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Agencies may increase use of risk analysis

Hearing on risk analysis bill, aimed at bringing higher level of scientific input to decisions by regulators, showed widespread support

A bill is moving through Congress that has the potential of greatly increasing the use of risk analysis by federal regulatory agencies. The bill's main purpose is to bring a higher level of scientific input to the decisions made by government regulators.

The House bill, H.R. 3441, was introduced by Rep. Don Ritter (R.-Pa.) to the Subcommittee on Science, Research & Technology and has the support of Rep. Don Fuqua (D.-Fla.), chairman of the full Science & Technology Committee. Actually a new version of an unsuccessful bill from the previous Congress, this risk analysis research and development act has a good chance of at least getting to the floor of the House.

The legislation calls for a two-year R&D program on the use and methods of risk analysis. This quantitative comparison of risks involves putting societal hazards into perspective, examining alternatives for regulations, and comparing the hazards and alternatives to see where society's risks are greatest. This kind of comparison would be useful, for instance, in nearly every controversial regulatory decision made, from whether the Food & Drug Administration should ban saccharin to the Occupational Safety & Health Administration's troubles with regulation of benzene. And, Ritter says, "By focusing regulatory efforts on the greatest hazards, it will... improve the efficiency of our regulatory process."

Ritter's bill requires that regulatory agencies report on their current risk analysis procedures and that each do a long study on the impact of increased use of risk analysis on their decisions. The National Science Foundation would be given funds to support research in the methodology of risk assessment and the overall guidance for the program would be

from the President's Office of Science & Technology Policy. The program would emphasize not only developing risk information helpful to regulators but making relevant risk information available to the public.

A recent hearing on the bill showed widespread support for the goals of the legislation. Rep. James G. Martin (R.-N.C.), one of the very few members of Congress who is also a scientist, gave his complete support for the bill. "I hope we can rise out of the morass of accusations and controversy with this kind of legislation," Martin told the subcommittee, referring to regulators' problems in deciding which hazards to regulate first. Martin added that some peer review of the science that is done by these agencies to support their rules would be an important step.

A second supporter of the bill is Michael S. Baram, an attorney experienced in regulatory reform and risk management. Baram is certain that the Ritter bill will lead to more cost effective regulation of health, safety, and environmental risks, and also be a way of resolving the analytical differences that exist in what little risk assessment is being done by federal agencies now.

Conversely, there were some at the hearing who supported risk assessment ideals but did not see much need for this legislation. One of these was Lester B. Lave, a fellow at the Brookings Institute and economics professor at Carnegie Mellon University. Lave told the panel that the bill's main goals already were being met. He maintains that many agencies, such as OSHA, the Environmental Protection Agency, and the Federal Aviation Administration, already are using some form of risk assessment routinely, so there is no need for a study to show the usefulness of the technique in regulatory matters. He also takes exception to the notion that the current methods of risk analysis require extensive

R&D to become useful. He cites work done by himself and a group of researchers on these methods of quantitative risk analysis and concludes that these can, at least to a modest extent, provide information useful for regulatory decisions. He supports H.R. 3441 only if it will increase the use of such analysis.

James C. Miller III, former head of the President's Task Force on Regulatory Relief (now chairman of the Federal Trade Commission) confirmed that the Administration is concerned about the quality of risk assessment being done by the regulatory agencies. He also agrees with Lave that much of Ritter's bill may be redundant. Miller claims that most of what is called for is being done now under the authority of Executive Order 12291, in which President Reagan orders that regulatory agencies do a cost/benefit analysis for all new regulations—and some old ones. Miller sees the focus of this bill simply as examining risks assessments done by the agencies and coordinating this effort among them. "The Office of Management & Budget hopes to be able to do [what this bill seeks] under existing structures," Miller says. "I think we can do this with the President's regulatory task force."

But committee staffers quickly point out the differences between risk analysis and cost/benefit analysis as done by OMB. Risk assessment is an important part of the cost/benefit analysis. It provides a means of comparing the risks, ranking them with their regulatory alternatives. With this information, the more political, value-laden decisions can be made. Ritter told the subcommittee that "one of the reasons for the legislation is precisely to get away from the cost/benefit bind. Cost/benefit is just not sufficient."

Funding requests in this bill total \$1.7 million, including \$1.5 million for regulatory agency studies and \$150,000 for NSF research grants. Miller says OMB would prefer to see any program done within existing budgets, and staffers hope the money doesn't become an issue. The priority issue they say, is whether the funds can be found to get better scientific input into the regulatory process right now.

Subcommittee work on the bill is expected to be completed later this week with markup of the bill and referring it to the full committee. With Fuqua's support, quick passage in the Science & Technology Committee seems certain.

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