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## Data Quality Act



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**BROOKE GLADSTONE:** On May 1st, government agencies must finish their drafts of new science quality procedures. This rather dry fact is the first stage in implementing a new law that could in the words of one pro-business advocate "have an impact far beyond anything people can imagine." The new law, called the Data Quality Act, requires that government ensure that its data, the data on which regulations are based, meet new quality control standards. Under the DQA, government information is wide open to challenges by any group or individual. If a challenger makes a good case, then the offending information is removed from public view. Well that sounds fair enough, but critics like Alan Morrison of the Public Citizen Litigation Group believe the Data Quality Act is intended to slow agencies down.

**ALAN MORRISON:** Nobody could be opposed to accurate information. But the problem is at what cost and what delay. This bill seems to me to put too much

premium on accuracy, and it will be very difficult to measure how many agencies don't do something because they're afraid that they will have to spend time and money defending a decision in areas which are inevitably controversial. We're dealing with frontiers of scientific know; we're dealing with important economic questions; we're dealing with statistical analysis. The answer is not to suppress government information but to put out more information that responds to it and then the scientific or economic or other communities can decide for themselves which answer is closest to being right.

**BROOKE GLADSTONE:** If this law is so problematic why didn't you and other critics make more noise about it before it was passed?

**ALAN MORRISON:** Well I can only speak for myself but I think it's probably true for most other people --nobody heard of this law until it was enacted into a statute. It is 27 lines buried deep in an appropriation bill. There were no hearings. There was no committee report. There was no indication at all that this bill was even being considered. And the first thing anybody knew about it was when OMB got its direction and had to start preparing the guidelines.

**BROOKE GLADSTONE:** It was passed by the Congress during the Clinton administration. It was made into law during the Bush administration. With the change of political orientation, what kind of data do you think is most likely to be challenged?

**ALAN MORRISON:** My real concern is that this bill is aimed largely, but not exclusively at the Environmental Protection Agency. It's a scientific agency; it produces a large amount of information every year. Eventually it bases its regulations and other

activities on that information. Much of it is uncertain and sometimes it adversely affects businesses, and my fear is that the industries are going to come in and challenge and drive down the level of information dissemination under the guise that they're getting more accuracy. My understanding is that Jim Tozzia who is a highly regarded lobbyist for interests that are principally concerned about what's going on at EPA is at least one of the drafters of this legislation. I think the parentage, assuming that it is Jim Tozzia and his colleagues, gives you a good idea of what the purpose of this law was supposed to be.

**BROOKE GLADSTONE:** Thank you very much.

**ALAN MORRISON:** Thank you.

**BROOKE GLADSTONE:** Alan Morrison is the founder of the Public Citizen Litigation Group and he's now a visiting professor at Stanford University. And now I'm joined by Jim Tozzia, the founder of the Center for Regulatory Effectiveness and a former official in the Office of Management and Budget and also the author of an early draft of the Data Quality Act. Mr. Tozzia, welcome to the show.

**JIM TOZZIA:** Glad to be here.

**BROOKE GLADSTONE:** Sometimes it's useful when considering a new law to consider the people who wrote it. Now it's no secret that you're pro-market; that you're a friend of big business. Your principal funding does come from the business community.

**JIM TOZZIA:** Yes, trade associations and private firms, yes.

**BROOKE GLADSTONE:** Mr. Tozzia can you understand why consumer groups who are aware

of this regulation tend to be opposed to it and big business groups tend to be in favor of it?

**JIM TOZZIA:** Yes.

**BROOKE GLADSTONE:** Why do you think that is?

**JIM TOZZIA:** Well, I think both don't see the reverse side of the coin. I think some of business feel that the government has been utilizing shoddy science, so there's some people will, will see that as a very big plus. On the other hand, the - some of the consumer groups will feel the fact that the industries uses it that way, it's a negative. What I think the consumer groups fail to see is when industry presents data to the government, and it's - if it's adopted by the federal government - then the consumer groups can use the same law if it doesn't meet these standards to go through the same process that industry does.

**BROOKE GLADSTONE:** There was a 1992 Environmental Protection Agency report that identified second hand smoke as a Group A human carcinogen. Would you use the Data Quality Act to challenge regulations regarding second hand smoke?

**JIM TOZZIA:** Well I'm not actually involved in that any more. I would tell you a more current one I think that it's most certainly sh-- might be used for. If you hear press reports of the term "dioxin," EPA has issued a preliminary risk assessment and said it's a carcinogen. However there's been 3 independent bodies; all 3 of those groups, the majority of people that voted of outside scientists voted that was not a human carcinogen.

**BROOKE GLADSTONE:** Well Mr. Tozzia can I ask you are any of the funders of your organization's companies that might be affected by anti-dioxin

lawsuits and legislation?

**JIM TOZZIA:** Dioxin's a byproduct not intended - not made by anyone. So anyone that has a combustion burner could be affected by dioxin. So the answer is virtually all would be. Not all, but most would be.

**BROOKE GLADSTONE:** So if you were to challenge the dioxin data that's out there, you would ask for that information then to be removed from the web site and the EPA would have to respond to you.

**JIM TOZZIA:** If we came to the conclusion that the data does not support it being upgraded to a Class A - the known human carcinogen, we would file petition with EPA; that's correct. We may - I didn't say we would, but that's a possibility. EPA would then take it and they'll have so many days to act on our petition. They'd either say yes or no. If they said no-- then there'll be an appellate process where you can appeal it to somebody in the agency and, and EPA and all the agencies are working out that appellate process.

**BROOKE GLADSTONE:** Perhaps the reason why consumer groups tend to oppose the Data Quality Act and business tends to be in favor of it is because it tends to redound to the benefit of business if government does less, and if it can merely stall the government -- prevent them from promulgating new regulations -- that usually is to the benefit of business and not to those who are concerned with issues of consumer protection.

**JIM TOZZIA:** Well, if it delays the issuance of effective regulations that benefit the consumers, you're right. If it delays the issuance of ineffective regulations where the costs are enormous compared to the benefits, the consumer's better off.

**BROOKE GLADSTONE:** Thank you very much.

**JIM TOZZIA:** Well thanks for the opportunity to be on the NPR.

**BROOKE GLADSTONE:** Jim Tozzia is the founder of the Center for Regulatory Effectiveness and the author of an early draft of the Data Quality Act scheduled to take effect in October of this year.

**BOB GARFIELD:** coming up, NPR's programming chief on the future of the network and how commercial music stations get you hooked.

**BROOKE GLADSTONE:** This is On the Media from National Public Radio.

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