope of regulatory activity?
 - The American Action Forum (AAF) identified 1,167 Rules published under President Biden and 1,313 Rules published under President Trump’s first term. Please explain the discrepancy in detail.

Response: I recognize and agree that not all rules are the same and that raw aggregate counts need context. However, your false statements about my reporting serve to perpetuate the problem. The reality is that I have gone to historical lengths to provide your committee with the richer context that you are requesting:

- *On August 5, 2025 – my first day as Chief Counsel – I provided this committee a detailed report that excluded technical corrections and separated “temporary, event specific” rules. Among other things:*
 - *It separated Coast Guard rules from other DHS rules.*
 - *It separated air worthiness directives, air space rules, and air instrument rules from other rules from the DOT.*
 - *It separated EPA Implementation Plans from other EPA rules.*
 - *It separated FERC rules from the rest of the Energy Department.*
 - *It separated AMS rules from the rest of USDA.*
 - *It separated NOAA rules from the rest of Commerce.*
 - *It separated CMS rules from the rest of HHS.*
 - *It separated FWS from the rest of Interior.*
 - *It separated IRS rules from the rest of Treasury.*
 - *It provided “TOP VIEWED” flags on rule titles to help distinguish rules according to the amount of public interest.*
- *On October 7, 2025, I copied this committee on a letter to GAO regarding RFA compliance. It focused on major rules under the Congressional Review Act.*
 - *Arguably, major rules are among the “top” four percent of the 12,025 final rules from the Biden Administration, and*
 - *Major rules exclude the “temporary, event specific rules” that you would like excluded.*
- *On January 5, 2026, I provided this committee with another detailed report that tracked many of the same metrics as the August 5 report. In addition, it showed results that*

¹⁴ *Trump’s Regulatory Rollback: Saving Americans \$907 Billion and Counting: Hearing Before the S. Comm. on Small Bus. & Entrepreneurship*, 119th Cong. (2025) (testimony of Casey B. Mulligan, Chief Counsel, Office of Advocacy, U.S. Small Business Administration), https://advocacy.sba.gov/wp-content/uploads/2025/11/FINAL-Mulligan-Testimony_11192025.pdf.

deliberately downweighted “temporary, event specific rules”:

- *Major rules separate from non-major rules (Tables 1 and 2)*
- *Weighted aggregates of the 12,025 rules that use FederalRegister.gov page views as weights. As a result of weighting, “temporary, event specific rules” have no more than a minuscule effect on the reported statistics.*

- Although the statute does not expressly use the word “independent,” Congress intended the Office of Advocacy to operate independently from the White House, SBA, and other Federal agencies, and its effectiveness depends on maintaining that independence. Do you agree to maintain that independence and faithfully represent the views of small businesses?

Response: I pride myself on following the laws of the United States and urge regulators to do the same. Although you have not defined “independent,” I assume that you have in mind the following parts of the U.S. Code. I agree that these parts are designed to help small entities, especially by building a capability for Advocacy to raise concerns with policies promulgated by the Small Business Administration or any other part of the federal government:

- *“The management of the Office shall be vested in a Chief Counsel for Advocacy....” (15 U.S.C. § 634a).*
- *A special hiring authority (15 U.S.C. § 634d). Notably, in 1994, Congress struck the clause that hiring would occur “after consultation with and subject to the approval of the Administrator.”*
- *“The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. ... Prohibition. The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.” (15 U.S.C. § 634f).*
- *Budgetary line item and authorization of appropriations (15 U.S.C. § 634g). This has enabled Advocacy to remain fully open while other parts of the federal government were shut down due to funding lapse.*
- *Intervention rights (5 U.S.C. § 612).*

I serve as Chief Counsel for Advocacy at the SBA, a position appointed by the President with the advice and consent of the Senate. The governing statute (15 U.S.C. § 634a) does not provide a term of office or any for-cause removal protection. Accordingly, absent some other applicable legal constraint, the President is generally understood to be able to remove the Chief Counsel at the President’s discretion.

- Despite the rhetoric you may hear today, most agencies have been better at assessing the impact of their rules on small entities since the passage of the Regulatory Flexibility Act. For example, the EPA sets more stringent standards for pollution by large entities compared to smaller firms, lowering the cost of the rule to small businesses while still taking steps to protect our air and water quality. What steps do you plan to take to ensure that agencies follow the RFA as they pursue the Trump administration’s deregulatory agenda to roll back valuable rules that protect our health, safety and the environment?

Response: The Biden Administration’s list of RFA violations is long. President Biden failed to even nominate a Chief Counsel for Advocacy. The law required regulators to share their regulatory flexibility agendas with Advocacy for comment, but this never happened during the Biden Administration with the exception of SBA and FCC. Despite an active regulatory calendar, Biden’s EPA failed to convene even one SBAR panel until Fiscal Year 2024.

Federal agencies routinely certified new regulations as not having “a significant economic impact on a Committee work product prepared for the exclusive use of Small Business Committee Democratic Members and staff. Public distribution prohibited.

substantial number of small entities” without the “factual basis” that the law requires. Important rules promulgated by the Biden administration either contradicted their own economic findings or supplied no quantitative evidence at all. This practice impeded congressional and executive oversight while undermining competition and innovation in the U.S. economy.

Many certifications were fictional. The agency acknowledged major or economy-wide effects yet asserted that small entities would be unaffected. Examples include Environmental Protection Agency rules mandating rapid transitions to electric vehicles, Department of Health and Human Services rules imposing staffing mandates on nursing homes, and National Labor Relations Board rules expanding joint-employer liability. Each of these rules cites substantial costs or disruption while simultaneously claiming that small entities will experience no significant impact.

Thousands of other certifications are baseless, providing no numerical estimates of either (1) the number of affected small entities or (2) the typical impact per entity. Many consist solely of boilerplate language such as “the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities,” without any accompanying data or explanation.

President Trump’s approach has been a 180-degree turn from that culture. He has directed agencies, by executive order, to seek out and remove rules that unnecessarily burden small business. One of his first actions as President was to send a Chief-Counsel nominee to the Senate for confirmation. More than 60 agencies now comply with their duty to share regulatory agendas with Advocacy, driving that roughly 3,000-percent improvement in compliance with the RFA’s agenda-sharing requirement. They now routinely seek our input on regulatory matters.

Part of my job is to remind agencies of their obligations to small entities, and how fulfilling these obligations is a path to better policy. Advocacy also trains agencies in small-entity analysis. I have personally sat with agency personnel and helped prepare IRFAs and FRFAs.

- Regulations provide a foundation that ensures safety, fairness, and sustainability for all Americans, as well as small businesses. This committee has previously heard testimony on the numerous benefits regulations have on small businesses. For example, in 2023, we heard that nationwide, energy conservation standards would save consumers—including small businesses—over \$20 billion dollars on their utility bills. Standards for battery chargers alone would save consumers up to \$9 billion in energy costs. But the Trump Administration has withdrawn that proposed standard, along with many others. Why isn’t Advocacy weighing in on the rollbacks to rules that have such substantial savings potential for small businesses?

DOE estimated a net benefit of over \$600 million for the proposed standards for battery chargers alone. With the results of this cost-benefit analysis in hand, why isn’t Advocacy taking an independent stance from the deregulatory efforts of the Administration given these benefits for small businesses?

Response: As previously stated, my job is to listen to what small businesses have to say. I have not heard a single small business say that they want a government agency to restrict their options for purchasing appliances, equipment, or vehicles, which is what many EPA and Department of Energy rules did during the Biden administration. I find the owners of small businesses to be smart people who are well versed in the circumstances of their enterprise. As such, they are quite often offended and upset that Washington bureaucrats would micromanage their decisions.

- How does Advocacy determine whether to support or oppose the deregulatory efforts of the Administration? Are these decisions based on independent analysis or are they shaped by broader

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White House priorities?

Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

- There are concerns that Advocacy is promoting the administration's deregulatory agenda, rather than being an independent voice for small businesses. How do you respond to that?
 - Will you commit to being the independent voice for small businesses, even when it conflicts with the Administration's goals and priorities?

Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach.

- I noticed Advocacy attended most, if not all, of the roadshow sessions, promoting SBA's Made in America Manufacturing Initiative, which "would cut \$100 billion in regulation through the Office of Advocacy." Does this signal that deregulation is a top priority for Advocacy?
 - Was that \$100 billion goal set by Advocacy, SBA, or the White House?

Response: Advocacy specializes in federal regulations and their impact on small entities, so it is in Advocacy's interest to hear directly from small businesses on their regulatory and deregulatory issues. We will often partner with agencies on their outreach to small entities on regulatory issues, including the SBA. The \$100 billion goal itself was set before I was confirmed as Chief Counsel for Advocacy. For years, Advocacy's performance metrics have included small-entity cost savings.

- To what extent was Advocacy involved in setting and promoting the SBA's goal to cut \$100 billion in regulations? How does that align with your statutory responsibility to be the independent voice of small businesses?

Response: Advocacy specializes in federal regulations and their impact on small entities, so it is in Advocacy's interest to hear directly from small businesses on their regulatory and deregulatory issues. We will often partner with agencies on their outreach to small entities on regulatory issues, including the SBA. The \$100 billion goal itself was set before I was confirmed as Chief Counsel for Advocacy. For years, Advocacy's performance metrics have included small-entity cost savings.

- Does Advocacy conduct its own economic analysis of deregulatory actions, or does it rely on agency estimates?

Response: Advocacy's Office of Economic Research includes regulatory economists that specialize in regulatory analysis, particularly as it pertains to small businesses. Since my confirmation as Chief Counsel, many agencies in the Trump administration have come to Advocacy for assistance with, or insights on, their economic analyses.

- What safeguards are in place to ensure that small business interests aren't being used as cover for broad-based deregulation that benefits big businesses?

