

Regulatory Review Act

Purpose: Section 1 of this Act institutes a system allowing District lawmakers to examine the efficacy of regulations before implementation, reviewing costs, benefits, and potential impacts on employment. Section 2 provides a system of retrospective review of regulations three years after they take effect. Section 2 also grants the Mayor the power to amend regulations after the retrospective review.

Section 1. {Review of Future Regulations}

(A) Except as provided in subsection (E), the Office of the Chief Financial Officer shall perform a cost benefit analysis upon each proposed rule and provide it to:

- (1) the Mayor; and
- (2) the relevant oversight committee.

(B) In the case that a proposed rule has an impact of at least two hundred fifty thousand dollars (\$250,000), the cost benefit analysis performed by the Office of the Chief Financial Officer under this section shall replace and be used for all fiscal analyses.

(C) In preparing a cost benefit analysis under this section, the Office of the Chief Financial Officer shall consider in its analysis any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule. A cost benefit analysis prepared under this section is a public document, subject to the following:

(1) This subsection does not empower the Office of the Chief Financial Officer or an agency to require an interested party or a regulated person to provide any materials, documents, or other information in connection with a cost benefit analysis under this section. If an interested party or a regulated person voluntarily provides materials, documents, or other information to the Office of the Chief Financial Officer or an agency in connection with a cost benefit analysis under this section, the Office of the Chief Financial Officer or the agency, as applicable, shall ensure the adequate protection of any confidential and proprietary business plans and other confidential information. Interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims. The Office of the Chief Financial Officer and any agency involved in proposing the rule, or in administering the rule upon the rule's adoption, shall exercise all necessary caution to avoid disclosure of any confidential information supplied to the Office of the Chief Financial Officer or the agency by an interested party or a regulated person.

(2) The Office of the Chief Financial Officer shall make the cost benefit analysis and other related public documents available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the proposed rule at least thirty (30) days before presenting the cost benefit analysis to the Mayor and the relevant oversight committee under subsection (A).

(D) If the Office of the Chief Financial Officer or an agency is unable to obtain verified data for the cost benefit analysis described in subsection (C), the Office of the Chief Financial Officer shall state in the cost benefit analysis which data were unavailable for purposes of the cost benefit analysis.

(E) If the Office of the Chief Financial Officer finds that a proposed rule is a technical amendment with no substantive effect on an existing rule, the Office of the Chief Financial

Officer may not prepare a cost benefit analysis of the rule under this section. The agency shall submit the proposed rule to the Office of the Chief Financial Officer with a statement explaining how the proposed rule meets the requirements of this subsection. If the Office of the Chief Financial Officer finds that the rule meets the requirements of this subsection, the Office of the Chief Financial Officer shall provide its findings to the Mayor and to the relevant oversight committee. If the agency amends or modifies the proposed rule after the Office of Chief Financial Officer finds that a cost benefit analysis may not be prepared for the rule, the agency shall resubmit the proposed rule to the Office of the Chief Financial Officer either for a new determination that the rule meets the requirements of this subsection, or for the Office of the Chief Financial Officer to prepare a cost benefit analysis of the rule under this section.

Section 2. {Retrospective Review of Regulations}

(A) This section applies to a rule that:

- (1) has been adopted under state administrative procedure; and
- (2) has taken effect; after December 31, 2010.

(B) For each rule to which this section applies, the Chief Financial Officer shall perform a cost benefit analysis of the rule with respect to the period encompassing the first three (3) years following the rule's effective date. Except as otherwise required by the Mayor or the relevant oversight committee, the state budget office shall submit a cost benefit analysis prepared under this section to:

- (1) the Mayor; and
- (2) the relevant oversight committee; not later than six (6) months after the third anniversary of the rule's effective date.

(C) A cost benefit analysis prepared under this section must include the following with respect to the three (3) year period covered by the analysis:

- (1) The estimate of the primary and direct benefits of the rule, including the impact on:
 - (a) consumer protection;
 - (b) worker safety;
 - (c) employment;
 - (d) energy reliability;
 - (e) the environment; and
 - (f) business competitiveness; as determined before the rule's adoption.

(2) The estimate of the secondary or indirect benefits of the rule and the explanation of how the conduct regulated by the rule is linked to the primary and secondary benefits, as determined before the rule's adoption.

(3) The estimate of any cost savings to regulated persons (including individuals and businesses) as a result of the rule, including any savings from:

- (a) a change in an existing requirement;
- (b) the imposition of a new requirement; or
- (c) the imposition of cumulative requirements; as determined before the rule's adoption.

(4) A statement of the number of regulated persons, classified by industry sector, subject to the rule.

(5) A comparison of:

- (a) the cost benefit analysis for the rule prepared before the rule's implementation; and

(b) the actual costs and benefits of the rule during the first three (3) years of the rule's implementation, including the following:

(i) Any actual primary and direct benefits of the rule, including the rule's impact on consumer protection, worker safety, employment, energy reliability, the environment, and business competitiveness.

(ii) Any actual secondary or indirect benefits of the rule and an explanation of how the conduct regulated by the rule is linked to the primary and secondary benefits.

(iii) Any actual cost savings to regulated persons (including individuals and businesses) as a result of the rule, including any savings from a change in an existing requirement or from the imposition of a new requirement.

(D) In preparing a cost benefit analysis under Section II, the state budget office shall follow the procedure set forth in Section I (c).

(E) The Mayor may:

(1) prescribe the form of a cost benefit analysis;

(2) amend the rule if the Office of the Chief Financial Officer determines the costs exceed the benefits, or if there is an adverse impact on employment; and

(3) prescribe the process, deadlines, and other requirements for submitting a cost benefit analysis required under this section.