

Calendar No. 1077

110TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 110-499

RESTORING THE VALUE OF EVERY AMERICAN IN ENVIRONMENTAL DECISIONS ACT

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 3564]

together with

MINORITY VIEWS

[Including an estimate from the Congressional Budget Office]

The Committee on Environment and Public Works, having considered an original bill (S. 3564) to restore the value of every American in environmental decisions, and for other purposes, having considered the same, reports favorably there on and recommends that the bill do pass.

PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of The Restoring the Value of Every American in Environmental Decisions Act is to ensure that the Environmental Protection Agency restores the value of every American in its decision making, and to provide transparency when the Agency evaluates its actions in the future.

This legislation would require that, to the extent the Administrator of the Environmental Protection Agency uses any value of a statistical life in decision making, that such value is not reduced from the highest previous value used by the agency, and that in the future it is not reduced or devalued based on age, income, race, illness, disability, date of death, or any other persona attribute or relativistic analysis.

BACKGROUND AND NEED FOR THE LEGISLATION

The Environmental Protection Agency (EPA) establishes standards based on a variety of legal tests, including feasibility, technology-based, right-to-know, and health-based criteria. However, the Agency sometimes uses the value of a statistical life to inform its decision making process when creating some rules that implement these legal standards. In particular, the Agency sometimes uses this information when conducting cost-benefit analysis on its rules.

The Committee is concerned that fundamental moral and ethical issues are raised by placing a dollar value on a human life, and is aware that assigning a monetary value to life in order to decide whether to save it is highly controversial. The legislation makes clear that Congress shall not be construed to be endorsing the monetization of the value of human life or use of such cost-benefit analyses.

Problems arise with valuing voluntary versus involuntary risks, and with assigning values to risks experienced by other people, including infants and children who do not have the ability to decide on the appropriate value of avoiding death.

The Committee is extremely concerned about recent reports that EPA has devalued a statistical life, from roughly \$7.8 million per person to about \$6.9 million per person.

SUMMARY OF MAJOR PROVISIONS OF THE BILL

The Restoring the Value of Every American in Environmental Decisions Act will ensure that the EPA does not reduce the estimated “value of statistical life” in its decision making, and requires the agency to provide transparency and public participation when the Agency assigns a value in the future.

This legislation would require that, to the extent the Administrator of the Environmental Protection Agency uses any value of a statistical life in decision making that such value is not reduced or otherwise modified based on age, income, race, illness, disability, date of death, or any other persona attribute or relativistic analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates the title of the bill as the “the Restoring the Value of Every American in Environmental Decisions”.

Section 2. Valuation of statistical life in Environmental Protection Agency decision making

Section (a) contains findings.

Section (b)(1) ensures that, to the extent that the Administrator uses in decision making any value of statistical life, including the life of pregnant women, infants, children, and the elderly, the Administrator shall not reduce the value below the highest value of statistical life used in a decision making of the Administrator’s before the date of enactment of the Act. This section also requires the Administrator to regularly update this value using certain criteria.

Subsection (b)(2) creates a prohibition on the devaluation or relativistic adjustment of the value of a statistical life.

Subsection (b)(3) requires the Administrator to use a transparent process when establishing and revising the value of a statistical life.

Section (c) makes clear that Congress does not endorse the use of a value of a statistical life as a decision making criterion, cost-benefit analysis, regulatory decision making threshold, or single process of agency decision making. It also makes clear that this Act does not create a duty to revise standards under applicable law or in any other way affect any substantive standard.

LEGISLATIVE HISTORY AND VOTES

On September 17, 2008, the Committee on Environment and Public Works held a business meeting to consider the Restoring the Value of Every American in Environmental Decisions Act, among other pieces of legislation. The Committee on Environment and Public Works considered and approved by voice vote a second degree amendment offered by Senator Boxer, which amended an amendment offered by Senator Inhofe. The Inhofe Amendment, as amended by the Boxer second degree, passed by a rollcall vote of 10–7. The Committee favorably adopted the amended bill by a voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that this legislation does not impose significant regulatory impacts.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the Committee finds that this legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The CBO confirms that in their view, “The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no direct impact on the budgets of state, local, or tribal governments.”

CONGRESSIONAL BUDGET OFFICE ESTIMATE

SEPTEMBER 24, 2008.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Restoring the Value of Every American in Environment Decisions Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 3564—Restoring the Value of Every American in Environmental Decisions Act

Recently, the Environmental Protection Agency (EPA) lowered its official estimate of the monetary value of a statistical life. EPA uses that figure in various cost-benefit analyses and other types of decisionmaking. This legislation would restore the dollar-value estimate of human life used by EPA prior to the recent change. In addition, the bill would require EPA to regularly update that value through a process that is open to the public. Based on information from EPA, CBO estimates that implementing this legislation would not result in any significant cost to the agency. Enacting the bill would not affect direct spending or receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no direct impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

MINORITY VIEWS OF SENATOR JAMES INHOFE

The Environmental Protection Agency uses a value of statistical life estimate to express the benefits of mortality risk reductions in monetary terms for use in benefit-cost analyses of its rules and regulations. EPA has used the same central default value—adjusted for inflation—in most of its primary analyses since 1999 when the Agency updated its Guidelines for Preparing Economic Analyses (USEPA, 2000).¹

For the economic purposes of cost-benefit analysis and resource allocation, EPA calculates the statistical value of life primarily based on society's value of itself—i.e., measuring what people are willing to pay to avoid certain risks, including factors such as additional amounts employers pay their workers to take on more risk. A significant amount of the data used by EPA is drawn from payroll statistics; other data comes from opinion surveys and validated scientific models. From EPA's perspective, the value of a statistical life should not be thought of as the "price tag" of a particular life, but rather as an economic statistical value.

There is no evidence to suggest that EPA has acted improperly, used invalid data or methodologies, or is politically motivated to devalue life. The record instead reflects that the Agency has sought to regularly reevaluate the available data, models and methodology in order to properly and consistently calculate this economic measurement.

Of course, the Committee could have properly debated the validity of EPA's process had we actually held a hearing on the subject prior to voting on this legislation. Unfortunately, this Committee chose to pass judgment about an issue on which we did not conduct proper oversight. Adding insult to injury, this bill was not even introduced for Senate consideration until after the business meeting was publically noticed. I believe that this disregard for established process alone invalidates the Committee's action on this legislation.

By passing this legislation, the Committee has improperly inserted its own subjective social and moral preferences into an otherwise economic exercise. Further, if this Committee insists on heading down the road of legislating social concerns and moral preferences, I am disappointed that the Committee did not support my efforts to instruct EPA to consider the value of life—born and unborn.

Since the Committee did not follow proper oversight procedures, I oppose passage of the Restoring the Value of Every American in Environmental Decisions Act because there is no evidence to sug-

¹ Report of the EPA Work Group on VSL META-Analyses, July 25, 2006—available at [http://yosemite.epa.gov/ee/epa/eeermfile.nsf/vwAN/EE-0494-01.pdf/\\$File/EE-0494-01.pdf](http://yosemite.epa.gov/ee/epa/eeermfile.nsf/vwAN/EE-0494-01.pdf/$File/EE-0494-01.pdf)

gest that the existing EPA process improperly values the economic measure of the statistical value of life.

JAMES M. INHOFE.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.

