

Congressional Review Act of 1996 (P.L. 104-121)

A key Good Government measure passed during the Clinton Administration was the law commonly known as the Congressional Review Act. However, that legislation is more accurately referred to as the “Congressional Review” provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). (Note that the previous page contains a link to discursive materials on all of SBREFA.)

SBREFA was signed by President Clinton on March 29, 1996, at which time it became Public Law No. 104-121. That law, provides regulatory protections to small business entities and also contains an important congressional review provision, which requires agency submission of regulations to Congress before they may go into effect, thereby permitting Congress the opportunity to review such regulations and to overturn problematic rules by a joint resolution of Congress.

The following summary of the Congressional Review provisions of SBREFA comes from the Thomas Internet website of the Library of Congress (<http://thomas.loc.gov>).

Small Business Regulatory Enforcement Fairness Act of 1996

Title II: Small Business Regulatory Fairness
Subtitle A: Regulatory Compliance Simplification
Subtitle B: Regulatory Enforcement Reforms
Subtitle C: Equal Access to Justice Act Amendments
Subtitle D: Regulatory Flexibility Act Amendments
Subtitle E: Congressional Review

Subtitle E: Congressional Review (aka Congressional Review Act)

- Provides that before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of Congress and the Comptroller General a report containing:
 - (1) a copy of the rule;
 - (2) a concise general statement relating to the rule, including whether such rule is a major rule; and
 - (3) the proposed effective date of the rule.
- Requires such agency to submit to the Comptroller General and make available to each House of Congress certain other relevant information, including a cost-benefit analysis of the rule.

- Directs the Comptroller General to report on each major rule to the committees of jurisdiction of each House of Congress.
- Prohibits:
 - (1) a rule from taking effect if the Congress passes a joint resolution of disapproval under procedures prescribed in this Act; or
 - (2) a disapproved rule from being reissued in substantially the same form.
- Makes a major rule effective as a final rule on the latest of:
 - (1) the latter of the date 60 days after the Congress receives the report on such rule or the rule is published in the Federal Register;
 - (2) the earlier of the date on which either House of Congress fails to override a presidential veto of a joint resolution disapproving the rule or the date occurring 30 session days after the Congress received the veto; or
 - (3) the date the rule would have otherwise taken effect.
- Allows a rule to take effect notwithstanding such time requirements if the President determines, and notifies the Congress in writing, that the rule should take effect because such rule is:
 - (1) necessary because of an imminent threat to health or safety or other emergency;
 - (2) necessary for the enforcement of criminal laws;
 - (3) necessary for national security; or
 - (4) issued pursuant to any statute implementing an international trade agreement.
- Outlines the procedure for the congressional treatment of rules issued 60 days or earlier before the Congress adjourns a session.
- Provides transition rules for rules issued before enactment of this title.
- Provides congressional rule disapproval procedures.
- Defines "major rule" for purposes of this section as a rule having an annual economic effect of \$100 million or more, resulting in a major increase in costs or prices, or having a significant adverse effect on competition, employment, investment, productivity or the ability of U.S. companies to compete with foreign companies.
- Provides that, in the case of any deadline for or relating to any rule which does not take effect because of the enactment of a congressional joint resolution, such deadline is extended until 12 months after the enactment date of such resolution.
- Prohibits judicial review of determinations made under this title.
- States that the congressional review procedures of this title shall not apply to rules that concern monetary policy proposed or implemented by the Federal Reserve System or

Federal Open Market Committee.

- Allows the promulgating Federal agency to determine the effective date for any rule:
 - (1) that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or
 - (2) for which an agency finds that notice and public procedure are impracticable, unnecessary, or contrary to public interest.