

## 2010 Top 10 Rules for Review and Reform

| Rule   | Agency      | Description / Current Status   |
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| <p><b>Remove the “Foreign Exemption” from Federal Contracting</b></p> <p>Contact: Major Clark<br/> <a href="mailto:major.clark@sba.gov">major.clark@sba.gov</a></p>  | FAR Council | Remove the “foreign exemption” from federal procurement policy, increasing federal agencies’ incentive to award government contracts to small and disadvantaged businesses seeking to work outside of the U.S. According to the nominator, these businesses lose over \$20 billion worth of work outside of the U.S. each year because of the foreign exemption.   |
| <p><b>Eliminate Duplicative Background Checks for Commercial Truck Drivers</b></p> <p>Contact: Bruce Lundegren<br/> <a href="mailto:bruce.lundegren@sba.gov">bruce.lundegren@sba.gov</a></p>   | TSA         | Eliminate the current Transportation Safety Administration requirement that commercial truck drivers who hold a valid Transportation Worker Identification Credential (TWIC) must undergo a duplicate security background check when they apply for a hazardous materials endorsement. According to the nominator, this duplicative background check requirement needlessly adds as much as \$28 million to the costs truckers must pay each year. TSA informed Advocacy in a letter dated March 23, 2009, that the Agency is working to align the security threat assessments for the TWIC and HME programs. At present, TSA lacks the technical capability to make the programs fully integrated. Implementing comparability mechanisms is a priority for TSA. |
| <p><b>Update Air Monitoring Rules for Dry Cleaners to Reflect Current Technology.</b></p> <p>EPA should revise outdated or inaccurate testing requirements so that modern dry cleaners can have a valid method for demonstrating compliance.</p> <p>Contact: Keith Holman<br/> <a href="mailto:keith.holman@sba.gov">keith.holman@sba.gov</a></p>  | EPA         | Revising the New Source Performance Standard (NSPS) for petroleum dry cleaning equipment is a priority for EPA. When implemented, the NSPS revision will update emission testing requirements to work with modern dry cleaning machines. The Standard of Performance for Petroleum Dry Cleaners was published in the <i>Federal Register</i> on September 21, 1984. EPA is currently gathering information and intends to conduct site visits to get a better understanding of how the performance standards for petroleum dry cleaners should be updated.   |
| <p><b>Flexibility for Community Drinking Water Systems.</b> EPA should consider expanding the ways for small communities to qualify to meet alternative drinking water standards, provided that the alternative standards are protective of human health and are approved by state authorities.</p> <p>Contact: Kevin Bromberg<br/> <a href="mailto:kevin.bromberg@sba.gov">kevin.bromberg@sba.gov</a></p> | EPA         | On March 2, 2006, EPA announced a review of the affordability criteria for small systems ( <a href="http://edocket.access.gpo.gov/2006/pdf/06-1917.pdf">http://edocket.access.gpo.gov/2006/pdf/06-1917.pdf</a> , 71 <i>Federal Register</i> 10671). EPA has not announced when it will complete the review. In order to solicit feedback on how best to consider the concerns of small systems, EPA recently held meetings with stakeholder groups. On May 20, 2009, EPA held a public meeting. On May 27, 2009, EPA met with the Drinking Water Advisory Council. On June 26, 2009, EPA met with states, and on July 22, EPA consulted with the National Environmental Justice Advisory Council.  |

