

103^D CONGRESS
1ST SESSION

S. 13

To institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, 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 “Regulatory Account-
5 ability Act of 1993”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF**
7 **PURPOSE.**

8 (a) FINDINGS.—The Congress finds and declares
9 that—

1 (1) the overall cost of Federal regulation in the
2 United States has risen to well over
3 \$400,000,000,000 per year;

4 (2) this regulatory burden is paid by individual
5 citizens and their families in the form of a “hidden
6 tax” because intermediaries have no options that do
7 not pass these expenditures to individuals;

8 (3) the most recent data reveals that the “hid-
9 den tax” paid by the citizens of this Nation now ex-
10 ceeds \$4,100 annually for each household;

11 (4) left unchecked, this “hidden tax” will in-
12 crease by 50 percent between now and the year
13 2000; and

14 (5) it is in the best interests of the American
15 people to have the Federal Government devise a sys-
16 tematic way to account for the new regulatory costs
17 that taxpayers are forced to absorb and to have this
18 financial burden better controlled.

19 (b) PURPOSE.—It is the purpose of this Act to estab-
20 lish that each agency shall, as a mandatory requirement
21 for the issuance of—

22 (1) any proposed regulation—

23 (A) thoroughly assess and document the
24 anticipated benefits, reasonable alternative ap-

1 proaches, and all foreseeable compliance costs
2 of each approach; and

3 (B) assess, and include in all proposed reg-
4 ulatory actions, a range of possible offsets for
5 the costs; and

6 (2) any final regulation—

7 (A) have selected the most cost-effective al-
8 ternative; and

9 (B) for a period of 3 years following enact-
10 ment, have fully offset all foreseeable costs
11 through revocation or revision of one or more
12 existing regulations.

13 **SEC. 3. DEFINITIONS.**

14 For purposes of this Act—

15 (1) the term “agency” has the same meaning
16 given such term in section 3502(1) of title 44, Unit-
17 ed States Code, excluding those agencies specified in
18 section 3502(10) of title 44, United States Code;
19 and

20 (2) the term “regulation” or “rule” means any
21 agency statement of general applicability and future
22 effect designed to implement, interpret, or prescribe
23 law or policy or describing the procedure or practice
24 requirements of an agency, but does not include—

1 (A) administrative actions governed by the
2 provisions of sections 556 and 557 of title 5,
3 United States Code;

4 (B) regulations issued with respect to a
5 military or foreign affairs function of the
6 United States; or

7 (C) regulations related to agency organiza-
8 tion, management, or personnel.

9 **SEC. 4. MANDATORY REQUIREMENT FOR THE ISSUANCE OF**
10 **NEW REGULATION.**

11 In taking any regulatory action, each agency shall
12 strictly adhere to the following requirements:

13 (1) Administrative regulatory decisions shall be
14 based on substantial evidence on the public record
15 documenting—

16 (A) the ability of an action to result in spe-
17 cific, reasonably anticipated benefits;

18 (B) all alternative regulatory approaches,
19 including performance-based approaches, that
20 will result in the benefits documented under
21 subparagraph (A); and

22 (C) all foreseeable costs that can reason-
23 ably be expected to flow, directly or incidentally,
24 from each approach documented under subpara-
25 graph (B).

1 (2) No final regulatory actions may be taken
2 unless the specific benefits resulting from a specific
3 regulatory approach documented under paragraph
4 (1) clearly outweigh the costs documented under
5 paragraph (1).

6 (3) Agencies shall—

7 (A) for all proposed new regulatory actions
8 that will generate any cost, propose a range of
9 position revisions to, or revocation of, one or
10 more existing regulations, that can reasonably
11 be expected to fully offset the reasonably antici-
12 pated costs of such proposed regulatory action;
13 and

14 (B) fully offset the costs documented
15 under paragraph (1) through revision to, or rev-
16 ocation of, existing Federal regulation.

17 **SEC. 5. EXEMPTION.**

18 The requirements of section 4(3) shall not apply in
19 the case of regulatory actions for which the President in-
20 cludes in the Federal Register, accompanying the regu-
21 latory action, a statement of waiver that fully outlines the
22 reasons and needs for waiving the requirements of section
23 4(3) because of emergency need for such specific regu-
24 latory action and includes a timetable for satisfying the

1 requirements of section 4 at the earliest possible date
2 thereafter.

3 **SEC. 6. INDEPENDENT EVALUATION.**

4 (a) IN GENERAL.—Three years following the date of
5 enactment of this Act, the President shall provide for inde-
6 pendent evaluation of the regulatory process and the effect
7 of regulations on the different areas of the economy, in-
8 cluding—

9 (1) business startups and viability;

10 (2) employment, including job creation, com-
11 pensation, and employment of foreign nationals by
12 United States firms;

13 (3) international trade and competitiveness with
14 foreign entities;

15 (4) research and development;

16 (5) impact on State and local governments; and

17 (6) direct Federal spending for enforcement of
18 regulations.

19 (b) STUDY FOCUS.—The evaluation required by this
20 section shall also include a study of—

21 (1) the effect of the regulatory cost cap imposed
22 by this Act;

23 (2) the methodologies used by regulatory agen-
24 cies to estimate the cost of a rule or regulation; and

1 (3) the use of alternative regulatory approaches
2 described in section 4(1)(B).

3 (c) OMB.—The Office of Management and Budget
4 shall carry out the provisions of this section.

5 (d) FUNDING.—Notwithstanding section 1346 of title
6 31, United States Code, the President is authorized to
7 transfer up to \$50,000 from the funds available to any
8 agency for administrative purposes to the Office of Man-
9 agement and Budget for the purpose of carrying out this
10 section.

11 **SEC. 7. EFFECTIVE DATE; SUNSET PROVISION.**

12 (a) EFFECTIVE DATE.—The provisions of this Act
13 shall take effect upon the date of enactment of this Act,
14 except that the effective date for regulations or rules pro-
15 mulgated pursuant to a law enacted after the date that
16 is 2 years before the date of enactment of this Act and
17 not later than the date of enactment of this Act shall be
18 6 months after the date of enactment of this Act.

19 (b) SUNSET.—The requirements of section 4(3) shall
20 cease to have effect on the date that is 3 years following
21 the date of enactment of this Act.

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