

106TH CONGRESS
1ST SESSION

S. 1156

AN ACT

To amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Advo-
5 cacy Review Panel Technical Amendments Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) A vibrant and growing small business sector
4 is critical to creating jobs in a dynamic economy.

5 (2) Small businesses bear a disproportionate
6 share of regulatory costs and burdens.

7 (3) Federal agencies must consider the impact
8 of their regulations on small businesses early in the
9 rulemaking process.

10 (4) The Small Business Advocacy Review Panel
11 process that was established by the Small Business
12 Regulatory Enforcement Fairness Act of 1996 has
13 been effective in allowing small businesses to partici-
14 pate in rules that are being developed by the Envi-
15 ronmental Protection Agency and the Occupational
16 Safety and Health Administration.

17 (b) PURPOSES.—The purposes of this Act are the fol-
18 lowing:

19 (1) To provide a forum for the effective partici-
20 pation of small businesses in the Federal regulatory
21 process.

22 (2) To clarify and strengthen the Small Busi-
23 ness Advocacy Review Panel process.

24 (3) To expand the number of Federal agencies
25 that are required to convene Small Business Advo-
26 cacy Review Panels.

1 **SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS**
2 **ON SMALL ENTITIES OF RULES PROPOSED BY**
3 **CERTAIN AGENCIES.**

4 Section 609(b) of title 5, United States Code, is
5 amended to read as follows:

6 “(b)(1) Before the publication of an initial regulatory
7 flexibility analysis that a covered agency is required to
8 conduct under this chapter, the head of the covered agency
9 shall—

10 “(A) notify the Chief Counsel for Advocacy of
11 the Small Business Administration (in this sub-
12 section referred to as the ‘Chief Counsel’) in writing;

13 “(B) provide the Chief Counsel with informa-
14 tion on the potential impacts of the proposed rule on
15 small entities and the type of small entities that
16 might be affected; and

17 “(C) not later than 30 days after complying
18 with subparagraphs (A) and (B)—

19 “(i) in consultation with the Chief Counsel,
20 identify affected small entity representatives;
21 and

22 “(ii) transmit to the identified small entity
23 representatives a detailed summary of the infor-
24 mation referred to in subparagraph (B) or the
25 information in full, if so requested by the small
26 entity representative, for the purposes of ob-

1 taining advice and recommendations about the
2 potential impacts of the draft proposed rule.

3 “(2)(A) Not earlier than 30 days after the covered
4 agency transmits information pursuant to paragraph
5 (1)(C)(ii), the head of the covered agency shall convene
6 a review panel for the draft proposed rule. The panel shall
7 consist solely of full-time Federal employees of the office
8 within the covered agency that will be responsible for car-
9 rying out the proposed rule, the Office of Information and
10 Regulatory Affairs of the Office of Management and
11 Budget, and the Chief Counsel.

12 “(B) The review panel shall—

13 “(i) review any material the covered agency has
14 prepared in connection with this chapter, including
15 any draft proposed rule;

16 “(ii) collect advice and recommendations from
17 the small entity representatives identified under
18 paragraph (1)(C)(i) on issues related to paragraphs
19 (3), (4), and (5) of section 603(b) and section
20 603(c); and

21 “(iii) allow any small entity representative iden-
22 tified under paragraph (1)(C)(i) to make an oral
23 presentation to the panel, if requested.

24 “(C) Not later than 60 days after the date a covered
25 agency convenes a review panel pursuant to this para-

1 graph, the review panel shall report to the head of the
2 covered agency on—

3 “(i) the comments received from the small enti-
4 ty representatives identified under paragraph
5 (1)(C)(i); and

6 “(ii) its findings regarding issues related to
7 paragraphs (3), (4), and (5) of section 603(b) and
8 section 603(c).

9 “(3)(A) Except as provided in subparagraph (B), the
10 head of the covered agency shall print in the Federal Reg-
11 ister the report of the review panel under paragraph
12 (2)(C), including any written comments submitted by the
13 small entity representatives and any appendices cited in
14 the report, as soon as practicable, but not later than—

15 “(i) 180 days after the date the head of the
16 covered agency receives the report; or

17 “(ii) the date of the publication of the notice of
18 proposed rulemaking for the proposed rule.

19 “(B) The report of the review panel printed in the
20 Federal Register shall not include any confidential busi-
21 ness information submitted by any small entity represent-
22 ative.

23 “(4) Where appropriate, the covered agency shall
24 modify the draft proposed rule, the initial regulatory flexi-
25 bility analysis for the draft proposed rule, or the decision

1 on whether an initial regulatory flexibility analysis is re-
 2 quired for the draft proposed rule.”.

3 **SEC. 4. DEFINITIONS.**

4 Section 609(d) of title 5, United States Code, is
 5 amended to read as follows:

6 “(d) For the purposes of this section—

7 “(1) the term ‘covered agency’ means the Envi-
 8 ronmental Protection Agency, the Occupational
 9 Safety and Health Administration of the Depart-
 10 ment of Labor, and the Internal Revenue Service of
 11 the Department of the Treasury; and

12 “(2) the term ‘small entity representative’
 13 means a small entity, or an individual or organiza-
 14 tion that primarily represents the interests of 1 or
 15 more small entities.”.

16 **SEC. 5. COLLECTION OF INFORMATION REQUIREMENT.**

17 (a) DEFINITION.—Section 601 of title 5, United
 18 States Code, is amended—

19 (1) in paragraph (5) by inserting “and” after
 20 the semicolon;

21 (2) in paragraph (6) by striking “; and” and in-
 22 serting a period; and

23 (3) by striking paragraphs (7) and (8).

24 (b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

25 The fifth sentence of section 603 of title 5, United States

1 Code, is amended to read as follows: “In the case of an
2 interpretative rule involving the internal revenue laws of
3 the United States, this chapter applies to interpretative
4 rules (including proposed, temporary, and final regula-
5 tions) published in the Federal Register for codification
6 in the Code of Federal Regulations.”.

7 **SEC. 6. EFFECTIVE DATE.**

8 This Act shall take effect upon the expiration of the
9 90-day period beginning on the date of the enactment of
10 this Act.

Passed the Senate September 28, 1999.

Attest:

Secretary.

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