

Regulatory Flexibility Act of 1980

(P.L. 96-511)

The Regulatory Flexibility Act was signed by President Carter on September 19, 1980, at which time it became Public Law No. 96-354. That law had major impacts upon agency rulemaking activities by requiring various analyses, including cost impacts and evaluation of alternatives, prior to regulating.

The following summary of the Regulatory Flexibility Act comes from the Thomas Internet website of the Library of Congress (<http://thomas.loc.gov>).

Regulatory Flexibility Act

- Defines the terms "small business," "small organization," and "small governmental jurisdiction" (small entities) as used in this Act.
- Requires each Federal agency to publish in the Federal Register a semiannual regulatory flexibility agenda which contains:
 - (1) a description of the subject area of any rule the agency expects to issue which will have a significant economic impact on a substantial number of small entities;
 - (2) a summary of the nature, objectives, and statutory basis of such a rule; and
 - (3) the name of an agency official knowledgeable concerning the rule.
- Directs each agency:
 - (1) to submit such agenda to the Chief Counsel for Advocacy of the Small Business Administration (Chief Counsel) for comment; and
 - (2) to take specified measures to notify and solicit comments from small entities concerning such agenda.
- Requires each agency to publish general notice of any proposed rulemaking.
- Requires each agency to make available for public comment and to transmit to the Chief Counsel an initial regulatory flexibility analysis which describes:
 - (1) the need, objectives, and legal basis of the proposed rule;
 - (2) the small entities to which the rule will apply;
 - (3) the paperwork requirements of the rule;
 - (4) duplicative or conflicting Federal rules; and
 - (5) any significant alternative proposals which could achieve the objectives of the proposed rule at a lower cost to small entities.
- Directs each agency to prepare and make available to the public a final regulatory flexibility analysis for each final rule.
- Requires that such analysis include:
 - (1) a summary of public comments received on the initial analysis and agency action taken as a result of such comments; and
 - (2) a description of alternative proposals considered by the agency and an explanation of why each alternative was rejected.
- Declares that such analyses shall not be required for a rule if the agency head certifies that such rule will not have a significant economic impact on a substantial number of small entities.

- Permits an agency head to waive or delay the preparation of an initial analysis or to delay the completion of a final analysis for not more than 180 days by publishing a written finding that the final rule is being promulgated in response to an emergency which makes timely compliance with such analyses requirements impracticable.
- Requires each agency to take specified measures to assure that small entities are given an opportunity to participate in the rulemaking of any rule having a significant economic impact on a substantial number of such entities.
- Directs each agency, within 180 days after enactment of this Act, to publish a plan for reviewing all such rules within ten years of the earlier of the date of enactment of this Act or the date such a rule is published as a final rule, to determine whether the rule should be continued without change, amended, or terminated to minimize its economic impact on small entities. Sets forth criteria to be considered in making such a determination.
- Directs each agency to publish annually a list of the rules scheduled to be reviewed during the next twelve months.
- Bars judicial review of agency compliance or noncompliance with provisions of this Act.
- Requires the Chief Counsel to monitor and report to the President and specified congressional committees regarding agency compliance with this Act.
- Authorizes the Chief Counsel to appear as amicus curiae in any action brought in a U.S. court to review a rule.