

Calendar No. 116

104TH CONGRESS
1ST SESSION

S. 333

[Report No. 104-87]

A BILL

To direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes.

May 25 (legislative day, May 15), 1995

Reported with an amendment

Calendar No. 116104TH CONGRESS
1ST SESSION**S. 333****[Report No. 104-87]**

To direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, JANUARY 30), 1995

Mr. MURKOWSKI (for himself, Mr. JOHNSTON, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 25 (legislative day, MAY 15), 1995

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, 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,*

1 **SECTION. 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Energy
3 Risk Management Act of 1995.”

4 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

Sec. 4. Applicability; principles for risk assessment, characterization and communication.

Sec. 5. Regulation; plan for assessing new information.

Sec. 6. Requirements for environmental restoration activity.

Sec. 7. Environmental restoration priorities.

Sec. 8. Judicial review.

Sec. 9. Savings provisions.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) **BEST ESTIMATE.**—The term “best estimate” means an estimate that, to the extent feasible
8 and scientifically appropriate, provides the most un-
9 biased representation of the most plausible level of
10 risk, given the most reliable current scientific infor-
11 mation available to the Department.

12 (2) **COSTS.**—The term “costs” includes the di-
13 rect and indirect costs to the United States Govern-
14 ment, to State and local governments, and to the
15 private sector, of implementing and complying with
16 a regulatory action.

17 (3) **DEPARTMENT.**—The term “Department”
18 means the Department of Energy.
19

1 (4) ENVIRONMENTAL RESTORATION ACTIV-
2 ITY.—The term “environmental restoration activity”
3 means a removal or remedial action conducted by
4 the Department at nuclear facilities under the con-
5 trol of the Department, including the Savannah
6 River Site, Hanford Nuclear Reservation, Nevada
7 Test Site, Rocky Flats Plant, Idaho National Engi-
8 neering Laboratory, Los Alamos National Labora-
9 tory, Lawrence Livermore National Laboratory, and
10 any other such facility.

11 (5) HAZARD.—The term “hazard” means a
12 substance, activity, or condition which potentially
13 poses a risk to human health or safety or the envi-
14 ronment based on empirical data, measurements, or
15 testing showing that it has caused significant ad-
16 verse effects at some levels of dose or exposure not
17 necessarily relevant to level of dose or exposure that
18 are normally expected to occur.

19 (6) PLAUSIBLE.—The term “plausible” means
20 realistic and scientifically probable.

21 (7) RISK ASSESSMENT.—The term “risk assess-
22 ment” means—

23 (A) the process of identifying hazards and
24 quantifying or describing the degree of toxicity,
25 exposure, or other risk they pose for demon-

1 strably exposed individuals, populations, or re-
2 sources; or

3 (B) the document containing the expla-
4 nation of how the risk assessment process has
5 been applied to an individual substance, activ-
6 ity, or condition.

7 (8) RISK CHARACTERIZATION.—The term “risk
8 characterization”—

9 (A) means the element of a risk assess-
10 ment that involves presentation of the degree of
11 risk set forth in any plan, assessment, or record
12 of decision, report to Congress, or other docu-
13 ment that is made available to the public; and

14 (B) includes discussions of uncertainties,
15 conflicting data, estimates, extrapolations, in-
16 ferences, justifications, and opinions.

17 (9) SECRETARY.—The term “Secretary” means
18 the Secretary of Energy, or the Secretary’s designee.

19 (10) SUBSTITUTION RISK.—The term “substi-
20 tution risk” means a potential increased risk to
21 human health, safety, or the environment from a
22 regulatory option designed to decrease other risks.

1 **SEC. 4. APPLICABILITY; PRINCIPLES FOR RISK ASSESS-**
2 **MENT, RISK CHARACTERIZATION, AND COM-**
3 **MUNICATION.**

4 ~~(a)~~ APPLICABILITY.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), this Act applies to all risk assessments
7 and risk characterizations prepared by, or on behalf
8 of, the Department as part of an environmental res-
9 toration activity.

10 ~~(2)~~ EXCEPTIONS.—

11 ~~(A)~~ EMERGENCIES AND SCREENING ANAL-
12 YSES.—This Act does not apply to risk assess-
13 ments or risk characterizations performed with
14 respect to either of the following:

15 (i) A situation that the Secretary de-
16 termines to be an emergency.

17 (ii) A screening analysis, including a
18 screening analysis for purposes of product
19 regulation, product reregistration, or
20 premanufacturing notices.

21 ~~(B)~~ TREATMENT OF ANALYSIS AS SCREEN-
22 ING ANALYSIS.—No analysis shall be treated as
23 a screening analysis for purposes of subpara-
24 graph (A) if the results of the analysis is
25 used—

1 (i) as the basis for imposing restrictions on
2 substances or activities; or

3 (ii) to characterize a positive finding of
4 risks from substances or activities in any De-
5 partmental document made available to the gen-
6 eral public.

7 (b) PRINCIPLES FOR RISK ASSESSMENT.—

8 (1) IN GENERAL.—The Secretary shall apply
9 the principles set forth in paragraph (2) when pre-
10 paring a risk assessment in order to ensure that the
11 risk assessment distinguishes scientific findings from
12 other considerations and are, to the maximum extent
13 feasible, scientifically objective, unbiased, and inclu-
14 sive of all relevant data. Discussions or explanations
15 required under this section need not be repeated in
16 each risk assessment document as long as there is
17 a reference to the relevant discussion or explanation
18 in another agency document.

19 (2) PRINCIPLES.—The principles to be applied
20 when preparing risk assessments are as follows:

21 (A) HUMAN HEALTH RISKS.—When as-
22 sassing human health risks in connection with
23 a risk assessment, the Secretary shall consider
24 and discuss both laboratory and epidemiological
25 data of sufficient quality that finds, or fails to

1 find, a correlation between health risks and a
2 potential toxin or activity. When conflicts
3 among the data appear to exist or when animal
4 data are used as a basis to assess human
5 health, the assessment shall include discussion
6 of possible reconciliation of conflicting data.

