

106TH CONGRESS  
1ST SESSION

# S. 1156

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.

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IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

Mr. BOND (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Small Business

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## A BILL

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”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

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

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

3           (2) Small businesses bear a disproportionate  
4 share of regulatory costs and burdens.

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

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

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

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

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

22           (3) To expand the number of Federal agencies  
23 that are required to convene Small Business Advo-  
24 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) with the concurrence of the Chief  
20 Counsel, identify affected small entity rep-  
21 resentatives; 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(e).

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 represents the interests of 1 or more small  
15 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 fourth sentence of section 603 of title 5, United

1 States Code, is amended to read as follows: “In the case  
2 of an interpretative rule involving the internal revenue  
3 laws of the United States, this chapter applies to interpre-  
4 tative rules (including proposed, temporary, and final reg-  
5 ulations) 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.

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