

104TH CONGRESS
1ST SESSION

S. 1001

To reform regulatory procedures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29 (legislative day, JUNE 19), 1995

Mr. GLENN (for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mrs. MURRAY, Mr. AKAKA, Mr. KENNEDY, Mr. DODD, Mr. DORGAN, Mr. JEFFORDS, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To reform regulatory procedures, 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 Procedures
5 Reform Act of 1995”.

6 **SEC. 2. DEFINITIONS.**

7 Section 551 of title 5, United States Code, is amend-
8 ed—

9 (1) in paragraph (13), by striking out “; and”
10 and inserting in lieu thereof a semicolon;

1 (2) in paragraph (14), by striking out the pe-
2 riod and inserting in lieu thereof “; and”; and

3 (3) by adding at the end thereof the following
4 new paragraph:

5 “(15) ‘Director’ means the Director of the Of-
6 fice of Management and Budget.”.

7 **SEC. 3. ANALYSIS OF AGENCY RULES.**

8 (a) IN GENERAL.—Chapter 6 of title 5, United
9 States Code, is amended by adding at the end the follow-
10 ing:

11 “SUBCHAPTER II—ANALYSIS OF AGENCY
12 RULES

13 **“§ 621. Definitions**

14 “For purposes of this subchapter the definitions
15 under section 551 shall apply and—

16 “(1) the term ‘benefit’ means the reasonably
17 identifiable significant favorable effects, including
18 social, environmental, and economic benefits, that
19 are expected to result directly or indirectly from im-
20 plementation of a rule or an alternative to a rule;

21 “(2) the term ‘cost’ means the reasonably iden-
22 tifiable significant adverse effects, including social,
23 environmental, and economic costs that are expected
24 to result directly or indirectly from implementation

1 of, or compliance with, a rule or an alternative to a
2 rule;

3 “(3) the term ‘cost-benefit analysis’ means an
4 evaluation of the costs and benefits of a rule, quan-
5 tified to the extent feasible and appropriate and oth-
6 erwise qualitatively described, that is prepared in ac-
7 cordance with the requirements of this subchapter at
8 the level of detail appropriate and practicable for
9 reasoned decisionmaking on the matter involved,
10 taking into consideration the significance and com-
11 plexity of the decision and any need for expedition;

12 “(4)(A) the term ‘major rule’ means a rule or
13 a group of closely related rules that the agency pro-
14 posing the rule, the Director, or a designee of the
15 President reasonably determines is likely to have a
16 gross annual effect on the economy of \$100,000,000
17 or more in reasonably quantifiable direct and indi-
18 rect costs; and

19 “(B) the term ‘major rule’ shall not include—

20 “(i) a rule that involves the internal reve-
21 nue laws of the United States;

22 “(ii) a rule or agency action that author-
23 izes the introduction into, or removal from,
24 commerce, or recognizes the marketable status,
25 of a product; or

1 “(iii) a rule exempt from notice and public
2 comment procedure under section 553 of this
3 title;

4 “(5) the term ‘market-based mechanism’ means
5 a regulatory program that—

6 “(A) imposes legal accountability for the
7 achievement of an explicit regulatory objective,
8 including the reduction of environmental pollut-
9 ants or of risks to human health, safety, or the
10 environment, on each regulated person;

11 “(B) affords maximum flexibility to each
12 regulated person in complying with mandatory
13 regulatory objectives, and such flexibility shall,
14 where feasible and appropriate, include the op-
15 portunity to transfer to, or receive from, other
16 persons, including for cash or other legal con-
17 sideration, increments of compliance respon-
18 sibility established by the program; and

19 “(C) permits regulated persons to respond
20 at their own discretion in an automatic manner,
21 consistent with subparagraph (B), to changes in
22 general economic conditions and in economic
23 circumstances directly pertinent to the regu-
24 latory program without affecting the achieve-

1 ment of the program’s explicit regulatory man-
2 dates under subparagraph (A);

3 “(6) the term ‘performance standard’ means a
4 requirement that imposes legal accountability for the
5 achievement of an explicit regulatory objective, such
6 as the reduction of environmental pollutants or of
7 risks to human health, safety, or the environment,
8 on each regulated person;

9 “(7) the term ‘risk assessment’ has the same
10 meaning as such term is defined under section
11 631(5); and

12 “(8) the term ‘rule’ has the same meaning as
13 in section 551(4) of this title, and shall not in-
14 clude—

15 “(A) a rule of particular applicability that
16 approves or prescribes for the future rates,
17 wages, prices, services, corporate or financial
18 structures, reorganizations, mergers, acquisi-
19 tions, accounting practices, or disclosures bear-
20 ing on any of the foregoing;

21 “(B) a rule relating to monetary policy
22 proposed or promulgated by the Board of Gov-
23 ernors of the Federal Reserve System or by the
24 Federal Open Market Committee;

1 “(C) a rule relating to the safety or sound-
2 ness of federally insured depository institutions
3 or any affiliate of such an institution (as de-
4 fined in section 2(k) of the Bank Holding Com-
5 pany Act of 1956 (12 U.S.C. 1841(k)); credit
6 unions; the Federal Home Loan Banks; govern-
7 ment-sponsored housing enterprises; a Farm
8 Credit System Institution; foreign banks, and
9 their branches, agencies, commercial lending
10 companies or representative offices that operate
11 in the United States and any affiliate of such
12 foreign banks (as those terms are defined in the
13 International Banking Act of 1978 (12 U.S.C.
14 3101)); or a rule relating to the payments sys-
15 tem or the protection of deposit insurance funds
16 or Farm Credit Insurance Fund; or

17 “(D) a rule issued by the Federal Election
18 Commission or a rule issued by the Federal
19 Communications Commission pursuant to sec-
20 tions 312(a)(7) and 315 of the Communications
21 Act of 1934 (47 U.S.C. 312(a)(7) and 315).

22 **“§ 622. Rulemaking cost-benefit analysis**

23 “(a) Before publishing notice of a proposed rule-
24 making for any rule (or, in the case of a notice of a pro-
25 posed rulemaking that has been published on or before the

1 effective date of this subchapter, no later than 30 days
2 after such date), each agency shall determine whether the
3 rule is or is not a major rule. For the purpose of any such
4 determination, a group of closely related rules shall be
5 considered as one rule.

6 “(b)(1) If an agency has determined that a rule is
7 not a major rule, the Director or a designee of the Presi-
8 dent may, as appropriate, determine that the rule is a
9 major rule no later than 30 days after the publication of
10 the notice of proposed rulemaking for the rule (or, in the
11 case of a notice of proposed rulemaking that has been pub-
12 lished on or before the effective date of this subchapter,
13 no later than 60 days after such date).

14 “(2) Such determination shall be published in the
15 Federal Register, together with a succinct statement of
16 the basis for the determination.

17 “(c)(1)(A) When the agency publishes a notice of pro-
18 posed rulemaking for a major rule, the agency shall issue
19 and place in the rulemaking file an initial cost-benefit
20 analysis, and shall include a summary of such analysis in
21 the notice of proposed rulemaking.

22 “(B)(i) When the Director or a designee of the Presi-
23 dent has published a determination that a rule is a major
24 rule after the publication of the notice of proposed rule-
25 making for the rule, the agency shall promptly issue and

1 place in the rulemaking file an initial cost-benefit analysis
2 for the rule and shall publish in the Federal Register a
3 summary of such analysis.

4 “(ii) Following the issuance of an initial cost-benefit
5 analysis under clause (i), the agency shall give interested
6 persons an opportunity to comment pursuant to section
7 553 in the same manner as if the draft cost-benefit analy-
8 sis had been issued with the notice of proposed rule-
9 making.

10 “(2) Each initial cost-benefit analysis shall contain—

11 “(A) an analysis of the benefits of the proposed
12 rule, including any benefits that cannot be quan-
13 tified, and an explanation of how the agency antici-
14 pates that such benefits will be achieved by the pro-
15 posed rule, including a description of the persons or
16 classes of persons likely to receive such benefits;

17 “(B) an analysis of the costs of the proposed
18 rule, including any costs that cannot be quantified,
19 and an explanation of how the agency anticipates
20 that such costs will result from the proposed rule,
21 including a description of the persons or classes of
22 persons likely to bear such costs;

23 “(C) an identification (including an analysis of
24 costs and benefits) of an appropriate number of rea-
25 sonable alternatives allowed under the statute grant-

1 ing the rulemaking authority for achieving the iden-
2 tified benefits of the proposed rule, including alter-
3 natives that—

4 “(i) require no government action;

5 “(ii) will accommodate differences among
6 geographic regions and among persons with dif-
7 fering levels of resources with which to comply;
8 and

9 “(iii) employ voluntary programs, perform-
10 ance standards, or market-based mechanisms
11 that permit greater flexibility in achieving the
12 identified benefits of the proposed rule and that
13 comply with the requirements of subparagraph
14 (D);

15 “(D) an assessment of the feasibility of estab-
16 lishing a regulatory program that operates through
17 the application of market-based mechanisms;

18 “(E) an explanation of the extent to which the
19 proposed rule—

20 “(i) will accommodate differences among
21 geographic regions and among persons with dif-
22 fering levels of resources with which to comply;
23 and

24 “(ii) employs voluntary programs, perform-
25 ance standards, or market-based mechanisms

1 that permit greater flexibility in achieving the
2 identified benefits of the proposed rule;

3 “(F) a description of the quality, reliability, and
4 relevance of scientific or economic evaluations or in-
5 formation in accordance with the cost-benefit analy-
6 sis and risk assessment requirements of this chapter;

7 “(G) if not expressly or implicitly inconsistent
8 with the statute under which the agency is proposing
9 the rule, an explanation of the extent to which the
10 identified benefits of the proposed rule justify the
11 identified costs of the proposed rule, and an expla-
12 nation of how the proposed rule is likely to substan-
13 tially achieve the rulemaking objectives in a more
14 cost-effective manner than the alternatives to the
15 proposed rule, including alternatives identified in ac-
16 cordance with subparagraph (C); and

17 “(H) if a major rule subject to subchapter III
18 addresses risks to human health, safety, or the envi-
19 ronment—

20 “(i) a risk assessment in accordance with
21 this chapter; and

22 “(ii) for each such proposed or final rule,
23 an assessment of incremental risk reduction or
24 other benefits associated with each significant

1 regulatory alternative considered by the agency
2 in connection with the rule or proposed rule.

