

**Contract with America Advancement Act of 1996-(title II—  
201–224)**

[Public Law 104–121]

[Updated Through Public Law 110–28, Enacted May 25, 2007]

【Currency: This publication is a compilation of the text of Public Law 104-121. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

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**TITLE II—SMALL BUSINESS  
REGULATORY FAIRNESS<sup>1</sup>**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Small Business Regulatory Enforcement Fairness Act of 1996”.

**SEC. 202. FINDINGS.**

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

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<sup>1</sup> Sections 201 through 224 of this title are codified to 5 U.S.C. 601 note.

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

**SEC. 203. PURPOSES.**

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

## **Subtitle A—Regulatory Compliance Simplification**

**SEC. 211. DEFINITIONS.**

For purposes of this subtitle—

(1) the terms “rule” and “small entity” have the same meanings as in section 601 of title 5, United States Code;

(2) the term “agency” has the same meaning as in section 551 of title 5, United States Code; and

(3) the term “small entity compliance guide” means a document designated and entitled as such by an agency.

**SEC. 212. COMPLIANCE GUIDES.**

(a) COMPLIANCE GUIDE.—

(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications “small entity compliance guides”.

(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include

(A) the posting of the guide in an easily identified location on the website of the agency; and

(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))

(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

(B) not later than the date on which the requirements of that rule become effective.

(4) COMPLIANCE ACTIONS.—

(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

(B) EXPLANATION.—The explanation under subparagraph (A)

(I) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

(i) shall be suggestions to assist small entities; and

(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

(6) REPORTING.—Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency's compliance with paragraphs (1) through (5).

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) **LIMITATION ON JUDICIAL REVIEW.**—An agency’s small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

**SEC. 213. INFORMAL SMALL ENTITY GUIDANCE.**

(a) **GENERAL.**—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) **PROGRAM.**—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) **REPORTING.**—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency’s program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

**SEC. 214. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.**

(a) **[Omitted—amendments]**

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

**SEC. 215. COOPERATION ON GUIDANCE.**

Agencies may, to the extent resources are available and where appropriate, in cooperation with the States, develop guides that fully integrate requirements of both Federal and State regulations where regulations within an agency’s area of interest at the Federal and State levels impact small entities. Where regulations vary among the States, separate guides may be created for separate States in cooperation with State agencies.

**SEC. 216. EFFECTIVE DATE.**

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

## Subtitle B—Regulatory Enforcement Reforms

### SEC. 221. DEFINITIONS.

For purposes of this subtitle—

- (1) the terms “rule” and “small entity” have the same meanings as in section 601 of title 5, United States Code;
- (2) the term “agency” has the same meaning as in section 551 of title 5, United States Code; and
- (3) the term “small entity compliance guide” means a document designated as such by an agency.

**[Section 222 omitted—amendments]**

### SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) **IN GENERAL.**—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) **CONDITIONS AND EXCLUSIONS.**—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

- (1) requiring the small entity to correct the violation within a reasonable correction period;
- (2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a State;
- (3) excluding small entities that have been subject to multiple enforcement actions by the agency;
- (4) excluding violations involving willful or criminal conduct;
- (5) excluding violations that pose serious health, safety or environmental threats; and
- (6) requiring a good faith effort to comply with the law.

(c) **REPORTING.**—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

### SEC. 224. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

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