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Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

Advocacy staff, including our regional affairs team and our staff in Washington, DC, will hold individual meetings and site visits with small business owners to hear their concerns daily. Part of Advocacy's protocol when working with groups that represent small entities is to speak directly with their small entity members to verify their perspectives.

For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach.

- Can you point out recent examples of when Advocacy, under your leadership, has pushed back on the deregulatory efforts of the Administration when they have failed to consider the needs of small businesses?

Response: One example is the Federal Railroad Administration's (FRA) proposed rule, Repealing Special Approval Requirement for Freight Cars More Than 50 Years Old (50-Year-Old Freight Car). The proposed rule would repeal and replace the current requirement to obtain "special approval" from the FRA to place or continue a freight car in service if it is more than 50 years old. The new rule would instead mandate uniform safety requirements where railroads would conduct comprehensive shop inspections by a designated inspector and certify that the freight car is safe for service. The FRA stated that the new procedures would provide an equivalent level of safety while reducing burdens on railroads. However, small railroad representatives had recommended that the FRA repeal the 50-year limit, not replace it with a new, costly, and burdensome approval process.

Advocacy submitted comments on the proposed rule on September 15, 2025.¹⁵ In furtherance of the President's goals of reducing regulatory burdens, Advocacy hosted a small business regulatory roundtable on April 14, 2025, to hear from small business representatives about Department of Transportation regulations that are burdensome and in need of reform. The FRA's 50-Year-Old Freight Car regulation was one of the issues raised and was included in Advocacy's letter to DOT, dated May 5, 2025. Advocacy noted the following in the comment letter:

- *The RFA requires that every agency prepare and publish for public comment an initial regulatory flexibility analysis for each proposed rule unless the head of the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.*
- *The FRA certified the proposed rule under the RFA based on its determination that the proposed rule was voluntary and merely offers flexibility to any small entities that decide to utilize it.*
- *Advocacy disagreed with the FRA's conclusion and believed that the rule would impose new, de facto mandatory procedures that railroads must comply with to keep 50-year-old rail cars in service.*
- *Advocacy recommended that the FRA reconsider the impact of this proposed rule on small entities and consider significant alternatives. One alternative is to remove the 50-year restriction and rely on other existing regulations and industry safety standards.*
- Small domestic manufacturers of certain appliances have already come into compliance with existing

¹⁵ U.S. Small Bus. Admin., Off. of Advoc., Comments on Proposed Repealing Special Approval Requirement for Freight Cars More Than 50 Years Old (50-Year-Old Freight Car) (Sept. 15, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/09/Comment-Letter-FRA50YearOldFreightCars_091525.pdf.

EPA rules. If those rules are rescinded, as the Trump Administration has proposed, that investment would be wasted because any cost savings would be cancelled out by the cost of retooling supply chains and updating safety certifications. Worse, cheaper, less efficient units from abroad would undermine the market for more efficient ones, pushing domestic manufacturers out of business. How is the Administration accounting for the loss of market stability when rolling back existing rules on small businesses in this country?

- Is Advocacy taking steps to reach out to small businesses that might be impacted by regulatory rollbacks? What can Advocacy do to help small businesses navigate the uncertainty deregulation brings with it?

Response: Advocacy's role is to listen to small businesses and facilitate the administration's engagement with them, especially as envisioned in the Regulatory Flexibility Act.

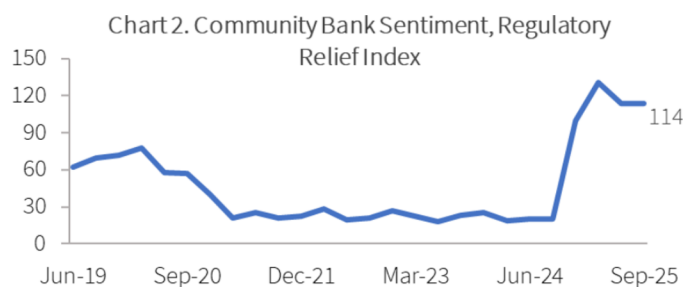
In listening to about 12,000 small businesses in the administration's first year, Advocacy hears a variety of perspectives and concerns. Even so, I have not heard a single small business say that they want a government agency to restrict their options for purchasing appliances, equipment, or vehicles, which is what many EPA and Department of Energy rules did during the Biden administration. I find the owners of small businesses to be smart people who are well versed in the circumstances of their enterprise. As such, they are quite often offended and upset that Washington bureaucrats would micromanage their decisions. They are eager for "rollback."

Statutes provide the most durable form of regulatory reform. One of the things that the Office of Advocacy does is advocate for small businesses on the Hill, in writing statutes. This Congress has been quite productive in that regard, with 22 Congressional Review Act disapprovals passed as well as the One Big Beautiful Bill Act. I also discuss legislation options within the executive branch, both in public letters and interagency communications.

- We are hearing a lot of rhetoric today about the benefits of deregulation. Do you agree that frequent rule changes – especially when done without proper notice and comment – create confusion, force costly retooling of products, and make long-term planning difficult? What is Advocacy doing to address regulatory uncertainty?

Response: For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach. When, for example, fishermen tell me how "climate" regulations degrade natural habitats for fish, how two government agencies cannot agree on the definition of "shellfish," and how the federal government shuts down teeming fishing grounds based on shoddy science, I am unwilling to dismiss this as "a lot of rhetoric."

Also notable is the Regulatory Relief Index component of the Community Bank Sentiment index. It surged and has remained elevated since President Trump won the 2024 election, as shown in Chart 2 of the latest edition of Advocacy's Economic Bulletin.



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- Small businesses need certainty, and under the Trump Administration numerous rules are being repealed with little notice or opportunity to comment. This regulatory instability causes uncertainty for small businesses. What specific steps are you taking to provide stability for small businesses?

Response: Statutes provide the most durable form of regulatory reform. One of the things that the Office of Advocacy does is advocate for small businesses on the Hill, in writing statutes. This Congress has been quite productive in that regard, with 22 Congressional Review Act disapprovals passed as well as the One Big Beautiful Bill Act. I also discuss legislation options within the executive branch, both in public letters and interagency communications.

- How does Advocacy monitor section 610 of the Regulatory Flexibility Act, and can you walk us through the process of conducting a retrospective review of an existing rule under the RFA? Given many regulations are built on top of earlier ones – sometimes spanning multiple agencies or statutory authorities – how does your office determine if a rule is truly outdated or duplicative, as opposed to being part of a broader regulatory framework?

- Isn't it true that unraveling one regulation could have unintended consequences for another?

Response: Advocacy's Regulatory Flexibility Act guidance has an entire chapter advising agencies on how to conduct retrospective review under section 610.¹⁶ One of the factors that agencies must consider in a section 610 review is whether some other federal or state requirement accomplishes the same regulatory objective as the rule being reviewed. Advocacy's guidance also states that "[i]nsights about an existing regulation received from regulated entities and other interested parties should be a key component of a retrospective rule review." Additionally, the guidance notes that section 605(c) of the RFA allows agencies to consider a series of "closely related rules" as one rule for periodic review purposes. An agency can accomplish a comprehensive section 610 review of closely related rules, satisfying the requirements of the RFA while potentially reducing the agency resources required.

¹⁶ U.S. SMALL BUS. ADMIN. OFF. OF ADVOC., A GUIDE FOR GOVERNMENT AGENCIES: HOW TO COMPLY WITH THE REGULATORY FLEXIBILITY ACT 79-85 (Aug. 2017), <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf>.

- One of the key requirements of the RFA is that agencies must issue compliance guides to help small businesses understand their responsibilities and comply with the new regulations. How does Advocacy monitor agencies' compliance with this RFA requirement?

Response: Compliance guides are only required when a final rule includes a Final Regulatory Flexibility Analysis, which occurs when the agency does not claim an RFA exemption or certify no significant economic impact on a substantial number of small entities. Therefore, the first step in monitoring compliance is to watch for unlawful certifications of final rules. I did exactly that in the report issued on the day I was sworn in as Chief Counsel. A more detailed report on that subject has been submitted into this hearing's record.

I also work with the SBA's Office of the National Ombudsman, which is the office that Congress tasked with collecting and organizing small entity compliance guides and to annually assess compliance.¹⁷

- In terms of retrospective review, should federal agencies be required to submit a brief explanation to Congress when they choose not to conduct a retrospective review of an existing rule, as required under 610 of the Regulatory Flexibility Act?

Response: I welcome potential solutions that require agencies to explain to Congress and the public why they are not fulfilling their legal obligations under the RFA.

Outreach

- Can you discuss what steps Advocacy has planned to conduct outreach and engagement with small businesses, rather than law firms and trade associations?

Response: During my confirmation hearing, I committed to meeting small businesses where they are because so much knowledge is outside of Washington, DC. Advocacy's Regional Affairs Office is a key part of our outreach efforts, which is why I have prioritized ensuring that all 10 regions are represented. Advocacy visited all 48 states in the continental United States in the first year of the Trump administration and met with about 12,000 small businesses. I fully intend for our office to reach the remaining states and territories and continue to expand our reach to as many small businesses across the country as possible.

- According to the U.S. Census Bureau, over 30 percent of small businesses are minority-owned, and 42 percent are owned by women. How will the Office ensure that the outreach will reflect the geographical and demographic composition of small businesses throughout the country?

Response: All small business perspectives are important. Our Regional Affairs team meet with small businesses in the field of all different geographical and demographics daily.

- Can you provide a list of the cities and states that Advocacy plans to conduct listening sessions or roundtable over the next year? And what will be the cost of the additional outreach?

Response: Advocacy is constantly adjusting its outreach plans to respond to agency actions, requests from Congress to travel to their states and districts, and requests from other federal partners. Due to the ever-changing nature of federal policymaking, it would be impossible to anticipate where Advocacy

¹⁷ See the One Stop Shop for Small Business Compliance Act of 2021, which requires the office to create a centralized website with hyperlinks to these guides and contact information for assistance.

plans to conduct outreach in the upcoming year and the anticipated cost.

