



February 14, 2024

The Honorable Roger Williams  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nydia Velazquez  
Ranking Member  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

**Re: Statement for the Record for the Hearing, “Burdensome Regulations: Examining the Impact of EPA Regulations on Main Street”**

Dear Chairman Williams and Ranking Member Velazquez:

Thank you for holding the hearing today on how burdensome regulations impact Main Street. My name is Natalie Kaddas and I am the CEO of Kaddas Enterprises in Salt Lake City, Utah. I also serve as the Chair of the Small Business Council at the U.S. Chamber of Commerce. Currently, 96% of Chamber member companies have fewer than 100 employees and 75% have fewer than 10. The Small Business Council works to ensure the views of small businesses are integrated into the Chamber’s policy-making process.

My manufacturing company in Salt Lake City specializes in manufacturing thermoform plastic products for the energy, transportation and aerospace industries. Our largest source of revenue is our patented designs of Birdguard™ products, designed to protect birds and other animals from electrocution. Our products also aid greatly in energy resilience by preventing wildlife-caused power outages.

There are roughly 33.1 million small businesses in the U.S. that comprise over 99% of all U.S. businesses, represent 43.5% of America’s GDP, and account for 62% of net job creation since 1995. The power of innovation and entrepreneurship has spurred remarkable growth since the COVID-19 pandemic in the face of high inflation, worker shortages, and high interest rates. Unfortunately, the crushing burden of federal regulation threatens this small business growth.

The most recent estimate pegs compliance with federal regulations at more than \$3 trillion per year. According to the National Association of Manufacturers (“NAM”), that cost exceeds the entire annual economic output of the manufacturing sector. That NAM study estimates a burden of \$28,000 per employee per year for manufacturers of our size, which is more than double of all other companies, of similar size, in other industries.

Forty-four years ago, the Regulatory Flexibility Act (“RFA”) was enacted seeking to correct the disproportionate burden by encouraging federal agencies to transparently consider the impact of new regulations on small businesses and to minimize negative impacts without compromising the underlying regulatory objectives. When President Carter signed the RFA into law, he stated that “small businesses are vital to the growth and to the future of our country” and that regulations “can impose a disproportionate and unfair burden on small businesses.”

Even though the Office of Advocacy at the U.S. Small Business Administration (“SBA”), the independent office responsible for overseeing regulators’ compliance with the RFA, is trying to convince federal regulators to comply with the RFA, the Office’s efforts at times seem futile. The National Federation of Independent Business (“NFIB”) reviewed comment letters from the Office of Advocacy from January 1, 2021 – January 1, 2023, and found 28 instances where the Office of Advocacy cited agencies for lack of RFA compliance. Those public letters unveiled loopholes in the law that regulators use as excuses to bypass and misrepresent the costs of regulatory proposals because (a) there is no way to go to court to challenge even the most absurd “certifications” that a proposal will not harm small businesses and (b) agencies only publish what they characterize as the direct impact on regulated firms, disguising the actual harm to small businesses.

One of the most egregious failures to consider small business and issue inadequate “certifications” required by the RFA has arisen in the series of Waters of the United States (“WOTUS”) rulemakings promulgated by the U.S. Environmental Protection Agency (“EPA”) and the U.S. Army Corps of Engineers (“Corps”). Rather than seek appropriate input from small businesses on how to manage wetlands permitting in a way that would be both environmentally protective and sensitive to impacts on small businesses, EPA and the Corps “certified” under the RFA in 2014 – that their proposed WOTUS rule would not have a “significant economic impact on a substantial number of small entities.” Now, ten years later, after the U.S. Supreme Court has sharply rejected the agencies’ claims of authority to impose wetlands permitting requirements, the agencies have yet to formally consider small business views, as required by the RFA, on how wetlands can be defined without unduly burdening small businesses.

Agency exploitation of interpretations of the RFA loophole that limit it to requiring consideration of small business impacts for directly regulated businesses is apparent in the ongoing Basel III Endgame rulemaking. Bank regulators published their perceived economic impact on large banks but were not transparent about how new mandates will make small business loans more expensive.

