

Office of Advocacy

TESTIMONY

of

**JERE W. GLOVER
CHIEF COUNSEL FOR ADVOCACY
U.S. Small Business Administration**

before the

**SUBCOMMITTEE ON GOVERNMENT PROGRAMS AND OVERSIGHT
and the**

**SUBCOMMITTEE ON REGULATORY REFORM AND PAPERWORK
REDUCTION**

**COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES**

March 18, 1998

on

**Analysis of small business advocacy review panels as required under
the Small Business Regulatory Enforcement Fairness Act of 1996**

Good morning Chairwoman Kelly, Chairman Bartlett and members of the Committee. I am Jere W. Glover, Chief Counsel for Advocacy of the U.S. Small Business Administration.(1) I am pleased to appear before your subcommittees to discuss the small business advocacy review panels, as required under the [Small Business Regulatory Enforcement Fairness Act of 1996](#), (SBREFA) and their impact on reducing the regulatory burdens on small business.(2)

The Small Business Regulatory Enforcement Fairness Act was a tremendous victory for small business and common sense government. The new law reinforces and strengthens the [Regulatory Flexibility Act](#)-one of the most important laws for assuring regulations are developed in an environment that welcomes small business participation. For the Office of Advocacy, the amendments of the Regulatory Flexibility Act have provided new leverage in our efforts to change the regulatory culture of Federal agencies.

One of the significant changes mandated by SBREFA is the requirement that the Environmental Protection Agency (EPA) and the Occupational Safety and Health

Administration (OSHA) convene a small business advocacy review panel prior to the publishing of a proposed rule that will have an significant impact on small entities.[\(3\)](#) This requirement allows for important input from small entities at a critical point in the development of a Federal regulation.

The Small Business Regulatory Burden Continues

Traditionally, America's small businesses have been concerned that government does not fully understand and appreciate the cost and burden regulations impose on their operations. With the passage of the Small Business Regulatory Enforcement Fairness Act in 1996, Congress and the Administration reaffirmed a commitment to address small business concerns about regulatory and paperwork burdens.

As the Chief Counsel for Advocacy, I am charged by Congress to represent the interests of small businesses before the Federal government. A significant part of that mandate is improving the rulemaking process. We continue to find that agencies are more likely to minimize the burden on small entities while meeting their regulatory objectives if they involve small businesses and the Office of Advocacy early in the rulemaking process.

Advocacy's Office of Economic Research has surveyed the impact of regulations on small firms.[\(4\)](#) A 1994 study commissioned by Advocacy [\(5\)](#) revealed that small firms are disproportionately burdened by the cost of regulatory compliance. In fact, the burden of compliance is as much as 50 percent more for small businesses than their larger counterparts.[\(6\)](#)

This cost differential gives larger firms a competitive advantage in the marketplace, a result at odds with the national interest in maintaining a viable, dynamic and progressive role for small business in the economy. Efforts to lessen the burden on small business are not "special treatment." Rather they level the playing field and are sound public policy.

The Panel Process is a Valuable Tool

[SBREFA](#) addressed the regulatory burden problem by mandating the creation of small business advocacy review panels for rules issued by EPA and OSHA. As I testified last year, the panel requirement is an important addition to the Regulatory Flexibility Act because it inserts small businesses into the process early - before an agency issues a proposed rule. The panel process is only one component of a comprehensive package of reforms taken by this Administration, this Congress and the Chief Counsel for Advocacy to reduce the regulatory burden. Significant accomplishments include: 1) expanding the jurisdiction of the [Regulatory Flexibility Act](#) to interpretive rules of the Internal Revenue Service that impose a collection of information requirement; 2) the Vice President's reinvention initiative to make regulations more reasonable and responsive; 3) the

President's March, 1995, enforcement memo to agencies, encouraging more common sense enforcement activities; and 4) SBREFA's strengthening of the amicus authority of the Chief Counsel and allowing judicial review of agency compliance with certain provisions of the Regulatory Flexibility Act. It is too early to measure the impact of these measures on the overall burden on small business, but we are beginning to see changes in agency behavior.