- How will Advocacy ensure that the outreach is accessible to all small business owners, particularly those that can't afford to travel or aren't plugged into Washington, D.C. trade groups? What is your plan to meet businesses where they are?

Response: Since Advocacy transitioned to virtual roundtables during the COVID-19 pandemic, Advocacy has found that roundtable attendance is higher than when we held them in-person. We are also reaching more individual small businesses owners due to the convenience of tuning into a virtual roundtable from anywhere and not having to travel to Washington, DC. Our Regional Affairs team also plays a key role in finding small businesses and plugging them into Advocacy's outreach efforts in Washington, DC.

- Will you commit to providing this Committee with a breakdown of your outreach efforts, including locations, participant types, business sizes, sectors, and demographics so Congress can evaluate the effectiveness of your outreach and determine whether you are meeting the needs of the entire small business community?

Response: During my confirmation hearing, I committed to meeting small businesses where they are because some much knowledge is outside of Washington, DC. Advocacy's Regional Affairs Office is a key part of our outreach efforts, which is why I have prioritized ensuring that all 10 regions are represented. Advocacy visited all 48 states in the continental United States in the first year of the Trump administration and met with about 12,000 small businesses. I fully intend for our office to reach the remaining states and territories and continue to expand our reach to as many small businesses across the country as possible.

- Regulations can open up new markets for innovative small businesses. For example, the push towards renewable energy, partly driven by EPA's regulations, has opened up markets for small businesses involved in solar, wind, and other renewable energy technologies, as well as small businesses offering energy efficiency services. What will Advocacy do to help the Administration understand when they are rolling back regulations that helped create new opportunities for small businesses?

Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

As an example, I met with Massachusetts fishermen. They reported that New England wind farms were unnaturally altering the environment and thereby taking opportunities away from their small businesses. I relayed this concern to regulators. Shortly thereafter, windfarm construction was halted by the federal government.

The same fishermen also reported that the Biden administration replied to their concerns by recommending that they stop fishing with their boats and instead use them to ferry workers and materials from the mainland to the windfarm sites. They were upset and insulted by that reply.

Immigration

- The Committee has heard concerns from small businesses that the process of verifying citizenship and legal status for employees is highly technical, and even verified documentation may sometimes be invalid due to honest mistakes on the part of employers or employees. Many small business owners
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don't have expertise in immigration regulations. Does Advocacy plan to evaluate the immigration regulatory space and advocate for small employers on those matters?

Response: Advocacy covers regulations across the entire federal government, including immigration regulations that impact small entities. Advocacy will continue to be the voice for small businesses and small entities in the immigration regulatory space. Advocacy often receives inquiries seeking guidance on immigration requirements, and we provide resources from the Department of Labor, the Department of Homeland Security, and the State Department. We meet with stakeholders weekly on immigration matters in a variety of industries including technology, agriculture, restaurants, and retail.

- The Committee is increasingly worried that President Trump's immigration enforcement crackdown is disproportionately targeting small businesses. Does Advocacy plan to evaluate or advocate for enforcement fairness in this area? If so, how?

Response: Advocacy has not heard about immigration enforcement crackdowns disproportionately targeting small businesses. The SBA Office of the National Ombudsman handles excessive or unfair regulatory enforcement actions. Advocacy will report any instances of excessive or unfair regulatory enforcement to the National Ombudsman.

- A Georgetown study found that under President Trump, federal agencies *deliberately* used administrative burdens to make legal immigration processes "confusing, demanding, and stressful,"¹ in an effort to dissuade potential immigrants – and employers – from using legal pathways to living and working in the U.S. *Mr. Chairman, I ask unanimous consent to enter the study into the record.* Do you plan to include immigration matters in your deregulation plans?

Response: I do not have deregulation plans. I plan to listen to small businesses and expect that they will recommend areas for policy improvement, as they have so many times in the past.

Advocacy actively seeks feedback from small businesses on immigration rules that should be reformed. In our comment letter in response to the Department of Justice and the Federal Trade Commission's Request for Information on deregulatory issues, we listed immigration regulations.¹⁸ Advocacy has also responded to small business comments and recommendations received through the Red Tape Hotline and through other correspondence.

- On Thursday, June 12, U.S. Immigration and Customs Enforcement wrote new guidance pausing enforcement operations on "agriculture (including aquaculture and meat packing plants), restaurants, and operating hotels," acknowledging the harm this regulatory enforcement campaign has had on these industries nationwide. However, just four days later, ICE reversed its guidance and ordered the resumption of enforcement against these industries. Do you think that the regulatory uncertainty this caused helped America's small businesses?

Response: I am unfamiliar with the episode that you are referring to. Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires federal agencies to notify small businesses that "The National Ombudsman resolves concerns of uneven or excessive federal regulatory

¹⁸ U.S. Small Bus. Admin., Off. of Advoc., Comments on Department of Justice's Request for Information to Anti-Competitive Regulations Task Force; Targeting Red Tape that Hinders Free Market Competition (June 20, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/06/Comment-Letter-DOJ-RFI-on-Anticompet-Regs-Task-Force.pdf>.

enforcement.”

- Two years ago, our Republican colleagues wrote U.S. Citizenship and Immigration Services with concerns that the agency “may not have properly considered small entities” in a previous rulemaking on raising immigration application fees.² Conservative observers, including the writers of Project 2025, have similarly proposed raising immigration application fees through regulations. Do you think that the Trump Administration should heed our Republican colleagues’ concerns, and examine the small business impacts of his immigration rules?

Response: Agencies should follow the laws that apply to them. When a rule is issued, as “rule” is defined by the RFA, the rule must either factually certify no significant economic impact on a substantial number of small entities or prepare a more detailed analysis.

Advocacy Work, Agenda, and Independence

- In its summary of the Trump Administration’s activity in its first 100 days, the Office of Advocacy reported it had cut \$48.1 billion in regulatory burden. The first Trump Administration reported regulatory cost savings of only \$4.1 billion, which was roughly in line with other administrations. Which cuts does this \$48.1 billion refer to?
 - What other cuts are planned to reach Advocacy’s goal of \$100 billion in regulatory cost savings?
 - These rules have benefits, and most often the benefits outweigh the costs. Specifically, what are the benefits of these rules?

Response: Advocacy’s reporting of cost savings is not new under the Trump 47 administration. The amounts are different because of the extraordinary regulatory burdens that the Biden administration imposed, and President Trump’s team now seeks to rectify.¹⁹ One of the extraordinary burdens was Treasury Secretary Yellen’s implementation of the Corporate Transparency Act’s requirements specifically targeted at small businesses, as the Office of Advocacy highlighted at the time. Small businesses owners risked criminal penalties for non-compliance. Office of Advocacy economists estimated that domestic small businesses would save \$48 billion (net present value) if they were no longer required to take the actions specified in Yellen’s rule, which Treasury Secretary Bessent affected in March 2025 with an interim final rule.²⁰

A Regulatory Impact Analysis would assess national costs and benefits, but such analyses are under OIRA’s purview. The Office of Advocacy is guided by the Regulatory Flexibility Act, which focuses on the economic impact on small businesses rather than large businesses, large governments, or individuals.

Your final question asserts that “most often the benefits outweigh the costs.” I do not know what rules

¹⁹ The Trump 45 administration followed President Obama, who imposed fewer regulatory costs than the Biden administration later would. See Casey B. Mulligan, Biden-Harris Regulations Cost the Average Family Almost \$50,000 (Comm. to Unleash Prosperity, July 2024), https://committeetounleashprosperity.com/wp-content/uploads/2024/07/240724_CTUP_BidenHarrisRegulations_Doc.pdf.

²⁰ The regulatory savings comprised in the \$48 billion were assessed from rules cited in Advocacy’s First 100 Days report: Protection of Marine Archaeological Resources, 90 Fed. Reg. 15531 (Apr. 14, 2025); Pub. L. No. 119-2, 139 Stat. 7 (2025) (enacted joint resolution of disapproval of Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions); Investment Company Names; Extension of Compliance Date, 90 Fed. Reg. 13076 (Mar 20, 2025); Beneficial Ownership Information Reporting Requirement Revision and Deadline Extension, 90 Fed. Reg. 13688 (Mar. 26, 2025); Pub. L. No. 119-5, 139 Stat. 48 (2025) (enacted joint resolution of disapproval of Gross Proceeds Reporting by Brokers That Regularly Provide Services Effectuating Digital Asset Sales); U.S. Food & Drug Admin., *FDA Intends to Extend Compliance Date for Food Traceability Rule* (Mar. 20, 2025), <https://www.fda.gov/food/hfp-constituent-updates/fda-intends-extend-compliance-date-food-traceability-rule>.

you are referring to. As an Advocate for small businesses, I am aware and disappointed that the previous administration's vehicle regulations falsely made such a claim. In doing so, they set our economy on a ruinous path that President Trump is fixing.

Specifically, the cornerstone of the previous administration's wild exaggeration of supposed regulatory benefits was ignoring small businesses. They falsely assumed the government engineers are better at making vehicle-purchase decisions than business owners are. The paternalistic conclusion was that putting business decisions in the hands of bureaucrats represents an economic benefit to those businesses, exceeding even the environmental benefit. To the contrary, I find the owners of small businesses to be smart people who are well versed in the circumstances of their enterprise. As such, they are quite often offended and upset that Washington bureaucrats would micromanage their decisions. I am too.

According to Biden's regulators, most of the environmental benefit of the vehicle regulations was outside the United States AND more than a century in the future. I would be glad to meet with your office to discuss how Advocacy could hear from those stakeholders.

- What contractor-led research does Advocacy plan to sponsor? How are the projects selected?

Response: Advocacy does not currently have plans to sponsor contractor-led research.

- What is Advocacy doing to help small businesses deal with the rolling back of Inflation Reduction Act tax credits?