3 “(d)(1) When the agency publishes a final major rule,
4 the agency shall also issue and place in the rulemaking
5 file a final cost-benefit analysis, and shall include a sum-
6 mary of the analysis in the statement of basis and pur-
7 pose.

8 “(2) Each final cost-benefit analysis shall contain—

9 “(A) a description and comparison of the bene-
10 fits and costs of the rule and of the reasonable alter-
11 natives to the rule described in the rulemaking, in-
12 cluding the market-based mechanisms identified
13 under subsection (c)(2)(C)(iii); and

14 “(B) if not expressly or implicitly inconsistent
15 with the statute under which the agency is acting,
16 a reasonable determination, based upon the rule-
17 making file considered as a whole, whether—

18 “(i) the benefits of the rule justify the
19 costs of the rule; and

20 “(ii) the rule will achieve the rulemaking
21 objectives in a more cost-effective manner than
22 the alternatives described in the rulemaking, in-
23 cluding the market-based mechanisms identified
24 under subsection (c)(2)(C)(iii).

1 “(e)(1) The analysis of the benefits and costs of a
2 proposed and a final rule required under this section shall
3 include, to the extent feasible, a quantification or numeri-
4 cal estimate of the quantifiable benefits and costs. Such
5 quantification or numerical estimate shall be made in the
6 most appropriate units of measurement, using comparable
7 assumptions, including time periods, shall specify the
8 ranges of predictions, and shall explain the margins of
9 error involved in the quantification methods and in the
10 estimates used. An agency shall describe the nature and
11 extent of the nonquantifiable benefits and costs of a final
12 rule pursuant to this section in as precise and succinct
13 a manner as possible. An agency shall not be required to
14 make such evaluation primarily on a mathematical or nu-
15 merical basis.

16 “(2)(A) In evaluating and comparing costs and bene-
17 fits and in evaluating the risk assessment information de-
18 veloped under subchapter III, the agency shall not rely
19 on cost, benefit, or risk assessment information that is not
20 accompanied by data, analysis, or other supporting mate-
21 rials that would enable the agency and other persons inter-
22 ested in the rulemaking to assess the accuracy, reliability,
23 and uncertainty factors applicable to such information.

1 “(B) The agency evaluations of the relationships of
2 the benefits of a proposed and final rule to its costs shall
3 be clearly articulated in accordance with this section.

4 “(f) As part of the promulgation of each major rule
5 that addresses risks to human health, safety, or the envi-
6 ronment, the head of the agency or the President shall
7 make a determination that—

8 “(1) the risk assessment and the analysis under
9 subsection (c)(2)(H) are based on a scientific evalua-
10 tion of the risk addressed by the major rule and that
11 the conclusions of such evaluation are supported by
12 the available information; and

13 “(2) the regulatory alternative chosen will re-
14 duce risk in a cost-effective and, to the extent fea-
15 sible, flexible manner, taking into consideration any
16 of the alternatives identified under subsection (c)(2)
17 (C) and (D).

18 “(g) The preparation of the initial or final cost-bene-
19 fit analysis required by this section shall only be per-
20 formed under the direction of an officer or employee of
21 the agency. The preceding sentence shall not preclude a
22 person outside the agency from gathering data or informa-
23 tion to be used by the agency in preparing any such cost-
24 benefit analysis or from providing an explanation suffi-
25 cient to permit the agency to analyze such data or infor-

1 mation. If any such data or information is gathered or
2 explained by a person outside the agency, the agency shall
3 specifically identify in the initial or final cost-benefit anal-
4 ysis the data or information gathered or explained and the
5 person who gathered or explained it, and shall describe
6 the arrangement by which the information was procured
7 by the agency, including the total amount of funds ex-
8 pended for such procurement.

9 “(h) The requirements of this subchapter shall not
10 alter the criteria for rulemaking otherwise applicable
11 under other statutes.

12 **“§ 623. Judicial review**

13 “(a) Compliance or noncompliance by an agency with
14 the provisions of this subchapter and subchapter III shall
15 not be subject to judicial review except in connection with
16 review of a final agency rule and according to the provi-
17 sions of this section.

18 “(b) Any determination by a designee of the Presi-
19 dent or the Director that a rule is, or is not, a major rule
20 shall not be subject to judicial review in any manner.

21 “(c) The determination by an agency that a rule is,
22 or is not, a major rule shall be set aside by a reviewing
23 court only upon a clear and convincing showing that the
24 determination is erroneous in light of the information

1 available to the agency at the time the agency made the
2 determination.

3 “(d) If the cost-benefit analysis or risk assessment
4 required under this chapter has been wholly omitted for
5 any major rule, a court shall vacate the rule and remand
6 the case for further consideration. If an analysis or assess-
7 ment has been performed, the court shall not review to
8 determine whether the analysis or assessment conformed
9 to the particular requirements of this chapter.

10 “(e) Any cost-benefit analysis or risk assessment pre-
11 pared under this chapter shall not be subject to judicial
12 consideration separate or apart from review of the agency
13 action to which it relates. When an action for judicial re-
14 view of an agency action is instituted, any regulatory anal-
15 ysis for such agency action shall constitute part of the
16 whole administrative record of agency action for the pur-
17 pose of judicial review of the agency action, and shall, to
18 the extent relevant, be considered by a court in determin-
19 ing the legality of the agency action.

20 **“§ 624. Deadlines for rulemaking**

21 “(a) All deadlines in statutes that require agencies
22 to propose or promulgate any rule subject to section 622
23 or subchapter III during the 2-year period beginning on
24 the effective date of this section shall be suspended until
25 the earlier of—

1 “(1) the date on which the requirements of sec-
2 tion 622 or subchapter III are satisfied; or

3 “(2) the date occurring 6 months after the date
4 of the applicable deadline.

5 “(b) All deadlines imposed by any court of the United
6 States that would require an agency to propose or promul-
7 gate a rule subject to section 622 or subchapter III during
8 the 2-year period beginning on the effective date of this
9 section shall be suspended until the earlier of—

10 “(1) the date on which the requirements of sec-
11 tion 622 or subchapter III are satisfied; or

12 “(2) the date occurring 6 months after the date
13 of the applicable deadline.

14 “(c) In any case in which the failure to promulgate
15 a rule by a deadline occurring during the 2-year period
16 beginning on the effective date of this section would create
17 an obligation to regulate through individual adjudications,
18 the deadline shall be suspended until the earlier of—

19 “(1) the date on which the requirements of sec-
20 tion 622 or subchapter III are satisfied; or

21 “(2) the date occurring 6 months after the date
22 of the applicable deadline.

23 **“§ 625. Agency review of rules**

24 “(a)(1)(A) No later than 9 months after the effective
25 date of this section, each agency shall prepare and publish

1 in the Federal Register a proposed schedule for the review,
2 in accordance with this section, of—

3 “(i) each rule of the agency that is in effect on
4 such effective date and which, if adopted on such ef-
5 fective date, would be a major rule; and

6 “(ii) each rule of the agency in effect on the ef-
7 fective date of this section (in addition to the rules
8 described in clause (i)) that the agency has selected
9 for review.

10 “(B) Each proposed schedule required under sub-
11 paragraph (A) shall be developed in consultation with—

12 “(i) the Administrator of the Office of Informa-
13 tion and Regulatory Affairs; and

14 “(ii) the classes of persons affected by the
15 rules, including members from the regulated indus-
16 tries, small businesses, State and local governments,
17 and organizations representing the interested public.

18 “(C) Each proposed schedule required under sub-
19 paragraph (A) shall establish priorities for the review of
20 rules that, in the joint determination of the Administrator
21 of the Office of Information and Regulatory Affairs and
22 the agency, most likely can be amended or eliminated to—

23 “(i) provide the same or greater benefits at sub-
24 stantially lower costs;

1 “(ii) achieve substantially greater benefits at
2 the same or lower costs; or

3 “(iii) replace command-and-control regulatory
4 requirements with market mechanisms or perform-
5 ance standards that achieve substantially equivalent
6 benefits at lower costs or with greater flexibility.

7 “(D) Each proposed schedule required by subpara-
8 graph (A) shall include—

9 “(i) a brief explanation of the reasons the agen-
10 cy considers each rule on the schedule to be a major
11 rule, or the reasons why the agency selected the rule
12 for review;

13 “(ii) a date set by the agency, in accordance
14 with subsection (b), for the completion of the review
15 of each such rule; and

16 “(iii) a statement that the agency requests com-
17 ments from the public on the proposed schedule.

18 “(E) The agency shall set a date to initiate review
19 of each rule on the schedule in a manner that will ensure
20 the simultaneous review of related items and that will
21 achieve a reasonable distribution of reviews over the period
22 of time covered by the schedule.

23 “(2) No later than 90 days before publishing in the
24 Federal Register the proposed schedule required under
25 paragraph (1), each agency shall make the proposed

1 schedule available to the Director or a designee of the
2 President. The President or that officer may select for re-
3 view in accordance with this section any additional rule.

4 “(3) No later than 1 year after the effective date of
5 this section, each agency shall publish in the Federal Reg-
6 ister a final schedule for the review of the rules referred
7 to in paragraphs (1) and (2). Each agency shall publish
8 with the final schedule the response of the agency to com-
9 ments received concerning the proposed schedule.

10 “(b)(1) Except as explicitly provided otherwise by
11 statute, the agency shall, pursuant to subsections (c)
12 through (e), review—

13 “(A) each rule on the schedule promulgated
14 pursuant to subsection (a);

15 “(B) each major rule promulgated, amended, or
16 otherwise continued by an agency after the effective
17 date of this section; and

18 “(C) each rule promulgated after the effective
19 date of this section that the President or the officer
20 designated by the President selects for review pursu-
21 ant to subsection (a)(2).