Based on our experience thus far, Advocacy has found that review panels seem to have enhanced the decision making process. Discussions about serious policy decisions between key agency officials and businesses within an affected industry are a real eye-opener for all participants. Federal agency staff must discuss and explain their proposed regulation with real small businesses under circumstances that promote dialogue. Small businesses in turn learn about the agency objectives and legal requirements. I strongly believe that this process will continue to be a useful and viable method of early identification of small business concerns, promulgation of more effective rules and meaningful reduction in the unnecessary regulatory burden on small business.

The process is new. It is therefore arguably premature to attempt a definitive analysis of the overall impact on the regulatory process since there have only been six rules for which agencies have convened panels. What I can report is that, at a minimum, agency consideration of regulatory alternatives and small business impacts has been improved. The whole purpose of the panel process is to ensure that the agencies involved begin looking at the potential small business implications of their proposed rulemaking early on in the process - and that seems to be working.

EPA and OSHA Compliance

Since the enactment of SBREFA, five panels have been completed by EPA and one completed by OSHA. We are encouraged by the progress that has been made and the efforts which the agencies are putting forth. We will continue to work hard with these agencies to ensure that the needs of the small business community and the mandates of [SBREFA](#) are met without compromising other public policy objectives such as health and environmental safety.

The first panel report authored by EPA, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) and the Chief Counsel under SBREFA concerned a rulemaking that would set emissions controls for manufacturers of diesel engines for equipment that does not operate on the road (for example, farm equipment and forklifts). The panel made five recommendations for regulatory relief based on ten options presented by the small entities to the EPA Administrator. The agency found it could adopt these five options, save money for the affected businesses, and still achieve virtually the same amount of emissions reductions. The key issue here is that the impacts of the proposed rule on small entities could be mitigated while achieving the same

amount of emissions reductions. We were pleased that all five suggestions were included in the agency's proposed rule, published on September 24, 1997.

The EPA also convened a panel for a water pollution rule affecting industrial laundries. The EPA proposed a small business exemption that would exclude approximately seven percent of all laundries, based on the inconsequential discharges of these smallest facilities. With Advocacy's efforts, the panel and EPA agreed to consider and solicit comment both on a no-regulation option and, in the alternative, a wider small business exemption. In its analysis, the agency found that even unregulated discharges from the smallest facilities had little or no effect on the environment, thus demonstrating that the "one size fits all" approach to regulation does not necessarily advance environmental improvements. This rule was proposed in December, 1997.

The third EPA panel involved water permits for stormwater dischargers (phase II). The rule was proposed on January 8, 1998. This rule had already benefited from the recommendations of a large group of affected entities who were members of an advisory committee subject to the Federal Advisory Committee Act (FACA). However, even after the extensive two year FACA process (many of the same small entity advisors participating in this process were consulted by the EPA review panel), the SBREFA panel process yielded an important change to the proposed rule that would relieve small business facilities from performing a complex and costly environmental assessment, which they were ill-equipped to perform. Instead, the agency's objective was achieved by requiring the state permit authorities to perform the analyses. In the proposal, small business facilities now need only complete a simple checklist of stormwater related items. EPA still gets the information it needs to accomplish its objectives, but without unduly burdening small entities.

Although EPA has completed panels for two other rules, the proposals have yet to be published. The impact of these panels will not be known until the proposals that are developed in response to the small business and panel recommendations are published.

One problem that arose frequently in the panel process with EPA is one that I hope will diminish as we fine tune the process. Advocacy and the small entity representatives were constantly seeking additional information from EPA in each of the panel proceedings. In more than one rulemaking, EPA initially presented the small entity representatives with only the EPA proposal, without any significant regulatory alternatives to consider. Subsequent to our request, the agency quickly remedied these omissions. In several rules, EPA offered no information about the cost of the regulation or competing alternatives.

This type of information is generally essential to informed analysis of the rule and alternatives. The Federal panel members (consisting of representatives from the Office of Information and Regulatory Affairs, EPA, and the Office of Advocacy)

frequently debate the need to provide additional materials to the small entity representatives and the panelists, materials that would shed light on economic impacts, and expected environmental results. In recent panels, we have been more successful about gathering the material in a timely manner for the small entity representatives and panel members. We believe we have been making significant progress in addressing this issue, and are hopeful that the information problem we have been encountering will be less severe as the small entity analysis becomes institutionalized.