7 (B) SIGNIFICANT ASSUMPTIONS.—When a
8 risk assessment involves selection of any signifi-
9 cant assumption, inference, or model, the Sec-
10 retary shall—

11 (i) describe the plausible alternative
12 assumptions, inferences, or models;

13 (ii) explain the basis for any choices
14 among the assumptions, inferences, or
15 models;

16 (iii) identify any policy or value judg-
17 ments involved in choosing from among the
18 alternative assumptions, inferences, or
19 models;

20 (iv) fully describe any model used in
21 the risk assessment and make explicit the
22 assumptions incorporated in the model;
23 and

1 (v) indicate the extent to which any
2 significant model has been validated by, or
3 conflicts with, empirical data.

4 (c) PRINCIPLES FOR RISK CHARACTERIZATION AND
5 COMMUNICATION.—When characterizing risk, the Sec-
6 retary shall comply with each of the following:

7 (1) ESTIMATES OF RISK.—

8 (A) BEST ESTIMATE.—The Secretary shall
9 describe the populations or natural resources
10 that are the subject of the risk characterization.
11 If a numerical estimate of risk is provided, the
12 Secretary shall, to the extent feasible and sci-
13 entifically appropriate, provide—

14 (i) the best estimate for the specific
15 populations or natural resources that are
16 the subject of the characterization (based
17 on the information available to the Depart-
18 ment); and

19 (ii) a statement of the reasonable
20 range of scientific uncertainties.

21 (B) MULTIPLE BEST ESTIMATES.—In ap-
22 propriate circumstances the Secretary may
23 present, in lieu of a single best estimate, mul-
24 tiple estimates based on assumptions, infer-

1 ences, or models that are equally plausible,
2 given current scientific understanding.

3 ~~(C) PLAUSIBLE UPPER-BOUND OR CON-~~
4 ~~SERVATIVE ESTIMATES.~~—In addition to a best
5 estimate or estimates, the Secretary may
6 present plausible upper-bound or conservative
7 estimates in conjunction with plausible lower
8 bounds estimates.

9 ~~(D) DESCRIPTIONS OF DISTRIBUTION AND~~
10 ~~PROBABILITY.~~—To the extent practicable and
11 appropriate, the Secretary shall provide descrip-
12 tions of the distribution and probability of risk
13 estimates to reflect differences in exposure vari-
14 ability in populations and uncertainties.

15 ~~(2) EXPOSURE SCENARIOS.~~—The Secretary
16 shall explain the exposure scenarios used in any risk
17 assessment, and, to the extent feasible, provide a
18 statement of the size of the corresponding popu-
19 lation at risk and the likelihood of the exposure sce-
20 narios.

21 ~~(3) COMPARISONS.~~—To the extent feasible, the
22 Secretary shall provide a statement that places the
23 nature and magnitude of risks to human health in
24 context. The statement shall include appropriate
25 comparisons with estimates of risks that are familiar

1 to and routinely encountered by the general public
2 as well as other risks.

3 (4) ~~SUBSTITUTION RISKS.~~—When the Secretary
4 provides a risk assessment or risk characterization
5 for an environmental restoration activity, the assess-
6 ment or characterization shall include a statement of
7 any significant substitution risks to human health,
8 where information on such risks has been provided
9 to the Secretary.

10 **SEC. 5. REGULATION; PLAN FOR ASSESSING NEW INFORMA-**
11 **TION.**

12 (a) ~~REGULATION.~~—Within 1 year after the date of
13 enactment of this Act, the Secretary shall issue a final
14 regulation implementing for the Department the risk as-
15 sessment and risk characterization principles set forth in
16 this Act. The final regulation shall establish a format for
17 summarizing risk assessment results.

18 (b) ~~PLAN.~~—

19 (1) ~~IN GENERAL.~~—Within 1 year after the date
20 of enactment of this Act, the Secretary shall promul-
21 gate a plan to review and revise any risk assessment
22 prepared by or on behalf of the Secretary and com-
23 pleted prior to the promulgation of the plan, if the
24 Secretary determines that significant new informa-
25 tion or methodologies are available that could signifi-

1 cantly alter the results of the prior risk assessment
2 or that there are other appropriate reasons why such
3 a review and revision should be conducted.

4 (2) CONTENTS.—A plan promulgated under (1)
5 shall—

6 (A) provide procedures for receiving and
7 considering new information and risk assess-
8 ments from the public;

9 (B) set priorities for review and revision of
10 risk assessments based on such factors as the
11 Secretary considers appropriate; and

12 (C) include a process by which members of
13 the public may petition the Secretary for review
14 of particular assessments.

15 (3) RESPONSE TO PETITION.—Not later than
16 60 days after receiving a petition under paragraph
17 (2)(C), the Secretary shall respond to the petition by
18 agreeing or declining to review the risk assessment
19 referred to in the petition, and shall state the basis
20 for the decision.

21 (4) COMPLETION OF REVIEW.—If the Secretary
22 agrees to review a risk assessment, the Department
23 shall complete its review within 180 days, unless the
24 Secretary agrees in writing that an extension not to

1 exceed 60 days is necessary in view of limitations on
2 Department resources.

3 ~~(c) PUBLIC COMMENT AND CONSULTATION.—The~~
4 ~~regulation and plan, under this sections shall be developed~~
5 ~~after notice and opportunity for public comment.~~

6 ~~(d) REVIEW.—At least every 4 years, the Secretary~~
7 ~~shall review, and when appropriate, revise the regulation~~
8 ~~and plan published under this section.~~

9 **~~SEC. 6. REQUIREMENTS FOR ENVIRONMENTAL RESTORA-~~**
10 **~~TION ACTIVITY.~~**

11 ~~(a) IN GENERAL.—Any plan, assessment, or record~~
12 ~~of decision to conduct an environmental restoration activ-~~
13 ~~ity shall include a clear and concise statement that—~~

14 ~~(1) describes and, to the extent practicable,~~
15 ~~quantifies the risks to human health, safety, and the~~
16 ~~environment to be addressed by the environmental~~
17 ~~restoration activity;~~

18 ~~(2) compares the human health or environ-~~
19 ~~mental risks to be addressed by the environmental~~
20 ~~restoration activity to other risks chosen by the Sec-~~
21 ~~retary, including—~~

22 ~~(A) at least 3 other risks regulated by the~~
23 ~~Department or another Federal agency; and~~

24 ~~(B) at least 3 other risks that are familiar~~
25 ~~to the general public;~~

1 ~~(3)~~ describes and, to the extent practicable,
2 quantifies any known, plausible substitution risks
3 when information on such risks has been provided to
4 the Department;