22 “(2) Except as provided pursuant to subsection (f),
23 the review of a rule required by this section shall be com-
24 pleted no later than the later of—

1 “(A) 10 years after the effective date of this
2 section; or

3 “(B) 10 years after the date on which the rule
4 is—

5 “(i) promulgated; or

6 “(ii) amended or continued under this sec-
7 tion.

8 “(c) An agency shall publish in the Federal Register
9 a notice of its proposed action under this section with re-
10 spect to a rule being reviewed. The notice shall include—

11 “(1) an identification of the specific statutory
12 authority under which the rule was promulgated and
13 an explanation of whether the agency’s interpreta-
14 tion of the statute is expressly required by the cur-
15 rent text of that statute or, if not, whether it is
16 within the range of permissible interpretations of the
17 statute;

18 “(2) an analysis of the benefits and costs of the
19 rule during the period in which it has been in effect;

20 “(3) an explanation of the proposed agency ac-
21 tion with respect to the rule, including action to re-
22 peal or amend the rule to resolve inconsistencies or
23 conflicts with any other obligation or requirement es-
24 tablished by any Federal statute, rule, or other

1 agency statement, interpretation, or action that has
2 the force of law; and

3 “(4) a statement that the agency seeks propos-
4 als from the public for modifications or alternatives
5 to the rule which may accomplish the objectives of
6 the rule in a more effective or less burdensome man-
7 ner.

8 “(d) If an agency proposes to repeal or amend a rule
9 under review pursuant to this section, the agency shall,
10 after issuing the notice required by subsection (c), comply
11 with the provisions of this chapter, chapter 5, and any
12 other applicable law. The requirements of such provisions
13 and related requirements shall apply to the same extent
14 and in the same manner as in the case of a proposed agen-
15 cy action to repeal or amend a rule that is not taken pur-
16 suant to the review required by this section.

17 “(e) If an agency proposes to continue without
18 amendment a rule under review pursuant to this section,
19 the agency shall—

20 “(1) give interested persons no less than 60
21 days after the publication of the notice required by
22 subsection (c) to comment on the proposed continu-
23 ation; and

24 “(2) publish in the Federal Register notice of
25 the continuation of such rule.

1 “(f) Any agency, which for good cause finds that
2 compliance with this section with respect to a particular
3 rule during the period provided in subsection (b) of this
4 section is contrary to an important public interest may
5 request the President, or the officer designated by the
6 President pursuant to subsection (a)(2), to establish a pe-
7 riod longer than 10 years for the completion of the review
8 of such rule. The President or that officer may extend the
9 period for review of a rule to a total period of no more
10 than 15 years. Such extension shall be published in the
11 Federal Register with an explanation of the reasons there-
12 for.

13 “(g) If the agency fails to comply with the require-
14 ments of subsection (b)(2), the agency shall immediately
15 commence a rulemaking action pursuant to section 553
16 of this title to repeal the rule.

17 “(h) Nothing in this section shall relieve any agency
18 from its obligation to respond to a petition to issue,
19 amend, or repeal a rule, for an interpretation regarding
20 the meaning of a rule, or for a variance or exemption from
21 the terms of a rule, submitted pursuant to any other provi-
22 sion of law.

23 **“§ 626. Public participation and accountability**

24 “‘In order to maximize accountability for, and public
25 participation in, the development and review of regulatory

1 actions each agency shall, consistent with chapter 5 and
2 other applicable law, provide the public with opportunities
3 for meaningful participation in the development of regu-
4 latory actions, including—

5 “(1) seeking the involvement, where practicable
6 and appropriate, of those who are intended to bene-
7 fit from and those who are expected to be burdened
8 by any regulatory action;

9 “(2) providing in any proposed or final rule-
10 making notice published in the Federal Register—

11 “(A) a certification of compliance with the
12 requirements of this chapter, or an explanation
13 why such certification cannot be made;

14 “(B) a summary of any regulatory analysis
15 required under this chapter, or under any other
16 legal requirement, and notice of the availability
17 of the regulatory analysis;

18 “(C) a certification that the rule will
19 produce benefits that will justify the cost to the
20 Government and to the public of implementa-
21 tion of, and compliance with, the rule, or an ex-
22 planation why such certification cannot be
23 made; and

24 “(D) a summary of the results of any reg-
25 ulatory review and the agency’s response to

1 such review, including an explanation of any
2 significant changes made to such regulatory ac-
3 tion as a consequence of regulatory review;

4 “(3) identifying, upon request, a regulatory ac-
5 tion and the date upon which such action was sub-
6 mitted to the designated officer to whom authority
7 was delegated under section 644 for review;

8 “(4) disclosure to the public, consistent with
9 section 633(3), of any information created or col-
10 lected in performing a regulatory analysis required
11 under this chapter, or under any other legal require-
12 ment; and

13 “(5) placing in the appropriate rulemaking
14 record all written communications received from the
15 Director, other designated officer, or other individual
16 or entity relating to regulatory review.

17 “SUBCHAPTER III—RISK ASSESSMENTS

18 **“§ 631. Definitions**

19 “For purposes of this subchapter, the definitions
20 under sections 551 and 621 shall apply, and—

21 “(1) the term ‘covered agency’ means each
22 agency required to comply with this subchapter, as
23 provided in section 632;

1 “(2) the term ‘emergency’ means an imminent
2 or substantial endangerment to public health, safety,
3 or the environment if no action is taken;

4 “(3) the term ‘exposure assessment’ means the
5 scientific determination of the intensity, frequency,
6 and duration of exposures to the hazard in question;

7 “(4) the term ‘hazard assessment’ means the
8 scientific determination of whether a hazard can
9 cause an increased incidence of one or more
10 significant adverse effects, and a scientific evalua-
11 tion of the relationship between the degree of expo-
12 sure to a perceived cause of an adverse effect and
13 the incidence and severity of the effect;

14 “(5) the term ‘risk assessment’ means the sys-
15 tematic process of organizing and analyzing sci-
16 entific knowledge and information on potential haz-
17 ards, including as appropriate for the specific risk
18 involved, hazard assessment, exposure assessment,
19 and risk characterization;

20 “(6) the term ‘risk characterization’ means the
21 integration and organization of hazard and exposure
22 assessment to estimate the potential for specific
23 harm to an exposed individual population or natural
24 resource including, to the extent feasible, a charac-
25 terization of the distribution of risk as well as an

1 analysis of uncertainties, variabilities, conflicting in-
2 formation, and inferences and assumptions in the
3 assessment;

4 “(7) the term ‘screening analysis’ means an
5 analysis using simple conservative postulates to ar-
6 rive at an estimate of upper and lower bounds as ap-
7 propriate, that permits the manager to eliminate
8 risks from further consideration and analysis, or to
9 help establish priorities for agency action; and

10 “(8) the term ‘substitution risk’ means an in-
11 creased risk to human health, safety, or the environ-
12 ment reasonably likely to result from a regulatory
13 option.

14 **“§ 632. Applicability**

15 “(a) Except as provided in subsection (c), this sub-
16 chapter shall apply to all risk assessments and risk charac-
17 terizations prepared in connection with a major rule ad-
18 dressing health, safety, and environmental risks by—

19 “(1) the Secretary of Defense, for major rules
20 relating to the programs and responsibilities of the
21 United States Army Corps of Engineers;

22 “(2) the Secretary of the Interior, for major
23 rules relating to the programs and responsibilities of
24 the Office of Surface Mining Reclamation and En-
25 forcement;

1 “(3) the Secretary of Agriculture, for major
2 rules relating to the programs and responsibilities
3 of—

4 “(A) the Animal and Plant Health Inspec-
5 tion Service;

6 “(B) the Grain Inspection, Packers, and
7 Stockyards Administration;

8 “(C) the Food Safety and Inspection Serv-
9 ice;

10 “(D) the Forest Service; and

11 “(E) the Natural Resources Conservation
12 Service;

13 “(4) the Secretary of Commerce, for major
14 rules relating to the programs and responsibilities of
15 the National Marine Fisheries Service;

16 “(5) the Secretary of Labor, for major rules re-
17 lating to the programs and responsibilities of—

18 “(A) the Occupational Safety and Health
19 Administration; and

20 “(B) the Mine Safety and Health Adminis-
21 tration;

22 “(6) the Secretary of Health and Human Serv-
23 ices, for major rules relating to the programs and
24 responsibilities assigned to the Food and Drug Ad-
25 ministration;

1 “(7) the Secretary of Transportation, for major
2 rules relating to the programs and responsibilities
3 assigned to—

4 “(A) the Federal Aviation Administration;
5 and

6 “(B) the National Highway Traffic Safety
7 Administration;

8 “(8) the Secretary of Energy, for major rules
9 relating to nuclear safety, occupational safety and
10 health, and environmental restoration and waste
11 management;

12 “(9) the Chairman of the Consumer Product
13 Safety Commission;

14 “(10) the Administrator of the Environmental
15 Protection Agency; and

16 “(11) the Chairman of the Nuclear Regulatory
17 Commission.

18 “(b)(1) No later than 18 months after the effective
19 date of this section, the President, acting through the Di-
20 rector of the Office of Management and Budget, shall de-
21 termine whether other Federal agencies should be consid-
22 ered covered agencies for the purposes of this subchapter.
23 Such determination, with respect to a particular Federal
24 agency, shall be based on the impact of risk assessment
25 documents and risk characterization documents on—

1 “(A) regulatory programs administered by that
2 agency; and

3 “(B) the communication of risk information by
4 that agency to the public.

5 “(2) If the President makes a determination under
6 paragraph (1), this subchapter shall apply to any agency
7 determined to be a covered agency beginning on a date
8 set by the President. Such date may be no later than 6
9 months after the date of such determination.

10 “(c)(1) This subchapter shall not apply to risk assess-
11 ments or risk characterizations performed with respect
12 to—

13 “(A) an emergency determined by the head of
14 an agency;

15 “(B) a health, safety, or environmental inspec-
16 tion, compliance or enforcement action, or individual
17 facility permitting action; or

18 “(C) a screening analysis.

19 “(2) This subchapter shall not apply to any food,
20 drug, or other product label, or to any risk characteriza-
21 tion appearing on any such label.

