

Thomas O. Sargentich

*The Small Business Regulatory Enforcement Fairness Act*

49 Admin. L. Rev. 123 (1997)

Abstract by Sarah P. Kenney

This article provides an overview of the Small Business Regulatory Enforcement Fairness Act (SBREFA or “the Act”), which Congress overwhelmingly passed in the spring of 1996 with the President's support. Specifically, the author outlines the Act’s purpose, development, reception, and likely results, suggesting that it “imposes burdensome layers of legal constraints on organizations already struggling mightily to meet minimal performance standards.”

SBREFA served as a victory for small businesses, providing them with regulations different from their large business counterparts in order to ensure that federal regulations are not unduly burdensome to small businesses. The Act expanded the responsibilities of federal agencies regarding small businesses. One of the motivating factors behind the Act, as mentioned in this Article, is the desire to treat small businesses as partners that share agencies’ goals of regulatory compliance rather than as potential rule-violators. Finally, the author suggests three potential outcomes of SBREFA: (1) encourage agencies to be more responsive to small businesses, creating greater harmony and regulatory compliance; (2) promote greater conflict and controversy; and (3) lead agencies to avoid rulemaking even more than they already do.