As the GAO report indicates, only one panel has been held for an OSHA rulemaking. The panel was conducted for a rule to limit Occupational Exposure to Tuberculosis (TB). OSHA published the proposed rule on October 17, 1997. The small entities subject to the proposed rule include hospitals, homeless shelters and nursing homes.

Small entities raised several significant concerns during the panel process, including the complexity of the rule and the need for OSHA to coordinate its efforts with existing voluntary and regulatory health and safety programs designed to control infectious disease. OSHA responded to some of the issues raised by small entities during the panel process, including further clarification of key terms, definitions, and certain requirements. Advocacy submitted comments for the record on the proposed rule in which it continued to encourage OSHA to consider many of the alternatives raised by small entities to ensure that a policy is developed which will protect workers without increasing the risk to the general public and take into account the compliance problems that might ensue due to the limited resources of organizations such as homeless shelters and hospices.

The TB rule had already progressed significantly through the regulatory process and was already in draft form at the time SBREFA was implemented. Thus, the panel and small business entities had to address a rule on which OSHA had already developed clear views on how to address worker exposure to TB. Unfortunately, the proposed rule does not contain as many fundamental changes as we would have liked.

In the future, Advocacy anticipates that OSHA will facilitate outreach to small businesses in the earliest stages of the rulemaking process. For example, OSHA is now developing a rule which will require businesses to adopt Safety and Health Programs. For this rule, OSHA and Advocacy jointly held a series of small business outreach meetings in the summer of 1997. Advocacy is optimistic that the early small business input will greatly assist OSHA in developing the rule.

Identifying small entities, including small businesses, to be consulted by the panel is another challenge. It is often difficult to find potentially affected small businesses which are willing and able to devote the time and effort it takes to become a part of the small business panel. By definition, small entities do not have the luxury of administrative staff that can work on projects unrelated directly

to the work of the enterprise. To be effective, small entity participants in the panels require time - time away from their businesses to review a draft of the rule, the economic analysis and appropriate risk assessment materials that demonstrate the need for the rule. The activity is labor intensive and time consuming. Nevertheless, I am confident that, as the panel process progresses and small businesses witness the impact which their involvement can have, small businesses will view participation as a cost-effective activity.

And while trade associations and legal consultants are a good source of expertise, they cannot fully substitute for the "hands-on" insights small entities can bring to the process.

Both agencies are learning quickly that the [SBREFA](#) requirements are both beneficial to their rulemaking process and to the small business community. The ultimate question to ask when judging the success of the panels and the compliance of the agencies is: Did the panel process result in the agency making changes to the rule that mitigated impacts on small entities without compromising the rule's objective? We have seen some changes to proposed regulations, and as more proposed rules become final regulations, we will be better able to answer this question and judge the success of these panels. In the meantime, the work for members of the panel will remain labor intensive until the process becomes institutionalized and more efficient. Advocacy looks forward to continuing to work with EPA and OSHA.

Conclusion

Participation in the development of regulations is an important right of small businesses. Recognizing that small business is the major source of competition and economic growth, Congress established through the RFA a process to design regulations that will help achieve statutory and regulatory goals efficiently without harming or imposing undue burdens on the major source of competition in the nation's economy - small business. The passage of the Small Business Regulatory Enforcement Fairness Act has cemented this important role of small businesses. The SBREFA requirement for small business advocacy review panels guarantees that two major federal regulatory agencies will seriously consider the impact of regulation on small businesses at the earliest possible stages.

From Advocacy's perspective, the process has great potential. We and the agencies are learning together how to make it as effective as Congress envisioned it could be. We are learning how to identify information and analyses needed, what materials can effectively communicate the issues to small entity representatives, how to streamline the process and improve the economic and policy impact analyses and how to maximize the input from small entities. The process will help institutionalize within regulatory agencies the kind of analyses that substantiate regulatory solutions without 1) unduly burdening small business,

2) erecting barriers to competition or 3) discouraging the introduction of beneficial products and processes.

