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H. R. 3311

To provide for analysis of major rules, to promote the public's right to know the costs and benefits of major rules, and to increase the accountability and quality of Government.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 1999

Mr. GEKAS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for analysis of major rules, to promote the public's right to know the costs and benefits of major rules, and to increase the accountability and quality of Government.

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 Improve-
5 ment Act of 2000".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Effective regulatory programs provide im-
2 portant benefits to the public, including protecting
3 the environment, worker safety, and public health.
4 Regulatory programs also impose significant costs
5 on individuals, businesses, and State, local, and trib-
6 al governments.

7 (2) Improving the ability of Federal agencies to
8 use scientific and economic analysis in developing
9 regulations should yield more effective protections
10 while minimizing costs.

11 (3) Cost-benefit analysis and risk assessment
12 are useful tools to better inform agencies in devel-
13 oping regulations, though such analyses do not re-
14 place good judgment and values.

15 (4) The evaluation of costs and benefits should
16 involve all relevant information, expressed in com-
17 parable terms.

18 (5) Cost-benefit analysis and risk assessment
19 should be presented with a clear statement of the
20 analytical assumptions and uncertainties, including
21 an explanation of what is known and not known and
22 what the implications of alternative assumptions
23 might be.

24 (6) The public has a right to know about the
25 costs and benefits of regulations, the risks ad-

1 dressed, the risks reduced, and the quality of sci-
2 entific and economic analysis used to support deci-
3 sions. Such knowledge will promote the quality, in-
4 tegrity, responsiveness, and acceptability of agency
5 actions.

6 (7) The Administrator of the Office of Informa-
7 tion and Regulatory Affairs should oversee regu-
8 latory activities to raise the quality and consistency
9 of cost-benefit analysis and risk assessment among
10 all agencies.

11 (8) The Federal Government should develop a
12 better understanding of the strengths and weak-
13 nesses of cost-benefit analysis and risk assessment
14 and conduct the research needed to improve these
15 analytical tools.

16 **SEC. 3. REGULATORY IMPACT ANALYSIS.**

17 (a) IN GENERAL.—Chapter 6 of title 5, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 “SUBCHAPTER II—REGULATORY IMPACT
21 ANALYSIS

22 “§ 621. Definitions

23 “For purposes of this subchapter the definitions
24 under section 551 shall apply and—

1 “(1) the term ‘benefit’ means a reasonably
2 identifiable favorable effect, which may include so-
3 cial, health, safety, environmental, and economic ef-
4 fects;

5 “(2) the term ‘cost’ means a reasonably identi-
6 fiable adverse effect, which may include social,
7 health, safety, environmental, and economic, effects;

8 “(3) the term ‘cost-benefit analysis’ means a
9 comparison of the costs and benefits, quantified to
10 the extent possible, that are expected to result from
11 the implementation of a rule;

12 “(4) the term ‘Director’ means the Director of
13 the Office of Management and Budget, acting
14 through the Administrator of the Office of Informa-
15 tion and Regulatory Affairs;

16 “(5) the term ‘major rule’ means a rule that—

17 “(A) may have an effect on the economy of
18 \$100 million or more;

19 “(B) may adversely affect, in a material
20 way, the economy, a sector of the economy, pro-
21 ductivity, competition, jobs, the environment,
22 public health or safety, or State, local, or tribal
23 governments, or communities; or

24 “(C) is so designated by the Director not
25 later than 30 days after the close of the com-

1 ment period for a rule or the publication of a
2 direct final rule, such designation being pub-
3 lished, together with a succinct statement of the
4 basis for the designation, within 30 days after
5 the date of the designation.

6 “(6) the term ‘quantified’ means measured and
7 expressed in numerical and, as necessary, com-
8 parable terms.

9 “(7) the term ‘regulatory impact analysis’
10 means—

11 “(A) a cost-benefit analysis of a rule;

12 “(B) cost-benefit analyses of a reasonable
13 number of alternative rules reflecting the range
14 of options that would comply with the statute
15 granting rule making authority, including where
16 feasible rules that—

17 “(i) require no government action;

18 “(ii) utilize only voluntary or edu-
19 cational programs;

20 “(iii) provide flexibility for small enti-
21 ties as defined in section 601(6); and

22 “(iv) use market-based mechanisms,
23 results-oriented performance-based stand-
24 ards, or other options that promote flexi-
25 bility for regulated persons and for State,

1 local, or tribal governments delegated au-
2 thority to administer a Federal program;
3 and

4 “(C) if the primary purpose of the rule is
5 to address health, safety, or environmental
6 risks—

7 “(i) a risk assessment of the proposed
8 rule; and

9 “(ii) an evaluation of any substitution
10 risk relating to the proposed rule;

11 “(8) the term ‘risk assessment’ means the sys-
12 tematic, objective process of organizing hazard and
13 exposure information, based on a careful analysis of
14 the weight of the scientific evidence, to estimate the
15 potential for specific harm to an exposed population
16 or resource, including, to the extent feasible, a char-
17 acterization of the distribution of risk as well as an
18 analysis of uncertainties, variabilities, conflicting in-
19 formation, inferences, and assumptions and
20 includes—

21 “(A) an identification of the hazard ad-
22 dressed by the rule, including data on the harm
23 addressed by the rule and the conditions that
24 produce it;

1 “(B) an identification of the populations or
2 natural resources that are subject to the hazard
3 addressed by the rule;

