

Office of Advocacy

U.S. Small Business Administration

NEWSRELEASE

For Release: February 27, 2009

Contact: John McDowell, (202) 205-6941

john.mcdowell@sba.gov

SBA Number: 09-07 ADVO

Press Kit

Two New Regulations Added To 2009 r3 Top 10 Rules For Review And Reform

New Rules Replace Those Already Reviewed Or Reformed

WASHINGTON, D.C. – Two new regulations have been added to the Office of Advocacy’s Top 10 Rules for Review and Reform. The new rules replace those that agencies already have reviewed and reformed, and they round out the Regulatory Review and Reform (r3) initiative’s 2009 Top 10. The two new rules address federal government procurement requirements for small business and duplicative background checks for commercial truck drivers.

Advocacy created the r3 initiative in an effort to reduce the cumulative burden of federal regulations on small business. Complying with federal regulations now costs our economy \$1.1 trillion per year. The smallest of businesses bear the brunt of regulatory costs. Office of Advocacy research shows that they annually pay 45 percent more per employee to comply with federal regulations than big businesses do.

“We are pleased with the progress some federal agencies have shown in reviewing and reforming rules in the r3 Top 10,” said Shawne McGibbon, Acting Chief Counsel for Advocacy. “Nonetheless, there are still a significant number of rules needing review and reform. Again this year small businesses nominated rules that are outdated, duplicative, ineffective, or overly complex. The two new rules selected to be in the Top 10 need to be reviewed and reformed to ease the burden on struggling small businesses.”

Advocacy selected the newly added rules from 38 nominations. Reforming the first would remove the “foreign exemption” in federal procurement policy. The result would be an incentive for federal agencies to award more overseas contracts to small and disadvantaged businesses. Reforming the second rule would eliminate the need for commercial truck drivers to undergo a costly and duplicative second background security check when applying for a hazardous materials endorsement when they have already been fully screened.

The new 2009 rules replace two of the 2008 Top 10 rules that agencies reviewed and reformed during the past year. In October, EPA reformed the definition of “solid waste,” encouraging recycling rather than disposal of certain spent materials. And in December, the FAA finalized its Special Flight Rules Area rule for the Washington, D.C. area. The final rule creates a

smaller restricted airspace than was originally imposed, addressing many of the economic concerns raised by small businesses.

In order to track agency action on the Top 10, Advocacy has posted the list to its website (www.sba.gov/advo/r3); an update on the status of agency reviews is published twice a year. Advocacy encourages small businesses and their representatives to follow the progress of the reviews and comment to the agencies on that progress.

The Top 10 rules are chosen on the basis of several factors: (1) whether the rule could reasonably be tailored to accomplish its intended objectives while reducing the impact on small businesses or small communities; (2) whether the rule being nominated has ever been reviewed for its impact on small entities; (3) whether technology, economic conditions, or other factors have changed since the rule was originally written; (4) whether the rule imposes duplicative requirements; and (5) the overall importance of the rule to small businesses and small communities.

Nominations not chosen have given Advocacy valuable insight into the regulatory issues of concern to small businesses, which will help Advocacy prioritize its regulatory agenda in 2009.

2009 r3 Top 10 Rules for Review and Reform

After significant review and analysis of the nominations received, Advocacy selected the following nominations as the 2009 r3 Top 10 Rules for Review and Reform, listed by agency:

Added To Top 10 In 2009

Rule	Agency	Description
Remove the “foreign exemption” from federal procurement policy.	Federal Acquisition Regulation (FAR) Council	Removing the “foreign exemption” should be an incentive for federal agencies to award more overseas contracts to U.S.-based small and disadvantaged businesses.
Eliminate duplicative security background checks for commercial truck drivers.	Transportation Security Administration (TSA)	Eliminate the current requirement that a commercial truck driver who holds a valid TWIC must undergo a duplicative security background check when they apply for a hazardous materials endorsement.

Remaining In The Top 10

Rule	Agency	Description
Update air monitoring rules for dry cleaners to reflect current technology.	Environmental Protection Agency (EPA)	Revise testing requirements to reward environmentally friendly dry cleaning methods.
Flexibility for community drinking water systems.	Environmental Protection Agency (EPA)	Expand ways for small communities to meet protective drinking water standards.
Clearly define “oil” in oil spill rules.	Environmental Protection Agency (EPA)	Clarify the definition of “oil” in the oil spill program, so that small facilities storing nonpetroleum-based products are not unintentionally captured by spill program requirements.
Eliminate retainage requirements for architect-engineering services firms in government contracting.	Federal Acquisition Regulation (FAR) Council	Remove current retainage requirements, which are not necessary, as the Brooks Act requires A&E contracts to be awarded by Qualifications Based Selection.
Simplify the home office business deduction.	Internal Revenue Service (IRS)	Permit a standard deduction for home-based businesses, which constitute 53 percent of all small businesses.
Update rules on the use of explosives in mines to reflect modern industry standards.	Mine Safety and Health Administration (MSHA)	Update to be consistent with modern mining industry explosives standards.
Medical/laboratory worker rule.	Occupational Safety and Health Administration (OSHA)	Review to determine whether the rule can be made more flexible in situations where workers do not have potential exposure to bloodborne pathogens.
Reverse auction techniques for online procurement.	Office of Federal Procurement Policy (OFPP)	Review system to examine how reverse auctions impact small firms.

Find out more about the r3 initiative and agency progress in reviewing the Top 10 rules by visiting www.sba.gov/advo/r3.

The Office of Advocacy, the “small business watchdog” of the federal government, examines the role and status of small business in the economy and independently represents the views of small business to federal agencies, Congress, and the President. It is the source for small business statistics presented in user-friendly formats, and it funds research into small business issues.

###

The Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the federal government. The presidentially appointed Chief Counsel for Advocacy advances the views, concerns, and interests of small business before Congress, the White House, federal agencies, federal courts, and state policymakers. For more information, visit www.sba.gov/advo, or call (202) 205-6533.