

**Written Statement  
of  
Thomas M. Sullivan  
Chief Counsel for Advocacy  
U.S. Small Business Administration  
submitted to  
Senate Committee on Financial Services, Technology and Regulatory Issues  
of the  
Rhode Island Senate  
March 24, 2004**

Chairman Walaska, Vice Chairman DaPonte, and members of the Senate Committee on Financial Services, Technology and Regulatory Issues, my name is Thomas M. Sullivan and I am the Chief Counsel for Advocacy at the U.S. Small Business Administration. Thank you for allowing me to submit this written statement on Senate Bill 2299 which will strengthen Rhode Island's current regulatory flexibility statutes for small business. I enjoyed testifying before your Committee on March 26, 2003 in support of similar legislation, S. 0198 that was introduced last session.

The Office of Advocacy is the independent voice for small business within the federal government, both inside and outside of Washington, DC. My only interest is that of small business owners and their employees. Frequently, that means helping them search for ways to lighten their regulatory burden. That is why I am pleased to convey small business' support for proposed legislation to strengthen the regulatory flexibility concept in Rhode Island.

Small business is the heart of Rhode Island's economy. According to the federal definition of small business (500 employees or less), 96.4% of Rhode Island's businesses

are considered small and employ over 58.3% of Rhode Island's non-farm sector employees.

Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the federal government. My position as Chief Counsel is a Presidential appointment that requires confirmation by the U.S. Senate. My legislative mandate is to advance the views, concerns, and interests of small business 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 located in the ten federal regions also support my office's efforts.

The Office of Advocacy focuses directly on the rules and regulations that can hinder small business. It is our job to make sure that their opinions are heard. We pursue a small business agenda in two ways. First, we work directly with federal agencies to help them find less burdensome alternatives to their proposed regulations and we encourage agencies to implement those alternatives.

Second, we produce research that documents the value of small business. We know that sound public policy rests on sound research. So we make sure that policy makers clearly understand the value of small business to the economy and to your communities.

The central mission of the Office of Advocacy remains reducing the regulatory burden that falls on small business. An Advocacy research study, *The Impact of Regulatory Costs on Small Business*, established that small businesses with less than 20 employees spend nearly \$7,000 each year, per employee, just to comply with federal regulations and mandates. That's 60 percent more than the \$4,463 estimated for firms with more than 500 employees.<sup>1</sup>

The key to Advocacy's effectiveness in reducing burdensome federal regulations has been the Regulatory Flexibility Act (RFA) passed by Congress in 1980 and strengthened in 1996 when it was amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). The premise behind RFA is not that there should be no regulations at all but rather that regulatory agencies should be acutely aware that their mandates can hurt small entities. Under this law federal agencies are required to consider the impact of proposed regulations on small entities and to explore alternative ways to achieve their regulatory objective without imposing unfair burdens.

Many states have the same type of law. My office has examined those state laws, drafted the best practices, and I am meeting with leaders throughout the country to explain how small employers can benefit when officials adopt small business friendly approaches to state government. The reason is simple. Research from my office shows

---

<sup>1</sup> Crain, Mark W. and Thomas D. Hopkins. *The Impact of Regulatory Costs on Small Firms*. Office of Advocacy, U.S. Small Business Administration. October 2001. Table 1, page 3. The research report is available on Advocacy's website at: <http://www.sba.gov/advo/research/rs207tot.pdf>.

that small businesses create 75% of the net new jobs. So, we have to do everything we can to remove barriers to job creation.

Under the RFA, Advocacy has shown time and again that regulations can be reduced and the economy improved without sacrificing such important goals as environmental quality, travel safety, workplace safety, and family financial security. By working with federal agencies to implement the RFA, the Office of Advocacy in 2003 saved small businesses over \$6 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans.

One example—where we achieved the greatest cost-savings in 2003, was working with the Immigration and Naturalization Service (INS) of the U.S. Department of Homeland Security (DHS) on their rule limiting the period of admission for B nonimmigrant aliens. INS was considering eliminating the 6-month minimum admission period for B-2 visitors, foreign tourists traveling to the U.S. for pleasure. A default period of 30 days would have been imposed which could have severely impacted small businesses by discouraging foreign tourists from visiting the U.S. This would have impacted small businesses in the travel and tourism industry including hotels, tour operators, souvenir shop owners, transportation providers, and restaurant owners—small businesses found in Rhode Island's most popular tourist spots. The travel and tourism industry had already been dealt a harsh economic blow in the wake of September 11<sup>th</sup>. After reconsidering the proposed rule's impact on small businesses in the travel industry, INS withdrew the rule which saved small businesses \$2.1 billion.

In New York, under the Governor's Office of Regulatory Reform, they are realizing savings by implementing key components of regulatory flexibility. In a little over 4 years, New York claims reform or elimination of over 1,800 regulations with cost-savings of over \$2.3 billion. One example that caught my eye was a Department of Motor Vehicles rule. The rule required all trailers, pulled by a car or truck, to meet the same standards -- from tractor-trailers to a small cement mixer or fertilizer spreader. The Department admitted that "one-size-does-not-fit-all" and changed the regulations so that someone hauling a fertilizer spreader from one part of their farm, across the road, to another part of their farm, does not have to meet the same safety and permit requirements as a truck driver hauling a rig down the highway. New York estimates a savings to small business of \$150 million.

In December of 2002, the Office of Advocacy published a report, "Small Business Friendly Regulation: Model Legislation for States." Since the introduction of the model legislation, many states have taken steps to strengthen regulatory flexibility for small business in their states. Colorado, North Dakota, South Dakota, and most recently Wisconsin, have enacted new legislation. Massachusetts Governor Mitt Romney, Missouri Governor Bob Holden, and West Virginia Governor Bob Wise signed Executive Orders intending to give small businesses a voice in their state's regulatory process. In addition, the American Legislative Exchange Council (ALEC) endorsed the model regulatory flexibility legislation in August of 2003. Thus far in the 2004 legislative

session, thirteen states, in addition to Rhode Island, have introduced small business regulatory flexibility legislation.

We believe that there are five critical elements that are contained in the model bill. Successful state-level regulatory flexibility laws should address: (1) a small business definition that includes most small businesses, (2) a requirement that state agencies perform an economic impact analysis before they regulate, (3) a requirement that state agencies consider less burdensome alternatives that still meet regulatory goals, (4) judicial review so that the law has teeth, and (5) a provision for state government to periodically review all its regulations. Likewise, there should be few, if any exemptions from the law. Even the best regulatory flexibility initiative has little value if the majority of state agencies are exempted from it.

The process doesn't end there, however. In order for regulatory flexibility to work, there is a need for governors' leadership, for trained and educated state agencies so that they will know what their responsibilities are and how to accomplish them, and for continued involvement of the small business community to provide feedback on how the system is working.

There is no question that small business is the backbone of the economy in Rhode Island just as it is throughout the country. Sometimes, because of their size, small businesses aggregate importance to the economy can be overlooked. And it is very easy to overlook the negative impact of regulatory activities on them. The intent of this

legislation is to compel regulatory agencies to consider small businesses when regulations are developed and particularly consider the disproportionate impact those regulations might have.

This legislation is needed. The Office of Advocacy commends the leadership of Senator Leo Blais for his advocacy efforts. Additionally, we applaud Chairman Walaska and Vice Chairman DaPonte for joining Senator Blais in introducing and championing S. 2299.