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cc:

Subject: Please see attached comments

- OMB Draft Report Comments 5.18.04.pdf



May 18, 2004

Ms. Lorraine Hunt
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building, RM 10202
725 17th Street, NW
Washington, DC 20503

Dear Ms. Hunt,

On behalf of the National Small Business Association (NSBA) I would like to thank you for the opportunity to comment on the Draft 2004 Report to Congress on the Costs and Benefits of Federal Regulations issues by the Office of Management and Budget (OMB). NSBA is the nation's oldest nonpartisan small business advocacy group in the country, reaching more than 150,000 small businesses across the country.

We all know what the numbers say: federally mandated paperwork equates to 8 billion hours with the IRS accounting for 80 percent of that figure. The Small Business Administration reports that the average per-employee cost of all federal regulation for companies with fewer than 20 employees is approximately \$6,975, 60 percent higher than what large companies pay. In many cases, paperwork is a burden imposed after a business enterprise has taken steps to comply with the regulation in question.

By their very nature, unnecessary federal regulation and paperwork burdens discriminate against small businesses. Without large staffs of accountants, benefits coordinators, attorneys, or personnel administrators, small businesses are often at a loss to implement or even keep up with the overwhelming paperwork demands of the federal government. Big corporations have already built these staffs into their operations and can often absorb a new requirement that could be very costly and expensive for a small business owner.

After participating in numerous hearings with officials from OMB and various other agency representatives, NSBA understands the uphill battle we face in getting concrete, reliable data. There appears to be a lapse in accountability and oversight for many agencies and we believe that this draft is certainly one method to examine the benefits and costs of various regulations. That being said, NSBA believes that the data we seek is somewhat vague. Of all Federal regulations finalized in 2003, the draft report only examined less than 2 percent due to rules regarding major vs. non-major rules and transfer rules. Furthermore, independent agency rules were also exempted from the Draft Report. We believe that information regarding cost-benefit analysis on non-major rules as well as those from independent agencies would be helpful in getting a firm grasp on the overall burden imposed on small businesses.

NSBA has participated in a number of discussions with trade-specific associations and the SBA Office of Advocacy. We have also been quite involved in the push for regulatory reform through a series of Congressional hearings and proposed legislation. NSBA represents an extremely wide

variety of small businesses and has therefore decided to pinpoint only a small number of nominations for regulatory reform. Because of the industry-specific nature of most regulations, we have opted to only touch on those that have potential implications for most of our members, or those that have been mentioned to us a number of times from different small business owners.

1) Toxic Release Inventory (TRI)

A painful thorn in the side of many small manufacturers, TRI has significantly reduced thresholds on reporting for usage of certain chemicals and releases. This is an annual process that is incredibly time consuming, complex and costly. NSBA would recommend reforming the rule to allow those small businesses with no significant change to simply make note of that on a form and not be required to re-report the same information as was collected in previous years.

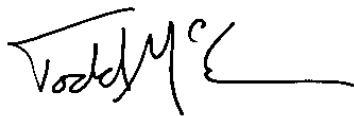
2) No-Fax Regulation (Telephone Consumer Protection Act of 1991)

The massive popularity of the Do-Not-Call lists cannot be constituted for all-around good policy. The regulations regarding no-fax published in June of 2003 would force any small business or association to maintain a written statement of consent from customers to receive faxes from that business or association. As anyone in business knows, the fax machine is an important tool for communications. We recommend that the rule be withdrawn or language changed from “written consent” to “previous existing business relationship”.

The regulatory climate we find ourselves in today is not one easy or welcoming to small businesses. We support strong OMB oversight of the Federal agencies’ rule-making process. The work done by Dr. John Graham in the Office of Information and Regulatory Affairs is certainly a good start.

I thank you for your time and look forward to working with your office on the continued push to alleviate the regulatory burden on small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd O. McCracken". The signature is stylized with a large, sweeping initial "T" and "M".

Todd O. McCracken
President