

# Law Revises Standards for Scientific Study

## Agencies to Face Challenges on Health and Environment Research

By ANDREW C. REVKIN

It does not even take effect until next Oct. 1. But a little-noticed law called the Data Quality Act, signed in the waning days of the Clinton administration, has set off a fierce debate over how best to weigh health and environmental risks.

The law — supported, and largely written, by industry-backed groups — requires the government for the first time to set standards for the quality of scientific information and statistics used and disseminated by federal agencies. It would create a system in every government agency under which anyone could point out errors in documents and regulations.

If the complaints were borne out, the agency would have to expunge the data from government Web sites and publications. More broadly, opponents of the new law say that while nobody wants the government to issue flawed data, the new process could undermine valid regulations and stifle government efforts to convey information on issues like climate change and cancer risks.

The National Academy of Sciences is convening a meeting today at which officials from government regulatory agencies, lawyers and experts from industry, science and environmental groups will discuss the law's potential for harm and good.

Even before the law takes effect, one of the groups that helped write it has already cited it in a petition requesting the withdrawal of a report on global warming.

The group, the Center for Regulatory Effectiveness, said in a Feb. 11 letter to the White House Office of Science and Technology Policy that a government assessment of the regional impacts of climate change is alarmist and based on flawed computer models.

If the center prevails, the study — the product of 10 years of work and critiques by independent scientists — could be removed from government Web sites and files. Many climate scientists, even some whose criticisms of early drafts were quoted in the center's petition, say the challenge is unfounded.

The Data Quality Act was quietly enacted in December 2000 as 27 lines in a giant budget bill.

It charged the government to create procedures "ensuring and maximizing the quality, objectivity, utility and integrity" of scientific information and statistics disseminated by federal agencies. Now, dozens of government agencies are struggling to translate that language into thousands of pages of quality-control guidelines.

Agencies must finish drafts of their science quality procedures by May 1 and send the final version to the White House Office of Management and Budget by July, where the Bush administration will check to be sure guidelines meet its standards.

The effort is being overseen by Dr. John D. Graham, an expert on risk and regulation from Harvard who last year became the administrator of the office of information and regulatory affairs of the Office of Management and Budget. Dr. Graham's focus on using strict statistical analysis of risks and benefits to judge where to focus public resources has made him a favorite of industry and a target of private environmental groups, which often rely on public passion to drive campaigns.

He said that the administration's goal was to ensure that all govern-

ment agencies — in every duty — consider not just the quality of the data they use and communicate, but also the quality of their own analysis.

The result, he said, is that "in the long run this will focus government on problems that science suggests are very serious and away from problems that are less serious."

The prospect has industry officials elated. Many of those who helped draft the measure defend it as a vital breakthrough in their years-long effort to pinpoint weaknesses in the science behind costly regulations.

"This is the biggest sleeper there is in the regulatory area and will have an impact so far beyond anything people can imagine," said William L. Kovacs, the vice president for environment, technology and regulatory affairs of the United States Chamber of Commerce.

"This is the first time where, if the data is not good, you can actually begin challenging the agency," Mr. Kovacs said. The law, by setting a government standard for scientific quality, could also help industry prevail in lawsuits claiming rules relied on poor data or analysis, he and other industry representatives say.

A prime target, he and other industry representatives said, is new Environmental Protection Agency rules restricting the finest pollution

### A law passed quietly is facing loud debate on how rules evolve.

particles, which are mainly emitted by diesel engines and power plants and have been linked increasingly to lung and heart ailments.

Many industry officials say the rule is too broad and the E.P.A. should first find which types of small particles are hazardous. Supporters of the regulations, which have not yet taken effect, say it would take years of additional study to pinpoint the exact hazard, but people are dying from such pollution now.

Senator James M. Jeffords, the Vermont independent who is chairman of the Senate environment committee, said the goal of the law is laudable, but it could easily work against effective government.

"Opponents of government action to protect the public's health and the environment," Mr. Jeffords said, "have latched on to the Data Quality Act and are attempting to misuse it to prevent the public from getting valid information about threats to their well being and quality of life."

Following guidelines written by the Bush administration, government agencies are creating procedures for judging the quality of the data they use — whether generated within the government or by university scientists, hospital researchers, companies or private groups.

The more influential the data are likely to be, the higher the quality standard they must meet, the guidelines say. In some cases, the guidelines state, even studies published in respected peer-reviewed journals will require further confirmation.

Under the data law, by October every agency must have the equivalent of a complaints line, through which individuals, companies or groups can challenge scientific find-

ings.

The Environmental Protection Agency on Tuesday initiated a four-day online comment process on its Web site, [www.epa.gov/oei](http://www.epa.gov/oei), seeking ideas for how it might best create such a system.

Some scientific groups are concerned that insufficient attention has been paid to the new regulation and its likely effects.

"This is a critical juncture," said Joanne Padron-Carney, director of the Center for Science, Technology, and Congress of the American Association for the Advancement of Science, the world's largest scientific organization. "Each agency will be clarifying its own methods for how they define things like quality. It's important for scientists to pay close attention."

Ms. Carney said there was potential for problems if industries or institutions opposed to certain regulations demanded complicated, time-consuming, intrusive reviews of data.

"We really would not like to have science attacked as a way of being sure that policy isn't made," she said.

Views remain mixed on whether the benefits of the law will outweigh the potential harm.

Alan B. Morrison, a lawyer on leave from Public Citizen, the private consumer watchdog group in Washington, said the law could provide unexpected opportunities for critics of any government agency — from the Defense Department to the Nuclear Regulatory Commission.

It applies just as much to data released by the Pentagon as it does to E.P.A. pollution studies, Mr. Morrison noted.

But over all, he said, he is convinced that "its clear purpose is to slow agencies down."

Many experts on regulations say that if the guidelines are written appropriately, they could spur agencies to carefully, openly review the quality of science used to write rules or set policies in advance.

Currently, in most cases, a pollution or health standard is published and only then the fighting begins over whether it is valid or not, said Frederick R. Anderson, a corporate lawyer in Washington who is part of the National Academy of Sciences panel conducting the meeting today.

Often, such fights spill over into the courts, resulting in years of costly litigation.

Dr. Graham said he expected that the guidelines, instead of burdening agencies with new costs and work, would reduce the burden by cutting the number of such lawsuits.

But some architects of the legislation say they expect it will help them in the courtroom. Most notable is James J. Tozzi, the founder of the Center for Regulatory Effectiveness.

With a government-set yardstick for quality, Mr. Tozzi said, critics of regulations can now build more convincing cases showing that an agency was arbitrary and capricious in its choice of data. Until now, such suits have generally failed.

The most important aspect of the law, he said, is that it creates a consistent system for uncovering errors early and encouraging agencies to be more careful about how they use data.

"It's the information age," Mr. Tozzi said. "Now in the world's most powerful government you're going to have to issue information that's accurate."