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S. 123

To require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. MOYNIHAN (for himself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Environmental Risk Evaluation Act of 1995''.

SEC. 2. FINDINGS AND POLICY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term ''adverse effect on human health'' includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction,developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term ''risk'' means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term ''source of pollution'' means a category or class of facilities or activities that alter the chemical, physical, or biological character of the natural environment.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities

and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs as other factors, including values and equity, must also be considered;

(4) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(5) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(6) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws, and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and

(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(7) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data, to the extent practicable, rank sources of

pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall evaluate—

(A) the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution; and

(B) the private and public costs and benefits associated with other Federal actions with impacts on human health, the environment, or

public welfare, including direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(3) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(4) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(5) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(6) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address, and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evalua-

tions to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by

rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.

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