Response: The following answer assumes that you refer to changes in tax credits made through the One Big Beautiful Bill Act, which was going through Congress in June 2025 and passed in early July.

The Chief Counsel's job is to listen to small businesses and relay those concerns to policymakers, including Congress. Because Congress was making the policy in June, and my confirmation did not occur until August 1, it would have been unconstitutional for me to participate as Chief Counsel.

Furthermore, if I were to advise Congress on legislation, I would either consider the bill as a whole or focus on parts of it that were most flagged to me by small businesses. Small businesses were especially concerned with impending tax increases on pass-through businesses, which the OBBB avoided. OBBB also removed regulatory burdens that were significant for small businesses.

- What is Advocacy doing to help with the negative impacts of DOGE cutting grants?

Response: As Chief Counsel, I have communicated with about 80 agencies on behalf of small entities. DOGE is not one of them. Furthermore, of the hundreds of Trump⁴⁷ rules that I have examined in Federal Register publications since January 20, 2025, none were published by DOGE. I have not heard any small entity express a concern about a policy promulgated by DOGE. All Advocacy can do is continue to be vigilant.

- There [are reports](#) that the President Trump is offering exclusive meetings and invitations to events to donors who made hefty donation to a SuperPAC, MAGA, Inc, founded in 2022 to support the GOP president. It has been reported that the price is \$5 million for a meeting, and these meetings have been linked to executive orders he subsequently signs. Small businesses cannot afford to pay this type of money to meet with the President with the hopes of influencing policy. How does this affect small businesses' ability to compete against the large companies that can afford to pay for these types of

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meetings?

Response: I am unfamiliar with the meetings you are referring to. Moreover, my first-hand experience does not fit your narrative. The evidence is already clear that this administration is unprecedented in terms of engaging small businesses early in the policymaking process, when it matters most. Compliance with 5 U.S.C. § 602(b), has increased more than 3,000 percent. Small businesses tell Advocacy that this administration is unlike any before in terms of how much they are heard, understood, and respected.

- The federal government recently rewrote its procurement rules, simultaneously publishing and implementing the changes before any small businesses had seen or could comment on them. The Office of Advocacy did not weigh in or even alert small businesses to these changes—which included revising 2034 pages of federal regulations impacting hundreds of thousands of small business government contractors and \$183.5 billion. Why didn't the Office conduct outreach to small businesses on the FAR Rewrite or provide feedback to the regulators as changes were being implemented?
 - If the Office has a plan to comment in the future, what assurances can you give that the voices of small businesses be heard later on when the rules have not only been finalized but already implemented?

Response: No changes to the FAR have been finalized at this time. Agencies have selectively included aspects of the Revolutionary FAR Overhaul (RFO) using the model deviations, but that is sporadic and providing a regulatory alert would not help individual small contractors navigate the changing rules since that is dependent on their specific contract terms and contracting officer. The model deviations only represent the removal of non-statutory language and the final RFO package will include substantive changes that are different from the model deviations.

Advocacy has spoken extensively with small contractor stakeholders about the RFO. For example, Advocacy just held a listening session at the National S(a) Business Development Conference led by one of our Regional Advocates to specifically ask contractors about the RFO process so far.

As an advisor on the Civilian Agency Acquisition Council, Advocacy has raised these concerns with the RFO as it progresses through the rulemaking process.

No aspect of the RFO is finalized and every aspect of the RFO is going through a normal regulatory process. Congress empowered Advocacy to comment on the concerns of small entities during the rulemaking process through comment-letter writing. When these are published as notices of proposed rulemaking, Advocacy intends to conduct extensive outreach to small entities and share feedback with the FAR Council, including potentially writing a comment letter.

- Small businesses are on the front lines of climate-related disasters floods, fires, hurricanes, and extreme heat. What is Advocacy doing to push agencies to factor climate resilience into their rulemakings?

Response: I do not know what you mean by "climate resilience." In my discussions with agencies regarding their rulemakings, I am guided by the Regulatory Flexibility Act and Public Law 94-305, neither of which refers to climate resilience. The RFA refers to "economic impact."

- The Trump Administration is pushing a deregulatory agenda. To be clear, isn't there a difference between amplifying small business concerns and advocating for outright deregulation, particularly when rules exist to protect the health and safety of Americans? How do you plan navigate the tension

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between the mission of the agency and the strong calls for deregulation within the Administration?

Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach.

- Do you agree that agencies are required to protect public safety, environmental integrity, and civil rights, and that small business concerns need to be weighed in balance with these priorities?

Response: Agencies should follow the laws that apply to them. The U.S. Code, as clarified by the federal courts, is where Congress directs agencies as to their mission and to their engagement with small entities.

- Your recommendations will carry weight within the administration. What safeguards are in place to ensure that Advocacy isn't being coopted by corporate voices?

Response: As previously stated, two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. Advocacy takes its direction from the input of small entities.

Advocacy staff, including our regional affairs team and our staff in Washington, DC, will hold individual meetings and site visits with small business owners to hear their concerns daily. Part of Advocacy's protocol when working with groups that represent small entities is to speak directly with their small entity members to verify their perspectives.

For years, small businesses burdened by regulations remained silent, fearing retaliation from regulators for speaking up. Today, they tell Advocacy that this administration is unlike any before. Now they are comfortable to shine a light on unlawful, unnecessary, and unjust regulatory overreach.

- On one hand you say your office is independent, however, you publicly embraced a \$100 billion regulatory rollback target set by the Administration. How is that consistent with being an independent voice for small businesses?

Response: The \$100 billion goal was set before I was confirmed as Chief Counsel. However, achieving regulatory cost savings for small businesses has been one of Advocacy's performance metrics for many years, not just in the Trump administration.

- Small business owners are Americans who have been negatively impacted by the staffing cuts at agencies, particularly the IRS, FEMA, the Department of Education. How are these staffing cuts affecting small businesses and what is Advocacy doing to share their concerns with the White House?

Response: I am not aware of any small businesses reporting to Advocacy that staffing cuts at agencies are impacting them. However, as members of this Committee noted during the hearing, small businesses were deeply concerned about the vacancy in the position of Chief Counsel for Advocacy.

- In your testimony, you mention that Advocacy is utilizing modern analytical tools, including AI review of rules. Please describe the process for the Committee.
 - To use AI successfully, it must be trained well, especially when its outputs are relied on to take beneficial rules off the books. What safeguards do you have in place to ensure the information is accurate and complete?

Advocacy follows the guidelines issued by the Office of Management and Budget (OMB-25-21), which takes a pro-innovation posture with human oversight. Attention to privacy, civil rights, and cybersecurity is required. AI “output” must be reviewed and owned/rejected by an Advocacy employee. All publicly released work products continue to undergo Advocacy’s clearance process to substantiate and concur with the information contained in the product.

We also use AI to make the connection between data and conclusions more visible to our readers. In our August 5, 2025 report, readers of the PDF version of Appendix B can easily confirm the AI conclusion about certification because the Federal Register citation is hyperlinked to the FederalRegister.gov copy of the rule. In almost all cases, the hyperlink jumps to the exact paragraph where language similar to 605(b) is used.

- With increasing market consolidation across key industries, small businesses are being squeezed out due to lack of access to fair markets and pricing. What is Advocacy doing to address the anticompetitive environment that is undermining small businesses’ viability?

Response: From Public Law 94-305 and the Regulatory Flexibility Act, Congress clearly views Advocacy as playing a role in “improving competition.” This conviction pervades our work. To cite some of our public work, my testimony in this hearing, and in the November Senate Small Business and Entrepreneurship hearing, emphasizes the importance of improving competition. See also my report of January 5, 2026. I wrote a letter to CMS Administrator Dr. Oz conveying my concerns about consolidation of physician practices.²¹

Advocacy also wrote two comment letters to the Department of Justice (DOJ) and the Federal Trade Commission (FTC) in response to their requests for information on anticompetitive regulations and burdensome state laws. Our letter to DOJ and FTC on anticompetitive regulations highlighted 20 issues for the agencies to pursue reforming or repealing.²² The letter highlights recommended reforms at the following agencies: the Department of Agriculture, the Department of Defense, the Department of Homeland Security, the Department of Labor, the Department of Transportation, the Department of the Treasury, the Environmental Protection Agency, the Federal Communications Commission, and the Federal Trade Commission. Our letter to the DOJ on burdensome state laws highlighted 28 issues, including labor, alcohol and tobacco, environmental, transportation, shellfish, energy, and the California Disabled Persons Act.²³

²¹ U.S. Small Bus. Admin., Off. of Advoc., Comments on Medicare and Medicaid Programs; CY 2026 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; and Medicare Prescription Drug Inflation Rebate Program (Sept. 11, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/09/Comment-Letter-CMS25-CY-2026-PFS-NPRM-Final.pdf>.

²² U.S. Small Bus. Admin., Off. of Advoc., Comments on Department of Justice’s Request for Information to Anti-Competitive Regulations Task Force; Targeting Red Tape that Hinders Free Market Competition (June 20, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/06/Comment-Letter-DOJ-RFI-on-Anticomp-Regs-Task-Force.pdf>.

²³ U.S. Small Bus. Admin., Off. of Advoc., Comments on the Department of Justice’s (DOJ) Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce (Oct. 30, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/11/DOJ-Burdensome-State-Laws-Comment-Letter_103025.pdf.

- The Kaiser Family Foundation recently found that if the enhanced ACA premium tax credits expire, average premiums for enrollees are expected to rise by 114% next year. Health care premiums are one of the largest costs small firms face after payroll, and 3 million small businesses will be hard hit. Why hasn't the Office of Advocacy conducted more research on how extending these credits would benefit small businesses and their employees?

Response: The Office of Advocacy is guided by what it hears from small businesses. When Advocacy asked small businesses about healthcare policy, it received almost 100 specific regulatory issues, which are documented in a letter on our website.²⁴ A recurring theme is frustration with pandemic-era rules that remain in effect years after the emergency ended. Small businesses want the outdated emergency measures removed.