5 ~~(4)~~ estimates—

6 ~~(A)~~ the costs to the United States Govern-
7 ment of conducting the environmental restora-
8 tion activity; and

9 ~~(B)~~ the benefits of the environmental res-
10 toration activity, including both quantifiable
11 measures of costs and benefits, to the fullest ex-
12 tent that they can be estimated, and qualitative
13 measures that are difficult to quantify; and

14 ~~(5)~~ contains a certification by the Secretary
15 that—

16 ~~(A)~~ the analyses performed under para-
17 graphs ~~(1)~~, ~~(2)~~, and ~~(3)~~ are, to the maximum
18 extent practicable—

19 ~~(i)~~ based on the best reasonably ob-
20 tainable scientific and economic informa-
21 tion; and

22 ~~(ii)~~ objective and unbiased;

23 ~~(B)~~ the environmental restoration activity
24 is likely to significantly reduce the human

1 health, safety, or environmental risks to be ad-
2 dressed;

3 ~~(C) no environmental restoration activity~~
4 ~~alternative that would achieve an equivalent re-~~
5 ~~duction in risk in a more cost-effective manner~~
6 ~~is permitted under the Comprehensive Environ-~~
7 ~~mental Response, Compensation, and Liability~~
8 ~~Act of 1980 (42 U.S.C. 9601 et seq.); and~~

9 ~~(D) the environmental restoration activity~~
10 ~~is likely to produce benefits to human health or~~
11 ~~the environment that will justify the costs to~~
12 ~~the United States Government.~~

13 ~~(b) REPORTING.—If the Secretary cannot make a~~
14 ~~certification with respect to 1 or more of the matters de-~~
15 ~~scribed in subsection (a), the Secretary shall identify the~~
16 ~~matters for which certification cannot be made, and shall~~
17 ~~include a statement of the reasons why the certification~~
18 ~~cannot be made in the plan, assessment, or record of deci-~~
19 ~~sion. Not later than March 1 of each year, the Secretary~~
20 ~~shall submit a report to Congress identifying the environ-~~
21 ~~mental restoration activities conducted during the previous~~
22 ~~calendar year for which complete certification was not~~
23 ~~made, and summarizing the reasons therefore.~~

1 **SEC. 7. ENVIRONMENTAL RESTORATION PRIORITIES.**

2 (a) **SETTING OF PRIORITIES.**—The Secretary shall
3 prioritize the use of the resources available to conduct res-
4 toration activities to address the risks to human health,
5 safety and the environment that—

6 (1) the Secretary determines are the most seri-
7 ous; and

8 (2) can be addressed in a cost-effective manner,
9 with the goal of achieving the greatest overall net re-
10 duction in risks with the public and private sector
11 resources to be expended.

12 (b) **DETERMINING MOST SERIOUS RISKS.**—In identi-
13 fying the sources of the most serious risks under sub-
14 section (a), the Secretary shall consider, at a minimum—

15 (1) the plausible likelihood and severity of the
16 effect; and

17 (2) the plausible number and groups of individ-
18 uals potentially affected.

19 (c) **INCORPORATION OF RISK-BASED PRIORITIES**
20 **INTO BUDGET AND PLANNING.**—The Secretary shall in-
21 corporate the priorities identified in subsection (a) into the
22 Department's budget, strategic planning, and research ac-
23 tivities by—

24 (1) in the Department's annual budget request
25 to Congress—

1 (A) identifying which risks that the Sec-
2 retary has determined are the most serious and
3 can be addressed in a cost-effective manner
4 under subsection (a); and the basis for that de-
5 termination;

6 (B) explicitly identifying how the Depart-
7 ment's requested funds will be used to address
8 those risks; and

9 (C) identifying any statutory, regulatory,
10 or administrative obstacles to allocating Depart-
11 mental resources in accordance with the prior-
12 ities established under subsection (a); and

13 (D) explicitly considering the requirements
14 of subsection (a) when preparing the Depart-
15 ment's environmental management plan or
16 other strategic plan and providing an expla-
17 nation of how the agenda or plan reflects those
18 requirements and the comparative risk analysis
19 when publishing any such agenda or strategic
20 plan.

21 (e) RECOMMENDATION.—In March of each year, the
22 Secretary shall submit to Congress specific recommenda-
23 tions for repealing or modifying laws that would better en-
24 able the Department to prioritize its activities to address
25 the risks to human health, safety, and the environment

1 that are the most serious and can be addressed in a cost-
 2 effective manner consistent with the requirements of
 3 subsection (a).

4 **SEC. 9. SAVINGS PROVISIONS.**

5 Nothing in this Act shall be construed to—

6 (1) modify any statutory standard or require-
 7 ment designed to protect health, safety, or the envi-
 8 ronment;

9 (2) preclude the consideration of any data or
 10 the calculation of any estimate to more fully describe
 11 risk or provide examples of scientific uncertainty or
 12 variability; or

13 (3) require the disclosure of any trade secret or
 14 other proprietary information.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Risk Management Act*
 17 *of 1995”.*

18 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

Sec. 4. Applicability.

Sec. 5. Rule of construction.

Sec. 6. Requirement to prepare risk assessments.

Sec. 7. Requirements for major rules and environmental management activities.

Sec. 8. Principles for risk assessment.

Sec. 9. Principles for risk communication.

Sec. 10. Review of existing risk assessments.

Sec. 11. Risk assessment and program planning.

Sec. 12. Risk assessment and budgetary priorities.

Sec. 13. Risk assessment improvement programs.

Sec. 14. Judicial review.