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| <p><b>Clearly Define “Oil” in Oil Spill Rules.</b> EPA should clarify the definition of “oil” in its oil spill program, so that small facilities that store nonpetroleum-based products are not unintentionally captured by spill prevention program requirements.</p> <p>Contact: Kevin Bromberg<br/> <a href="mailto:kevin.bromberg@sba.gov">kevin.bromberg@sba.gov</a></p>     | EPA         | <p>On May 30, 2008, EPA and representatives of the U.S. Coast Guard met with small business stakeholders. EPA has not formally announced its intention to review its definition of “oil” in its oil spill program.</p>   |
| <p><b>Eliminate Duplicative Financial Requirements for Architect-Engineering Services Firms in Government Contracting.</b> The duplicative retainage requirement should be removed or reduced in architect-engineering services contracts, as has been done for other services.</p> <p>Contact: Major Clark<br/> <a href="mailto:major.clark@sba.gov">major.clark@sba.gov</a></p> | FAR Council | <p>The Office of Federal Procurement Policy (OFPP) submitted Advocacy’s r3 retainage proposal to the FAR Council. The FAR case number assigned to this issue is 2008-015. The FAR finance team issued a report indicating the council’s next steps regarding the proposed FAR change. (<a href="http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;sid=af578f0605dcf172475b4fe29b115955&amp;rgn=div6&amp;view=text&amp;node=48:1.0.1.1.1.5&amp;idno=48">http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&amp;sid=af578f0605dcf172475b4fe29b115955&amp;rgn=div6&amp;view=text&amp;node=48:1.0.1.1.1.5&amp;idno=48</a>) On January 7, 2009, a proposed rule implementing the change was sent to OFPP for approval (<a href="http://www.acq.osd.mil/dpap/dars/opencases/farcasenum/far.pdf">www.acq.osd.mil/dpap/dars/opencases/farcasenum/far.pdf</a>). On May 5, 2009, the FAR Council published the proposed rule in the <i>Federal Register</i> at 74 Reg. 20,666 (May 5, 2009). The public comment period closed on July 6, 2009.</p>  |
| <p><b>Simplify the Home Office Business Deduction.</b> The IRS should revise their rules to permit a standard deduction for home-based businesses, which constitute 53 percent of all small businesses.</p> <p>Contact: Dillon Taylor<br/> <a href="mailto:dillon.taylor@sba.gov">dillon.taylor@sba.gov</a></p>   | IRS         | <p>On March 14, 2008, the IRS informed Advocacy that this issue has been assigned to IRS attorneys for review (<a href="http://www.sba.gov/advo/r3/irs08_0314.pdf">www.sba.gov/advo/r3/irs08_0314.pdf</a>). On July 30, 2008, the Deputy Commissioner of the IRS’s Small Business/Self-Employed Division testified on this issue before the House Small Business Subcommittee on Regulations, Healthcare, and Trade (<a href="http://www.house.gov/smbiz/hearings/hearing-7-30-08-regulatory/IRS.pdf">www.house.gov/smbiz/hearings/hearing-7-30-08-regulatory/IRS.pdf</a>). The IRS is continuing to review this issue, including exploring opportunities to simplify the rules and make Form 8829, Expenses for Business Use of Your Home, (<a href="http://www.irs.gov/pub/irs-pdf/f8829.pdf">www.irs.gov/pub/irs-pdf/f8829.pdf</a>) easier to use. On February 5, 2009, Advocacy hosted a roundtable on important tax issues, including the Home Office Business Deduction. A representative from the Internal Revenue Service’s Taxpayer Advocate Service (TAS) made a presentation demonstrating the current complexity of the deduction and the need to simplify it. On June 25, 2009, Senators Snowe and Conrad, along with U.S. Representative Gonzalez, announced the Home Office Tax Deduction Simplification and Improvement Act of 2009. The legislation would establish an optional home office deduction to help ease compliance with the tax code for small businesses.</p> |

