

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Committee on Small Business

FROM: Committee Majority Staff

DATE: November 3, 2023

RE: Full Committee Hearing Titled: “Burdensome Regulations: Examining the Effects of Department of Energy Rulemaking on America’s Job Creators.”

On **November 8, 2023, at 10:00 AM ET**, the Committee on Small Business will hold a hearing titled “**Burdensome Regulations: Examining the Effects of Department of Energy Rulemaking on America’s Job Creators.**” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the impacts of the Department of Energy’s (DOE) burdensome regulations and economic pressures on small businesses and American consumers.

I. Witnesses

- **Mr. Ben Liebman**, Senior Fellow, Competitive Enterprise Institute
- **Ms. Alicia Huey**, Chairman of the Board, National Association of Home Builders; President, AGH Homes, Inc.
- **Mr. Jeff Bauman**, Director of Engineering, National Refrigeration
- **Ms. Emily Hammond**, Professor of Law, George Washington University

II. Background

Small businesses have been dealing with many economic headwinds since President Biden took office. High inflation is increasing production costs and reducing consumers’ spending power, small business optimism remains low, and a labor shortage is threatening small business products and services nationwide.¹ On top of this harsh economic environment, the federal regulatory agenda is overly complex and threatens small businesses. In fact, unreasonable government regulations rank as a top concern for small entities.²

¹ James Webster, *Inflation Affects More Than Just Small Bus. Bottom Lines*, FORBES (Jan. 13, 2023); Jennifer Nash, *Inflation Remains Biggest Problem for Small Bus.*, ADVISOR PERSPECTIVES (Sept. 12, 2023).

² *Regulations*, NAT’L INDEP. FED’N OF SMALL BUS. (last visited Oct. 26, 2023).

Regulatory actions cost Americans about \$1.9 trillion annually in compliance, economic, social, and other costs.³ Under the Biden Administration alone, 684 final rules have been passed costing \$43.5 billion and more than 220 million paperwork hours as of October 27, 2023.⁴ These regulations add compliance costs, cause confusion so small entities are forced to retain outside counsel, and ultimately threaten small businesses' existence.

Federal agencies are required to consider the additional costs that their regulatory actions will have on small businesses under the Regulatory Flexibility Act (RFA). The RFA requires agencies to quantify the number of entities a new regulation will affect as well as the cost of implementation. Additionally, agencies are required to explore alternative rules that would make complying with the regulation easier for small entities. Even though the RFA requires agencies to consider and to mitigate the regulatory burden for small businesses, some agencies do as little as possible to comply with the law.⁵ Often times, guardrails designed to include small business voices in the rulemaking process are skirted in favor of overbearing regulations.

The DOE has been far more active at promulgating regulations since President Biden took office compared to other administrations. Many of the DOE's actions would place more stringent energy standards on everyday appliances used by American consumers such as gas stoves, ceiling fans, distribution transformers, and refrigerators. These actions will significantly impact small entities and will make it harder for job creators to continue operations during these tough economic times.

III. Conclusion

The government should be in the business of ensuring that the economy works for American small businesses and that regulations do not hamstring job creators. The federal government's regulatory agenda should not come at the expense of small businesses. Small businesses deserve to have their concerns heard and accounted for in the promulgation of federal regulations.

³ Clyde Wayne Crews, Jr., *Ten Thousand Commandments: An Annual Snapshot of the Fed. Regu. State*, COMPETITIVE ENTERPRISE INST., 33 (2022).

⁴ *Week in Regulation*, AM. ACTION FORUM (Oct. 30, 2023).

⁵ *Id.* at 23.