Legislation is pending that will close those real or apparent loopholes and allow for meaningful small business input in the federal regulatory process. The urgency for Congress to act was described before this Committee several weeks ago when former CBO Director Douglas Holtz-Eakin explained that costs from regulatory mandates issued under the Biden Administration are 50% greater than under any previous administration.

H.R. 7198, the Prove It Act, sponsored by Representative Finstad, Representative Moran, and Representative Caravaro, strengthen the RFA to avoid agency evasions by allowing small businesses to directly challenge an agency’s “certification” and by requiring agencies to be fully transparent about how regulations will impact the small business community.

The U.S. Chamber of Commerce, along with 47 national trade and membership organizations representing small business owners, along with over 100 local and state chambers of commerce ask that members of this Committee update the RFA and close real or apparent loopholes that shut-out small business input. Furthermore, we respectfully ask members of this Committee to sign on as co-sponsors to H.R. 7198 and that the Committee take up the legislation.

Minimizing red tape will enable small businesses to do what they do best – drive innovation, bolster communities, and create jobs.

Please do not hesitate to contact Tom Sullivan, the Chamber’s Vice President for Small Business Policy, if you have questions or comments regarding the content of this statement for the record.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Kaddas", with a stylized flourish at the end.

Natalie Kaddas  
CEO, Kaddas Enterprises, Inc.  
Chair, Small Business Council  
U.S. Chamber of Commerce

Attachment: February 1, 2024 Letter on Small Business Input in Federal Rulemaking  
cc: Members of the House Committee on Small Business

February 1, 2024

The Honorable Roger Williams  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jim Jordan  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nydia Velazquez  
Ranking Member  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jerrold Nadler  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

**Re: Small Business Input in Federal Rulemaking**

Dear Chairmen Williams and Jordan and Ranking Members Velazquez and Nadler:

On behalf of millions of small businesses across the country, we urge legislative action to strengthen the meaningful input of small businesses in federal regulatory processes and ensure the intent of the Regulatory Flexibility Act is fulfilled.

The Regulatory Flexibility Act (RFA) of 1980 was signed into law after a bipartisan coalition of small businesses, community leaders, and elected representatives confronted the danger of imposing burdensome red tape on American small businesses. Upon signing the RFA into law, President Carter stated that “small businesses are vital to the growth and to the future of our country” and that regulations “can impose a disproportionate and unfair burden on small businesses.”

The RFA sought to correct this disproportionate burden on small businesses by encouraging federal regulatory agencies to transparently consider the impact of new mandates on small businesses and to minimize negative impacts without compromising the underlying regulatory objectives.

Unfortunately, loopholes in the RFA allow federal regulators to bypass the law’s requirements and misrepresent the costs of new mandates on small businesses because (a) transparency requirements only apply to businesses *directly* regulated and (b) judges may not punish agencies for ignoring small business concerns.

Federal agencies have on numerous occasions failed to comply with requirements under the RFA. In 2023, the National Federation of Independent Business (NFIB) reviewed comment letters from the Office of Advocacy at the U.S. Small Business Administration (SBA), the independent office responsible for overseeing compliance with the RFA, from the 117<sup>th</sup> Congress and found 28 instances where SBA’s Office of Advocacy cited agencies for lack of RFA compliance. SBA’s Office of Advocacy found agencies often improperly certify that rules will not have a significant economic impact on a substantial number of small entities, only consider

the direct costs on small businesses, or misrepresent the costs on small businesses from regulation.

For example, SBA's Office of Advocacy found the Department of Labor's analysis of the impact of its independent contractor rule "deficient" because it "severely underestimate[d]" the economic impacts of the rule on small business; and "failed to estimate any costs" for small businesses to reclassify independent contractors as employees.

Agency exploitation of the loophole that only requires publishing small business impacts for *directly* regulated businesses is apparent in the ongoing Basel III Endgame rulemaking. Bank regulators published their perceived impact on large banks but did not publish how new mandates will make small business loans more expensive.

