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ICCVAM AUTHORIZATION ACT OF 1999

OCTOBER 11 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensons, submitted the following

REPORT

[To accompany S. 1495]

The Committee on Health, Education, Labor, and Pensions, to which was referred the bill (S. 1495) to establish, wherever feasible, guidelines, recommendations, and regulations that promote the regulatory acceptance of new and revised toxicological tests that protect human and animal health and the environment while reducing, refining, or replacing animal tests and ensuring human safety and product effectiveness, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

CONTENTS

I. BACKGROUND AND NEED FOR THE LEGISLATION OVERVIEW

Toxicological testing to assess the safety substantiation and/or efficacy of products and chemical components of products has undergone substantial change in the past two decades. Many toxicity tests were developed more than fifty years ago and rely heavily on the use of animals. However, members of the regulated industries and the nonprofit sector have invested in research and development of more predictive methods that replace, refine or reduce the use of animals, while providing sound scientific results.

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A section of the 1993 NIH Revitalization Act (Public Law No. 103–43) created a new mandate for the National Institute of Environmental Health Sciences specifically as follows:

SEC. 1301. APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM.

APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM

SEC. 463A. (a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

(1) to expand knowledge of the health effects of environmental agents:

(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use.

To fulfill the mandate, in 1994 the National Institute of Environmental Health Sciences (NIEHS) established the ad hoc Interagency Coordinating Committee for the Validation of Alternative Methods (ICCVAM). The initial goal of the ICCVAM was to draft to report (NIH Publication No. 97–3981) to recommend criteria and processes for validation and regulatory acceptance of toxicological testing methods, that would be useful to the regulatory agencies, scientific community, regulated industry, animal protection advocates and other stakeholders.

The following federal regulatory or research agencies, with input through public meetings and comments, drafted the "Validation and Regulatory Acceptance of Toxicological Methods—A Report of the ad hoc Interagency Coordinating Committee for the Validation of Alternative Methods": Agency for Toxic Substances and Disease Registry; Consumer Product Safety Commission; Department of Agriculture; Department of Defense; Department of Energy; Department of the Interior; Department of Transportation; Environmental Protection Agency; Food and Drug Administration; National Institute for Occupational Safety and Health; National Institutes of Health; National Cancer Institute; National Institute of Environmental Health Sciences; National Library of Medicine; and Occupational Safety and Health Administration.

After publication of the report, the ad hoc ICCVAM moved to standing status under the NIEHS of the NIH under the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods. Fifteen Federal regulatory and research agencies have continued to meet, with advice from a Scientific Advisory Committee, to assess the validation of new, revised and alternative toxicological methods. Since then, two methods have undergone rigorous assessment and are deemed scientifically valid and acceptable. One, Corrositex, is a replacement for animal-based dermal corrosivity for some chemicals. The other, the Local Lymph Node Assay, is a reduction and refinement of animal use method for the skin irritation endpoint. The open public process for comment, input by interested stakeholders and the continued commitment by the Federal agencies has led to the ICCVAM's success. It has set a new coordinated review process for rigorous scientific

assessment of the validation of new, revised, and alternative toxicological test methods that duly considers reducing, refining or replacing the use of animals.

However, the ICCVAM is not a permanent standing committee. It could be dismantled by a new director of the National Toxicology Program at NIEHS or by the administration. Millions of dollars are used for research, development and validation studies for new and revised and alternative toxicological methods. ICCVAM provides a coordinated entity for streamlining a process that would otherwise require a developer or manufacturer of a toxicological test method to attempt to obtain acceptance on an agency by agency basis. ICCVAM also provides due consideration of good science that can reduce, refine or replace the use of animals in toxicological testing. It is imperative that this standing committee become a permanent standing committee.

SUMMARY OF THE ICCVAM AUTHORIZATION ACT

Section 3. Interagency Coordinating Committee for the Validation of Alternative Methods

Section 3 of the legislation details the program and branch within the Government where the ICCVAM will reside. It also details the purposes of the ICCVAM; to facilitate crossagency reviews of test methods; provide a forum to discuss individual agency efforts; cultivate scientific expertise from outside of the Federal Government; ensure that new and revised toxicological test methods are scientifically validated; and provide strong consideration for the reduction, refinement and replacement of animals, wherever feasible, in toxicological test methods.