4 “(C) an assessment of the quantitative re-
5 lation between the amount of exposure to the
6 agent or activity addressed by the rule and the
7 extent of the harms addressed by the rule;

8 “(D) an assessment of exposure, including
9 a description of the nature and size of the pop-
10 ulations or resources exposed to an agent or ac-
11 tivity addressed by the rule and the magnitude
12 and duration of their exposure;

13 “(E) an integration of the information
14 from subparagraphs (A) through (D) to deter-
15 mine the reasonable likelihood that a population
16 or resource will experience the harms addressed
17 by the rule; and

18 “(F) a description of the major uncertain-
19 ties in each component of the risk assessment
20 and their influence on the results of the risk as-
21 sessment; and

22 “(9) the term ‘substitution risk’ means an iden-
23 tifiable risk of harm to health, safety, or the envi-
24 ronment expected to result from the implementation
25 of a rule.

1 **“§ 622. Regulatory impact analysis**

2 “(a)(1) When an agency publishes a notice of pro-
3 posed rule making for a major rule, the agency shall—

4 “(A) prepare and place in the rule making file
5 an initial regulatory impact analysis; and

6 “(B) include a summary of such analysis in the
7 notice of proposed rule making.

8 “(2) When the Director has designated a rule a major
9 rule under section 621(5)(C) or when the agency has pub-
10 lished an interim final major rule, the agency shall—

11 “(A) promptly prepare and place in the rule
12 making file an initial regulatory impact analysis for
13 the rule;

14 “(B) publish in the Federal Register a sum-
15 mary of such analysis; and

16 “(C) give interested parties the same oppor-
17 tunity to comment under section 553 as if the initial
18 regulatory impact analysis had been issued with the
19 notice of proposed rule making.

20 “(b) When the agency publishes a final major rule,
21 or at the conclusion of the comment period required by
22 subsection (a)(2)(C), the agency shall prepare and place
23 in the rule making file a final regulatory impact analysis
24 which shall address each of the requirements of the initial
25 regulatory impact analysis required by subsection
26 (a)(1)(A) or (a)(2)(A) revised to reflect—

1 “(1) any material changes made to the pro-
2 posed rule by the agency after publication of the no-
3 tice of proposed rule making;

4 “(2) any material changes made to the cost-
5 benefit analysis or risk assessment; and

6 “(3) agency consideration of significant com-
7 ments received regarding the proposed rule and the
8 initial regulatory impact analysis.”.

9 **SEC. 4. RISK BASED PRIORITIES STUDY.**

10 (a) **STUDY.**—Not later than 1 year after the date of
11 enactment of this Act, the Director of the Office of Man-
12 agement and Budget, in consultation with the Director of
13 the Office of Science and Technology Policy, shall enter
14 into a contract with an accredited scientific institution to
15 conduct a study that provides—

16 (1) a systematic comparison of the extent and
17 severity of significant risks to human health, safety,
18 or the environment (hereafter referred to as a com-
19 parative risk analysis);

20 (2) a study of methodologies for using compara-
21 tive risk analysis to compare dissimilar risks to
22 human health, safety, or the environment, including
23 development of a common basis to assist compara-
24 tive risk analysis related to both carcinogens and
25 noncarcinogens; and

1 (3) recommendations on the use of comparative
2 risk analysis in setting priorities for the reduction of
3 risks to human health, safety, or the environment.

4 (b) The Director shall ensure that the study required
5 under subsection (a) is—

6 (1) conducted through an open process pro-
7 viding opportunities for public comment and partici-
8 pation; and

9 (2) not later than 3 years after the date of en-
10 actment of this Act, completed and submitted to
11 Congress and the President.

12 (c) Not later than 4 years after the date of enactment
13 of this Act, each relevant agency shall, as appropriate, use
14 the results of the study required under subsection (a) to
15 inform the agency in the preparation of the agency's an-
16 nual budget and strategic plan and performance plan
17 under section 306 of title 5, United States Code, and sec-
18 tions 1115, 1116, 1117, 1118, and 1119 of title 31,
19 United States Code.

20 (d) Not later than 5 years after the date of enactment
21 of this Act, and periodically thereafter, the President shall
22 submit a report to Congress recommending legislative
23 changes to assist in setting priorities to more effectively
24 and efficiently reduce risks to human health, safety, or
25 the environment.

1 **SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) SUBCHAPTER HEADING.—Chapter 6 of title 5,
3 United States Code, is amended by inserting before sec-
4 tion 601 the following:

5 “SUBCHAPTER I—ANALYSIS OF REGULATORY
6 FLEXIBILITY”.

7 (b) TABLE OF SECTIONS.—The table of sections for
8 chapter 6 of title 5, United States Code, is amended—

9 (1) by inserting before the reference to section
10 601 the following:

“SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY”;

11 and

12 (2) by adding at the end the following:

“SUBCHAPTER II—REGULATORY IMPACT ANALYSIS

“621. Definitions.

“622. Regulatory impact analysis.”.

13 (c) CONFORMING AMENDMENTS.—Subchapter I of
14 chapter 6 of title 5, United States Code, is amended by
15 striking “this chapter” each place it occurs and inserting
16 “this subchapter”.

17 **SEC. 6. EFFECTIVE DATE.**

18 Except as otherwise provided in this Act, this Act
19 shall take effect 180 days after the date of enactment of
20 this Act, but shall not apply to any agency rule for which

- 1 a notice of proposed rule making is published on or before
- 2 60 days before the date of enactment of this Act.