1 **SEC. 3. DEFINITIONS.**

2 *In this Act:*

3 (1) *AGENCY.*—*The term “agency” has the mean-*
4 *ing stated in section 551(1) of title 5.*

5 (2) *BENEFIT.*—*The term “benefit” means the*
6 *reasonably identifiable benefits and desired effects, in-*
7 *cluding quantifiable and nonquantifiable social, envi-*
8 *ronmental, and economic benefits, that are expected to*
9 *result directly or indirectly from implementation of,*
10 *or compliance with, a rule or an alternative to a rule.*

11 (3) *CAUSATION ASSESSMENT.*—*The term “causa-*
12 *tion assessment” means a scientific evaluation of the*
13 *relationship between the degree of exposure to a pre-*
14 *sumed cause of an adverse effect or condition and the*
15 *incidence or severity of the adverse effect in question,*
16 *with particular emphasis on the quantitative relation*
17 *between the presumed cause and the effect.*

18 (4) *COST.*—*The term “cost” means the reason-*
19 *ably identifiable costs and adverse effects, including*
20 *quantifiable and nonquantifiable social, environ-*
21 *mental, and economic costs that are expected to result*
22 *directly or indirectly from implementation of, or com-*
23 *pliance with, a rule or an alternative to a rule.*

24 (5) *EMERGENCY.*—*The term “emergency” means*
25 *an imminent and substantial endangerment to public*
26 *health, safety, or natural resources.*

1 (6) *ENVIRONMENTAL MANAGEMENT ACTIVITY.*—
2 The term “environmental management activity”
3 means a corrective action under the Solid Waste Dis-
4 posal Act, the treatment, disposal, or storage of radio-
5 active or mixed waste, or a remedial or removal ac-
6 tion under the Comprehensive Environmental Re-
7 sponse, Compensation, and Liability Act of 1980, as
8 amended.

9 (7) *EXPOSURE ASSESSMENT.*—The term “expo-
10 sure assessment” means the scientific determination
11 of the intensity, frequency, and duration of actual or
12 hypothetical exposures to the hazard in question.

13 (8) *HAZARD.*—The term “hazard” means any
14 activity, substance, or condition which might pose a
15 risk to human health, safety, or the environment.

16 (9) *HAZARD IDENTIFICATION.*—The term “haz-
17 ard identification” means the scientific determination
18 of whether exposure to a hazard can cause an in-
19 creased incidence of adverse health or environmental
20 effects that are of sufficient importance to warrant
21 further scientific study or regulatory attention, as
22 well as characterization of the nature and strength of
23 the evidence of causation.

24 (10) *MAJOR RULE.*—The term “major rule”—

1 (A) means a rule or group of closely related
2 rules that the agency proposing the rule or the
3 President reasonably determines is likely to have
4 an effect on the economy of \$75,000,000 or more
5 in reasonably quantifiable costs, in any one
6 year; but

7 (B) does not include a rule that involves the
8 internal revenue laws of the United States.

9 (11) MAJOR RISK COMMUNICATION.—The term
10 “major risk communication” means a written or
11 broadcast public communication by an agency, or by
12 another organization under a contract, cooperative
13 agreement, or financial assistance award from an
14 agency, to Congress, State, local or tribal govern-
15 ments, or the general public, which makes a rec-
16 ommendation as to risk that would, if implemented,
17 be likely to have an effect on the economy of
18 \$75,000,000 or more in reasonably quantifiable costs,
19 in any one year.

20 (12) PERSON.—The term “person” has the mean-
21 ing stated in section 551(2) of title 5.

22 (13) PLAUSIBLE.—The term “plausible” means
23 realistic and scientifically supported.

24 (14) POLICY JUDGMENT.—The term “policy
25 judgment” means any assumptions, inferences, choices

1 *of models, or safety factors that are used in a risk as-*
2 *essment because of the absence of relevant available*
3 *information.*

4 (15) *RISK ASSESSMENT.*—*The term “risk assess-*
5 *ment” means the systematic process of organizing and*
6 *analyzing scientific knowledge and information for*
7 *potentially hazardous situations and activities or for*
8 *substances that might pose risks under specified con-*
9 *ditions, taking into account both the intrinsic hazard*
10 *as well as the exposure to that hazard. As appropriate*
11 *for the specific risk involved, risk assessment includes*
12 *hazard identification, causation assessment, exposure*
13 *assessment, and risk characterization.*

14 (16) *RISK CHARACTERIZATION.*—*The term “risk*
15 *characterization” means the combination of assess-*
16 *ments of exposure and response under various expo-*
17 *sure conditions to estimate the probability of specific*
18 *harm to an exposed individual, population, or natu-*
19 *ral resource including, to the extent feasible, a charac-*
20 *terization of the distribution of risk, and including*
21 *an analysis of uncertainties, conflicting data, and in-*
22 *ferences and assumptions in the assessment.*

23 (17) *RULE.*—*The term “rule” has the meaning*
24 *stated in section 551(4) of title 5.*

1 (18) *SCREENING ANALYSIS.*—The term “screen-
2 ing analysis” means an analysis using simple, con-
3 servative models and assumptions to arrive at an es-
4 timate of upper and lower bounds that permits the
5 manager to eliminate risks from further consideration
6 and analysis, or to help establish priorities for agency
7 action.

8 (19) *SUBSTITUTION RISK.*—The term “substi-
9 tution risk” means an increased risk to human
10 health, safety, or the environment likely to result from
11 a regulatory or nonregulatory option designed to de-
12 crease other risks.

13 **SEC. 4. APPLICABILITY.**

14 (a) *Except as provided in subsection (b), this Act shall*
15 *apply to all risk assessments prepared by, or on behalf of,*
16 *an agency in connection with health, safety, and environ-*
17 *mental risks.*

18 (b) *EXCLUSIONS.*—The head of an agency shall not be
19 required to prepare a risk assessment under this Act for—

20 (1) *any situation that the head of the agency*
21 *finds to be an emergency;*

22 (2) *a rule or agency action that authorizes the*
23 *introduction into commerce, or recognizes the market-*
24 *able status of a product;*

1 (3) a health, safety, or environmental inspection
2 or individual facility permitting action;

3 (4) product registrations, re-registrations, toler-
4 ance settings; and reviews of premanufacturing no-
5 tices and existing chemicals under the Federal Insec-
6 ticide, Fungicide, and Rodenticide Act (7 U.S.C. 136
7 et seq.) and the Toxic Substances Control Act (15
8 U.S.C. 2601 et seq.);

9 (5) any food, drug, or other product label or any
10 risk communication appearing on any such label or
11 product insert; or

12 (6) a screening analysis.

13 (c) An analysis shall not be treated as a screening
14 analysis for the purposes of paragraph (b)(6) if the result
15 of the analysis is used—

16 (1) as the basis for imposing a restriction on a
17 substance, product, or activity; or

18 (2) to characterize a positive finding of risks
19 from a substance or activity in any major risk com-
20 munication.