22 **“§ 633. Savings provisions**

23 “Nothing in this subchapter shall be construed to—

1 “(1) modify any statutory standard or require-
2 ment designed to protect human health, safety, or
3 the environment; or

4 “(2) require the disclosure of any trade secret
5 or other confidential information.

6 **“§ 634. Principles for risk assessments**

7 “(a)(1) The head of each agency shall design and
8 conduct risk assessments in a manner that promotes ra-
9 tional and informed risk management decisions and in-
10 formed public input into the process of making agency de-
11 cisions.

12 “(2) The head of each agency shall establish and
13 maintain a distinction between risk assessment and risk
14 management.

15 “(3) An agency may take into account priorities for
16 managing risks, including the types of information that
17 would be important in evaluating a full range of alter-
18 natives, in developing priorities for risk assessment activi-
19 ties.

20 “(4) An agency shall not be required to repeat discus-
21 sions or explanations in each risk assessment required
22 under this subchapter if there is an unambiguous ref-
23 erence to a relevant discussion or explanation in another
24 reasonably available agency document that meets the re-
25 quirements of this section.

1 “(5)(A) In conducting a risk assessment, the head of
2 each agency shall employ the level of detail and rigor ap-
3 propriate and practicable for reasoned decisionmaking in
4 the matter involved, proportionate to the significance and
5 complexity of the potential agency action and the need for
6 expedition.

7 “(B)(i) Each agency shall develop and use an itera-
8 tive process for risk assessment, starting with relatively
9 inexpensive screening analyses and progressing to more
10 rigorous analyses, as circumstances or results warrant.

11 “(ii) In determining whether or not to proceed to a
12 more detailed analysis, the head of the agency shall take
13 into consideration whether or not use of additional data
14 or the analysis thereof would significantly change the esti-
15 mate of risk.

16 “(b)(1) The head of each agency shall base each risk
17 assessment on the best reasonably available scientific in-
18 formation, including scientific information that finds or
19 fails to find a correlation between a potential hazard and
20 an adverse effect, and data regarding exposure and other
21 relevant physical conditions that are reasonably expected
22 to be encountered.

23 “(2) The head of an agency shall select data for use
24 in the assessment based on an appropriate consideration

1 of the quality and relevance of the data, and shall describe
2 the basis for selecting the data.

3 “(3) In making its selection of data, the head of an
4 agency shall consider whether the data were developed in
5 accordance with good scientific practice or other appro-
6 priate protocols to ensure data quality.

7 “(4) Subject to paragraph (3), relevant scientific data
8 submitted by interested parties shall be reviewed and con-
9 sidered in the analysis by the head of an agency under
10 paragraph (2).

11 “(5) When conflicts among scientific data appear to
12 exist, the risk assessment shall include a discussion of all
13 relevant information, including the likelihood of alter-
14 native interpretations of data.

15 “(c)(1) To the maximum extent practicable, the head
16 of each agency shall use postulates, including default as-
17 sumptions, inferences, models, or safety factors, when rel-
18 evant scientific data and understanding, including site-
19 specific data, are lacking.

20 “(2) When a risk assessment involves choice of a pos-
21 tulate, the head of the agency shall—

22 “(A) identify the postulate and its scientific or
23 policy basis, including the extent to which the postu-
24 late has been validated by, or conflicts with, empiri-
25 cal data;

1 “(B) explain the basis for any choices among
2 postulates; and

3 “(C) describe reasonable alternative postulates
4 that were not selected by the agency for use in the
5 risk assessment, and the sensitivity for the conclu-
6 sions of the risk assessment to the alternatives, and
7 the rationale for not using such alternatives.

8 “(3) An agency shall not inappropriately combine or
9 compound multiple postulates.

10 “(4) The head of each agency shall develop a proce-
11 dure and publish guidelines for choosing default postulates
12 and for deciding when and how in a specific risk assess-
13 ments to adopt alternative postulates or to use available
14 scientific information in place of a default postulate.

15 “(d) The head of each agency shall provide appro-
16 priate opportunities for public participation and comment
17 on risk assessments.

18 “(e) In each risk assessment, the head of each agency
19 shall include in the risk characterization, as appropriate,
20 each of the following:

21 “(1) A description of the hazard of concern.

22 “(2) A description of the populations or natural
23 resources that are the subject of the risk assess-
24 ment.

1 “(3) An explanation of the exposure scenarios
2 used in the risk assessment, including an estimate of
3 the corresponding population at risk and the likeli-
4 hood of such exposure scenarios.

5 “(4) A description of the nature and severity of
6 the harm that could plausibly occur.

7 “(5) A description of the major uncertainties in
8 each component of the risk assessment and their in-
9 fluence on the results of the assessment.

10 “(f) To the extent feasible and scientifically appro-
11 priate, the head of an agency shall—

12 “(1) express the overall estimate of risk as a
13 range or probability distribution that reflects
14 variabilities and uncertainties in the analysis;

15 “(2) provide the range and distribution of risks
16 and the corresponding exposure scenarios, identify-
17 ing the reasonably expected risk to the general popu-
18 lation and, where appropriate, to more highly ex-
19 posed or sensitive subpopulations; and

20 “(3) where quantitative estimates of the range
21 and distribution of risk estimates are not available,
22 describe the qualitative factors influencing the range
23 of possible risks.

24 “(g) The head of an agency shall place the nature
25 and magnitude of risks to human health, safety, and the

1 environment being analyzed in context, including appro-
2 priate comparisons with other risks that are familiar to,
3 and routinely encountered by, the general public.

4 “(h) In any notice of proposed or final regulatory ac-
5 tion subject to this subchapter, the head of an agency shall
6 describe significant substitution risks to human health or
7 safety identified by the agency or contained in information
8 provided to the agency by a commentator.

9 **“§ 635. Peer review**

10 “(a) The head of each covered agency shall develop
11 a systematic program for independent and external peer
12 review required under subsection (b). Such program shall
13 be applicable throughout each covered agency and—

14 “(1) shall provide for the creation of peer re-
15 view panels that—

16 “(A) consist of members with expertise rel-
17 evant to the sciences involved in regulatory de-
18 cisions and who are independent of the covered
19 agency; and

20 “(B) are broadly representative and bal-
21 anced and, to the extent relevant and appro-
22 priate, may include persons affiliated with Fed-
23 eral, State, local, or tribal governments, small
24 businesses, other representatives of industry,
25 universities, agriculture, labor consumers, con-

1 servant organizations, or other public interest
2 groups and organizations;

3 “(2) shall not exclude any person with substan-
4 tial and relevant expertise as a panel member on the
5 basis that such person represents an entity that may
6 have a potential interest in the outcome, if such in-
7 terest is fully disclosed to the agency, and in the
8 case of a regulatory decision affecting a single en-
9 tity, no peer reviewer representing such entity may
10 be included on the panel;

11 “(3) shall provide for a timely completed peer
12 review, meeting agency deadlines, that contains a
13 balanced presentation of all considerations, including
14 minority reports and an agency response to all sig-
15 nificant peer review comments; and

16 “(4) shall provide adequate protections for con-
17 fidential business information and trade secrets, in-
18 cluding requiring panel members to enter into con-
19 fidentiality agreements.

20 “(b)(1)(A) Except as provided under subparagraph
21 (B), each covered agency shall provide for peer review in
22 accordance with this section of any risk assessment or
23 cost-benefit analysis that forms the basis of any major rule
24 that addresses risks to the environment, health, or safety.

1 “(B) Subparagraph (A) shall not apply to a rule or
2 other action taken by an agency to authorize or approve
3 any individual substance or product.

4 “(2) The Director of the Office of Management and
5 Budget may order that peer review be provided for any
6 risk assessment or cost-benefit analysis that is likely to
7 have a significant impact on public policy decisions or
8 would establish an important precedent.

9 “(c) Each peer review under this section shall include
10 a report to the Federal agency concerned with respect to
11 the scientific and technical merit of data and methods
12 used for the risk assessments or cost-benefit analyses.

13 “(d) The head of the covered agency shall provide a
14 written response to all significant peer review comments.

15 “(e) All peer review comments or conclusions and the
16 agency’s responses shall be made available to the public
17 and shall be made part of the administrative record for
18 purposes of judicial review of any final agency action.

19 “(f) No peer review shall be required under this sec-
20 tion for any data, method, document, or assessment, or
21 any component thereof, which has been previously sub-
22 jected to peer review.

1 **“§ 636. Guidelines, plan for assessing new informa-**
2 **tion, and report**

3 “(a)(1)(A) As soon as practicable and scientifically
4 feasible, each covered agency shall adopt, after notification
5 and opportunity for public comment, guidelines to imple-
6 ment the risk assessment principles under section 634, as
7 well as the cost-benefit analysis requirements under sec-
8 tion 622, and shall provide a format for summarizing risk
9 assessment results.

10 “(B) No later than 12 months after the effective date
11 of this section, the head of each covered agency shall issue
12 a report on the status of such guidelines to the Congress.

13 “(2) The guidelines under paragraph (1) shall—

14 “(A) include guidance on use of specific tech-
15 nical methodologies and standards for acceptable
16 quality of specific kinds of data;

17 “(B) address important decisional factors for
18 the risk assessment, risk characterization, and cost-
19 benefit analysis at issue; and

20 “(C) provide procedures for the refinement and
21 replacement of policy-based default assumptions.

22 “(b) The guidelines, plan and report under this sec-
23 tion shall be developed after notice and opportunity for
24 public comment, and after consultation with representa-
25 tives of appropriate State agencies and local governments,

1 and such other departments and agencies, organizations,
2 or persons as may be advisable.

3 “(c) The President shall review the guidelines pub-
4 lished under this section at least every 4 years.

5 “(d) The development, issuance, and publication of
6 risk assessment and risk characterization guidelines under
7 this section shall not be subject to judicial review.

8 **“§ 637. Research and training in risk assessment**

9 “(a) The head of each covered agency shall regularly
10 and systematically evaluate risk assessment research and
11 training needs of the agency, including, where relevant
12 and appropriate, the following:

13 “(1) Research to reduce generic data gaps, to
14 address modelling needs (including improved model
15 sensitivity), and to validate default options, particu-
16 larly those common to multiple risk assessments.