- Will you commit to conducting independent research to evaluate the economic and administrative burdens small businesses will face if the ACA's enhanced premium tax credits expire, particularly the impact on coverage affordability, employee retention, and business competitiveness?

Response: One of my priority research projects since taking office has been to address a fundamental gap in our understanding. Believe it or not, while small businesses have long expressed frustration about their tax bills, there is no comprehensive summary statistic of what fraction of federal revenue is paid by small businesses and their employees. Due to the large fiscal expense of the pandemic-emergency ACA credits, the results of this study will help reveal how much the credits cost small businesses and their employees.

- The Outdoor Recreational Industry is a powerful economic engine, supporting 5 million American jobs, and contributing more than one trillion dollars to the economy. And many small businesses in this sector benefit from environmental rules. What steps is Advocacy taking to ensure agencies follow the Regulatory Flexibility Act with the Trump deregulatory efforts?
 - How will Advocacy make sure the deregulatory rollbacks comply with the law?

Response: The Trump administration has published approximately one hundred Initial Regulatory Flexibility Analyses (IRFAs) and Final Regulatory Flexibility Analyses (FRFAs) because it thinks that an action – typically a deregulatory action²⁵ – may have a significant economic impact on a substantial number of small entities.

I have personally sat with agency personnel and helped prepare IRFAs and FRFAs, both as part of Advocacy's RFA-training mission and as part of communicating what Advocacy has heard from small entities about regulatory burdens.

No Chief Counsel in Advocacy's history matches me in terms of the volume of communications with agencies about the importance of factual certifications. None matches me in terms of offering concrete instruction, tailored to individual-agency circumstances, as to the crucial distinction between factual and fictional certifications. None has so extensively articulated how "much more is at stake than

²⁴ U.S. Small Bus. Admin., Off. of Advoc., Comments on Health and Human Services' Request for Information: Ensuring Lawful Regulation and Unleashing Innovation to Make American Healthy Again (July 14, 2025), https://advocacy.sba.gov/wp-content/uploads/2025/07/Comment-Letter_Advocacy-Comments-to-HHS-Deregulatory-RFI.pdf.

²⁵ OMB/OIRA reports that, so far in the Trump Administration, regulatory agencies have far exceeded the Administration's goal of ten deregulatory action for every one regulatory action. See The White House, White House Office of Management and Budget's Office of Information and Regulatory Affairs Releases End of Year Deregulatory Stats: Showing the Trump Administration Has Best Deregulation Year in History (Dec. 19, 2025), <https://www.whitehouse.gov/briefings-statements/2025/12/32750/>.

technical compliance.”

The Office of Advocacy has long emphasized that small businesses tend to get the most benefit when the office engages regulators early in the process.²⁶ I agree with this approach so strongly that on my first day I began to seek an end to longstanding non-compliance with 5 U.S.C. § 602(b), which requires regulatory flexibility agendas to be shared with the Chief Counsel for his comment. I deeply appreciate the cooperation of President Trump’s team as together we achieved a compliance increase of more than 3,000 percent.

- What specific steps will you take to better reach small businesses – outside of the manufacturing sector – that historically have not attended Advocacy’s roundtable events?

Response: During my confirmation hearing, I committed to meeting small businesses where they are because all the knowledge is outside of Washington, DC. Advocacy’s Regional Affairs Office is a key part of our outreach efforts, which is why I have prioritized ensuring that all 10 regions are represented. Advocacy visited all 48 states in the continental United States in the first year of the Trump administration and engaged about 12,000 small businesses. I fully intend for our office to reach the remaining states and territories and continue to expand our reach to as many small businesses across the country as possible.

- Concerns have also been raised that trade associations and law firms – which represent both big and small businesses – participate in your roundtable events and are sharing the views of big businesses. Will you commit to maintaining a public list of the trade associations and law firms that participate in these events and the small firms that they represent?

Response: Advocacy’s roundtables are open to the public. Attendee lists may be provided for individual roundtables upon request.

Questions for the Record from Rep. Maggie Goodlander for Dr. Casey Mulligan, Chief Counsel, Office of Advocacy, Small Business Administration

- Congress required the SBA to establish an Office of Rural Affairs through the Small Business Administration Reauthorization and Amendments Act of 1990, yet the office has never been fully established or staffed. My bill, the Office of Rural Affairs Enhancement Act (H.R. 4549), passed the House in December 2025 and requires the appointment of an assistant administrator experienced in rural economic development, as well as regular reporting to Congress. How would the Office of Advocacy envision supporting and guiding the Office of Rural Affairs to ensure rural small business concerns are fairly represented across the federal government?

Response: Advocacy has a national advocate for rural affairs who specializes in small entities in rural areas. He began that role even before I was confirmed. Our rural advocate covers the entire United States and interacts with small entities in rural areas daily to hear their feedback and share it with our staff in Washington, DC. We would be happy to provide SBA with any support and guidance on its efforts to support rural small businesses.

- How does the Office of Advocacy account for the impact of rapidly changing tariff policies on rural

²⁶ U.S. SMALL BUS. ADMIN. OFF. OF ADVOC., A GUIDE FOR GOVERNMENT AGENCIES: HOW TO COMPLY WITH THE REGULATORY FLEXIBILITY ACT (Aug. 2017), <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf>.

small businesses, and how are those considerations incorporated into Advocacy's recommendations to federal agencies?

Response: Two of Advocacy's core functions are listening to small businesses and communicating their experiences to policymakers. This includes rural small businesses.



February 6, 2026

VIA ELECTRONIC SUBMISSION

The Honorable Derek Schmidt
 United States House of Representatives
 1223 Longworth House Office Building
 Washington DC 20515

Dear Representative Schmidt:

In response to your question for the record dated January 7, 2026, I offer the following response:

Question: During your oral testimony to the Small Business Committee on January 7th, 2026, you explained how the SBA Office of Advocacy advocates on Capitol Hill on behalf of small businesses. Specifically, you highlighted how your office has worked with Congress to get 22 Congressional Review Act resolutions of disapproval enacted so far in the 119th Congress. I have introduced a bill, H.R. 4112 – the Congressional Review Reform Act, that would eliminate the 60 session/legislative day lookback period under the CRA, which would allow expedited congressional disapproval of any agency rule regardless of when it was promulgated. How would this change affect your ability to advocate on behalf of small businesses across the country, especially following times when for years there wasn't a Chief Counsel appointed to the SBA Office of Advocacy? Would you favor this legislation?

Response: Because of their benefits to small businesses, I support durable actions that reduce unnecessary regulatory burdens. Historically, Congressional solutions have proven more durable than administrative actions. The energy, transportation, and telecommunications deregulation passed by Congress during the Carter administration has been valuable and is still with us today.¹ The One Big Beautiful Bill included several significant deregulatory components affecting small businesses. The CRA has also been used in this way, with a record number of uses during this Congress.

However, regulatory burdens were increased when the Biden administration used the CRA three times to block deregulatory rules. I have not yet carefully considered the number of lookback days (currently 60) that would be expected to have the most net benefits for small businesses.

As you suggested, one reason to suspect that 60 days might not be enough is the timing of the Chief Counsel's confirmation. The Chief Counsel brings the voice of small businesses to those

¹ Clifford Winston, Economic Deregulation: Days of Reckoning for Microeconomists, 31 J. Econ. Literature 1263 (1993).

who make the policies affecting them. That includes Congress. However, most of the CRA activity during this Congress occurred in May and June, before the Office of Advocacy had any Chief Counsel who could be advocating for small businesses. Indeed, the CRA activity in the Senate interrupted the Senate's confirmation activities.

If you have any questions or require additional information, please contact me or Director of Interagency Affairs Stephanie Fekete at (202) 205-6888 or Stephanie.Fekete@sba.gov.

Sincerely,

Dr. Casey B. Mulligan
Chief Counsel
Office of Advocacy
U.S. Small Business Administration



U.S. Chamber of Commerce

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January 7, 2026

The Honorable Roger Williams
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Re: Letter for the Record: Hearing titled "A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape"

Dear Chairman Williams and Ranking Member Velazquez:

Thank you for holding today's hearing, "A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape." The U.S. Chamber of Commerce appreciates the opportunity to provide feedback on the importance of small business regulatory relief and, in particular, the importance of the Office of Advocacy within the U.S. Small Business Administration (SBA).

According to the most recent estimate, American businesses face more than \$2.15 trillion in regulatory costs, a figure equivalent to the entire GDP of Canada. Our work with the Bradley Foundation in 2017 revealed that because many regulatory costs are fixed, small businesses bear a regulatory cost burden on a per-employee basis that is roughly 20 percent higher than larger businesses with more employees. More recently, a MetLife & U.S. Chamber of Commerce Small Business Index revealed that more than half of America's small business owners view regulatory compliance costs as a barrier for growth.

The Regulatory Flexibility Act (RFA), amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), was intended to rectify the disproportionate regulatory burden faced by small business by incorporating their concerns into the regulatory process and by insisting that federal agencies find ways to meet their regulatory objectives while minimizing costs on small businesses. The Office of Advocacy is responsible for overseeing agency compliance with the RFA and acts as an independent voice within the Administration to ensure that agencies are sensitive to how regulations impact small businesses. We urge your Committee to continue

supporting sufficient resources for, and the independence of the SBA Office of Advocacy, as well as robust implementation of the RFA. Also, we believe the RFA must be updated in order for the Office of Advocacy to better serve small businesses.

Earlier in this Congress, Committee Member Representative Finstad re-introduced H.R. 1163, the Prove It Act, that would modernize the RFA to help the Office of Advocacy better serve America's small business community. H.R. 1163, which was reported out of the Small Business Committee last summer, would ensure that regulators are fully transparent about costs that could harm small employers' ability to re-invest in their employees, improve their operations, and grow. The Prove It Act would also allow small businesses to challenge agencies' refusal to reduce regulatory burden. This would hold federal agencies accountable for ignoring small business input required by the RFA.