21 **SEC. 5. RULE OF CONSTRUCTION.**

22 (a) Nothing in this Act shall be construed to modify
23 any statutory standard or requirement to protect health,
24 safety, or the environment.

1 (b) *Nothing in this Act shall be construed to preclude*
2 *the consideration of any reliable scientific data or the cal-*
3 *ulation of any estimate to describe more fully risk or to*
4 *provide examples of scientific uncertainty or variability.*

5 (c) *Nothing in this Act shall be construed to require*
6 *the disclosure of any trade secret or other commercial pro-*
7 *prietary information or any other confidential information.*

8 **SEC. 6. REQUIREMENT TO PREPARE RISK ASSESSMENTS.**

9 (a) *MAJOR RULES.*—*An agency shall prepare a risk*
10 *assessment under this Act for each major rule relating to*
11 *human health, safety, or the environment that is—*

12 (1) *proposed after the date of enactment of this*
13 *Act; or*

14 (2) *not published as a final rule before the date*
15 *of enactment of this Act.*

16 (b) *MAJOR RISK COMMUNICATION.*—*An agency shall*
17 *prepare a risk assessment under this Act for each major*
18 *risk communication that is released after the date of enact-*
19 *ment of this Act.*

20 (c) *ENVIRONMENTAL MANAGEMENT ACTIVITY.*—*Except*
21 *where otherwise required by law or regulation, an agency*
22 *shall prepare a risk assessment under this Act prior to con-*
23 *ducting an environmental management activity to elimi-*
24 *nate a risk or reduce it to reasonable limits, if the agency*

1 head determines that the estimated cost of the environ-
2 mental management activity is more than \$25,000,000.

3 **SEC. 7. REQUIREMENTS FOR MAJOR RULES AND ENVIRON-**
4 **MENTAL MANAGEMENT ACTIVITIES.**

5 (a) *IN GENERAL.*—Except as provided in subsection
6 (b), in promulgating any proposed or final major rule relat-
7 ing to human health, safety, or the environment or in con-
8 ducting any environmental management activity, an agen-
9 cy shall publish in the Federal Register along with the rule,
10 or make part of the publicly available record for the envi-
11 ronmental management activity, a clear and concise state-
12 ment that—

13 (1) describes and, to the extent practicable, quan-
14 tifies the risks to human health, safety, and the envi-
15 ronment to be addressed by the major rule or environ-
16 mental management activity based on the conclusions
17 of a risk assessment performed in accordance with
18 this Act;

19 (2) compares the human health, safety, or envi-
20 ronmental risks to be addressed by the major rule or
21 environmental management activity to other risks
22 chosen by the agency head, including—

23 (A) at least three other risks regulated by a
24 Federal agency; and

1 (B) at least three other risks that are famil-
2 iar to the general public;

3 (3) describes and, to the extent practicable, quan-
4 tifies any known, plausible substitution risks when
5 information on such risks is known to or has been
6 provided to the agency;

7 (4) estimates—

8 (A) the costs to the United States Govern-
9 ment, State, and local governments, and the pri-
10 vate sector of complying with or implementing
11 the major rule or carrying out the environmental
12 management activity; and

13 (B) the benefits of the regulation or environ-
14 mental management activity including both
15 quantifiable measures of costs and benefits, to the
16 fullest extent that they can be estimated, and
17 qualitative measures that are difficult to quan-
18 tify; and

19 (5) contains a certification by the agency head
20 that—

21 (A) the analyses performed under para-
22 graphs (1), (2), and (3) are in accordance with
23 the requirements of section 8;

24 (B) the major rule or environmental man-
25 agement activity is likely to reduce significantly

1 *the human health, safety, or environmental risks*
2 *to be addressed;*

3 *(C) no regulatory alternative, or alternative*
4 *environmental management activity, that would*
5 *achieve an equivalent reduction in risk in a*
6 *more cost-effective manner, is permitted under*
7 *law, along with a brief explanation of why other*
8 *such alternatives that were considered by the*
9 *agency head were found to be less cost-effective;*
10 *and*

11 *(D) the major rule or environmental man-*
12 *agement activity, is likely to produce incremen-*
13 *tal benefits to human health or the environment*
14 *that will justify the incremental costs to the*
15 *United States Government, State, local, or tribal*
16 *governments, and the private sector.*

17 *(b) SUBSTANTIALLY SIMILAR FINAL MAJOR RULES.—*
18 *If the agency head determines that a final major rule is*
19 *substantially similar to the proposed version of the major*
20 *rule with respect to each of the matters referred to in sub-*
21 *section (a), the agency head may publish in the Federal*
22 *Register a reference to the statement published under sub-*
23 *section (a) for the proposed rule in lieu of publishing a new*
24 *statement for such final rule.*

1 (c) *REPORTING.*—If the agency head cannot certify
2 with respect to one or more of the matters addressed in sub-
3 section (a), the agency head shall identify those matters for
4 which certification cannot be made, and shall include a
5 statement of the reasons therefore in the Federal Register
6 along with the major rule or, in the case of an environ-
7 mental management activity, the publicly available plan.
8 Not later than April 1 of each year, the agency head shall
9 submit a report to Congress identifying those major rules
10 and environmental management activities, promulgated or
11 carried out during the previous calendar year, for which
12 complete certification was not made, and summarizing the
13 reasons therefor.

14 (d) *ADDITIONAL REQUIREMENTS FOR ENVIRON-*
15 *MENTAL MANAGEMENT ACTIVITIES.*—(1) The agency head
16 shall use the risk assessment for an environmental manage-
17 ment activity to determine the need for the environmental
18 management activity and to evaluate environmental man-
19 agement alternatives. A risk assessment conducted under
20 this section shall be incorporated into any similar state-
21 ment, assessment, or analysis conducted under any other
22 statute for this environmental management activity.

23 (2) If the agency head cannot make a certification with
24 respect to one or more of the matters described in subsection
25 (a)(5) of this section, the agency head shall consider—

1 (A) funding research and development of new
2 technologies for environmental management; and

3 (B) selecting the new technology, if any, achiev-
4 ing the greatest risk reduction and cost efficiencies for
5 use in the environmental management activity.

