

104TH CONGRESS
1ST SESSION

S. 229

To require the Administrator of the Environmental Protection Agency to conduct risk assessments and cost-benefit analyses in promulgating regulations relating to human health and the environment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 13 (legislative day, JANUARY 10), 1995

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

A BILL

To require the Administrator of the Environmental Protection Agency to conduct risk assessments and cost-benefit analyses in promulgating regulations relating to human health and the environment, 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. RISK ASSESSMENT AND COST-BENEFIT ANALY-**
4 **SIS.**

5 (a) REQUIREMENT.—Except as provided in sub-
6 section (b), in promulgating any proposed or final major
7 regulation relating to human health or the environment,
8 the Administrator of the Environmental Protection Agen-

1 cy shall publish in the Federal Register along with the
2 regulation a clear and concise statement that—

3 (1) describes and, to the extent practicable,
4 quantifies the risks to human health or the environ-
5 ment to be addressed by the regulation (including,
6 where applicable and practicable, the human health
7 risks to significant subpopulations who are dis-
8 proportionately exposed or particularly sensitive);

9 (2) compares the human health or environ-
10 mental risks to be addressed by the regulation to
11 other risks chosen by the Administrator, including—

12 (A) at least three other risks regulated by
13 the Environmental Protection Agency or an-
14 other Federal agency; and

15 (B) at least three other risks that are not
16 directly regulated by the Federal Government;

17 (3) estimates—

18 (A) the costs to the United States Govern-
19 ment, State and local governments, and the pri-
20 vate sector of implementing and complying with
21 the regulation; and

22 (B) the benefits of the regulation;
23 including both quantifiable measures of costs and
24 benefits, to the fullest extent that they can be esti-

1 mated, and qualitative measures that are difficult to
2 quantify; and

3 (4) contains a certification by the Adminis-
4 trator that—

5 (A) the analyses performed under para-
6 graphs (1) through (3) are based on the best
7 reasonably obtainable scientific information;

8 (B) the regulation is likely to significantly
9 reduce the human health or environmental risks
10 to be addressed;

11 (C) there is no regulatory alternative that
12 is allowed by the statute under which the regu-
13 lation is promulgated and that would achieve an
14 equivalent reduction in risk in a more cost-ef-
15 fective manner, along with a brief explanation
16 of why other such regulatory alternatives that
17 were considered by the Administrator were
18 found to be less cost-effective; and

19 (D) the regulation is likely to produce ben-
20 efits to human health or the environment that
21 will justify the costs to the United States Gov-
22 ernment, State and local governments, and the
23 private sector of implementing and complying
24 with the regulation.

1 (b) SUBSTANTIALLY SIMILAR FINAL REGULA-
2 TIONS.—If the Administrator determines that a final
3 major regulation is substantially similar to the proposed
4 version of the regulation with respect to each of the mat-
5 ters referred to in subsection (a), the Administrator may
6 publish in the Federal Register a reference to the state-
7 ment published under subsection (a) for the proposed reg-
8 ulation in lieu of publishing a new statement for the final
9 regulation.

10 (c) REPORTING.—If the Administrator cannot certify
11 with respect to one or more of the matters addressed in
12 subsection (a)(4), the Administrator shall identify those
13 matters for which certification cannot be made, and shall
14 include a statement of the reasons therefor in the Federal
15 Register along with the regulation. Not later than March
16 1 of each year, the Administrator shall submit a report
17 to Congress identifying those major regulations promul-
18 gated during the previous calendar year for which com-
19 plete certification was not made, and summarizing the rea-
20 sons therefor.

21 (d) OTHER REQUIREMENTS.—Nothing in this section
22 affects any other provision of Federal law, or changes the
23 factors that the Administrator is authorized to consider
24 in promulgating a regulation pursuant to any statute, or

1 shall delay any action required to meet a deadline imposed
2 by statute or a court.

3 (e) JUDICIAL REVIEW.—Nothing in this section cre-
4 ates any right to judicial or administrative review, nor cre-
5 ates any right or benefit, substantive or procedural, en-
6 forceable at law or equity by a party against the United
7 States, its agencies or instrumentalities, its officers or em-
8 ployees, or any other person. If a major regulation is sub-
9 ject to judicial or administrative review under any other
10 provision of law, the adequacy of the certification prepared
11 pursuant to this section, and any alleged failure to comply
12 with this section, may not be used as grounds for affecting
13 or invalidating such major regulation, although the state-
14 ments and information prepared pursuant to this section,
15 including statements contained in the certification, may
16 be considered as part of the record for judicial or adminis-
17 trative review conducted under such other provision of law.

18 (f) DEFINITION OF MAJOR REGULATION.—For pur-
19 poses of this section, “major regulation” means a regula-
20 tion that the Administrator determines may have an effect
21 on the economy of \$100,000,000 or more in any one year.

22 (g) EFFECTIVE DATE.—This section shall take effect
23 180 days after the date of enactment of this Act.

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