

Calendar No. 273106TH CONGRESS
1ST SESSION**S. 1156****[Report No. 106-153]**

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.

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

SEPTEMBER 8, 1999

Reported by Mr. BOND, with amendments

[Omit the part struck through and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS AND PURPOSES.**

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

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

8 (2) Small businesses bear a disproportionate
9 share of regulatory costs and burdens.

10 (3) Federal agencies must consider the impact
11 of their regulations on small businesses early in the
12 rulemaking process.

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

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

22 (1) To provide a forum for the effective partici-
23 pation of small businesses in the Federal regulatory
24 process.

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

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

4 **SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS**
5 **ON SMALL ENTITIES OF RULES PROPOSED BY**
6 **CERTAIN AGENCIES.**

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

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

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

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

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

22 “(i) ~~with the concurrence of~~ *in consultation*
23 *with* the Chief Counsel, identify affected small
24 entity representatives; and

1 “(ii) transmit to the identified small entity
2 representatives a detailed summary of the infor-
3 mation referred to in subparagraph (B) or the
4 information in full, if so requested by the small
5 entity representative, for the purposes of ob-
6 taining advice and recommendations about the
7 potential impacts of the draft proposed rule.

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

17 “(B) The review panel shall—

18 “(i) review any material the covered agency has
19 prepared in connection with this chapter, including
20 any draft proposed rule;

21 “(ii) collect advice and recommendations from
22 the small entity representatives identified under
23 paragraph (1)(C)(i) on issues related to paragraphs
24 (3), (4), and (5) of section 603(b) and section
25 603(c); and

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

4 “(C) Not later than 60 days after the date a covered
5 agency convenes a review panel pursuant to this para-
6 graph, the review panel shall report to the head of the
7 covered agency on—

8 “(i) the comments received from the small enti-
9 ty representatives identified under paragraph
10 (1)(C)(i); and

11 “(ii) its findings regarding issues related to
12 paragraphs (3), (4), and (5) of section 603(b) and
13 section 603(c).

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

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

22 “(ii) the date of the publication of the notice of
23 proposed rulemaking for the proposed rule.

24 “(B) The report of the review panel printed in the
25 Federal Register shall not include any confidential busi-

1 ness information submitted by any small entity represent-
2 ative.

3 “(4) Where appropriate, the covered agency shall
4 modify the draft proposed rule, the initial regulatory flexi-
5 bility analysis for the draft proposed rule, or the decision
6 on whether an initial regulatory flexibility analysis is re-
7 quired for the draft proposed rule.”.

8 **SEC. 4. DEFINITIONS.**

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

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

12 “(1) the term ‘covered agency’ means the Envi-
13 ronmental Protection Agency, the Occupational
14 Safety and Health Administration of the Depart-
15 ment of Labor, and the Internal Revenue Service of
16 the Department of the Treasury; and

17 “(2) the term ‘small entity representative’
18 means a small entity, or an individual or organiza-
19 tion that *primarily* represents the interests of 1 or
20 more small entities.”.

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

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

24 (1) in paragraph (5) by inserting “and” after
25 the semicolon;

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

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

4 (b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

5 The ~~fourth~~ *fifth* sentence of section 603 of title 5, United
6 States Code, is amended to read as follows: “In the case
7 of an interpretative rule involving the internal revenue
8 laws of the United States, this chapter applies to interpre-
9 tative rules (including proposed, temporary, and final reg-
10 ulations) published in the Federal Register for codification
11 in the Code of Federal Regulations.”.

12 **SEC. 6. EFFECTIVE DATE.**

13 This Act shall take effect upon the expiration of the
14 90-day period beginning on the date of the enactment of
15 this Act.

Calendar No. 273

106TH CONGRESS
1ST Session

S. 1156

[Report No. 106-153]

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.

SEPTEMBER 8, 1999

Reported with amendments