As for the balance of the government, judicial review of agency compliance with certain provisions of the RFA provides a major incentive for agencies to improve their impact analyses and, thus, avoid court challenges to their regulations.

Finally, I wish to express appreciation for the work of the GAO staff who worked on this report. Their investigation generated some lively and very productive exchanges of information. We truly appreciated their insights on legislative history and the objectivity with which they approached their task.

APPENDIX

OFFICE OF ADVOCACY

Economic Research Studies: Regulatory Impact on Small Business

On-Going Economic Research

Studies of the Impacts of Federal Regulations, Paperwork, And Tax Requirements for Small Business (to be completed in 1998), Henry Beale, Microeconomic Applications, Washington, D.C. The studies examines the relative cost of regulations in small vs. large firms in a representative group of regs from EPA, OSHA, EPA, and the IRS. Cost ratios are expressed on a common basis.

Enforcement Penalties Against Small Businesses

Kelly Lear, Bloomington, Indiana (Ph.D Dissertation). (To be completed in 1998). This thesis is examining the size of the penalties on businesses by firm size to determine if any systematic relationships exist between the size of the penalties by government regulators and the size of the business they are regulating.

Regulatory and Economic Analyses of the Impact of Federal Regulations on Small Businesses (contract expires September 1998) Policy, Planning & Evaluation, Vienna, Virginia. These analyses support rulemaking comments made by the Office of Advocacy on regulations affecting small businesses, primarily proposed rules issued by the Environmental Protection Agency and the Occupational Safety and Health Administration.

Published Economic Research

Contract Bundling and Small Business: Effects of the Federal Acquisition Streamlining Act on Small Business, Eagle Eye Consulting, Arlington, VA. (1997). This study concluded that while the dollar volume of federal awards to small firms has risen slightly from FY91-FY95, the number of small firms receiving awards is declining. However, awards to 8(a) firms have been rising.

Utility Deregulation and the Effects on Small Business, J.W. Wilson and Associates, Washington, D.C. (1996). This study concluded that small firms will be adversely effected by stranded costs as the result of competition in the market for electricity. Because of their lack of bargaining power, small firms may not be able to bid for the lower cost electric rates of alternative suppliers.

A Survey of Regulatory Burdens, Diversified Research, Irvington, N.Y. (June, 1995). This nationally representative study surveyed 360 firms in 15 industries to determine the regulatory burden across 4 firm sizes. It concluded that firms with 1-4 employees could be spending up to \$32,000 per employee for regulatory costs, compared with \$17,000 per employee for firms with more than 50 employees. IRS paperwork burden accounted for much of the differential.

Profiles of Regulatory Costs, Thomas D. Hopkins, Rochester, N.Y. (November, 1995). This study attempted to measure total regulatory costs on both households and businesses. It concluded that, despite data limitations, small firms face greater regulatory burdens. Process regulation accounted for some 40 percent of regulatory costs, while environmental regulations accounted for about a quarter of regulatory costs.

Cost-Effective Regulation by EPA and Small Business Impacts, Christopher R. Allen, Henry B.R. Beale, Robert E. Burt, Cynthia Pantazis, and Kathleen A. Shaver (1992), Microeconomic Applications, Inc., Washington, D.C. The Regulatory Flexibility Act requires the Environmental Protection Agency and other federal agencies to consider reasonable alternatives that may minimize burdens on small entities while achieving statutory objectives. For various reasons, effects on small entities may not be adequately addressed through cost-effective regulatory alternatives. This research, which focuses on eight case studies involving EPA regulations, explores factors and problems contributing to this outcome, and also provides examples of successful EPA regulatory flexibility analysis.

The Impact of Telephone Deregulation on Small Business, J.A. Montanye (1988), Cornell University Group, Inc., Falls Church, VA. This study looks at prevailing regulatory issues at the state and federal levels in the telecommunications industry in the late 1980s. It attempts to assess the potential impact of regulatory reform on the price and availability of telecommunications services used by small businesses. Case studies of the telecommunications regulation experiences of Nebraska, Vermont, and Colorado are included.