The Environmental Protection Agency/Army Corps of Engineers Waters of the United States (WOTUS) final rule is a case study in agency misrepresentation of a regulation's costs on small businesses. In their rule, the agencies certified the rule "will not have a significant economic impact on a substantial number of small entities." For decades, bipartisan administrations have claimed that revising the WOTUS definition will not harm small businesses. Yet the millions of farmers, homebuilders, and other industries heavily dominated by small businesses render such a "certification" implausible. Moreover, they highlight a major problem – small businesses lack the legal recourse to force regulators to take them seriously and judges' hands are tied when it comes to holding agencies accountable to small business concerns.

Unfortunately, the concerns raised in this letter are not new. In fact, SBA's Office of Advocacy has sought to close the loopholes over the past 40 years but has not been successful.

Our concern that small businesses are being shut out of the regulatory process are amplified by recent data showing the growth of federal red tape. The National Association of Manufacturers' most recent study on the cost of regulation shows that the cost per employee to comply with federal regulations is three times greater for small firms than the average costs for manufacturers. Former CBO Director, Douglas Holtz-Eakin recently testified before the Small Business Committee that the costs from regulatory mandates currently being issued are fifty percent greater than under any previous administration.

At a time when we are counting on small business growth to enrich communities and bolster America's economy, we cannot afford to bury free enterprise under red tape emanating from Washington.

We urge the Committee to prioritize legislation that strengthens and closes loopholes in the Regulatory Flexibility Act.

We thank you for your leadership to create an environment where small businesses can operate, invest and grow. We look forward to working with you on ways to reduce red tape and burdens for small businesses.

Sincerely,

## **National**

Alliance for Chemical Distribution  
American Bakers Association  
American Bankers Association  
American Chemistry Council  
American Farm Bureau Federation  
American Foundry Society  
American Hotel and Lodging Association  
American Land Title Association  
American Road & Transportation Builders Association  
Associated Builders and Contractors  
Associated Equipment Distributors  
Associated General Contractors of America  
Associated Wire Rope Fabricators  
Brick Industry Association  
Consumer Bankers Association  
Consumer Brands Association  
Council for Responsible Nutrition  
FMI - The Food Industry Association  
Independent Electrical Contractors  
Independent Lubricant Manufacturers Association  
Independent Petroleum Association of America  
Innovative Lending Platform Association  
International Franchise Association  
International Sign Association  
Job Creators Network  
Leading Builders of America  
Metals Service Center Institute  
National Association for Surface Finishing  
National Association of Home Builders  
National Association of Insurance and Financial Advisors  
National Association of Wholesaler-Distributors  
National Automobile Dealers Association  
National Federation of Independent Business (NFIB)  
National Funeral Directors Association  
National Mining Association  
National Parking Association  
National Retail Federation  
National Roofing Contractors Association  
National Rural Electric Cooperative Association  
National Small Business Association (NSBA)  
National Stone Sand & Gravel Association

National U.S. India Chamber of Commerce  
Small Business & Entrepreneurship Council  
Small Business Investor Alliance  
The Toy Association  
Treated Wood Council  
U.S. Chamber of Commerce

## **Alabama**

Albertville Chamber of Commerce  
Central Baldwin Chamber of Commerce

## **Arizona**

Chandler Chamber of Commerce  
Greater Flagstaff Chamber of Commerce  
Greater Phoenix Chamber  
Lake Havasu Area Chamber of Commerce  
Nogales Santa Cruz County Chamber of Commerce  
Northwest Valley Chamber of Commerce  
Tucson Metro Chamber

## **Arkansas**

Holiday Island Chamber of Commerce

## **California**

Buellton Chamber of Commerce  
Carlsbad Chamber of Commerce  
Coalition of California Chambers - Orange County  
Fremont Chamber of Commerce  
La Verne Chamber of Commerce  
Long Beach Area Chamber of Commerce  
Los Angeles Area Chamber of Commerce  
Palos Verdes Peninsula Chamber of Commerce  
Rancho Cordova Area Chamber of Commerce  
San Juan Capistrano Chamber of Commerce  
Western States Trucking Association  
Yorba Linda Chamber of Commerce

## **Colorado**

Alamosa County Chamber of Commerce  
Denver Metro Chamber of Commerce  
Greater Woodland Park Chamber  
Vail Valley Partnership

## **Florida**

Coral Gables Chamber of Commerce  
Lakeland Chamber of Commerce

## **Georgia**

Habersham County Chamber of  
Commerce  
Murray County Chamber of Commerce

## **Guam**

Guam Chamber of Commerce

## **Idaho**

Boise Metro Chamber of Commerce  
Jerome Chamber of Commerce  
Pocatello-Chubbuck Chamber of  
Commerce, Inc.