17 “(2) Research leading to improvement of meth-
18 ods to quantify and communicate uncertainty and
19 variability among individuals, species, populations,
20 and, in the case of ecological risk assessment, eco-
21 logical communities.

22 “(3) Emerging and future areas of research, in-
23 cluding research on comparative risk analysis, expo-
24 sure to multiple chemicals and other stressors,
25 noncancer endpoints, biological markers of exposure

1 and effect, mechanisms of action in both mammalian
2 and nonmammalian species, dynamics and prob-
3 abilities of physiological and ecosystem exposures,
4 and prediction of ecosystem-level responses.

5 “(4) Long-term needs to adequately train indi-
6 viduals in risk assessment and risk assessment appli-
7 cation. Evaluations under this paragraph shall in-
8 clude an estimate of the resources needed to provide
9 necessary training.

10 “(b) The head of each covered agency shall develop
11 a strategy and schedule for carrying out research and
12 training to meet the needs identified in subsection (a).

13 **“§ 638. Interagency coordination**

14 “(a) To promote the conduct, application, and prac-
15 tice of risk assessment in a consistent manner and to iden-
16 tify risk assessment data and research needs common to
17 more than 1 Federal agency, the Director of the Office
18 of Management and Budget, in consultation with the Of-
19 fice of Science and Technology Policy, shall—

20 “(1) periodically survey the manner in which
21 each Federal agency involved in risk assessment is
22 conducting such risk assessment to determine the
23 scope and adequacy of risk assessment practices in
24 use by the Federal Government;

1 “(2) provide advice and recommendations to the
2 President and Congress based on the surveys con-
3 ducted and determinations made under paragraph
4 (1);

5 “(3) establish appropriate interagency mecha-
6 nisms to promote—

7 “(A) coordination among Federal agencies
8 conducting risk assessment with respect to the
9 conduct, application, and practice of risk as-
10 sessment; and

11 “(B) the use of state-of-the-art risk assess-
12 ment practices throughout the Federal Govern-
13 ment;

14 “(4) establish appropriate mechanisms between
15 Federal and State agencies to communicate state-of-
16 the-art risk assessment practices; and

17 “(5) periodically convene meetings with State
18 government representatives and Federal and other
19 leaders to assess the effectiveness of Federal and
20 State cooperation in the development and application
21 of risk assessment.

22 “(b) The President shall appoint National Peer Re-
23 view Panels to review every 3 years the risk assessment
24 practices of each covered agency for programs designed
25 to protect human health, safety, or the environment. The

1 Panels shall submit a report to the President and the Con-
2 gress at least every 3 years containing the results of such
3 review.

4 **“§ 639. Plan for review of risk assessments**

5 “(a) No later than 18 months after the effective date
6 of this section, the head of each covered agency shall pub-
7 lish a plan to review and revise any risk assessment pub-
8 lished before the expiration of such 18-month period if the
9 covered agency determines that significant new informa-
10 tion or methodologies are available that could significantly
11 alter the results of the prior risk assessment.

12 “(b) A plan under subsection (a) shall—

13 “(1) provide procedures for receiving and con-
14 sidering new information and risk assessments from
15 the public; and

16 “(2) set priorities and criteria for review and
17 revision of risk assessments based on such factors as
18 the agency head considers appropriate.

19 **“§ 640. Judicial review**

20 “The provisions of section 623 relating to judicial re-
21 view shall apply to this subchapter.

22 **“§ 640a. Deadlines for rulemaking**

23 “The provisions of section 624 relating to deadlines
24 for rulemaking shall apply to this subchapter.

1 “SUBCHAPTER IV—EXECUTIVE OVERSIGHT

2 **“§ 641. Definition**

3 “For purposes of this subchapter, the definitions
4 under sections 551 and 621 shall apply.

5 **“§ 642. Procedures**

6 “The Director or other designated officer to whom
7 authority is delegated under section 644 shall—

8 “(1) establish procedures for agency compliance
9 with this chapter; and

10 “(2) monitor, review, and ensure agency imple-
11 mentation of such procedures.

12 **“§ 643. Promulgation and adoption**

13 “(a) Procedures established pursuant to section 642
14 shall only be implemented after opportunity for public
15 comment. Any such procedures shall be consistent with the
16 prompt completion of rulemaking proceedings.

17 “(b)(1) If procedures established pursuant to section
18 642 include review of any initial or final analyses of a rule
19 required under this chapter, the time for any such review
20 of any initial analysis shall not exceed 60 days following
21 the receipt of the analysis by the Director, a designee of
22 the President, or by an officer to whom the authority
23 granted under section 642 has been delegated pursuant
24 to section 644.

1 “(2) The time for review of any final analysis re-
2 quired under this chapter shall not exceed 60 days follow-
3 ing the receipt of the analysis by the Director, a designee
4 of the President, or such officer.

5 “(3)(A) The times for each such review may be ex-
6 tended for good cause by the President or such officer for
7 an additional 30 days.

8 “(B) Notice of any such extension, together with a
9 succinct statement of the reasons therefor, shall be in-
10 serted in the rulemaking file.

11 **“§ 644. Delegation of authority**

12 “(a) The President shall delegate the authority grant-
13 ed by this subchapter to the Director or to another officer
14 within the Executive Office of the President whose ap-
15 pointment has been subject to the advice and consent of
16 the Senate.

17 “(b) Notice of any delegation, or any revocation or
18 modification thereof shall be published in the Federal Reg-
19 ister.

20 **“§ 645. Public disclosure of information**

21 “‘The Director or other designated officer to whom
22 authority is delegated under section 644, in carrying out
23 the provisions of section 642, shall establish procedures
24 (covering all employees of the Director or other designated

1 officer) to provide public and agency access to information
2 concerning regulatory review actions, including—

3 “(1) disclosure to the public on an ongoing
4 basis of information regarding the status of regu-
5 latory actions undergoing review;

6 “(2) disclosure to the public, no later than pub-
7 lication of, or other substantive notice to the public
8 concerning a regulatory action, of—

9 “(A) all written communications, regard-
10 less of form or format, including drafts of all
11 proposals and associated analyses, between the
12 Director or other designated officer and the
13 regulatory agency;

14 “(B) all written communications, regard-
15 less of form or format, between the Director or
16 other designated officer and any person not em-
17 ployed by the executive branch of the Federal
18 Government relating to the substance of a regu-
19 latory action;

20 “(C) a record of all oral communications
21 relating to the substance of a regulatory action
22 between the Director or other designated officer
23 and any person not employed by the executive
24 branch of the Federal Government; and

1 “(D) a written explanation of any review
2 action and the date of such action; and

3 “(3) disclosure to the regulatory agency, on a
4 timely basis, of—

5 “(A) all written communications between
6 the Director or other designated officer and any
7 person who is not employed by the executive
8 branch of the Federal Government;

9 “(B) a record of all oral communications,
10 and an invitation to participate in meetings, re-
11 lating to the substance of a regulatory action
12 between the Director or other designated officer
13 and any person not employed by the executive
14 branch of the Federal Government; and

15 “(C) a written explanation of any review
16 action taken concerning an agency regulatory
17 action.

18 **“§ 646. Judicial review**

19 “The exercise of the authority granted under this
20 subchapter by the Director, the President, or by an officer
21 to whom such authority has been delegated under section
22 644 shall not be subject to judicial review in any man-
23 ner.”.

24 (b) REGULATORY FLEXIBILITY ANALYSIS.—

1 (1) IN GENERAL.—Section 611 of title 5, Unit-
2 ed States Code, is amended to read as follows:

3 **“§ 611. Judicial review**

4 “(a)(1) Except as provided in paragraph (2), no later
5 than 1 year after the effective date of a final rule with
6 respect to which an agency—

7 “(A) certified, pursuant to section 605(b), that
8 such rule would not have a significant economic im-
9 pact on a substantial number of small entities; or

10 “(B) prepared a final regulatory flexibility anal-
11 ysis pursuant to section 604,

12 an affected small entity may petition for the judicial re-
13 view of such certification or analysis in accordance with
14 this subsection. A court having jurisdiction to review such
15 rule for compliance with section 553 of this title or under
16 any other provision of law shall have jurisdiction to review
17 such certification or analysis.

18 “(2)(A) Except as provided in subparagraph (B), in
19 the case of a provision of law that requires that an action
20 challenging a final agency regulation be commenced before
21 the expiration of the 1-year period provided in paragraph
22 (1), such lesser period shall apply to a petition for the
23 judicial review under this subsection.

24 “(B) In a case in which an agency delays the issuance
25 of a final regulatory flexibility analysis pursuant to section

1 608(b), a petition for judicial review under this subsection
2 shall be filed no later than—

3 “(i) 1 year; or

4 “(ii) in a case in which a provision of law re-
5 quires that an action challenging a final agency reg-
6 ulation be commenced before the expiration of the 1-
7 year period provided in paragraph (1), the number
8 of days specified in such provision of law,
9 after the date the analysis is made available to the public.

10 “(3) For purposes of this subsection, the term ‘af-
11 fected small entity’ means a small entity that is or will
12 be adversely affected by the final rule.

13 “(4) Nothing in this subsection shall be construed to
14 affect the authority of any court to stay the effective date
15 of any rule or provision thereof under any other provision
16 of law.

17 “(5)(A) In a case in which an agency certifies that
18 such rule would not have a significant economic impact
19 on a substantial number of small entities, the court may
20 order the agency to prepare a final regulatory flexibility
21 analysis pursuant to section 604 if the court determines,
22 on the basis of the rulemaking record, that the certifi-
23 cation was arbitrary, capricious, an abuse of discretion,
24 or otherwise not in accordance with law.

1 “(B) In a case in which the agency prepared a final
2 regulatory flexibility analysis, the court may order the
3 agency to take corrective action consistent with section
4 604 if the court determines, on the basis of the rulemaking
5 record, that the final regulatory flexibility analysis was
6 prepared by the agency without complying with section
7 604.