An Analysis of Closures of Industries in SIC 24 and 25 As a Result of Proposed OSHA Regulations, Policy Planning and Evaluation, Inc. (1988), Vienna, VA. Regulations proposed in 1988 by the Occupational Safety and Health Administration to revise standards for air contaminants would require many industries to purchase and install air pollution control equipment. Some firms may be excessively burdened by the costs of complying with the regulations, even to the point of closing down. This paper focuses on the tests used to determine the financial ability of firms in SIC 24 (lumber and wood products) and SIC 25 (furniture and fixtures) to bear the costs imposed by the proposed OSHA regulations.

Pension Laws and Regulations Affecting Small Business Plan Decisions, Anthony J. Sulvetta, Christopher M. Niemczewski, and Martha A. Solt (1986), Jutin Research Associates, Washington, D.C. This study finds that frequently changing pension laws and regulations require small firms to hire specialists, which increases costs and deters firms from offering pension plans. Burdensome regulations include reporting and disclosure requirements; top-heavy rules; and fiduciary, funding, and vesting requirements.

Comments on the Environmental Protection Agency's Effluent Limitation Guidelines for the Organic Chemicals, Plastics, and Synthetic Fiber Industries, Charles Marshall (1985), JACA Corporation, Fort Washington, PA. The analysis shows that 23 percent of 636 affected facilities would close as a result of these effluent guidelines, compared to the Environmental Protection Agency's estimate of 15 percent. The difference was largely due to EPA's failure to consider financial variability within categories and its overstatement of affordability.

Comments on EPA's Effluent Limitation Guidelines for the Pesticide Chemicals Industry, Charles Marshall (1984), JACA Corporation, Fort Washington, PA. The report recommends that the

Environmental Protection Agency adopt alternatives to the zero discharge rule for the pesticide formulation and packaging industry. Suggested spray treatment is not widely available. In addition, compliance costs are more than double the EPA estimates.

Disproportional Burden of Regulations on Small Business Economies of Scale in Regulatory Compliance: Evidence of the Differential Impacts of Regulation by Firm Size, Todd A. Morrison (1984), Jack Faucett Associates, Inc., Chevy Chase, MD. A disproportionate burden is placed on small business by federal regulations, according to this report. Studies of 14 regulations in 150 three-digit SIC code industries showed that the median small firm experiences an average cost per employee greater than three times the large firm.

Comments on EPA's Effluent Limitation Guidelines Covering the Lead-Acid Battery Manufacturing Industry, Charles Marshall (1984), JACA Corporation, Fort Washington, PA. The study recommends that the U.S. Environmental Protection Agency develop a regulatory flexibility analysis (RFA) for this standard due to the magnitude of differential control costs. The regulatory alternatives used in this RFA should include alternative discharge levels.

Comments on the Environmental Protection Agency's Effluent Limitation Guidelines for the Metal Molding and Casting Industries, Charles Marshall (1984), JACA Corporation, Fort Washington, PA. This study lists 13 processes which should be excluded from regulation. It recommends that sensitivity analyses should be conducted by the Environmental Protection Agency and that financial ratio thresholds should be tested. Zero discharge should not be required unless attainable.

Comments on the Environmental Protection Agency's Effluent Limitation Guidelines for the Nonferrous Metals Manufacturing Industries, Charles Marshall (1984), JACA Corporation, Fort Washington, PA. This study concludes that ammonia should not be included in the Environmental Protection Agency's effluent limitation guidelines. A requirement for filtration cutoff of 10,000 tons per year for secondary aluminum plants is recommended. No allowance is made in the study for the variation in cost structure between plants and industry types.

A Preliminary Examination of the Quality and Performance of S-18 Offerings and Securities, Alfred E. Osborne, Jr. (1983), A.E. Osborne Associates, Sherman Oaks, CA. In 1979, the Securities and Exchange Commission, through the adoption of Form S-18, announced simplified registration and reporting requirements for the sale of securities -- not to exceed \$5 million -- by certain small issuers. This preliminary study looked at the experiences of six companies that filed S-18 registrations and were subsequently listed in the Wall Street Journal. It sought to determine: (1) the investment quality of the issues; (2) the costs of effecting S-18 offerings of securities in contrast to comparable initial public offerings; and (3) the aftermarket performance of each company.