## **Illinois**

Dixon Chamber of Commerce & Main  
Street  
Edwardsville/Glen Carbon Chamber of  
Commerce  
GLMV Chamber of Commerce  
Greater Rockford Chamber of Commerce  
Joliet Region Chamber of Commerce &  
Industry  
Sauk Valley Area Chamber of Commerce  
The Greater Springfield Chamber of  
Commerce  
West Suburban Chamber of Commerce &  
Industry

## **Indiana**

Crossroads Chamber Indiana  
Indiana Chamber of Commerce  
South Bend Regional Chamber

## **Iowa**

Quad Cities Chamber of Commerce

## **Kansas**

Grant County Chamber of Commerce  
Greater Topeka Chamber

## **Louisiana**

Greenwood Chamber of Commerce

## **Maryland**

Talbot County Chamber of Commerce

## **Massachusetts**

Metro South Chamber of Commerce

## **Michigan**

Battle Creek Area Chamber of Commerce  
Detroit Regional Chamber  
Hartland Area Chamber of Commerce  
Jackson County Chamber of Commerce  
Oscoda-AuSable Chamber of Commerce

## **Minnesota**

Greater Mankato Growth  
Minnesota Chamber of Commerce

## **Mississippi**

Hancock County Chamber of Commerce

## **Missouri**

Greater Kansas City Chamber of Commerce

## **Montana**

Billings Chamber of Commerce  
Montana Chamber of Commerce

## **Nevada**

Vegas Chamber

## **New Jersey**

New Jersey State Chamber of Commerce

**New York**

Capital Region Chamber  
North Country Chamber of Commerce  
Sullivan County Chamber of Commerce

**North Carolina**

The Caldwell Chamber

**North Dakota**

Greater North Dakota Chamber

**Oklahoma**

Broken Arrow Chamber of Commerce  
Edmond Area Chamber of Commerce

**Oregon**

Canby Area Chamber of Commerce  
Gresham Area Chamber of Commerce  
Lincoln City Chamber of Commerce  
Oregon Business & Industry  
Roseburg Area Chamber of Commerce

**Pennsylvania**

Blair County Chamber of Commerce  
Columbia Montour Chamber of Commerce  
Hanover Area Chamber of Commerce  
Harrisburg Regional Chamber  
Huntingdon County Chamber of Commerce  
Lancaster Chamber of Commerce  
Pennsylvania Chamber of Business and  
Industry  
Pittsburgh Airport Area Chamber of  
Commerce

Schuylkill Chamber of Commerce

**South Carolina**

Greater Columbia Chamber of Commerce

**Texas**

Alvin-Manvel Area Chamber of Commerce  
Coppell Chamber of Commerce  
Irving Hispanic Chamber of Commerce

**Utah**

ChamberWest Chamber of Commerce  
Salt Lake Chamber  
St. George Area Chamber of Commerce

**Virginia**

Central Fairfax Chamber of Commerce  
Loudoun County Chamber of Commerce

**Washington**

Burlington Chamber of Commerce  
Greater Lake Stevens Chamber of  
Commerce  
Mercer Island Chamber of Commerce  
Pullman Chamber of Commerce & Visitor  
Center  
Shelton-Mason County Chamber of  
Commerce

**Wyoming**

Casper Area Chamber of Commerce  
Greater Cheyenne Chamber of Commerce  
Riverton Chamber and Visitors Center  
Rock Springs Chamber of Commerce  
Wyoming State Chamber of Commerce

cc: Members of the Committee on Small Business  
Members of the Committee on the Judiciary