Section 3 details the composition of the ICCVAM, providing some flexibility to ensure that Federal regulatory or research agencies not explicitly named in the legislation may participate on the ICCVAM in the future.

Section 3 also details the composition of a Scientific Advisory Committee, under the National Institute of Environmental Health Sciences of the National Institute of Health under the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods. The Scientific Advisory Committee will be subject to the Federal Advisory Committee Act. Its membership, selected by the Secretary of Health and Human Services, shall consist of representatives from various regulated industries and national animal protection organizations. It may also include representation from academic institutions, state government agencies, international regulatory bodies, or corporations developing or marketing new or alternative test methods.

Section 3 delineates the responsibilities of the ICCVAM. The ICCVAM will review and evaluate new, existing and alternative test methods, including coordinating the technical review of such methods, of interagency interest. It will also facilitate interagency and international harmonization of test protocols that encourage the reduction, refinement or replacement of animal tests, as appropriate.

Section 4. Federal Agency Action

Section 4 sets a deadline of not later than 180 days for the individual Federal agencies to provide a detailed response to the ICCVAM regarding its recommendation. This agency response will identify and forward to the ICCVAM appropriate regulations or guidelines encouraging animal-based toxicity testing for which the ICCVAM recommendation may be added or substituted. The Federal agencies would also be required to actively promote the development and use of alternative to animal test methods, where appropriate, if such test methods are effective for generating data in an amount and of a scientific value that is at least as equivalent as the data generated from its existing tests. Each Federal agency also must ensure that any new or revised or alternative test method (including animal test) and tests that refine, reduce or replace animal tests, must be validated prior to encouraging, recommending, or requiring the use of the test methods. This requirement ensures that the same standard of scientific validity is applied to all new, revised, and alternative test methods. Each Federal agency or its specific regulatory unit must adopt the ICCVAM recommendation, unless the agency determines that one of the four criteria listed in the act exists for rejection of the test method by that agency.

Section 5. Application

Section 5 provides a clear exemption for research, including medical research and research using biotechnology techniques. The bill covers toxicological test methods used to meet regulatory requirements, regulations, recommendations or statutes. Toxicological test methods generate information regarding the ability of a chemical or agent to produce a specified biological effect under specified conditions. (NIH Report No. 97–3981)

Section 5 also provides explicit assurance that each Federal agency and regulatory body has final authority for incorporating the ICCVAM recommended test method, in the manner determined to be appropriate by such agency or body, into their recommendations, requirements, regulations and for addressing methods mandated by congressional statute, when testing has already transpired to meet regulatory needs.

Section 5 ensures that nothing in this act requires that a manufacturer that is not required to perform animal toxicological testing to perform such tests. Finally, section 5 clarifies that as new, revised, or alternative test methods become approved, this act does not require that regulated industries generate new data for that same endpoint.

II. LEGISLATIVE HISTORY AND COMMITTEE ACTION

On September 20, 2000, the committee held an executive session to consider S. 1495. Senators DeWine and Kennedy offered an amendment in the nature of a substitute that was accepted without objection. Senate bill 1495, as amended, was adopted by voice vote.

III. COST ESTIMATE

Due to time constraints the Congressional Budget Office estimate was not included in the report. When received by the committee, it will appear in the Congressional Record at a later time.

IV. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. This bill does not amend Federal laws, and therefore does not impact the legislative branch.

V. REGULATORY IMPACT STATEMENT

The committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VI. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "ICCVAM Authorization Act of 2000."

Section 2. Definition

This section defines an "alternative test method" to include new and revised methods that reduce, refine or replace the use of animals in toxicological testing. This section also defines an "ICCVAM test recommendation" as a summary report characterizing the results of a scientific expert peer review of a test method.

Section 3. Interagency Coordinating Committee on the Validation of Alternative Methods

Subsection (a). In General. ICCVAM would become a permanent standing committee under the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods under the National Institute of Environmental Health Sciences of the National Institutes of Health.