The Relationship Between Asset Size and the Number of Shareholders for SEC Reporting Companies, Alfred E. Osborne, Jr. (1983), A.E. Osborne Associates, Sherman Oaks, CA. For small firms, unlike for large firms, the costs of meeting SEC reporting requirements outweigh the benefit to shareholders of the reported information. This study recommends the establishment of exemptions from SEC reporting requirements based on asset size.

Report of the Use of the Rule 146 Exemption in Capital Formation, Ulysses Lupien and John Matthews (1983), Securities and Exchange Commission, Office of Economic Research, Washington, D.C. The Rule 146 exemption from registration requirements of the Securities Act of 1933 was available from 1974 to 1982. It was adopted to provide great certainty in exempted nonpublic offerings by establishing more objective standards upon which stock issuers could rely in raising capital.

Asset Size and Alternative Policy Criteria in Securities Regulation, Alfred E. Osborne, Jr. (1983), A.E. Osborne Associates, Sherman Oaks, CA. The study surveyed 265 firms, approximately 77 percent of all small high technology firms reporting to the SEC in 1977. Three-quarters of the firms had stock market values below their book values. The average value of holding per shareholder was one-tenth that of the New York Stock Exchange's average.

An Estimate of Compliance Costs Under the Periodic Reporting Requirements of the Securities and Exchange Commission for Small High-Technology Companies, Alfred E. Osborne, Jr. (1983), A.E. Osborne Associates, Sherman Oaks, CA. This study of 265 companies showed that reporting costs for quarterly 10-Q and annual 10-K reports were over \$50,000. The disclosure requirements impose a heavier burden on small companies than on large companies because the costs are largely fixed.

Impact of Environmental Regulations on Small Business, Nathaniel Greenfield (1982), Booz Allen and Hamilton, Inc., Bethesda, MD. As federal regulatory agencies have fulfilled their congressional mandates, some regulators, concerned about the disproportionate impact of regulation on small businesses, have designed special exemptions for small firms. The research described in this report attempts to ascertain whether government environmental regulations have in fact had disproportionate adverse effects on smaller manufacturing firms. The analysis examines a sample of industries to find out how well small firms have fared relative to larger firms over time.

An Analysis of the Use of Regulation a for Small Public Offerings, William C. Dale, Ulysses G. Lupien, and Robert E. Zweig (1982), Securities and Exchange Commission, Directorate of Economic Research, Washington, D.C. The Regulation A exemption from the registration provisions of the Securities Act of 1933 provides small stock issuers with a simplified procedure for selling a limited dollar amount of securities in a public offering without having to incur the full expense and delay of the complete registration process. Using data from SEC filings, this study examines the general operation of Regulation A by focusing on the characteristics of the issuers and offerings using the exemption. It also examines the effects of the increase in the Regulation A ceiling amount that came into effect in 1978.

Federal Regulation of Small Business, William A. Brock and David S. Evans (1982), Chicago Economic Research Association, Evanston, IL. As a result of legislation passed in the late 1960s and early 1970s, federal regulation of businesses increased dramatically. During the 1970s the federal regulatory budget grew sixfold and federal regulatory employment nearly tripled. Also during the 1970s, evidence indicated that uniform application of regulatory requirements increases the minimum size of firms that can compete effectively in the regulated market. This study describes small business' role in the economy and examines the impact of federal regulations and taxes on businesses of different sizes.

Complying with Government Requirements: The Costs to Small and Larger Businesses, Roland J. Cole and Paul Sommers (1981), Battelle Memorial Institute, Human Affairs Research Center, Seattle, WA. During the 1970s, government requirements increased the cost of doing business in all industries. Government requirements pose special problems for small businesses because they cost more per dollar of revenue than in moderate-sized or large firms. This report assesses the cost impact of government regulations on small business.