We applaud the Small Business Committee's leadership in shepherding the Prove It Act through the U.S. House of Representatives in the 118th Congress with support from more than 260 local, state, and regional chambers of commerce in 43 states.

We look forward to working with this Committee and House leadership to similarly shepherd the Prove It Act through a successful House vote in this Congress and to explore additional ways to provide America's small businesses with long term certainty for regulatory relief.

Sincerely,



Thomas M. Sullivan
Senior Vice President
Small Business Policy
U.S. Chamber of Commerce



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January 7, 2026

The Honorable Roger Williams
Chairman
House Small Business Committee
2361 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Nydia Velazquez
Ranking Member
House Small Business Committee
2069 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Williams and Ranking Member Velazquez,

On behalf of NFIB, the nation's leading small business advocacy organization, I write regarding the hearing entitled, "A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape." NFIB represents nearly 300,000 small businesses nationwide and we appreciate the opportunity to discuss ways Congress and the Administration are reducing regulatory compliance costs and red tape for our members.

NFIB members continuously rank "unreasonable government regulation" as one of the top problems facing their businesses.¹ Yet in four years under the Biden Administration, regulatory agencies finalized an unprecedented \$1.8 trillion in new regulatory compliance costs and added 356 million in paperwork hours.² The tsunami of new regulations falls heavily on small businesses that do not have compliance officers or lawyers who can help them navigate new regulatory requirements.

Thankfully for small businesses, the Trump Administration's regulatory agenda has taken account of the disproportionate impact on small businesses, as bipartisan administrations have done in the past. In 2025, there has been a \$128.5 billion reduction in regulatory compliance costs and nearly a 51 million reduction in paperwork hours.³ This commonsense approach is a much-needed sigh of relief for small businesses who have been crushed by federal overregulation and overreach into their businesses' operations. However, without Congressional action, this relief will only be short

¹ Holly Wade & Madeline Oldstone, *Small Business Problems & Priorities*, NFIB Research Center, July 2024, <https://nfib.com/wp-content/uploads/2024/10/2024-Small-Business-Problems-Priorities.pdf>.

² Dan Goldbeck, *The Biden Regulatory Record*, American Action Forum, January 29, 2025, <https://www.americanactionforum.org/insight/the-biden-regulatory-record/>.

³ Dan Goldbeck, *Another Light Week, but with some Executive Orders*, December 19, 2025, American Action Forum, <https://www.americanactionforum.org/week-in-regulation/another-light-week-but-with-some-executive-orders/>.

term, and small businesses will suffer from the regulatory pendulum swings that make long-term planning and investments so difficult.

To its credit, Congress has stepped up to reassert its power and repeal burdensome regulations issued by the Biden Administration, enacting a record 22 *Congressional Review Act* (CRA) resolutions into law. Of these 22 resolutions, many have been directly responsible for lowering costs of energy for small businesses across the country and have repealed unworkable arbitrary mandates that drove up operating costs for small businesses. By enacting these CRAs, Congress has provided long term solutions to reduce regulatory burdens on small businesses by preventing future substantially similar burdensome regulations from being issued.

This is a good start but it's time for Congress to get serious about enacting long term fixes that will reduce regulatory compliance costs and red tape for small businesses. One way to do this is by continuing Congress' use of the CRA. Congress should identify and examine the hundreds of rules and guidance documents that were never submitted to Congress. Under the CRA, the 60-day legislative clock for expedited legislative consideration starts once a final rule is submitted to Congress. As we have seen in 2025, an unknown number of final rules were never submitted to Congress, allowing Congress to use the CRA to expeditiously repeal these regulations and lower compliance burdens and red tape for small businesses.

Further, Congress should take steps to strengthen the *Regulatory Flexibility Act* (RFA) and prevent agency circumvention of the RFA's requirements. The RFA is a law signed by President Carter and many of the proposals to strengthen the RFA have had bipartisan support for many years. Congress can start by enacting H.R. 1163, the *Prove It Act of 2025*. H.R. 1163 would provide small businesses the ability to raise concerns when regulators fail to consider both the direct and indirect costs of their regulations, allow small businesses to request the Small Business Administration's Office of Advocacy to review agencies' work and ensure agencies are fully compliant with the RFA, and if an agency fails to comply with the review process, the *Prove It Act* would exempt small businesses from the regulatory action altogether.

Under the RFA agencies are required to consider less burdensome alternatives for small businesses when it is found that a regulation will have a substantial impact on a significant number of small entities. Instead of just considering, Congress should require agencies to promulgate less burdensome regulations for small businesses. Congress could also require agencies to obtain a certification from the SBA's Office of Advocacy that new regulations meet the RFA's requirements before an agency can finalize the regulation. These simple fixes to the RFA would prevent the federal government from imposing one-size-fits-all regulations on small businesses and shield small businesses from onerous new regulatory compliance costs and red tape.

Most importantly, Congress must provide small businesses certainty regarding the Beneficial Ownership Information (BOI) reporting requirement by either repealing it altogether by enacting H.R. 425 the *Repealing Big Brother Overreach Act* or by codifying the Trump Administration's interim final rule to exempt American small businesses from the reporting requirement and destroy the BOI of US businesses that already filed with FinCEN⁴. If Congress fails to act, 32 million small businesses nationwide could be subjected to this unconstitutional, unnecessary, costly mandate again, leaving these small businesses to potentially face enormous fines and two years of federal prison time.

NFIB appreciates your leadership to reduce onerous regulatory compliance costs and red tape for small businesses. We look forward to working with you to enact long-term relief that protects small businesses from federal government overregulation and government intrusion during the 119th Congress.

Sincerely,



Dylan Rosnick
Principal, Federal Government Relations
NFIB

⁴ 31 CFR Part 1010, RIN 1506-AB49, Beneficial Ownership Information Reporting Requirement Revision and Deadline Extension, March, 26, 2025, <https://www.federalregister.gov/documents/2025/03/26/2025-05199/beneficial-ownership-information-reporting-requirement-revision-and-deadline-extension>.



January 7, 2026

The Honorable Roger Williams
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Nydia Velázquez
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Williams, Ranking Member Velázquez and Members of the U.S. House Committee on Small Business:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 67 chapters and more than 23,000 members, I thank you for holding today's hearing, "[A Voice for Small Business: How the SBA Office of Advocacy is Cutting Red Tape](#)." The majority of ABC's general contractor and subcontractor members qualify as small businesses as defined by the U.S. Small Business Administration. Construction remains one of the most small-business-intensive industries in the nation, and our members play a vital role in building America's infrastructure and local economies.

ABC appreciates the SBA Office of Advocacy providing small businesses with a voice in the federal regulatory process and pushing back against unnecessary and overly burdensome regulations. The office's work is essential to continuing to resolve federal agency failures to comply with the Regulatory Flexibility Act.

Recent oversight findings underscore the magnitude of RFA noncompliance. Reports from the [House Committee on Oversight](#) and [this committee](#) have documented widespread agency misuse of RFA loopholes, allowing regulators to bypass meaningful analysis of the impact of rules on small businesses. Throughout the Biden administration, federal agencies finalized hundreds of rules without proper consideration of small business impacts, imposing over \$1 trillion in compliance costs and hundreds of millions of hours of added paperwork. The SBA Office of Advocacy itself has found that agencies frequently misrepresent or underestimate regulatory costs, improperly certify rules as having no significant economic impact on small entities or ignore indirect costs altogether.

While the Office of Advocacy has worked to address these shortcomings, ABC believes Congress must codify and strengthen Advocacy's authority through legislation to guarantee small businesses a consistent voice in the process. For this reason, ABC is proud to [support](#) the DUMP Red Tape Act ([H.R. 5305](#)), which requires the SBA's chief counsel for advocacy to establish a "Red Tape Hotline," accessible by email, web form or phone, where small businesses can report burdensome regulations. Each year, the chief counsel must submit a report to Congress identifying the most frequently cited regulatory problems, the industries and regions affected, recommended reforms for federal agencies and steps taken to reduce these barriers.

In addition, ABC [supports](#) the Prove It Act ([H.R. 1163](#)), which strengthens the RFA by allowing Main Street businesses and the groups that represent them to petition the SBA to examine whether a federal regulation would have significant economic effects on a large number of small businesses. Currently, agencies are not required to perform a regulatory flexibility analysis if they certify that a proposed rule would not have a significant economic impact on a substantial number of small entities.

Through the Prove It Act, groups like ABC may call on the SBA to challenge an agency's claim and request an analysis if the SBA sees fit. The bill also requires agencies to evaluate both direct and

indirect costs on small businesses and exempt them from regulatory action if an agency does not comply with the RFA.

We were encouraged that both bills were successfully reported for a full House vote, and thank members of the committee who voted for the DUMP Red Tape Act on the House floor, which passed in a [269-146 vote](#). It is crucial that Congress act to restore balance to the federal regulatory process. Codifying legislation to strengthen the SBA Office of Advocacy will help prevent regulatory overreach, protect Main Street businesses from excessive red tape and ensure that small business voices are meaningfully considered before rules are finalized.

ABC appreciates the committee's leadership on these issues and remains committed to working with Congress to advance policies that promote fair and open competition, regulatory accountability and the long-term success of America's small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristen Swearingen', written in a cursive style.

Kristen Swearingen
Vice President, Government Affairs

Dahlia Rizk
Buckle Me Baby Coats
733 Turnpike St.
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drizk@bucklemebabycoats.com

January 2, 2026

The Honorable Representative Roger Williams
Chair, Committee on Small Business
2336 Rayburn HOB
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member, Committee on Small Business
2302 Rayburn HOB
Washington, DC 20515

RE: January 7 Hearing on Small Businesses

Chair Williams, Ranking Member Velazquez, and Committee Members,

My name is Dahlia Rizk. I'm a Massachusetts mom of three that invented Buckle Me Baby Coats to make life on the go a little bit easier for parents. I want to make winter car seat safety simple and stress-free for people like me.

