

A BILL

To amend chapter 1 (the National Budget and Audit System) of title 31 of the United States Code to establish a Federal Regulatory Cost Accounting System and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Cost Accounting Act of 1980."

TITLE I - FINDINGS AND PURPOSE

SEC. 101.(a) The Congress finds and declares that--

(1) In recent years Federal rules and regulations have expanded greatly in number and scope;

(2) While these rules provide benefits to the Nation, they also impose large costs, the magnitude and character of which are understood very imperfectly, on individuals, firms, nonprofit organizations and governmental units other than the Federal Government; and that

(3) Federal regulation can be made responsive to concerns of the Nation and the excessive burdens of regulation can be eliminated only if there is available systematic information on the costs of Federal regulation.

(b) It is accordingly the purpose of this Act to establish a procedure to account for the costs of regulation and to report these costs to the Congress.

TITLE II - FEDERAL REGULATORY COST ACCOUNTING SYSTEM

SEC. 201. Subchapter III of chapter 1 of title 31 of the United States Code is redesignated subchapter IV and the following is added after the present subchapter II:

"Subchapter III - Federal Regulatory Cost Accounting System

"Sec.

- "27. Definitions
- "28. Applicability
- "29. Regulatory Cost Reporting Requirements
- "30. Regulatory Cost Accounting Standards and Procedures
- "31. The Annual Report to the Congress on the Costs of Federal Regulation

"SEC. 27. Definitions

"For the purposes of this subchapter--

"(1) the term 'agency' means an agency as defined in 5 U.S.C. 551(1);

"(2) the term 'rule' means both rules and regulations issued by agencies, including those which establish conditions for financial assistance; however, for the purposes of this subchapter, closely related, or substantially similar, sets of rules shall be treated together;

"(3) the term 'agency head' means:

"(A) for an agency which is a constituent element of a cabinet department, the Secretary of the Department;

"(B) for a noncabinet, single-headed agency, the head of the agency; and

"(C) for a multimember agency, the chairman of the agency.

"(4) the term 'capital costs of compliance' means with respect to a rule, the expenditures for the acquisition or use of plant, equipment and other long-lived real property which are made by persons, nonprofit organizations and governmental units of the United States other than the Federal Government, and which are directed to activities required or objectives sought by the rule;

"(5) the term 'operating costs of compliance' means, with respect to a rule, the expenditures on wages, salaries and benefits; purchases of inputs, except capital costs of compliance; data collection, recordkeeping, preparation and submission of forms, data and reports; management time; and training costs; which are made by persons, nonprofit organizations, and governmental units of the United States other than the Federal Government and which are directed to activities required or objectives sought by the rule;

"(6) the term 'direct costs of compliance' means, with respect to a rule, the sum of the capital costs of compliance and the operating costs of compliance;

"(7) the term 'indirect costs of compliance' means, with respect to a rule, the costs caused by effects of the rule, except direct costs of compliance and Federal expenditures associated with the rule;

"(8) the terms 'total compliance costs' and 'compliance costs' mean the sum of direct costs of compliance and indirect costs of compliance;

"(9) the term 'Director' means the Director of the Office of Management and Budget.

"SEC. 28. Applicability

"The provisions of this subchapter shall not apply to--

"(1) rules issued with respect to a military or foreign affairs function of the United States;

"(2) matters related to agency management or personnel;

"(3) rules related to Federal Government procurement;

"(4) rules that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines, in which cases, the agency shall publish in the Federal Register a statement of the reasons why it is impracticable or contrary to the public interest for the agency to observe the requirements of this subchapter and the name of the policy official responsible for this determination.

"SEC. 29. Regulatory Cost Reporting Requirements

"(a) The reporting requirements and procedures established in this subchapter may be referred to collectively as the Federal Regulatory Cost Accounting System (hereinafter the 'System').

"(b) (1) To insure that the compliance cost estimates required by subsection (e) of this section are stated on substantially the same basis by all agencies subject to the provisions of this subchapter, and that reasonable professional standards are observed in preparing these estimates, the Director shall prepare a Federal Regulatory Cost Accounting System Manual (hereinafter the 'System Manual'), which shall include:

"(A) guidelines for the measurement of direct costs of compliance;

"(B) guidelines for the analysis of the effects of regulations and the indirect costs of compliance caused by those effects; and

"(C) such other accounting conventions, definitions, procedures, guidelines, and standards for measurement as reasonably promote the effectiveness of the System.

"(2) The Director may, from time to time, revise the System Manual in order to improve the functioning of the System, and shall consider revisions which respond to changes in relevant economic and social circumstances and advances in branches of knowledge pertinent to the System.

"(c) (1) Each agency subject to the provisions of this subchapter shall establish an Agency Regulatory Cost Accounting System (hereinafter

'Agency System') with the capability of complying with the reporting requirements of subsection (e) of this section.

"(2) Each Agency System shall include:

"(A) procedures, cost categories, definitions, and standards for making estimates annually of the capital costs of compliance and operating costs of compliance of those rules of the agency included in the Agency System;

"(B) procedures for analyzing the effects, and the indirect costs of compliance caused by those effects, of those rules of the agency included in the Agency System; and

"(C) an office responsible for the conduct or oversight of the Agency System.

"(3) The head of the agency shall designate, with the concurrence of the Director, the rules of the agency to be included in the Agency System.

