



November 7, 2018

VIA ELECTRONIC CORRESPONDENCE

The Honorable Sonny Perdue
U.S. Department of Agriculture
1400 Independence Ave, S.W.
Washington, D.C. 20250

Dear Secretary Perdue:

As a result of President Trump's executive orders, 13771 and 13777, the Office of Advocacy (Advocacy) has been engaged in efforts to hear first-hand from small businesses across the country about specific federal regulatory burdens facing their businesses. As you know, under the Regulatory Flexibility Act (RFA), agencies are required to consider the impact of their regulations on small entities when promulgating federal regulations.¹ We believe the RFA and consideration of small business economic impacts is a good place to start when an agency is selecting rules that are being reviewed for reform or elimination.

We recently hosted roundtables in Virginia, New Hampshire, Massachusetts, Michigan, Wisconsin, Texas, Georgia, California, Florida, Iowa, Nebraska, Colorado, Wyoming, Pennsylvania, New Jersey, and New York and would like to inform you of the specific concerns

¹ Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The RFA, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives. 5 U.S.C. § 601 et seq.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy. The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so. Small Business Jobs Act of 2010 (PL 111-240) § 1601.

and regulations that we heard about from small businesses in that region. In addition, Advocacy solicited online comments from stakeholders.

Summary of Concerns from Roundtables and Online Comments

- **National Organics Program**

Advocacy heard several comments regarding the National Organics Programs. Comments are summarized below.

- Currently accreditation is not available for personal care products in which the only non-organic ingredient is a substance that is not available organically (such as in soap products.) Thus despite all other ingredients being certified organic, personal care products are unable to qualify for certification. The Agency should consider establishing guidelines for certification of these products. Furthermore, currently the Agency does not otherwise penalize those products that claim to be “USDA Certified” Organic but are not. There should be a better mechanism for prohibiting false claims.
- Small entities spoke of fraud in imported products that may not be organic, and are then mixed with organic products. They stated that sometimes it is the retailer who is penalized for these infractions rather than the distributor who comingled the organic and non-organic products. They cited the need for better enforcement mechanisms so they are not penalized.

- **Animal ID**

- Small entities are concerned about the potential for a new regulation requiring livestock, and specifically cattle, to be tagged via RFID electronic tagging. The regulation may also include intra-state logging requirements. Small businesses stated that even with agency cost-sharing for the tags, the switch to electronic ID will be higher than the unsubsidized cost of traditional metal tags—which are provided free of charge. Furthermore small entities are concerned that the cost-sharing will only be provided for three years, and that they will have to pay high costs for infrastructure for electronic ID readers. Small entities are also concerned about the requirements for intra-state transport, as many small-scale producers only transport and sell within a small radius and would thus now be subject to these exorbitant fees when they have minimum exposure. Stakeholders stated they are concerned that there are not enough small entity voices in the “Cattle ID Working Group” on which the agency is relying for industry information in setting these standards, and they are asking that the agency conduct specific small business outreach on this issue and/or invite more smalls businesses to be part of the working group itself.

- **Crop Insurance**

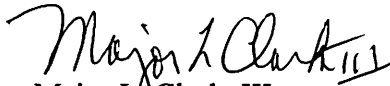
- Stakeholders mentioned that current crop insurance programs should be modified to cover more non-traditional crops and allow producers to farm alternative crops for conservation purposes.

The Office of Advocacy looks forward to working with your agency to reduce the burden of federal regulations on behalf of the small businesses that have asked us to be their voice in this regulatory reform process. We hope that you will include these specific rules when you compile your list of rules to review. Advocacy would be happy to meet with you or your representative so that we may detail the concerns and help suggest less burdensome alternatives for small business as rules are being considered for revision. I have provided the contact information for Assistant Chief Counsels **Linwood Rayford** and **Prianka Sharma** below.

As we continue to hear from small businesses across the country at our regional regulatory reform roundtables or through our outreach from our regulatory reform website, we will update you with additional summaries from those locations.

Thank you for considering small business impacts as a vital part of your regulatory reform efforts and for including the Office of Advocacy as an important part of the process.

Sincerely,


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