As the founder of a small business, I've seen firsthand how recent tariffs have hurt American families and small businesses. Our tariff rate jumped from 7.5% to 45%, triggering sudden cost increases that we can't simply absorb or pass along without pricing parents out. I've taken out loans to keep our coats available and as affordable as possible. Buckle Me Baby Coats ran out of car seat blankets and coats when parents needed them most this year due to the unexpected costs of tariffs.

To date, I've paid more than \$93,000 in tariffs out of my own pocket. This money could have gone toward hiring, product improvements, more inventory, or keeping prices down. Tariffs like these don't punish foreign governments. The tariffs function like a tax on U.S. companies and consumers, especially those buying essential baby and child safety items. I've testified and advocated for targeted relief and exemptions for small businesses, and I appreciate lawmakers who have raised this issue. But we urgently need Congressional action to protect small businesses and keep products like mine affordable and accessible.

Here are two specific actions I respectfully ask you to consider:

1. Support targeted tariff relief or exclusions for small businesses particularly in the parenting and safety space that cannot readily source domestic manufacturing.
2. Hold listening sessions with local small businesses to understand real impacts on families, including price increases, delayed orders, and hiring slowdowns.

Thank you for your willingness to listen to stories like mine.

Sincerely,

Dahlia Rizk, CEO
Buckle Me Baby Coats

Shakia Williams
Cyrenity Sips Winery
31 S. York Road
Hatboro, PA 19040
shakia.williams@cyrenitysips.com | 610-764-5228
January 4, 2026

The Honorable Representative Roger Williams
Chair, Committee on Small Business
2336 Rayburn HOB
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member, Committee on Small Business
2302 Rayburn HOB
Washington, DC 20515

RE: January 7 Hearing on Small Businesses

Dear Chair Williams, Ranking Member Velázquez, and Members of the Committee,

My name is Shakia Williams, and I reside in Hatboro, Pennsylvania. I am the owner and winemaker of Cyrenity Sips Winery, a small-batch urban winery that employs between two and five people in Philadelphia. I am writing to share my concerns regarding the growing financial pressures facing small beverage manufacturers as a result of tariffs, inflation, and rising global costs.

Over the past year, prices have increased across nearly every aspect of our supply chain, directly impacting both our operating costs and customer spending behavior. As a result, Cyrenity Sips Winery has experienced a 12% decrease in sales at the winery. Our customers are increasingly prioritizing necessities, leaving less discretionary income for micro-small, locally owned businesses like mine.

Tariffs have compounded these challenges. We are no longer able to source wine juice from South Africa, which has reduced product variety and flexibility. Our glass supply chain—largely dependent on China—has increased by 17%, and wine juices sourced from Chile have increased by 5.5%. These cost increases are significant for a business of our size and cannot be easily absorbed.

I have carefully considered several difficult options: raising prices, which would place additional strain on our customers; returning to part-time work outside of the winery to supplement income; or closing our tasting room and focusing solely on manufacturing for private events and festivals. The latter option would fundamentally undermine the mission of Cyrenity Sips Winery, which was created to serve as a hub for community, connection, and accessibility to wine.

Historically, we have worked hard to keep our pricing affordable. However, without relief, we may be forced to raise prices simply to maintain overhead costs and retain staff.

I respectfully ask the Committee to consider the following actions:

1. Support targeted tariff relief or exclusions for essential input that micro-small businesses cannot readily source domestically.
2. Convene listening sessions with local micro- small businesses, particularly manufacturers and hospitality operators, to better understand the real-world impacts of tariffs and inflation, including price increases, supply shortages, delayed orders, and hiring slowdowns.
3. Ensure small producers are represented in trade and economic policy discussions, so that policies do not disproportionately burden businesses that lack the scale or capital to absorb sudden cost increases.

I would welcome the opportunity to provide additional information or participate in further discussions. Thank you for taking the time to hear directly from small business owners and for your continued efforts to support local economies.

Sincerely,
Shakia Williams
Owner & Winemaker
Cyrenity Sips Winery
Hatboro, PA

Lynne Fletcher O'Brien
Line in the Sand
McLean, Virginia
lynne.obrien@lineinthesand.com

January 2, 2026

The Honorable Representative Roger Williams
Chair, Committee on Small Business
2336 Rayburn HOB
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member, Committee on Small Business
2302 Rayburn HOB
Washington, DC 20515

RE: January 7 Hearing on Small Businesses

Chair Williams, Ranking Member Velazquez, and Committee Members,

As the founder of Line in the Sand, a small waterwear brand I launched at 57 after surviving leukemia, I set out to do business "the right way," including donating to cancer research, and manufacturing in the United States.

We tried to produce domestically, first in New York City, then with a manufacturer in Arizona; after nearly a year in development they closed. Then we tried in California where quality and reliability fell short. Ultimately, we learned that keeping production fully domestic was nearly impossible for a small brand without deep reserves of capital. I deliberately avoided China for as long as I could, but eventually found a reputable factory staffed by skilled women, and our business began to grow, until new tariffs hit and turned our economics upside down overnight. Suddenly, a garment that costs about \$50 to produce faced an additional \$73 in tariffs, pushing our cost to \$123; to stay in business we'd have to charge around \$250, which is simply beyond what our customers will pay.

After six years, 10,000 garments sold, and a loyal customer base, our future is now uncertain. Switching manufacturers isn't a quick fix and requires expensive sampling, time, and major risk, and when profit disappears, so does our ability to give back.

The short, shifting "truces" and whiplash-inducing policy changes make planning almost impossible: if shipments slip by weeks, will they be hit with new rates retroactively, and what happens when the truce ends?

Customs and Border Protection officials are destroying items. We recently shipped a container from China, but because officials determined that parts of the container were undervalued, our portion of the container would not be released. They ultimately destroyed the container, including dresses, skirts and tops. The materials, manufacturing costs and shipping costs are a total loss. This practice was highlighted on December 26, in [this Wall Street Journal article](#).

I'm urging you to push for tariff relief that doesn't punish small American businesses and consumers, whether through rolling back these tariffs, creating clear and targeted exemptions for small companies, or restoring predictable trade policy. Furthermore, we need your help to enhance accountability at Customs, and stop unreasonable situations like the destruction of my shipment. Please help entrepreneurs like me keep people employed, keep products affordable, and keep delivering on the values we built our companies around.

Sincerely,

Lynne Fletcher O'Brien, Founder
Line in the Sand

01/01/2026

Re: Impact of Tariffs on Small Businesses

To the Members of the House Committee on Small Business,

My name is Orleatha Smith, and I am the co-founder and CEO of Sip Herbals, a woman-led consumer packaged goods company producing caffeine-free coffee alternatives. We manufacture in the United States, employ U.S. workers, and source specialty ingredients that are essential to our product formulation and safety standards.

Over the past year, tariffs on imported ingredients have had a direct and damaging impact on our business. Several of our core botanical ingredients are not produced domestically at scale, and tariff-driven cost increases made them temporarily unaffordable. As a result, we were forced to slow production, delay restocks, and pause growth initiatives we had already funded and planned for.

These production slowdowns led to a 25% loss in sales during the affected period. For a small business operating with tight margins, this was not a theoretical impact. It meant missed revenue, disrupted customer relationships, and delayed hiring and investment. We were not cutting corners or outsourcing jobs. We were simply unable to absorb sudden cost increases without risking the long-term health of the company.

Small businesses like ours do not have the leverage, cash reserves, or pricing power to quickly adjust to abrupt tariff changes. While we support policies that strengthen U.S. manufacturing, the reality is that many small businesses rely on global supply chains for ingredients and materials that are not readily available domestically. When tariffs are implemented without adequate transition support or exemptions for small businesses, the burden falls disproportionately on founders who are already operating close to the margin.

Sip Herbals has achieved nearly \$1 million in lifetime revenue and serves thousands of customers nationwide, including individuals who are pregnant, caffeine-sensitive, or managing health conditions. We are exactly the type of company federal small business programs are designed to support, yet tariff impacts have limited our ability to grow, innovate, and compete.

I appreciate the Committee's attention to the real-world effects of trade policy on small businesses. I urge policymakers to consider small business exemptions, phased implementation, or targeted relief measures so that companies like ours are not forced to choose between affordability, growth, and survival.

Thank you for the opportunity to submit this statement for the record.

Respectfully,

Orleatha Smith
Co-Founder & CEO
Sip Herbals

Jill Osur
President & CEO
Teneral Cellars Inc.
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January 2, 2026

The Honorable Representative Roger Williams
Chair, Committee on Small Business
2336 Rayburn HOB
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member, Committee on Small Business
2302 Rayburn HOB
Washington, DC 20515

RE: January 7 Hearing on Small Businesses

Chair Williams, Ranking Member Velazquez, and Committee Members,

I'm writing as the owner of a small winery that just celebrated our five-year anniversary, an accomplishment that should feel hopeful. Instead we find ourselves navigating the toughest business climate we've seen since we opened in 2020.

The wine industry is at a low point, and like many small producers, we rely heavily on direct-to-consumer sales to survive. But the basic costs of staying open have surged: our insurance has tripled because we operate in a fire zone, farming costs have climbed to the point that growing our own fruit is often more expensive than buying bulk, and shipping costs are up roughly fivefold since 2020. At the same time, consumer tastes and tasting-room trends have shifted, and customers increasingly expect "free shipping," even though cases of wine are heavy and genuinely expensive to ship.

We're also seeing vendors quietly add new line items and "service fees," and now tariffs are piling up on top of everything else, in ways that are hard for both businesses and consumers to track. For example, a recent purchase of 35,000 capsules included roughly \$1,100 in tariff charges, cork suppliers are now listing a "Liberation Day" tariff line item, and glass costs have become a moving target, with tariff rates bouncing dramatically (we've seen figures as high as 190%, then 55%, after previously being 47%). Worse, these costs are often not clearly labeled or consistently reported by suppliers, which means the true impact on small businesses is being undercounted and underreported; when tariffs are buried in invoices, the public never sees what's really happening.