Subsection (b). Purposes. ICCVAM will streamline Federal agency consideration of test method review; utilize scientific expertise from outside the Federal Government; ensure that new and revised and alternative test methods are validated; and, wherever feasible, reduce, refine, or replace the use of animals.

Subsection (c). Composition. ICCVAM will be comprised of representatives from 15 Federal regulatory and/or research agencies and any other Federal agency not currently part of the existing entity that meets the criteria—namely, that the agency develops or employs tests or test data using animals or regulates on the basis of the use of animals in toxicity testing.

Subsection (d). Scientific Advisory Committee. ICCVAM will receive advice from a Scientific Advisory Committee (SAC) selected under the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods under the National Institute of Environmental Health Sciences of the National Institutes of Health. The SAC will be a Federal Advisory Committee, subject to the provisions of the Federal Advisory Committee Act. It will include representatives with expertise in the development or

evaluation of new, revised, or alternative test methods from various sectors of the regulated industries, national animal protection organizations, and other representatives chosen by the National Institute of Environmental Health Sciences from academia, State government agencies, international regulatory bodies, or corporations developing or marketing new or revised or alternative test methods.

Subsection (e). Duties. ICCVAM will review and evaluate new and revised and alternative test methods. ICCVAM will coordinate the necessary technical reviews for these proposed methods. ICCVAM will facilitate communication regarding interagency and international harmonization of test methods that reduce, refine or replace animal tests. ICCVAM will facilitate and provide guidance on the development of validation criteria, studies and processes for new and revised and alternative test methods and will help promote the acceptance and awareness of such scientifically validated test methods by Federal agencies and other stakeholders. ICCVAM will submit its test recommendations to each appropriate Federal agency providing specific identification of the guidelines, recommendations, or regulations for each test, battery of tests, test screen or endpoint reviewed by the ICCVAM that may be appropriate for scientific improvements, while seeking (where feasible) to reduce, refine or replace the use of animals for a test currently required or recommended by the agency. The ICCVAM will actively review and evaluate petitions from the public that recommend alternatives and provide valid scientific evidence that the alternative works for carrying out the regulatory mandate and identify a specific regulation, recommendation or guideline for integrating the alternative. The ICCVAM recommendations and the agency's responses will be made available to the public. The entity will prepare an annual report to be made available to the public on its progress in promoting and assessing the validation of new, revised and alternative toxicological test methods.

Section 4. Federal agency action

Subsection (a). Identification of Tests. Each Federal agency with programs requiring toxicological testing, within 180 days of receiving an ICCVAM recommendation, will provide a response to ICCVAM. The response will include identifying test requirements in regulations or guidelines that currently require, recommend or encourage animal tests that could be changed by the ICCVAM recommendation. The agency will forward the identification of these tests to the ICCVAM.

Subsection (b). Alternatives. Each Federal agency shall actively promote and encourage the development of test methods that reduce, refine, or replace animal tests. The alternative test methods shall provide data that is of at least equal scientific value to the animal tests.

Subsection (c). Test Validation. Each Federal agency shall ensure that any new or revised animal or alternative test method must be validated—deemed reliable, relevant and reproducible—prior to requiring, recommending or encouraging use of the test.

Subsection (d). Review. Each Federal agency must respond, in writing within 180 days, to the ICCVAM regarding its recommendation.

Subsection (e). Recommendation Adoption. Each Federal agency or its regulatory unit or units, shall adopt the ICCVAM recommendation unless it can substantiate refusal of the method by the following criteria. These criteria include: lack of biological relevance to the agency's regulatory goal; the data is not of a scientific value at least equivalent to data generated by current test methods; the agency does not regulate the specific endpoint or class of chemical recommended by the ICCVAM for the test method; or the agency deems the method unacceptable specific to its congressional mandate.

Section 5. Application

Subsection (a). Application. This Act applies only to toxicological testing. It does not apply to research, including medical research or research using biotechnology techniques.

Subsection (b). Use of Test Methods. Federal agencies shall retain final authority for incorporating the recommended test method in the manner determined to be appropriate by the Federal agency or regulatory body.

Subsection (c). Limitation. This act does not require animal testing by a manufacturer not required by other laws or regulations to perform animal testing. It also does not require a manufacturer to retest specific endpoints.

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