The Impact of Federal Regulations on Small Firms in the New England Fishing Industry, Catherine P. Wiggins (1981), University of New Haven, West Haven, CT. This study examined the effects of the Fishery Conservation and Management Act of 1976, and found that it reversed the decline of the New England fishing industry by reducing competition from foreign vessels. However, small fishermen did not have a voice in fishery management planning.

Small Business and Motor Carrier Regulatory Reform, Michael W. Pustay (1981), Texas A&M University, College Station, TX. This research explores the impacts on the small business community of U.S. Interstate Commerce Commission (ICC) regulation of the interstate motor carrier industry and recent reforms of ICC motor carrier regulation. Three areas are examined in depth: the provision of motor carrier service to small businesses in small communities, protection for small businesses from discriminatory pricing by ICC-regulated motor carriers, and ensuring equal access for small businesses to the services of small contract carriers.

Improving Economic Impact Analyses of Government Regulations on Small Business, Charles R. Marshall (1981), JACA Corporation, Fort Washington, PA. The study concludes that the costs of required reporting, recordkeeping, and testing should be included in cost estimates. These costs are higher per unit for smaller firms. The study recommends the model plant approach.

Steps to Ensure the Viability of the Residential Fuel Oil Distribution System, Peter Bos (1980), Resource Planning Associates, Cambridge, MA. In the 1970s, there were about 8,000 heating oil dealers in the United States, most of them small independent businesses. This study took a look at some of the problems then threatening the viability of these small firms -- such as tighter supplier credit, decreasing market share, and anticompetitive government regulation -- and offered some strategies to alleviate the negative impact of these trends.

The Impact of Federal Regulations on the Small Coal Mine in Appalachia, Bernard Davis and Raymond Ferrell (1980), Appalachian Development Center, Morehead, KY. This study addresses two specific issues influencing the production of coal from small mines: (1) the direct costs and other effects of governmental regulation and deregulation on coal operators in general, and (2) the effects of governmental policies on the productivity by size class of small coal mines. Permitting costs, productivity data, and operating and compliance costs were examined for sample groups of small mines in Kentucky.

Industry Rivalry and Strategy in the Regulatory Process, Sharon Oster (1980), Yale University, New Haven, CT. The study shows how a firm might support regulations that differentially damage its rivals. A firm's incentive to engage in strategic regulatory investments depends on the nature of the proposed regulation and barriers to entry and mobility.

Costs of Compliance in Small and Moderate-Sized Businesses, Roland J. Cole and Paul Sommers (1980), Battelle Memorial Institute, Seattle, WA. This paper considers theoretical reasons for expecting small businesses to have more variable -- but on average proportionately higher -- costs of compliance with government requirements than moderate-sized businesses. Small businesses are more likely not to comply because they are less likely to be detected, but when they do comply, their costs are proportionately higher. Empirical tests of this theory for a Washington State sample of small- and moderate-sized businesses confirm that small businesses report higher mean costs but greater variability across firms.

Analysis of Regulatory Cost on Establishment Size for the Small Business Administration, Michael E. Simon and L. Ross Beard (1979), Arthur Andersen & Company, Washington, D.C. The purpose of this study was to analyze the cost impact of government regulation by size of business. The electrical machinery industry was selected as an industry that showed meaningful regulatory cost trends, incremental costs of regulations, as well as trends in regulatory costs, are shown by business size.

ENDNOTES

1. The Office of Advocacy, established by Public Law 94-305, is an independent office charged with representing the views and interests of small businesses

before the Federal government. By law, the Chief Counsel is appointed by the President from the private sector and confirmed by the Senate. The Chief Counsel's comments are his own and do not necessarily reflect the views of the Administration or the Small Business Administration.

2. Pub. L. 104-121

3. Pub. L. 104-121, § 241; 5 U.S.C. § 609 (b) - (e)

4. See Appendix A for a listing.

5. *A Survey of Regulatory Burdens*, Report to the Office of Advocacy, U.S. Small Business Administration, Thomas D. Hopkins and Diversified Research, Inc., June 1995.

6. *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Office of Advocacy, U.S. Small Business Administration, October 1995.

* Last Modified: 6/18/01