We're trying to compare our tariff-related costs this year to last year, but the lack of transparency makes it difficult to quantify, and nearly impossible to explain to customers while we absorb the

hit. We can't simply raise prices to cover these increases, because consumers are already resisting higher bottle prices, and every additional cost squeezes our ability to keep staff employed, invest in the vineyard, and remain viable.

Please support tariff policies that don't punish small American producers and push for clear disclosure requirements so tariffs are itemized consistently throughout the supply chain. Small wineries like ours are being hit from every direction, and we need predictable policy and transparency to stay in business and keep contributing to our local economy.

Sincerely,

Jill Osur, President & CEO
Teneral Cellars Inc.

Eric Henry, CEO
TS Designs, Inc.
2053 Willow Springs Ln
Burlington, NC 27215
336-675-6266 | eric@tsdesigns.com

January 6, 2026

The Honorable Representative Roger Williams
Chair, Committee on Small Business
2336 Rayburn HOB
Washington, DC 20515

The Honorable Nydia Velazquez
Ranking Member, Committee on Small Business
2302 Rayburn HOB
Washington, DC 20515

RE: January 7 Hearing on Small Businesses

Dear Chair Williams, Ranking Member Velázquez, and Members of the Committee,

My name is Eric Henry, and I am President of TS Designs, a T-shirt manufacturer producing high quality printed apparel in Burlington, North Carolina. I am proud to say that every step of our supply chain, what we call “dirt to shirt” is based entirely in the United States, including cotton sourced exclusively from American farmers.

Starting around July of 2025, our business experienced a crash worse than anything I have seen in my career. Both suppliers and clients we work with have significantly cut back or gone out of business altogether. At the same time, North Carolina cotton farmers are projected to lose approximately \$80 million this year. U.S. cotton farmers will lose roughly \$0.30 per pound on every pound of cotton harvested in 2025, marking the third consecutive year of losses.

Our entire domestic supply chain is fragile. Once we lose cotton farmers or apparel manufacturing capacity, it will be extremely difficult, if not impossible to rebuild it.

There are multiple factors contributing to this crisis, but one that can be addressed immediately is the ongoing tariff chaos, which is creating extreme uncertainty in the market. Supply chains take time and stability to develop. Constantly changing tariffs by executive orders create market disruption rather than investment confidence.

In 2024, after months of research, we made the decision to purchase what we believed to be best in class equipment, manufactured exclusively in Spain, to strengthen our apparel manufacturing operations here in the United States. At that time, we had secured a federal grant to support the purchase as part of an effort to bolster American made T-shirt manufacturing and bring a competitive advantage to the global market.

Earlier this year, the promised federal support was withdrawn. Despite this setback, we chose to move forward with the investment. Shortly thereafter, the federal government announced a 15% tariff on Spanish goods. To avoid additional costs, we were forced to fly the equipment in immediately to meet the tariff deadline, significantly increasing the total cost of the investment. My wife and I personally wrote the check to cover that tariff.

Policies like these are actively harming American manufacturing and American jobs.

Sincerely,

Eric Henry | CEO, TS Designs
Certified B Corporation
336-675-6266 | eric@tsdesigns.com

Cassie Abel
Wild Rye
180 6th Street West
Ketchum, ID 83340
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206-819-7611

The Honorable Representative Roger Williams
 Chair, Committee on Small Business
 2336 Rayburn HOB
 Washington, DC 20515

The Honorable Nydia Velazquez
 Ranking Member, Committee on Small Business
 2302 Rayburn HOB
 Washington, DC 20515

RE: January 7 Hearing on the Small Business Administration's Office of Advocacy

Chair Williams, Ranking Member Velazquez, and Committee Members,

My name is Cassie Abel. I live in Ketchum, Idaho and own Wild Rye, a technical outdoor apparel company that employs 10 people in Blaine County. I'm writing because I'm concerned about how tariffs are affecting my costs, my customers, and my ability to plan for the future.

In the past 8 months, the price of our products has increased due to tariffs. My suppliers also raise prices because their own costs rise. For example, the cost of our merino base layers went up 20%. When my costs rise suddenly, I have only two options: raise prices for customers or absorb the cost and reduce hiring, hours, or investments.

The materials we use already had a 20% duty based on the Harmonized Tariff Schedule (HTS) in addition to the 7.5% tariff imposed during the last time Trump was in office. We are now looking at additional tariffs of 30%-140% due to the additional import duties imposed by the U.S. under the International Emergency Economic Powers Act (IEEPA).

\$200 billion dollars worth of tariffs are collected at the expense of American businesses, American jobs, and the American dream. These increased tax rates are suffocating U.S. companies and holding back growth we were on track to achieve. Instead of investing in innovation, hiring, and domestic expansion, brands are being forced to divert resources just to survive.

I can't begin to tell you how many companies in my industry are actively refocusing on European and Asian markets because the U.S. has made it so hard to do business here. That means less investment at home, weaker ecosystems, and fewer opportunities for American workers.

This isn't economic strength. It's growth pushed offshore.

The U.S. supply chain is simply not set up for a technical product like ours. Wild Rye originally launched as a "Made in America" brand. However, we could not find the quality we needed inside the United States to launch our collection. We were ultimately forced to move production to China.

It will take generations for American manufacturers to achieve the level of quality we can source now from abroad. Manufacturing expertise in China produces a higher quality standard based not only on capital inputs, but years of technical experience. There has been no investment by the U.S. Government to bring textile manufacturing back to the United States, and even if we started now, it would take years of trial and error to get it right. Current domestic policy has not made any indication that investing in American manufacturing is a priority.

Tariffs have cost my company close to three hundred thousand dollars, putting the future of our business at risk. We had to launch a crowdfunding campaign to keep us afloat. We're actively shifting production out of China, a long-term move that will eventually reduce costs and improve resilience. However, this transition will take time, and time is not something that current policies have given us.

This matters because small businesses like mine don't have the same flexibility as large corporations. We can't easily switch suppliers overnight, negotiate giant discounts, or move production quickly. We also can't plan effectively when policies shift quickly. I can't predict costs, so I'm delaying decisions like hiring, expanding, or signing long-term contracts.

Larger companies are not as immediately affected by tariffs as small ones. They can switch supply chains, absorb the costs, or use storage facilities to store products when input prices are low. Our large competitors also have more influence in Washington than small brands like mine.

Here are specific actions I respectfully ask you to consider:

1. **Support targeted tariff relief or exclusions** for inputs that small businesses need and cannot readily source domestically.
2. **Hold listening sessions** with local small businesses to understand real impacts, including price increases, delayed orders, and hiring slowdowns.

If helpful, I would be glad to share more details about how our costs have changed and what that means for jobs in Ketchum, Idaho. Thank you for your service and for taking the time to consider the perspective of a small business owner.

Sincerely,

Cassie Abel, CEO and Founder
Wild Rye

Where Are Those Manufacturing Jobs?

The jobs market is so-so, but tariffs are hurting domestic companies that make things.

By

[The Editorial Board](#)

Dec. 16, 2025 5:48 pm ET

[734](#)



A steel factory in Arkansas karen pulfer focht/Reuters

The Bureau of Labor Statistics is finally back in the data business, and on Tuesday it provided an update on the jobs market for October and November. Result: Not great, but also not a recession signal that should cause the Federal Reserve to panic into cutting interest rates further.

The economy created 64,000 net new jobs in the month, following a decline of 105,000 in October. That sounds worse than it is because the net jobs decline was all in government jobs.

The private economy produced 121,000 net new jobs over the two months, but employment in government fell by 162,000. Most of those losses were in the federal government, and many were anticipated earlier in the year when DOGE swept through the bureaucracy. Many federal workers were paid through the end of the fiscal year on Sept. 30, so they first hit the jobless figures in October.

Our readers know the private economy is the engine of wealth creation, while most government employees are in the business of redistributing that wealth. The Biden Administration went on a government hiring boom, so a reversal is what President Trump promised and won't hurt the economy.

This doesn't mean the labor market is booming. The November report continues the trend from before the government shutdown that private employers aren't laying off workers in large numbers but they also aren't hiring all that many. The question is why?

Some blame the adoption of artificial intelligence that replaces workers, or at least caution from CEOs as they wait to see how AI affects the economy. But AI still hasn't been widely adopted, so AI can't be the dominant explanation.

Jan.Feb.Mar.Apr.May.Jun.Jul.Aug.Sep.Oct.Nov.12.6912.7012.7112.7212.7312.7412.7512.7612.77 million

Our main suspect is the impact of tariffs and the uncertainty Mr. Trump's willy-nilly border tax policies have caused. The Supreme Court may soon overturn his emergency tariffs as illegal, and many CEOs want to see how that case turns out and how Mr. Trump responds. Investment and hiring may also turn up next year as the tax cut provisions of this year's tax and spending bill kick in.

One big statistical reason to suspect that tariffs are hurting jobs is the trend in manufacturing. Remember when tariffs were supposed to produce a U.S. manufacturing boom? It hasn't happened. In January BLS reported 12,755,000 workers in all manufacturing industries. The number rose by a few thousand through April, but then began to fall each month and in November hit 12,697,000. That's a net loss of 58,000 jobs, including 19,000 in the last three months.

Further evidence comes from the industries affected most by Mr. Trump's tariffs of 50% on steel and aluminum and 25% on autos and auto parts. Employment in motor vehicles and parts fell 15,000 since January, while it remained flat in steel-making and aluminum

manufacturing. This doesn't count the job losses in downstream manufacturing firms that use steel and aluminum. Some renaissance.

If Mr. Trump wants a manufacturing revival, he'll drop his border taxes, and let his other tax policies help hiring and investment.