"(4) In designating rules to be included in the Agency System, the head of the agency shall consider:

"(A) the magnitude of the capital and operating costs of compliance of the rule;

"(B) the likely magnitude of indirect costs of compliance of the rule; and

"(C) the likely magnitude of the impacts of the rule on particular regions of the Nation and individual sectors of the economy.

"(d) (1) By October 1, 1981, the head of each agency subject to the provisions of this subchapter shall submit to the Director a plan for establishing an Agency System.

"(A) The plan submitted to the Director shall include:

"(i) the designations, made by the head of the agency, of those rules in force on October 1, 1981, and rules that the agency has under development and plans to promulgate by March 31, 1983, that are to be included in the Agency System;

"(ii) a description of those features of the proposed Agency System required by paragraph (2) of subsection (c) of this section; and

"(iii) such other information permitted by law as the Director may require to evaluate the reasonableness of the plan.

"(B) The Director is authorized to:

"(i) review the designations made by head of the agency of rules to be included in the Agency System and to require such changes in these designations as are in accord with the criteria stated in paragraph (4) of subsection (c) of this section; and to

"(ii) review the plan submitted by the agency and to require such changes in the plan as are necessary to make it consistent with the cost categories, definitions, guidelines, procedures, standards, and accounting conventions in the System Manual.

"(C) The plan becomes final on its acceptance by the Director.

"(2) The Director may from time to time review the Agency Systems and is authorized to:

"(A) require such changes as are necessary to bring Agency Systems into conformance with the cost categories, definitions, guidelines, procedures, standards, and accounting conventions in the System Manual; and to

"(B) require such changes as reasonably increase the accuracy, reliability, timeliness, detail, or relevance of the data on compliance costs provided by Agency Systems.

"(3) The Director is authorized to review the designations, made by the head of the agency, of rules to be included in the Agency System and is authorized to alter those designations in accord with the criteria stated in paragraph (4) of subsection (c) of this section.

"(e) (1) On March 31, 1983, and on March 31 of each subsequent year, the head of each agency subject to the provisions of this subchapter shall submit to the Director an Agency Regulatory Cost Report that provides data and analysis for all rules included in the Agency System and for rules for which the agency plans to issue an advanced notice of proposed rulemaking, a proposed rule or a final rule during the upcoming fiscal year.

"(2) For each such rule, the Agency Regulatory Cost Report shall contain:

"(A) estimates of the capital costs of compliance and operating costs of compliance for each of the upcoming three fiscal years; and

"(B) analysis of the effects of the rule, including to the extent reasonable and practicable, quantitative estimates of the indirect costs of compliance of the rule.

"(3) The Director may also require of the agency timely submission of such other information permitted by law as he may require to evaluate the reasonableness of the Agency Regulatory Cost Report.

"(4) The Director may exempt from the reporting requirements of this subsection such advanced notices of proposed rulemaking, proposed rules and final rules, which would otherwise be subject to those requirements, as are of a routine or repetitive character or are of minor economic significance. The Director may instead require that such rules be consolidated in a reasonable and analytically relevant manner for the reporting purposes of this section.

"SEC. 30. Regulatory Cost Accounting Standards and Procedures

"(a) (1) There is established a Regulatory Accounting Standards Committee, to be comprised of the designees of:

"(A) the heads of all agencies subject to the provisions of this subchapter;

"(B) the Director of the Office of Management and Budget;

"(C) the Chairman of the Council of Economic Advisors;

"(D) the Director of the Council on Wage and Price Stability;

"(E) the Chairman of the Council on Environmental Quality; and

"(F) the Chairman of the Administrative Conference of the United States.

"(2) The Director of the Office of Management and Budget shall designate as Chairman one of the members of the Regulatory Accounting Standards Committee.

"(3) The Regulatory Accounting Standards Committee shall advise the Director on questions of definition, reporting and procedure as they bear on the preparation of Agency Regulatory Cost Reports.

"(c) (1) There is established an Agency Regulatory Cost Report Review Committee, to be comprised of the designees of:

- "(A) the Secretary of the Treasury;
- "(B) the Attorney General of the United States;
- "(C) the Secretary of Commerce;
- "(D) the Director of the Office of Management and Budget;
- "(E) the Chairman of the Council of Economic Advisors; and
- "(F) the Chairman of the Council of Wage and Price Stability.

"(2) The Director of the Office of Management and Budget shall designate as Chairman one of the members of the Agency Cost Report Review Committee.

"(3) The Agency Cost Report Review Committee shall receive from the Director Agency Regulatory Cost Reports and, shall review

such Agency Cost Reports as the Director requests and transmit to the Director the views of the Committee on the professional quality and completeness of those reports.

"SEC. 31. The Annual Report to the Congress on the Costs of Federal Regulation

"(a) On May 31, 1983, and on each May 31 thereafter, the Director, after review and analysis of the Agency Regulatory Cost Reports, shall produce a consolidated Federal Regulatory Cost Report. This report shall include:

"(1) for each agency that is subject to the provisions of this subchapter, estimates of the capital costs of compliance and the operating costs of compliance for each rule included in the Agency Regulatory Cost Report;

"(2) summaries of descriptions of the indirect effects of rules included in the Agency Systems;

"(3) summary tables of compliance costs, and the various components of compliance costs, arrayed in terms of agencies and functionally-related rules.

"(b) Within 30 days of the completion of the Regulatory Cost Report, the President shall submit this report, together with his suggestions for changes in regulatory statutes and reorganization or consolidation of regulatory programs to the Congress."