6 **SEC. 8. PRINCIPLES FOR RISK ASSESSMENT.**

7 (a) *IN GENERAL.*—Except as provided in section 4, the
8 head of an agency shall follow the principles set forth in
9 this section when preparing risk assessments. Agencies shall
10 not be required to repeat discussions or explanations re-
11 quired under this section in each risk assessment if there
12 is an unambiguous reference to a relevant discussion or ex-
13 planation in another reasonably available agency document
14 that was prepared in accordance with the principles of this
15 section.

16 (b) *RELATIONSHIP TO RISK MANAGEMENT.*—An agen-
17 cy shall design and conduct risk assessments and report the
18 results in a manner that promotes rational and informed
19 risk management decision making and informed public
20 input into the process of making agency decisions. In un-
21 dertaking risk assessments, agencies should establish and
22 maintain a clear distinction between the identification,
23 quantification, and characterization of risks and the selec-
24 tion of methods for managing risks. Agency priorities for
25 managing risks, and a consideration of the types of infor-

1 *mation that would be important in evaluating a full range*
2 *of decisions, may play a role in developing priorities for*
3 *risk assessment activities.*

4 *(c) ITERATIVE AND PROPORTIONATE APPROACH.—(1)*
5 *In conducting risk assessments, an agency shall—*

6 *(A) employ the level of detail and rigor appro-*
7 *prate and practicable for reasoned decision making*
8 *on the matter involved, taking into account the sig-*
9 *nificance and complexity of the potential agency ac-*
10 *tion and the need for expedition; and*

11 *(B) develop and use an iterative approach to*
12 *risk assessment, which may start with relatively inex-*
13 *pensive screening analyses and then progress to more*
14 *rigorous analyses.*

15 *(2) In determining whether to proceed to more detailed*
16 *analyses that might improve the scientific quality and com-*
17 *pleteness of the risk estimates, the agency head shall take*
18 *into consideration—*

19 *(A) whether or not the available information has*
20 *demonstrated that the estimated risk is below the ap-*
21 *plicable decision-making level;*

22 *(B) whether or not further improvements in sci-*
23 *entific data or models would significantly change the*
24 *risk estimate; and*

1 (C) whether or not the risk is significant enough
2 to warrant further analysis.

3 (3) If an iterative risk assessment process results in
4 the availability of more and better scientific information
5 on a specific risk, and correspondingly less uncertainty in
6 the analysis, the level of conservatism applied to the risk
7 assessment should decrease.

8 (d) *USE OF POLICY JUDGMENTS IN RISK ASSESS-*
9 *MENT.*—Policy judgments used in developing a risk assess-
10 ment, including assumptions, defaults, inferences, choices of
11 models, and safety factors, shall be described explicitly in
12 connection with each risk assessment in which they are
13 used, along with—

14 (1) a description of the scientific and policy
15 basis for each policy judgment;

16 (2) a description of any available scientific data,
17 with emphasis on site- or situation-specific data, that
18 was not used because a policy judgment was utilized
19 in its place, the rationale for using the policy judg-
20 ment, and a description of the sensitivity of the con-
21 clusions of the risk assessment to the available data
22 had it been used;

23 (3) a description of reasonable alternative policy
24 judgments that were not selected by the agency for use
25 in the risk assessment, and a discussion of why the

1 *agency believes that the policy judgments selected for*
2 *use are appropriate to the specific risk assessment;*

3 *(4) a description of the extent to which policy*
4 *judgments used in the risk assessment are validated*
5 *by, or conflict with, empirical data relevant to the as-*
6 *essment; and*

7 *(5) a description of the sensitivity of the conclu-*
8 *sions of the risk assessment to the policy judgments*
9 *used in the risk assessments.*

10 *Each agency shall develop a procedure and publish guide-*
11 *lines for choosing default policy judgments to use in risk*
12 *assessments and for deciding when and how, in a specific*
13 *risk assessment, to adopt alternative judgments or to use*
14 *available scientific information in place of a policy judg-*
15 *ment.*

16 *(e) CONSIDERATION OF FUTURE LAND USE.—In con-*
17 *ducting a risk assessment for an environmental manage-*
18 *ment activity under this Act, the agency head shall consider*
19 *the reasonably anticipated future use of the land affected*
20 *by the environmental management activity.*

21 *(f) TREATMENT OF SCIENTIFIC DATA IN RISK ASSESS-*
22 *MENTS.—*

23 *(1) The technical basis of a risk assessment shall*
24 *be—*

1 (A) *the best available, scientifically*
2 *replicable data that finds, or fails to find, a cor-*
3 *relation between a potential hazard and adverse*
4 *effects;*

5 (B) *the best available, scientifically*
6 *replicable laboratory or experimental data that*
7 *has relevance to understanding the potential haz-*
8 *ard to humans or the environment; and*

9 (C) *hazard, dose, exposure, or other relevant*
10 *physical conditions that are reasonably expected*
11 *to be encountered under usual and realistic cir-*
12 *cumstances.*

13 *A risk assessment shall not exaggerate risks by inap-*
14 *propriately compounding multiple hypothetical con-*
15 *servative policy judgments.*

16 (2) *When conflicts among scientific data appear*
17 *to exist, the assessment shall include an explanation*
18 *for, or possible reconciliation of, conflicting informa-*
19 *tion.*

20 (3) *When animal data are used as a basis to as-*
21 *sess human health risks, the assessment shall include*
22 *a discussion of the relevance of experimental animal*
23 *responses to human outcomes, the basis for selecting*
24 *any interspecies scaling factors that were used, and*
25 *the correspondence among routes of exposure in hu-*

1 *mans and the exposure routes utilized in the animal*
2 *studies.*

3 (4) *Any relevant scientific data meeting the re-*
4 *quirements of subsection (f)(1) of this section that are*
5 *submitted by interested parties shall be reviewed and*
6 *considered in the risk assessment. The risk assessment*
7 *shall include an explanation of whether such data*
8 *were used and, if not, why not.*

9 (g) *PUBLIC INVOLVEMENT IN RISK ASSESSMENTS.—*
10 *Agency heads shall provide for early involvement by all in-*
11 *terested parties in the development of risk assessments.*
12 *Agency heads shall provide appropriate opportunity for*
13 *meaningful public participation and comment on risk as-*
14 *essment throughout the regulatory process commensurate*
15 *with the consequences of the decision to be made.*