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| <p><b>Update MSHA Rules on Use of Explosives in Mines to Reflect Modern Industry Standards.</b> MSHA should update its current rules to be consistent with modern mining industry explosives standards.</p> <p>Contact: Bruce Lundegren<br/><a href="mailto:bruce.lundegren@sba.gov">bruce.lundegren@sba.gov</a></p>  | <p>DOL/<br/>MSHA</p> | <p>The group that nominated this issue testified before the House Small Business Subcommittee on Regulations, Healthcare and Trade on July 30, 2008. (<a href="http://www.house.gov/smbiz/hearings/hearing-7-30-08-regulatory/Santis.pdf">www.house.gov/smbiz/hearings/hearing-7-30-08-regulatory/Santis.pdf</a>). On November 6, 2008, MSHA committed in a letter to Chairman Gonzalez of the House Subcommittee on Regulations, Healthcare and Trade that MSHA would review the rule (<a href="http://www.sba.gov/advo/r3/gonzalez08_1106.pdf">www.sba.gov/advo/r3/gonzalez08_1106.pdf</a>). Subsequently, MSHA listed this rule in the Fall 2008 <i>Unified Agenda and Regulatory Plan</i> and indicated that the rule would be reviewed under Section 610 of the Regulatory Flexibility Act (<a href="http://www.reginfo.gov/public/do/eAgendaViewRule?ruleID=291765">www.reginfo.gov/public/do/eAgendaViewRule?ruleID=291765</a>). The Department of Labor/MSHA added this rule to its Spring 2009 <i>Unified Agenda and Regulatory Plan</i> for review under Section 610 of the Regulatory Flexibility Act.</p>  |
| <p><b>Update OSHA's Medical/Laboratory Worker Rule.</b> The current rule should be reviewed to determine whether it can be made more flexible in situations where workers do not have potential exposure to bloodborne pathogens.</p> <p>Contact: Bruce Lundegren<br/><a href="mailto:bruce.lundegren@sba.gov">bruce.lundegren@sba.gov</a></p>                          | <p>DOL/<br/>OSHA</p> | <p>On October 22, 2008, OSHA noted in a letter to Chairman Gonzalez of the House Small Business Subcommittee on Regulations, Healthcare and Trade that this rule was being considered for review (<a href="http://www.sba.gov/advo/r3/resgonzalez08_1022.pdf">www.sba.gov/advo/r3/resgonzalez08_1022.pdf</a>). Subsequently, OSHA listed this rule in the Fall 2008 <i>Unified Agenda and Regulatory Plan</i> and indicated that the rule would be reviewed under Section 610 of the Regulatory Flexibility Act (<a href="http://www.reginfo.gov/public/do/eAgendaViewRule?ruleID=291742">www.reginfo.gov/public/do/eAgendaViewRule?ruleID=291742</a>). The Department of Labor/OSHA added this rule to its Spring 2009 <i>Unified Agenda and Regulatory Plan</i> for review under Section 610 of the Regulatory Flexibility Act.</p>  |
| <p><b>Update Reverse Auction Techniques for Online Procurement of Commercial Items.</b> The current reverse auction techniques should be reviewed to determine whether a government-wide rule is necessary to create a more consistent and predictable online process.</p> <p>Contact: Major Clark<br/><a href="mailto:major.clark@sba.gov">major.clark@sba.gov</a></p> | <p>OFPP</p>          | <p>On October 4, 2006 the Office of Federal Procurement Policy (OFPP) announced a review to determine the appropriate course of action for this acquisition tool (<a href="http://www.sba.gov/advo/r3/ofpp06_1004.pdf">www.sba.gov/advo/r3/ofpp06_1004.pdf</a>). OFPP has completed surveys of vendors (<a href="http://edocket.access.gpo.gov/2007/pdf/07-1967.pdf">http://edocket.access.gpo.gov/2007/pdf/07-1967.pdf</a>) and users (<a href="http://edocket.access.gpo.gov/2007/pdf/07-4065.pdf">http://edocket.access.gpo.gov/2007/pdf/07-4065.pdf</a>). The surveys were targeted for government buyers who have never done a procurement using a reverse auction (<a href="http://www.dau.mil/performance_support/mdcsurvey/pros/pros.htm">www.dau.mil/performance_support/mdcsurvey/pros/pros.htm</a>), and government buyers with experience using reverse auctions (<a href="http://www.dau.mil/performance_support/mdc-survey/govtexp/govtexp.htm">www.dau.mil/performance_support/mdc-survey/govtexp/govtexp.htm</a>). The outcome of this review should be a FAR reverse auction regulation establishing conditions of applicability. This regulatory framework will be supplemented by a detailed "best practice" guide for the acquisition community.</p> |