8 “(6) If, by the end of the 90-day period beginning
9 on the date of the order of the court pursuant to para-
10 graph (5) (or such longer period as the court may pro-
11 vide), the agency fails, as appropriate—

12 “(A) to prepare the analysis required by section
13 604; or

14 “(B) to take corrective action consistent with
15 section 604 of this title,

16 the court may stay the rule or grant such other relief as
17 it deems appropriate.

18 “(7) In making any determination or granting any
19 relief authorized by this subsection, the court shall take
20 due account of the rule of prejudicial error.

21 “(b) In an action for the judicial review of a rule,
22 any regulatory flexibility analysis for such rule (including
23 an analysis prepared or corrected pursuant to subsection
24 (a)(5)) shall constitute part of the whole record of agency
25 action in connection with such review.

1 “(c) Nothing in this section bars judicial review of
 2 any other impact statement or similar analysis required
 3 by any other law if judicial review of such statement or
 4 analysis is otherwise provided by law.”.

5 (2) EFFECTIVE DATE.—The amendment made
 6 by paragraph (1) shall take effect on the effective
 7 date of this Act, except that the judicial review au-
 8 thorized by section 611(a) of title 5, United States
 9 Code (as added by subsection (a)), shall apply only
 10 to final agency rules issued after such effective date.

11 (c) PRESIDENTIAL AUTHORITY.—Nothing in this Act
 12 shall limit the exercise by the President of the authority
 13 and responsibility that the President otherwise possesses
 14 under the Constitution and other laws of the United
 15 States with respect to regulatory policies, procedures, and
 16 programs of departments, agencies, and offices.

17 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) Part I of title 5, United States Code, is
 19 amended by striking out the chapter heading and
 20 table of sections for chapter 6 and inserting in lieu
 21 thereof the following:

22 **“CHAPTER 6—THE ANALYSIS OF**
 23 **REGULATORY FUNCTIONS**

 “SUBCHAPTER I—REGULATORY ANALYSIS

“Sec.

“601. Definitions.

“602. Regulatory agenda.

- “603. Initial regulatory flexibility analysis.
- “604. Final regulatory flexibility analysis.
- “605. Avoidance of duplicative or unnecessary analyses.
- “606. Effect on other law.
- “607. Preparation of analysis.
- “608. Procedure for waiver or delay of completion.
- “609. Procedures for gathering comments.
- “610. Periodic review of rules.
- “611. Judicial review.
- “612. Reports and intervention rights.

“SUBCHAPTER II—ANALYSIS OF AGENCY RULES

- “621. Definitions.
- “622. Rulemaking cost-benefit analysis.
- “623. Judicial review.
- “624. Deadlines for rulemaking.
- “625. Agency review of rules.
- “626. Public participation and accountability.

“SUBCHAPTER III—RISK ASSESSMENTS

- “631. Definitions.
- “632. Applicability.
- “633. Savings provisions.
- “634. Principles for risk assessment.
- “635. Peer review.
- “636. Guidelines, plan for assessing new information, and report.
- “637. Research and training in risk assessment.
- “638. Interagency coordination.
- “639. Plan for review of risk assessments.
- “640. Judicial review.
- “640a. Deadlines for rulemaking.

“SUBCHAPTER IV—EXECUTIVE OVERSIGHT

- “641. Definition.
- “642. Procedures.
- “643. Promulgation and adoption.
- “644. Delegation of authority.
- “645. Public disclosure of information.
- “646. Judicial review.”.

1 (2) Chapter 6 of title 5, United States Code, is
 2 amended by inserting immediately before section
 3 601, the following subchapter heading:

1 “SUBCHAPTER I—REGULATORY ANALYSIS”.

2 **SEC. 4. CONGRESSIONAL REVIEW.**

3 (a) IN GENERAL.—Part I of title 5, United States
4 Code, is amended by inserting after chapter 7 the follow-
5 ing new chapter:

6 **“CHAPTER 8—CONGRESSIONAL REVIEW**
7 **OF AGENCY RULEMAKING**

8 **“§ 801. Congressional review of agency rulemaking**

9 “(a) For purposes of this chapter, the term—

10 “(1) ‘major rule’ means a major rule as defined
11 under section 621(4) of this title and as determined
12 under section 622 of this title; and

13 “(2) ‘rule’ (except in reference to a rule of the
14 Senate or House of Representatives) is a reference
15 to a major rule.

16 “(b)(1) Upon the promulgation of a final major rule,
17 the agency promulgating such rule shall submit to the
18 Congress a copy of the rule, the statement of basis and
19 purpose for the rule, and the proposed effective date of
20 the rule.

21 “(2) A rule submitted under paragraph (1) shall not
22 take effect as a final rule before the latest of the following:

23 “(A) The later of the date occurring 45 days
24 after the date on which—

1 “(i) the Congress receives the rule submit-
2 ted under paragraph (1); or

3 “(ii) the rule is published in the Federal
4 Register.

5 “(B) If the Congress passes a joint resolution
6 of disapproval described under subsection (i) relating
7 to the rule, and the President signs a veto of such
8 resolution, the earlier date—

9 “(i) on which either House of Congress
10 votes and fails to override the veto of the Presi-
11 dent; or

12 “(ii) occurring 30 session days after the
13 date on which the Congress received the veto
14 and objections of the President.

15 “(C) The date the rule would have otherwise
16 taken effect, if not for this section (unless a joint
17 resolution of disapproval under subsection (i) is ap-
18 proved).

19 “(c) A major rule shall not take effect as a final rule
20 if the Congress passes a joint resolution of disapproval de-
21 scribed under subsection (i), which is signed by the Presi-
22 dent or is vetoed and overridden by the Congress.

23 “(d)(1) Notwithstanding any other provision of this
24 section (except subject to paragraph (2)), a major rule
25 that would not take effect by reason of this section may

1 take effect if the President makes a determination and
2 submits written notice of such determination to the Con-
3 gress that the major rule should take effect because such
4 major rule is—

5 “(A) necessary because of an imminent threat
6 to health or safety, or other emergency;

7 “(B) necessary for the enforcement of criminal
8 laws; or

9 “(C) necessary for national security.

10 “(2) An exercise by the President of the authority
11 under this subsection shall have no effect on the proce-
12 dures under subsection (i) or the effect of a joint resolu-
13 tion of disapproval under this section.

14 “(e)(1) Subsection (i) shall apply to any major rule
15 that is promulgated as a final rule during the period be-
16 ginning on the date occurring 60 days before the date the
17 Congress adjourns sine die through the date on which the
18 succeeding Congress first convenes.

19 “(2) For purposes of subsection (i), a major rule de-
20 scribed under paragraph (1) shall be treated as though
21 such rule were published in the Federal Register (as a rule
22 that shall take effect as a final rule) on the date the suc-
23 ceeding Congress first convenes.

24 “(3) During the period between the date the Congress
25 adjourns sine die through the date on which the succeed-

1 ing Congress first convenes, a rule described under para-
2 graph (1) shall take effect as a final rule as otherwise pro-
3 vided by law.

4 “(f) Any rule that takes effect and later is made of
5 no force or effect by the enactment of a joint resolution
6 under subsection (i) shall be treated as though such rule
7 had never taken effect.

8 “(g) If the Congress does not enact a joint resolution
9 of disapproval under subsection (i), no court or agency
10 may infer any intent of the Congress from any action or
11 inaction of the Congress with regard to such major rule,
12 related statute, or joint resolution of disapproval.

13 “(h) If the agency fails to comply with the require-
14 ments of subsection (b) for any rule, the rule shall cease
15 to be enforceable against any person.

16 “(i)(1) For purposes of this subsection, the term
17 ‘joint resolution’ means only a joint resolution introduced
18 after the date on which the rule referred to in subsection
19 (b) is received by Congress the matter after the resolving
20 clause of which is as follows: ‘That Congress disapproves
21 the rule submitted by the _____ relating to
22 _____, and such rule shall have no force or ef-
23 fect.’ (The blank spaces being appropriately filled in.)

24 “(2)(A) In the Senate, a resolution described in para-
25 graph (1) shall be referred to the committees with jurisdic-

1 tion. Such a resolution shall not be reported before the
2 eighth day after its submission or publication date.

3 “(B) For purposes of this subsection, the term ‘sub-
4 mission or publication date’ means the later of the date
5 on which—

6 “(i) the Congress receives the rule submitted
7 under subsection (b)(1); or

8 “(ii) the rule is published in the Federal Reg-
9 ister.

10 “(3) In the Senate, if the committee to which a reso-
11 lution described in paragraph (1) is referred has not re-
12 ported such resolution (or an identical resolution) at the
13 end of 20 calendar days after its submission or publication
14 date, such committee may be discharged on a petition ap-
15 proved by 30 Senators from further consideration of such
16 resolution and such resolution shall be placed on the Sen-
17 ate calendar.

18 “(4)(A) In the Senate, when the committee to which
19 a resolution is referred has reported, or when a committee
20 is discharged (under paragraph (3)) from further consid-
21 eration of, a resolution described in paragraph (1), it shall
22 at any time thereafter be in order (even though a previous
23 motion to the same effect has been disagreed to) for any
24 Senator to move to proceed to the consideration of the
25 resolution, and all points of order against the resolution

1 (and against consideration of the resolution) shall be
2 waived. The motion shall be privileged in the Senate and
3 shall not be debatable. The motion shall not be subject
4 to amendment, or to a motion to postpone, or to a motion
5 to proceed to the consideration of other business. A motion
6 to reconsider the vote by which the motion is agreed to
7 or disagreed to shall not be in order. If a motion to pro-
8 ceed to the consideration of the resolution is agreed to,
9 the resolution shall remain the unfinished business of the
10 Senate until disposed of.

11 “(B) In the Senate, debate on the resolution, and on
12 all debatable motions and appeals in connection therewith,
13 shall be limited to not more than 10 hours, which shall
14 be divided equally between those favoring and those oppos-
15 ing the resolution. A motion further to limit debate shall
16 be in order and shall not be debatable. An amendment
17 to, or a motion to postpone, or a motion to proceed to
18 the consideration of other business, or a motion to recom-
19 mit the resolution shall not be in order. A motion to recon-
20 sider the vote by which the resolution is agreed to or dis-
21 agreed to shall not be in order.