16 (h) *PEER REVIEW AND SCIENTIFIC PARTICIPATION IN*
17 *RISK ASSESSMENTS.—(1) Each agency shall develop proce-*
18 *dures that make the greatest possible use of peer review, sci-*
19 *entific workshops, expert bodies, or other devices to ensure*
20 *broad peer and scientific participation in its risk assess-*
21 *ments, through a process that allows full public discussion*
22 *and peer participation by the scientific community.*

23 (2) *Peer review panels shall consist of independent and*
24 *external experts who are broadly representative and bal-*
25 *anced to the extent feasible.*

1 (3) *A person shall not be excluded from participation*
2 *in the scientific review of a risk assessment on the basis*
3 *of potential interest in the outcome, if the interest is fully*
4 *disclosed.*

5 **SEC. 9. PRINCIPLES FOR RISK COMMUNICATION.**

6 (a) *DESCRIPTION OF RISKS.—Except as provided in*
7 *section 4, in any major risk communication, regulatory*
8 *proposal or decision, report to Congress, or other document*
9 *that is intended to communicate the conclusions of a risk*
10 *assessment to the public, the head of the agency shall, to*
11 *the appropriate degree,—*

12 (1) *describe the hazard deemed to be harmful;*

13 (2) *describe the populations or natural resources*
14 *that are the subject of the risk assessment;*

15 (3) *explain the exposure scenarios used in the*
16 *risk assessment and provide an estimate of the cor-*
17 *responding population at risk and the likelihood of*
18 *such exposure scenarios;*

19 (4) *describe the nature and severity of the harm*
20 *that could plausibly occur; and*

21 (5) *briefly describe the major uncertainties in the*
22 *hazard identification, causation assessment, and ex-*
23 *posure assessment phases of the risk assessment and*
24 *their influence on the results of the assessment.*

1 (b) *ESTIMATES OF RISK.*—The estimate of risk shall,
2 to the maximum extent practicable, be presented as an over-
3 all estimate of risk, expressed as a probability distribution
4 that reflects variabilities and uncertainties in the analysis.
5 If a single point estimate of risk is provided, it must be
6 based on the most plausible inferences from the supporting
7 scientific information. Where quantitative estimates of the
8 range and distribution of risk estimates are not available,
9 a list of qualitative factors influencing the range of possible
10 risks shall be provided.

11 (c) *COMPARISONS OF RISK.*—The agency shall provide
12 a statement that places the nature and magnitude of risks
13 to human health, safety, and the environment being ana-
14 lyzed in context. Such statement shall include appropriate
15 comparisons with other risks, including those that are fa-
16 miliar to and routinely encountered by the general public.

17 (d) *SUBSTITUTION RISKS.*—When the agency provides
18 a risk assessment or risk characterization for a proposed
19 or final regulatory action, such assessment or characteriza-
20 tion shall include a statement of any significant substi-
21 tution risks to human health or safety, where the agency
22 is aware of such information, or it has been provided to
23 the agency.

24 (e) *SUMMARIES OF RISK ESTIMATES.*—(1) Where an
25 agency provides a summary of a risk assessment, the con-

1 *clusion must include a description of the risk that reflects*
2 *the information required in subsections (a), (b), (c), and*
3 *(d) of this section; and*

4 *(2) if a commenter provides a risk assessment carried*
5 *out in a manner consistent with the principles under sec-*
6 *tion 8 of this Act, and a summary of results of such risk*
7 *assessment, the agency shall present such summary in con-*
8 *nection with the presentation of the agency's risk assess-*
9 *ment.*

10 *(f) REVIEW OF MAJOR RISK COMMUNICATIONS.—The*
11 *head of an agency shall ensure that major risk communica-*
12 *tions are peer-reviewed by appropriate scientific experts*
13 *and tested with representative groups of the public prior*
14 *to distribution of the major risk communication, to ensure*
15 *that such communications are scientifically accurate and*
16 *communicate the intended risk message without exaggera-*
17 *tion.*

18 **SEC. 10. REVIEW OF EXISTING RISK ASSESSMENTS.**

19 *(a) REGULATION.—Not later than 18 months after the*
20 *date of enactment of this Act, the President shall promul-*
21 *gate a final rule for the review and revision of risk assess-*
22 *ments previously prepared by, or on behalf of, an agency.*
23 *Such rule shall—*

24 *(1) provide procedures for the agency itself to*
25 *identify risk assessments that should be reviewed and*

1 *revised to conform to the principles of risk assessment*
2 *in this Act or to accommodate new scientific informa-*
3 *tion;*

4 (2) *provide procedures for receiving and consid-*
5 *ering new information relevant to risk assessments*
6 *from any person;*

7 (3) *provide a mechanism whereby a person can*
8 *petition the agency to review and revise a risk assess-*
9 *ment because—*

10 (A)(i) *the risk assessment is inconsistent*
11 *with the principles set forth in section 8 of this*
12 *Act; or*

13 (ii) *the risk assessment does not take into*
14 *account material and significant new scientific*
15 *data or scientific understanding; and*

16 (B) *a revised risk assessment is likely to*
17 *provide a basis for reevaluating one or more*
18 *major rules currently in effect or one or more*
19 *major risk communications;*

20 (4) *provide for the creation of a permanent advi-*
21 *sory committee to each agency head that shall—*

22 (A) *consist of independent and external ex-*
23 *perts in risk assessment and in the substantive*
24 *scientific issues related to regulations under the*

1 *purview of the agency, who are appointed pursu-*
2 *ant to the principles of section 8(h);*

3 *(B) review new information, risk assess-*
4 *ments, and petitions from the public regarding*
5 *review and revisions of risk assessments;*

6 *(C) recommend to the agency head for each*
7 *petition under subsection (a)(3)—*

8 *(i) whether a petition should be grant-*
9 *ed;*

10 *(ii) priorities for the review or revi-*
11 *sion; and*

12 *(iii) target dates for completion of the*
13 *review or revision; and*

14 *(D) evaluate the adequacy of the agency's*
15 *review or revision of a risk assessment, with re-*
16 *spect to the principles in section 8 of this Act,*
17 *and prior to publication of the review or revi-*
18 *sion, provide recommendations to the agency*
19 *head.*

20 *(b) PUBLICATION OF RECOMMENDATIONS.—Rec-*
21 *ommendations provided to an agency head under sub-*
22 *sections (a)(4) (C) and (D) shall be published in the Federal*
23 *Register within 45 days of their transmittal to the agency*
24 *head, along with the formal response of the agency head.*

1 (c) *COMPLETION OF AGENCY ACTION.*—(1) *If the agen-*
2 *cy head accepts the recommendation of the advisory com-*
3 *mittee provided under subsection (a)(4)(C), the agency*
4 *shall, to the maximum extent practicable, complete its re-*
5 *view or revision of the risk assessment within the time rec-*
6 *ommended by the advisory committee.*

7 (2) *An agency head may start or continue and envi-*
8 *ronmental management activity during the pendency of a*
9 *petition unless the petition reasonably indicates such action*
10 *would result in an emergency.*

11 (d) *JUDICIAL REVIEW.*—*Agency action with respect to*
12 *a petition that is substantially inconsistent with the rec-*
13 *ommendations provided by the advisory committee under*
14 *subsections (a)(4)(C)(i), (a)(4)(C)(ii), or (a)(4)(D) may be*
15 *judicially reviewed under any other applicable provision of*
16 *law.*

17 **SEC. 11. RISK ASSESSMENT AND PROGRAM PLANNING.**

18 (a) *IN GENERAL.*—*In exercising authority under, or*
19 *complying with, applicable laws protecting human health,*
20 *safety, or the environment, the head of an agency shall use*
21 *risk assessment to set priorities for the use of the resources*
22 *available under those laws, with the goals of—*

23 (1) *addressing preferentially the risks to human*
24 *health, safety, and the environment that the agency*

1 *determines are the most serious risks that can be ad-*
2 *ressed in a cost-effective manner, and*

3 *(2) structuring agency actions to achieve*
4 *promptly the greatest overall net reduction in risks*
5 *with the private and public sector resources to be ex-*
6 *pende.*

7 *In identifying the most serious risks in paragraph (1), the*
8 *head of the agency shall consider, at a minimum, the likeli-*
9 *hood and severity of the hazard and the size of the popu-*
10 *lation and natural resources potentially affected.*

11 *(b) ANNUAL REPORT ON RISK ASSESSMENT PRIOR-*
12 *ITIES AND PROGRAM AGENDA.—In conjunction with the*
13 *April publication of the regulatory agenda required under*
14 *section 602 of title 5, the head of an agency that plans to*
15 *promulgate one or more major rules concerning human*
16 *health, safety, or the environment shall publish a report on*
17 *current risk assessment priorities of the agency to support*
18 *such regulatory agenda. Such report shall include—*

19 *(1) a prioritized list combining—*

20 *(A) the most serious risks that the agency*
21 *believes can be addressed in a cost-effective man-*
22 *ner through additional major rules or major risk*
23 *communication;*

24 *(B) any other risks that the agency is re-*
25 *quired by statute, court order, or consent decree*

1 to address through the promulgation of addi-
2 tional major rules or major risk communication;
3 and

4 (C) any risks that are to be re-assessed by
5 the agency pursuant to section 10 of this Act.

6 Such list shall rank risks on a comparative risk basis
7 to each other, to the extent practicable and without re-
8 gard to statutory, judicial, or administrative dead-
9 lines.

10 (2) a list of risk assessments and supporting as-
11 sessments related to the risks in paragraph (1), in-
12 cluding hazard identifications, causation assessments,
13 and exposure assessments, under preparation or for
14 which budgetary resources have been committed by the
15 agency;

16 (3) a brief summary of the relevant issues ad-
17 dressed or to be addressed by each assessment in para-
18 graph (2), and their relationship to the risks in para-
19 graph (1);

20 (4) an approximate schedule for completing each
21 listed assessment in paragraph (2);

22 (5) an identification of potential major rules in
23 the regulatory agenda, potential guidance, or other
24 potential agency actions supported or affected by each
25 assessment in paragraph (2), including any deadlines

1 for such major rules pursuant to statute, court order,
2 or consent decree; and

3 (6) the name, address, and telephone number of
4 an agency official knowledgeable concerning each as-
5 sessment in paragraph (2).

6 The identification and ranking of risks in paragraph (1)
7 may be carried out on the basis of screening analyses, if
8 more complete information is not reasonably available.

9 **SEC. 12. RISK ASSESSMENT AND BUDGETARY PRIORITIES.**

10 (a) *INCORPORATION OF RISK-BASED PRIORITIES INTO*
11 *BUDGETS AND PLANNING.*—To the extent consistent with
12 other statutory requirements, the head of an agency shall
13 incorporate the priorities identified in section 11 into the
14 budget and planning activities of the agency by, in the
15 agency's annual budget request to Congress—

16 (1) explicitly identifying how the agency's re-
17 quested funds will be used to address the risks listed
18 in the most recent report under section 11(b)(1); and

19 (2) identifying any statutory, judicial, or ad-
20 ministrative obstacles to allocating agency resources
21 in accordance with the priorities established under
22 section 11(b)(1).

23 (b) *RECOMMENDATION.*—On April 1 of each year, the
24 agency head shall submit to Congress specific recommenda-
25 tions for repealing or modifying laws that would enable the

1 agency to set priority among its activities in accordance
2 with the priorities established under section 11(b)(1).

3 **SEC. 13. RISK ASSESSMENT IMPROVEMENT PROGRAMS.**

4 (a) *IMPROVING PEER REVIEW IN RISK ASSESS-*
5 *MENT.*—The Director of the Office of Science and Tech-
6 nology Policy shall develop a systematic program to oversee
7 the use of, and quality of, peer review by agencies develop-
8 ing risk assessments pursuant to this Act.

9 (b) *IMPROVING COMPARATIVE RISK ASSESSMENT.*—
10 The Secretary of Energy, in consultation with the heads
11 of other agencies, shall direct a national program to foster
12 and improve comparative risk analysis as a tool in regu-
13 latory and environmental management decision making,
14 using, among other research performers, the Department of
15 Energy's National Laboratories.

16 **SEC. 14. JUDICIAL REVIEW.**

17 Except as provided for in section 10(d), a risk assess-
18 ment, peer review, cost-benefit analysis, or certification pro-
19 vided for under this Act shall not be subject to judicial re-
20 view separate and apart from any final agency action to
21 which it relates, but shall be made part of the administra-
22 tive record for judicial review of any final agency action
23 to which it relates.