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

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

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

A BILL

To require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, 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 “Environmental Risk
5 Evaluation Act of 1995”.

6 **SEC. 2. FINDINGS AND POLICY.**

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

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

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

11 (3) RISK.—The term “risk” means the likeli-
12 hood of an occurrence of an adverse effect on human
13 health, the environment, or public welfare.

14 (4) SOURCE OF POLLUTION.—The term “source
15 of pollution” means a category or class of facilities
16 or activities that alter the chemical, physical, or bio-
17 logical character of the natural environment.

18 (b) FINDINGS.—Congress finds that—

19 (1) cost-benefit analysis and risk assessment
20 are useful but imperfect tools that serve to enhance
21 the information available in developing environ-
22 mental regulations and programs;

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

1 and evaluating the success of environmental protec-
2 tion programs;

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

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

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

18 (6) periodic reports by the Administrator on the
19 costs and benefits of regulations promulgated under
20 Federal environmental laws, and other Federal ac-
21 tions with impacts on human health, the environ-
22 ment, or public welfare, will provide Congress and
23 the general public with a better understanding of—

24 (A) national environmental priorities; and

1 (B) expenditures being made to achieve re-
2 ductions in risk to human health, the environ-
3 ment, and public welfare; and

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

7 (A) provide Congress and the general pub-
8 lic with a better understanding of the strengths,
9 weaknesses, and uncertainties of cost-benefit
10 analysis and risk assessment and the research
11 needed to reduce major uncertainties; and

12 (B) assist Congress and the general public
13 in evaluating environmental protection regula-
14 tions and programs, and other Federal actions
15 with impacts on human health, the environ-
16 ment, or public welfare, to determine the extent
17 to which the regulations, programs, and actions
18 adequately and fairly protect affected segments
19 of society.

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

22 (1) RANKING.—

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

1 pollution with respect to the relative degree of
2 risk of adverse effects on human health, the en-
3 vironment, and public welfare.

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

7 (i) rank the sources of pollution con-
8 sidering the extent and duration of the
9 risk; and

10 (ii) take into account broad societal
11 values, including the role of natural re-
12 sources in sustaining economic activity into
13 the future.

14 (2) EVALUATION OF REGULATORY AND OTHER
15 COSTS.—In addition to carrying out the rankings
16 under paragraph (1), the Administrator shall evalu-
17 ate—

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

23 (B) the private and public costs and bene-
24 fits associated with other Federal actions with
25 impacts on human health, the environment, or

1 public welfare, including direct development
2 projects, grant and loan programs to support
3 infrastructure construction and repair, and per-
4 mits, licenses, and leases to use natural re-
5 sources or to release pollution to the environ-
6 ment, and other similar actions.

7 (3) RISK REDUCTION OPPORTUNITIES.—In as-
8 sessing risks, costs, and benefits as provided in
9 paragraphs (1) and (2), the Administrator shall also
10 identify reasonable opportunities to achieve signifi-
11 cant risk reduction through modifications in environ-
12 mental regulations and programs and other Federal
13 actions with impacts on human health, the environ-
14 ment, or public welfare.

15 (4) UNCERTAINTIES.—In evaluating the risks
16 referred to in paragraphs (1) and (2), the Adminis-
17 trator shall—

18 (A) identify the major uncertainties associ-
19 ated with the risks;

20 (B) explain the meaning of the uncertain-
21 ties in terms of interpreting the ranking and
22 evaluation; and

23 (C) determine—

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

4 (ii) the cost of conducting the re-
5 search.

6 (5) CONSIDERATION OF BENEFITS.—In carry-
7 ing out this section, the Administrator shall consider
8 and, to the extent practicable, estimate the monetary
9 value, and such other values as the Administrator
10 determines to be appropriate, of the benefits associ-
11 ated with reducing risk to human health and the en-
12 vironment, including—

13 (A) avoiding premature mortality;

14 (B) avoiding cancer and noncancer dis-
15 eases that reduce the quality of life;

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

18 (D) maintaining an aesthetically pleasing
19 environment;

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

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

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

6 (6) REPORTS.—

7 (A) PRELIMINARY REPORT.—Not later
8 than 1 year after the date of enactment of this
9 Act, the Administrator shall report to Congress
10 on the sources of pollution and other Federal
11 actions that the Administrator will address, and
12 the approaches and methodology the Adminis-
13 trator will use, in carrying out the rankings and
14 evaluations under this section. The report shall
15 also include an evaluation by the Administrator
16 of the need for the development of methodolo-
17 gies to carry out the ranking.

18 (B) PERIODIC REPORT.—

19 (i) IN GENERAL.—On completion of
20 the ranking and evaluations conducted by
21 the Administrator under this section, but
22 not later than 3 years after the date of en-
23 actment of this Act, and every 3 years
24 thereafter, the Administrator shall report
25 the findings of the rankings and evalua-

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

3 (ii) EVALUATION OF RISKS.—Each
4 periodic report prepared pursuant to this
5 subparagraph shall, to the extent prac-
6 ticable, evaluate risk management deci-
7 sions under Federal environmental laws,
8 including title XIV of the Public Health
9 Service Act (commonly known as the “Safe
10 Drinking Water Act”) (42 U.S.C. 300f et
11 seq.), that present inherent and unavoid-
12 able choices between competing risks, in-
13 cluding risks of controlling microbial ver-
14 sus disinfection contaminants in drinking
15 water. Each periodic report shall address
16 the policy of the Administrator concerning
17 the most appropriate methods of weighing
18 and analyzing the risks, and shall incor-
19 porate information concerning—

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

23 (II) whether the effect is imme-
24 diate or delayed;

1 (III) whether the burden associ-
2 ated with the adverse effect is borne
3 disproportionately by a segment of the
4 general population or spread evenly
5 across the general population; and

6 (IV) whether a threatened ad-
7 verse effect can be eliminated or rem-
8 edied by the use of an alternative
9 technology or a protection mechanism.

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

12 (1) consult with the appropriate officials of
13 other Federal agencies and State and local govern-
14 ments, members of the academic community, rep-
15 resentatives of regulated businesses and industry,
16 representatives of citizen groups, and other knowl-
17 edgeable individuals to develop, evaluate, and inter-
18 pret scientific and economic information;

19 (2) make available to the general public the in-
20 formation on which rankings and evaluations under
21 this section are based; and

22 (3) establish methods for determining costs and
23 benefits of environmental regulations and other Fed-
24 eral actions, including the valuation of natural re-
25 sources and intergenerational costs and benefits, by

1 rule after notice and opportunity for public com-
2 ment.

3 (e) REVIEW BY THE SCIENCE ADVISORY BOARD.—
4 Before the Administrator submits a report prepared under
5 this section to Congress, the Science Advisory Board, es-
6 tablished by section 8 of the Environmental Research, De-
7 velopment, and Demonstration Act of 1978 (42 U.S.C.
8 4365), shall conduct a technical review of the report in
9 a public session.

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