22 “(C) In the Senate, immediately following the conclu-
23 sion of the debate on a resolution described in paragraph
24 (1), and a single quorum call at the conclusion of the de-

1 bate if requested in accordance with the Senate rules, the
2 vote on final passage of the resolution shall occur.

3 “(D) Appeals from the decisions of the Chair relating
4 to the application of the rules of the Senate to the proce-
5 dure relating to a resolution described in paragraph (1)
6 shall be decided without debate.

7 “(5) If, before the passage in the Senate of a resolu-
8 tion described in paragraph (1), the Senate receives from
9 the House of Representatives a resolution described in
10 paragraph (1), then the following procedures shall apply:

11 “(A) The resolution of the House of Represent-
12 atives shall not be referred to a committee.

13 “(B) With respect to a resolution described in
14 paragraph (1) of the Senate—

15 “(i) the procedure in the Senate shall be
16 the same as if no resolution had been received
17 from the other House; but

18 “(ii) the vote on final passage shall be on
19 the resolution of the other House.

20 “(6) This subsection is enacted by Congress—

21 “(A) as an exercise of the rulemaking power of
22 the Senate and House of Representatives, respec-
23 tively, and as such it is deemed to be a part of the
24 rules of each House, respectively, but applicable only
25 with respect to the procedure to be followed in that

1 House in the case of a resolution described in para-
 2 graph (1), and it supersedes other rules only to the
 3 extent that it is inconsistent with such rules; and

4 “(B) with full recognition of the constitutional
 5 right of either House to change the rules (so far as
 6 relating to the procedure of that House) at any time,
 7 in the same manner, and to the same extent as in
 8 the case of any other rule of that House.

9 “(j) No requirements under this chapter shall be sub-
 10 ject to judicial review in any manner.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 12 The table of chapters for part I of title 5, United States
 13 Code, is amended by inserting after the item relating to
 14 chapter 7 the following:

“**8. Congressional Review of Agency Rulemaking 801**”.

15 **SEC. 5. STUDIES AND REPORTS.**

16 (a) RISK ASSESSMENTS.—The Administrative Con-
 17 ference of the United States shall—

18 (1) develop and carry out an ongoing study of
 19 the operation of the risk assessment requirements of
 20 subchapter III of chapter 6 of title 5, United States
 21 Code (as added by section 3 of this Act); and

22 (2) submit an annual report to the Congress on
 23 the findings of the study.

1 (b) ADMINISTRATIVE PROCEDURE ACT.—No later
2 than December 31, 1996, the Administrative Conference
3 of the United States shall—

4 (1) carry out a study of the operation of chap-
5 ters 5 and 6 of title 5, United States Code (com-
6 monly referred to as the Administrative Procedure
7 Act), as amended by section 3 of this Act; and

8 (2) submit a report to the Congress on the find-
9 ings of the study, including proposals for revision, if
10 any.

11 **SEC. 6. RISK-BASED PRIORITIES.**

12 (a) PURPOSES.—The purposes of this section are
13 to—

14 (1) encourage Federal agencies engaged in reg-
15 ulating risks to human health, safety, and the envi-
16 ronment to achieve the greatest risk reduction at the
17 least cost practical;

18 (2) promote the coordination of policies and
19 programs to reduce risks to human health, safety,
20 and the environment; and

21 (3) promote open communication among Fed-
22 eral agencies, the public, the President, and Con-
23 gress regarding environmental, health, and safety
24 risks, and the prevention and management of those
25 risks.

1 (b) DEFINITIONS.—For the purposes of this section:

2 (1) COMPARATIVE RISK ANALYSIS.—The term
3 “comparative risk analysis” means a process to sys-
4 tematically estimate, compare, and rank the size and
5 severity of risks to provide a common basis for eval-
6 uating strategies for reducing or preventing those
7 risks.

8 (2) COVERED AGENCY.—The term “covered
9 agency” means each of the following:

10 (A) The Environmental Protection Agency.

11 (B) The Department of Labor.

12 (C) The Department of Transportation.

13 (D) The Food and Drug Administration.

14 (E) The Department of Energy.

15 (F) The Department of the Interior.

16 (G) The Department of Agriculture.

17 (H) The Consumer Product Safety Com-
18 mission.

19 (I) The National Oceanic and Atmospheric
20 Administration.

21 (J) The United States Army Corps of En-
22 gineers.

23 (K) The Nuclear Regulatory Commission.

24 (3) EFFECT.—The term “effect” means a dele-
25 terious change in the condition of—

1 (A) a human or other living thing (includ-
2 ing death, cancer, or other chronic illness, de-
3 creased reproductive capacity, or disfigure-
4 ment); or

5 (B) an inanimate thing important to
6 human welfare (including destruction, degenera-
7 tion, the loss of intended function, and in-
8 creased costs for maintenance).

9 (4) IRREVERSIBILITY.—The term “irre-
10 versibility” means the extent to which a return to
11 conditions before the occurrence of an effect are ei-
12 ther very slow or will never occur.

13 (5) LIKELIHOOD.—The term “likelihood”
14 means the estimated probability that an effect will
15 occur.

16 (6) MAGNITUDE.—The term “magnitude”
17 means the number of individuals or the quantity of
18 ecological resources or other resources that contrib-
19 ute to human welfare that are affected by exposure
20 to a stressor.

21 (7) SERIOUSNESS.—The term “seriousness”
22 means the intensity of effect, the likelihood, the
23 irreversibility, and the magnitude.

24 (c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

1 (1) SETTING PRIORITIES.—In exercising au-
2 thority under applicable laws protecting human
3 health, safety, or the environment, the head of each
4 covered agency should set priorities and use the re-
5 sources available under those laws to address those
6 risks to human health, safety, and the environment
7 that—

8 (A) the covered agency determines to be
9 the most serious; and

10 (B) can be addressed in a cost-effective
11 manner, with the goal of achieving the greatest
12 overall net reduction in risks with the public
13 and private sector resources expended.

14 (2) DETERMINING THE MOST SERIOUS RISKS.—
15 In identifying the greatest risks under paragraph (1)
16 of this subsection, each covered agency shall con-
17 sider, at a minimum—

18 (A) the likelihood, irreversibility, and se-
19 verity of the effect; and

20 (B) the number and classes of individuals
21 potentially affected, and shall explicitly take
22 into account the results of the comparative risk
23 analysis conducted under subsection (d) of this
24 section.

1 (3) OMB REVIEW.—The covered agency’s de-
2 terminations of the most serious risks for purposes
3 of setting priorities shall be reviewed and approved
4 by the Director of the Office of Management and
5 Budget before submission of the covered agency’s
6 annual budget requests to Congress.

7 (4) INCORPORATING RISK-BASED PRIORITIES
8 INTO BUDGET AND PLANNING.—The head of each
9 covered agency shall incorporate the priorities identi-
10 fied under paragraph (1) into the agency budget,
11 strategic planning, regulatory agenda, enforcement,
12 and research activities. When submitting its budget
13 request to Congress and when announcing its regu-
14 latory agenda in the Federal Register, each covered
15 agency shall identify the risks that the covered agen-
16 cy head has determined are the most serious and
17 can be addressed in a cost-effective manner under
18 paragraph (1), the basis for that determination, and
19 explicitly identify how the covered agency’s requested
20 budget and regulatory agenda reflect those prior-
21 ities.

22 (5) EFFECTIVE DATE.—This subsection shall
23 take effect 12 months after the date of enactment
24 of this Act.

25 (d) COMPARATIVE RISK ANALYSIS.—

1 (1) REQUIREMENT.—(A)(i) No later than 6
2 months after the effective date of this Act, the Di-
3 rector of the Office of Management and Budget
4 shall enter into appropriate arrangements with an
5 accredited scientific body—

6 (I) to conduct a study of the methodologies
7 for using comparative risk to rank dissimilar
8 human health, safety, and environmental risks;
9 and

10 (II) to conduct a comparative risk analysis.

11 (ii) The comparative risk analysis shall compare
12 and rank, to the extent feasible, human health, safe-
13 ty, and environmental risks potentially regulated
14 across the spectrum of programs administered by all
15 covered agencies.

16 (B) The Director shall consult with the Office
17 of Science and Technology Policy regarding the
18 scope of the study and the conduct of the compara-
19 tive risk analysis.

20 (2) CRITERIA.—In arranging for the compara-
21 tive risk analysis referred to in paragraph (1) of this
22 subsection, the Director shall ensure that—

23 (A) the scope and specificity of the analy-
24 sis are sufficient to provide the President and
25 agency heads guidance in allocating resources

1 across agencies and among programs in agen-
2 cies to achieve the greatest degree of risk pre-
3 vention and reduction for the public and private
4 resources expended;

5 (B) the analysis is conducted through an
6 open process, by individuals with relevant ex-
7 pertise, including toxicologists, biologists, engi-
8 neers and experts in medicine, industrial hy-
9 giene and environmental effects;

10 (C) the analysis is conducted, to the extent
11 feasible, consistent with the risk assessment
12 and risk characterization principles in sections
13 635 and 636 of this title;

14 (D) the methodologies and principal sci-
15 entific determinations made in the analysis are
16 subjected to independent and external peer re-
17 view consistent with section 635, and the con-
18 clusions of the peer review are made publicly
19 available as part of the final report required
20 under subsection (e);

21 (E) there is an opportunity for public com-
22 ment on the results before making them final;
23 and

24 (F) the results are presented in a man-
25 ner that distinguishes between the scientific

1 conclusions and any policy or value judgments
2 embodied in the comparisons.

3 (3) COMPLETION AND REVIEW.—No later than
4 3 years after the effective date of this Act, the com-
5 parative risk analysis required under paragraph (1)
6 shall be completed. The comparative risk analysis
7 shall be reviewed and revised at least every 5 years
8 thereafter for a minimum of 15 years following the
9 release of the first analysis. The Director shall ar-
10 range for such review and revision with an accred-
11 ited scientific body in the same manner as provided
12 under paragraphs (1) and (2).

13 (4) STUDY.—The study of methodologies pro-
14 vided under paragraph (1) shall be conducted as
15 part of the first comparative risk analysis and shall
16 be completed no later than 180 days after the com-
17 pletion of that analysis. The goal of the study shall
18 be to develop and rigorously test methods of com-
19 parative risk analysis. The study shall have suffi-
20 cient scope and breadth to test approaches for im-
21 proving comparative risk analysis and its use in set-
22 ting priorities for human health, safety, and environ-
23 mental risk prevention and reduction.

24 (5) TECHNICAL GUIDANCE.—No later than 180
25 days after the effective date of this Act, the Direc-

1 tor, in collaboration with other heads of covered
2 agencies shall enter into a contract with the Na-
3 tional Research Council to provide technical guid-
4 ance to agencies on approaches to using comparative
5 risk analysis in setting human health, safety, and
6 environmental priorities to assist agencies in comply-
7 ing with subsection (c) of this section.

8 (e) REPORTS AND RECOMMENDATIONS TO CONGRESS
9 AND THE PRESIDENT.—No later than 24 months after the
10 effective date of this Act, each covered agency shall submit
11 a report to Congress and the President—

12 (1) detailing how the agency has complied with
13 subsection (c) and describing the reasons for any de-
14 parture from the requirement to establish priorities
15 to achieve the greatest overall net reduction in risk;

16 (2) recommending—

17 (A) modification, repeal, or enactment of
18 laws to reform, eliminate, or enhance programs
19 or mandates relating to human health, safety,
20 or the environment; and

21 (B) modification or elimination of statu-
22 torily or judicially mandated deadlines,
23 that would assist the covered agency to set priorities
24 in activities to address the risks to human health,

1 safety, or the environment in a manner consistent
2 with the requirements of subsection (c)(1);

3 (3) evaluating the categories of policy and value
4 judgments used in risk assessment, risk character-
5 ization, or cost-benefit analysis; and

6 (4) discussing risk assessment research and
7 training needs, and the agency's strategy and sched-
8 ule for meeting those needs.

9 (f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

10 (1) IN GENERAL.—Nothing in this section shall
11 be construed to modify any statutory standard or re-
12 quirement designed to protect human health, safety,
13 or the environment.

14 (2) JUDICIAL REVIEW.—Compliance or non-
15 compliance by an agency with the provisions of this
16 section shall not be subject to judicial review.

17 (3) AGENCY ANALYSIS.—Any analysis prepared
18 under this section shall not be subject to judicial
19 consideration separate or apart from the require-
20 ment, rule, program, or law to which it relates.
21 When an action for judicial review of a covered
22 agency action is instituted, any analysis for, or relat-
23 ing to, the action shall constitute part of the whole
24 record of agency action for the purpose of judicial
25 review of the action and shall, to the extent relevant,

1 be considered by a court in determining the legality
2 of the covered agency action.

3 **SEC. 7. REGULATORY ACCOUNTING.**

4 (a) DEFINITIONS.—For purposes of this section, the
5 following definitions apply:

6 (1) AGENCY.—The term “agency” means any
7 executive department, military department, Govern-
8 ment corporation, Government controlled corpora-
9 tion, or other establishment in the executive branch
10 of the Government (including the Executive Office of
11 the President), or any independent regulatory agen-
12 cy, but shall not include—

13 (A) the General Accounting Office;

14 (B) the Federal Election Commission;

15 (C) the governments of the District of Co-
16 lumbia and of the territories and possessions of
17 the United States, and their various subdivi-
18 sions; or

19 (D) government-owned contractor-operated
20 facilities, including laboratories engaged in na-
21 tional defense research and production activi-
22 ties.

23 (2) REGULATION.—The term “regulation”
24 means an agency statement of general applicability
25 and future effect designed to implement, interpret,

1 or prescribe law or policy or describing the proce-
2 dures or practice requirements of an agency. The
3 term shall not include—

4 (A) administrative actions governed by sec-
5 tions 556 and 557 of title 5, United States
6 Code;

7 (B) regulations issued with respect to a
8 military or foreign affairs function of the Unit-
9 ed States; or

10 (C) regulations related to agency organiza-
11 tion, management, or personnel.

12 (b) ACCOUNTING STATEMENT.—

13 (1) IN GENERAL.—(A) The President shall be
14 responsible for implementing and administering the
15 requirements of this section.

16 (B) Every 2 years, no later than June of the
17 second year, the President shall prepare and submit
18 to Congress an accounting statement that estimates
19 the annual costs of Federal regulatory programs and
20 corresponding benefits in accordance with this sub-
21 section.

22 (2) YEARS COVERED BY ACCOUNTING STATE-
23 MENT.—Each accounting statement shall cover, at a
24 minimum, the 5 fiscal years beginning on October 1
25 of the year in which the report is submitted and may

1 cover any fiscal year preceding such fiscal years for
2 purpose of revising previous estimates.

3 (3) TIMING AND PROCEDURES.—(A) The Presi-
4 dent shall provide notice and opportunity for com-
5 ment for each accounting statement. The President
6 may delegate to an agency the requirement to pro-
7 vide notice and opportunity to comment for the por-
8 tion of the accounting statement relating to that
9 agency.

10 (B) The President shall propose the first ac-
11 counting statement under this subsection no later
12 than 2 years after the effective date of this Act and
13 shall issue the first accounting statement in final
14 form no later than 3 years after such effective date.
15 Such statement shall cover, at a minimum, each of
16 the fiscal years beginning after the effective date of
17 this Act.

18 (4) CONTENT OF ACCOUNTING STATEMENT.—
19 (A) Each accounting statement shall contain esti-
20 mates of costs and benefits with respect to each fis-
21 cal year covered by the statement in accordance with
22 this paragraph. For each such fiscal year for which
23 estimates were made in a previous accounting state-
24 ment, the statement shall revise those estimates and
25 state the reasons for the revisions.

1 (B)(i) An accounting statement shall estimate
2 the costs of Federal regulatory programs by setting
3 forth, for each year covered by the statement—

4 (I) the annual expenditure of national eco-
5 nomic resources for each regulatory program;
6 and

7 (II) such other quantitative and qualitative
8 measures of costs as the President considers
9 appropriate.

10 (ii) For purposes of the estimate of costs in the
11 accounting statement, national economic resources
12 shall include, and shall be listed under, at least the
13 following categories:

14 (I) Private sector costs.

15 (II) Federal sector costs.

16 (III) State and local government costs.

17 (C) An accounting statement shall estimate the
18 benefits of Federal regulatory programs by setting
19 forth, for each year covered by the statement, such
20 quantitative and qualitative measures of benefits as
21 the President considers appropriate. Any estimates
22 of benefits concerning reduction in human health,
23 safety, or environmental risks shall present the most
24 plausible level of risk practical, along with a state-
25 ment of the reasonable degree of scientific certainty.

1 (c) ASSOCIATED REPORT TO CONGRESS.—

2 (1) IN GENERAL.—At the same time as the
3 President submits an accounting statement under
4 subsection (b), the President, acting through the Di-
5 rector of the Office of Management and Budget,
6 shall submit to Congress a report associated with
7 the accounting statement (hereinafter referred to as
8 an “associated report”). The associated report shall
9 contain, in accordance with this subsection—

10 (A) analyses of impacts; and

11 (B) recommendations for reform.

12 (2) ANALYSES OF IMPACTS.—The President
13 shall include in the associated report the following:

14 (A) The cumulative impact on the economy
15 of Federal regulatory programs covered in the
16 accounting statement. Factors to be considered
17 in such report shall include impacts on the fol-
18 lowing:

19 (i) The ability of State and local gov-
20 ernments to provide essential services, in-
21 cluding police, fire protection, and edu-
22 cation.

23 (ii) Small business.

24 (iii) Productivity.

25 (iv) Wages.

1 (v) Economic growth.

2 (vi) Technological innovation.

3 (vii) Consumer prices for goods and
4 services.

5 (viii) Such other factors considered
6 appropriate by the President.

7 (B) A summary of any independent analy-
8 ses of impacts prepared by persons commenting
9 during the comment period on the accounting
10 statement.

11 (3) RECOMMENDATIONS FOR REFORM.—The
12 President shall include in the associated report the
13 following:

14 (A) A summary of recommendations of the
15 President for reform or elimination of any Fed-
16 eral regulatory program or program element
17 that does not represent sound use of national
18 economic resources or otherwise is inefficient.

19 (B) A summary of any recommendations
20 for such reform or elimination of Federal regu-
21 latory programs or program elements prepared
22 by persons commenting during the comment pe-
23 riod on the accounting statement.

24 (d) GUIDANCE FROM OFFICE OF MANAGEMENT AND
25 BUDGET.—The Director of the Office of Management and

1 Budget shall, in consultation with the Council of Economic
2 Advisers and the agencies, develop guidance for the agen-
3 cies—

4 (1) to standardize measures of costs and bene-
5 fits in accounting statements prepared pursuant to
6 this section and section 3 of this Act, including—

7 (A) detailed guidance on estimating the
8 costs and benefits of major rules; and

9 (B) general guidance on estimating the
10 costs and benefits of all other rules that do not
11 meet the thresholds for major rules; and

12 (2) to standardize the format of the accounting
13 statements.

14 (e) RECOMMENDATIONS FROM CONGRESSIONAL
15 BUDGET OFFICE.—After each accounting statement and
16 associated report submitted to Congress, the Director of
17 the Congressional Budget Office shall make recommenda-
18 tions to the President—

19 (1) for improving accounting statements pre-
20 pared pursuant to this section, including rec-
21 ommendations on level of detail and accuracy; and

22 (2) for improving associated reports prepared
23 pursuant to this section, including recommendations
24 on the quality of analysis.

1 (f) JUDICIAL REVIEW.—No requirements under this
2 section shall be subject to judicial review in any manner.

3 **SEC. 8. EFFECTIVE DATE.**

4 Except as otherwise provided in this Act, this Act
5 shall take effect 180 days after the date of the enactment
6 of this Act.



S 1001 IS—2

S 1001 IS—3

S 1001 IS—4

S 1001 IS—5

S 1001 IS—6