



November 16, 2018

VIA ELECTRONIC CORRESPONDENCE

General Matthew Whitaker  
Acting Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Acting Attorney General Whitaker:

As a result of President Trump's executive orders, 13771 and 13777, the Office of Advocacy (Advocacy) has begun an effort 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.<sup>1</sup> 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, Modesto, California, Florida, Iowa, Wyoming, Colorado, New Jersey, Pennsylvania, and New York. Advocacy also invited small businesses who could not attend the roundtables to submit their comments on Advocacy's website. Advocacy would like to inform you of the specific concerns and regulations that we heard about from small businesses

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<sup>1</sup> 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.

in these regions, and comments we received from our website as we hope they will be of help to your agency as you comply with the aforementioned executive orders.

### **Summary of Concerns from Roundtables and Website**

- **Title III of the Americans with Disabilities Act (ADA) - Public Accommodations and Website Accessibility**

Title III of the Americans with Disabilities (ADA) requires that places of public accommodation provide accessibility in their buildings for people with disabilities; this requirement has also been extended to accommodations' websites. Small businesses have expressed concern that accessibility standards in buildings are vague and have resulted in many "drive-by" lawsuits for hotels, restaurants and other facilities. Representatives from small credit unions, small businesses and small municipalities have also expressed similar concern that the lack of clarity about website accessibility requirements has led to an increase in litigation and demand letters. Advocacy is pleased to have worked with DOJ on setting up a Small Business Roundtable and Listening Session on these ADA issues with DOJ on December 3, 2018.

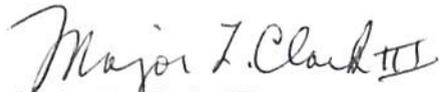
- **Title III of the ADA - Passenger Vessels**

Small U.S.-flagged passenger vessel operators have commented that they have many steps to understand and comply with existing regulations implementing the Americans with Disabilities Act. Small businesses are concerned as to how the DOJ might apply ADA building requirements to boats, especially to smaller and older vessels that designed and built before the ADA was enacted and cannot be easily reconfigured without compromising their stability or other Coast Guard-mandated safety features. As required by the Regulatory Flexibility Act, the agency should consider the compliance costs of future rules and possible alternatives that would minimize the impact of this rule on small businesses.

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 Counsel **Janis Reyes** 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,

A handwritten signature in black ink that reads "Major L. Clark, III". The signature is written in a cursive, slightly slanted style.

Major L. Clark, III  
Acting Chief Counsel for Advocacy

Janis Reyes, Assistant Chief Counsel

[Janis.Reyes@sba.gov](mailto:Janis.Reyes@sba.gov); (202) 619-0312

CC: Beth A. Williams, Assistant Attorney General, Office of Legal Policy and Regulatory Reform Officer, DOJ

The Honorable Neomi Rao, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget