NOES—247

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Gonzalez
Gutierrez
Hunter
Lantos
Lipinski
Meek
Miller (CA)
Rush
Vucanovich
Ward

□ 1517

The Clerk announced the following pairs:

On this vote:

Mr. Rush for, with Mrs. Vucanovich against.

Mr. BAESLER changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARCIA. Mr. Chairman, on roll No. 178, the Markey amendment to H.R. 1022, I intended to vote ''no'', and inadvertently voted ''yes''. I would like the RECORD to reflect this, and as such I submit the following February 24 correspondence to my colleagues for the RECORD to illustrate my support.

SUPPORT PEER REVIEW IN RISK ASSESSMENT

We strongly support requiring Federal regulations to be based on sound scientific principles, and urge our colleagues to support the peer review provisions of title III in H.R. 1022. This provision would establish a systematic program for sound scientific review of risk assessments used by agencies when promulgating regulations addressing human health, safety, or the environment. We believe that peer review is a critical component of sound science, and is necessary for accurate risk assessment analyses involving complex issues.

We spend an exorbitant amount complying with regulations. These costs totaled a whopping $581 billion in 1993, and ultimately increased the price for every good and service purchased by the American people. These regulatory costs are nothing more than a hidden tax on American consumers and business.

Some critics of the risk assessment provisions in H.R. 1022 believe those organizations or sectors impacted by a regulations should not be allowed to serve on their review panels. This notion, however, subverts the very intention of sound science—to base decisions on all relevant and available information without color or prejudice.

Peer review panels should include scientists from affected sectors as well as consumer interests and any outside interest. Doing so will allow risk-based analyses to maintain balance and flexibility, thereby ensuring agencies use sound science in their decisionmaking.

Some critics have suggested that including interested parties in the peer review process compromises the integrity of human health, safety, or environment regulations. However, the precedent for peer review already exists. Congress has consistently supported legislation requiring the use of comprehensive peer review panels for environmental and safety issues.

For example, the Science Advisory Board [SAB], created under the 1969 National Environmental Policy Act, was established to conduct peer reviews for EPA regulations. To be a member of the SAB you must have the proper education, training, and experience; there are no restrictions on affiliation. Further, the National Advisory Committee on Occupational Safety and Health as mandated under the Occupational Safety and Health Act is to be composed of ''representatives of management, labor, occupational safety and occupational health professionals and the public.'' The Energy Policy Act, which Congress passed in 1992, requires a peer review panel on electrical and magnetic fields. This peer review panel must contain representatives from the electric utility industry, labor, government, and researchers.

Peer review is a commonsense approach that must include all interested parties, and as such we urge you to support the peer review provisions in title III of H.R. 1022.

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: Page 36, after line 2, insert the following new title, redesignate title VI as title VII, and redesignate section 601 on page 36, line 4, as section 701:

TITLE VI—PETITION PROCESS

SEC. 601. PETITION PROCESS.

(2) PURPOSE.—The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliance or in a more flexible manner.

(b) ACCELERATED PROCESS FOR CERTAIN PETITIONS.—Within 1 year after the date of enactment of this Act, the head of each Federal agency administering any program designed to protect human health, safety, or the environment shall establish accelerated procedures for accepting and considering petitions for the review of any rule or program element promulgated prior to the effective date of this Act which is part of such program, if the annual costs of compliance with such rule or program element are at least $25,000,000.

(c) WHO MAY SUBMIT PETITIONS.—Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection (b) may submit a petition under this section.

(d) CONTENTS OF PETITIONS.—Each petition submitted under this section shall include adequate supporting documentation, including, where appropriate, the following:

(1) New studies or other relevant information that provide the basis for a proposed revision of a risk assessment or risk characterization used as a basis of a rule or program element.

(2) Information documenting the costs of compliance with any rule or program element which is the subject of the petition and information demonstrating that a revision could achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but at a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities. Such documentation may include information concerning investments and other actions taken by persons subject to the rule or program element in good faith to comply.

(e) DEADLINES FOR AGENCY RESPONSE.—Each agency head receiving petitions under this section shall assemble and review all such petitions received during the 6-month period commencing upon the promulgation of procedures under subsection (b) and during 15 successive 6-month periods thereafter. Not later than 180 days after the expiration of each such review period, the agency head shall complete the review of such petitions, make a determination under subsection (f) to accept or to reject each such petition, and establish a schedule and priorities for taking final action under subsection (g) with respect to each accepted petition. For petitions accepted for consideration under this section, the schedule shall provide for final action under subsection (g) within 18 months after

the expiration of each such 180-day period and may provide for consolidation of reasonably related petitions. The schedule and priorities shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors as such Federal agency considers appropriate.

(f) CRITERIA FOR ACCEPTANCE OF PETITIONS.

(1) IN GENERAL.—An agency head shall accept a petition for consideration under this section if the petition meets the applicable requirements of subsections (b), (c), and (d) and if there is a reasonable likelihood that the revision requested in the petition would achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities.

(2) FINAL AGENCY ACTION.—If the agency head rejects the petition, the agency head shall publish the reasons for doing so in the Federal Register. Any petition rejected for consideration under this section may be considered by the agency under any other applicable procedures, but a rejection of a petition under this section shall be considered final agency action.

(3) CONSIDERATION.—In determining whether to accept or reject a petition with respect to any rule or program element, the agency shall take into account any information provided by the petitioner concerning costs incurred in complying with the rule or program element prior to the date of the petition and the costs that could be incurred by changing the rule or program element as proposed in the petition.

(g) FINAL AGENCY ACTION.—In accordance with the schedule established under subsection (e), and after notice and opportunity for comment, the agency head shall take final action regarding petitions accepted under subsection (f) by either revising a rule or program element or determining not to make any such revision. When reviewing any final agency action under this subsection, the court shall hold unlawful and set aside the agency action if found to be unsupported by substantial evidence.

(h) OTHER PROCEDURES REMAIN AVAILABLE.—Nothing in this section shall be construed to preclude the review or revision of any risk characterization document, risk assessment document, rule or program element at any time under any other procedures.

SEC. 602. REVIEWS OF HEALTH EFFECTS VALUES.

Within 5 years after the enactment of this Act, the Administrator of the Environmental Protection Agency shall review each health or environmental effects value placed, before the effective date of title I, on the Integrated Risk Information System (IRIS) Database maintained by the Agency and revise such value to comply with the provisions of title I.

SEC. 603. DEFINITIONS.

As used in this title:

(1) The term ''Federal agency'' has the same meaning as when used in section 110.

(2) The terms ''rule'' and ''program element'' shall include reasonably related provisions of the Code of Federal Regulations and any guidance, including protocols of general applicability establishing policy regarding risk assessment or risk characterization, but shall not include any permit or license or any regulation or other action by an agency to authorize or approve any individual substance or product.

Mr. BARTON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BARTON of Texas. Mr. Chairman, I am very happy to offer this amendment on behalf of myself, the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Idaho [Mr. CRAPO].

The basic point of this amendment goes to the thrust of the bill. Under the bill that is before us today we are putting in place a mechanism by which we can do a valid scientific risk assessment. We are putting in place a process by which new laws and rules and regulations that flow from them, there has to be a scientific risk assessment done.

The bill before us today, however, does nothing to require a review of existing rules and regulations. The economy today is laboring under a burden of somewhere between 400 and 600 billion dollars' worth of the existing regulations and costs the average American family about $6,000 per year.

If Members think that some of the existing rules and regulations should be reviewed, if Members believe that some of the existing rules and regulations should be subject to review, then they should vote for this amendment. If Members think that every existing rule and regulation that is on the books today is sacrosanct and should not be reviewed, vote against the Barton-Tauzin-Crapo amendment, because what the amendment does is set up a very structured process by which any affected party out in the country can petition the relevant agency for a particular rule or regulation to be reviewed.

It has to be a major rule as defined under the bill, in other words, has a cost impact of $25 million or more on an annual basis.

We allow a 6-month window by which parties petition the affected agency. We then allow the 6-month window for the agency to consolidate the petitions and decide which if any of the petitions have merit. Then we allow an 18-month period for the rules and regulations that do have merit that need to be reviewed, and as each of these windows opens and shuts, the first 6 months' window to petition, when it closes then you have a second 6-month window open up. Altogether there are 8 years' worth of windows for the petition, there are 8 years' worth of windows for agencies to review the petition and then there are 9½ years of windows for the agencies to actually make a decision on a petition process.

We have done everything we can in drafting the amendment to make sure that there are no frivolous petitions offered. We require that when the petitioner comes forward that they supply document that there is an alternative that will have the same amount of impact on either a most cost-effective basis to society or give more flexibility to State and local governments.

We do not try to supersede any of the other procedures in place that may allow for rules and regulations to be reviewed under some other natural process.

Our amendment has tremendous support. The Alliance for Reasonable Regulation supports it. There are over 1,500 organizations in that alliance. The Chemical Manufacturers Alliance supports our amendment, the National Federation of Independent Businesses support our amendment. Altogether there are over 3,000 groups around the country that are strongly supporting this amendment.

Again, the bottom line is if Members think the existing rules and regulations that are on the books today need to be reviewed then the petition process, if adopted, is the only thing that guarantees such a review may occur.

If Members think everything that has been passed in the past 100 years is OK, then Members would vote against it.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Virginia, the distinguished chairman of the committee.

Mr. BLILEY. Mr. Chairman, I support the gentleman's amendment. I think it is reasonable. I think there ought to be some way for citizens to appeal what they consider to be unreasonable rules. There then ought to be a mechanism to consider this appeal. I think the gentleman has answered both questions in a very nice way, and I urge support of the amendment.

Mr. BARTON of Texas. I thank the distinguished gentleman for his support.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to see how this works. An aggrieved party petitions for a rule to be reopened; then who makes the decision in that first instance?

Mr. BARTON of Texas. There is a 6-month period for all petitions to be received by that particular agency. The agency will consolidate those petitions if they are similar in nature, and then the agency makes a decision as to whether to accept the petition.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(At the request of Mr. WAXMAN and by unanimous consent, Mr. BARTON of Texas was allowed to proceed for 2 additional minutes.)

Mr. BARTON of Texas. If in the petition the petitioner has shown that there is adequate documentation to show that there is reasonable cause that the petition should be reviewed, then the agency has to review it.

Mr. WAXMAN. The agency must review at that point?

Mr. BARTON of Texas. But based on the petitioner presenting evidence. You cannot just say I think it all ought to be looked at; there are very substantial evidentiary requirements that are required for the petition.

Mr. WAXMAN. And if the agency still disagrees, what happens then?

Mr. BARTON of Texas. You have 6 months in which to present your petition and then the agency has 6 months to look at the petition. The agency then makes a determination. If it is a negative determination that says no, we do not want to review it, the agency has to publish reasons why it reached the negative determination and show that it had substantial evidence to prove that it should not review the regulation.

Mr. WAXMAN. Is that challengeable in court?

Mr. BARTON of Texas. It is challengeable under the existing laws. We do not put in a new burden of proof in terms of judicial review.

Mr. WAXMAN. Under the Administrative Procedures Act.

Mr. BARTON of Texas. That is correct. If the agency says yes, we are going to review it, then there is an 18-month period during which the agency has to review it. It is not an open-ended review. We create an 18-month period, once they have made the decision they shall review it. Then there is 18 months in which they have to review it, so they cannot let it go on indefinitely.

Mr. WAXMAN. The gentleman indicated they would have to come up with the same result in some other way. How is that spelled out in the gentleman's amendment?

□ 1530

Mr. BARTON of Texas. In the ''purpose'' it says,

> The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety, or the environment at a substantially lower cost of compliance or in a more flexible manner.

The CHAIRMAN. Does the gentleman from California [Mr. BROWN] insist on his point of order?

Mr. BROWN of California. Mr. Chairman, the gentleman withdraws his point of order.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from Texas [Mr. BARTON] would engage in a colloquy and answer a couple of questions, in the committee report from the Committee on Energy and Commerce, I say to my friend from Texas, the language in the section 3401, in paragraph 2, ''any person may petition'' was the language that the Committee on Energy and Commerce adopted. The Committee on Science, Space, and Technology adopted no language whatsoever on looking back like that. The language you have adopted is any person who demonstrates that he or she is affected by a rule may submit a petition.

What is the difference?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, the difference is the language that we adopted in the Committee on Energy and Commerce, the gentleman from Massachusetts [Mr. MARKEY] wanted to substitute any person, which would literally be anybody breathing in this country. In consultation with people both for the amendment and opposed to the amendment after the markup in the Committee on Energy and Commerce, we decided to seek a middle ground between any person and a person who has a direct financial interest, so the standard we chose was an affected person. Now, an affected person is still a very broad definition. It is somebody affected in a cost way by the rule or regulation or living in an area that is affected by the consequences of the regulation.

So an affected person is not quite as broad as any person, but it is still a very broad definition.

Mr. BROWN of Ohio. Reclaiming my time and posing another question, the CBO scored or estimated $250 million for the cost of this bill, moving, raising the threshold from $25 to $100 million. It would cost the Government $250 million.

Have you calculated, or has CBO calculated, the difference in cost, the additional cost in bureaucracy and litigation and hiring more employees and all of that to do a lookback at all of these cases over the next 8 years, a lookback at all of these regulations that could be brought up?

Mr. BARTON of Texas. If the gentleman will yield further, first of all, we do require that anybody that petitions be able to show that there is going to be substantially lower cost of compliance and more flexible cost of compliance. So on a net basis we think it is going to save money on a net basis.

No. 2, we do not require that any additional employees be retained to do this review. We happen to believe that there are enough Federal employees in the affected agencies that can do the review.

So I am not going to prevaricate and say that I have done an extensive cost analysis of our amendment. But we do not believe that it is going to bear an additional cost to society. In fact, we think it will save money.

Mr. BROWN of Ohio. Reclaiming my time, I think that is the reason this amendment in the end makes no sense. It is a question of, again, as much as the rest of the bill does, it is more lawyers, more litigation, more employees working for these agencies because they are going to be swamped with petitions.

Business after business after business is going to file against regulations that have been handed down; consumer groups, citizen groups, environmental groups, other people are going to open up these rules, again, rules that have already been agreed to, rules that businesses are living under, rules that the public benefits from in many cases, clean air, clean water, pure food, safe consumer products, all of that, and we are opening this up again. It is more bureaucracy, more layers of government, more costs.

At the same time it is more judicial review, and it is again another reason that this bill in the whole is a problem, and this amendment particularly takes the bill that is already loaded down with too much bureaucracy and litigation and loads it down even further, and it loads it down for the next 8 years, for the next 16 6-month periods, if you will, and ends up putting us behind the eight ball more.

For us not to calculate the cost and just say, yes, Government is going to be able to do that, is simply misleading the public and misleading the other Members of this House.

Mr. BARTON of Texas. If the gentleman will yield further, I make a couple of points on his point. No. 1, if the bill passes, there are not going to be as many new rules and regulations promulgated. I think that is a given. So there are going to be people that have time to do that.

No. 2, in the petition, the system that we set up, we require that as part of the petition the information be shown that which shows that the rule or program element concerned can be administered at a substantially lower cost of compliance or in a manner which provides more flexibility to the States. So we are attempting, you know, nothing is certain in this life except death and taxes, But we are attempting.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BARTON of Texas. If the gentleman will yield further, we put language in the amendment where we are attempting to mandate there be a lower compliance cost.

Mr. BROWN of Ohio. I am not a lawyer, but you can drive a truck through that kind of language, and anybody that feels harmed or hurt in any way by a regulation, whether it is a business that is trying to run around a regulation and wants to dispose of waste in Lake Erie or an environmental group that thinks they have been wronged by a regulation, they always can find a way to fit their complaint into that language and open this back up. There will be plenty of rules and regulations suggested or handed down by agencies that will go through all of

this 23-step process. It will cost all of us as taxpayers more money, and it is simply not being honest with the public to say that it is not really going to cost more money, because in the end it is going to cost government a whole lot more money. It is going to mean more judicial review, more expense, more litigation, more government, more bureaucracy. It simply does not make sense.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I speak on behalf of the amendment.

Mr. Chairman, I think we are once again faced with a critical decision in the debate as it is setting up here; it is showing the basic difference in philosophy in how we are going to approach the critical concerns in this country about Federal regulation.

This process will change the bill in a very fundamental and important way. The bill, as it now stands, stops the Federal regulators from continuing the abusive growth of Federal regulations in unjustified ways for the future.

This process, the petition process, allows a look back at some of the existing regulations. It has already been said in debate on this floor that the existing regulatory burden we face in this country is the issue that is bringing us to this debate itself. If all we do is protect ourselves against future abuses, we fail to look back at the very reason that brings us to the floor for this debate, and that is the existing Federal regulatory bureaucracy that is crushing our economy and invading the lives of Americans in almost every aspect of their lives.

It has been discussed today that we have, and I have seen studies that show the burden on the American economy from the Federal regulatory system is anywhere from $400 billion to over $1 trillion, and that is every bit as real as a tax, as the taxes collected from the taxpayer every April.

We have got to recognize that we must allow us to look back and correct the abuses in the regulatory system.

The arguments being made against it are the same as well. First, it is thrown up this is going to allow for more lawyers to get into the act and for us to have more litigation. It seems that every time we want to correct the abuse in the Federal regulatory system, the counterargument is, well, that we take lawyers.

The fact is we have got to decide as a Congress whether we want to move forward and create the mechanism for people to fight back against the regulatory abuse and the explosion of regulations in this country, or whether we want to say because we are afraid that it might take some legal review that we are going to take no action. I do not think that is a justification.

The argument has been made that it is going to open up rules that businesses and people across this country are already adjusted to living under, and we ought to leave it alone.

Frankly, as I have said, that is the very reason we are here. Yes, people in this country are living under those rules and regulations, but, no, they are not happy; no, it is not right for this Congress to just wink its eye at what has happened in the past and say we are going to go on in the future and let what now stands be unchecked and unreviewed.

And then it is said, well, this legislation lets any person bring a proposal before the agencies for review. Well, frankly, I think that any person ought to have, who is affected by these regulations, the ability to bring it forward and have it reviewed.

But we have provided in the bill for protections. Every 6 months the agency is entitled to collect the various petitions, organize them, and assemble them and review them under a specific regulation to which they apply. We have a funneling system put in place that will keep the agencies from being inundated by repeated petitions. They collect them all in a 6-month period and act on them one at a time.

Mr. Speaker, this legislation is critical. You could say it is the core of the issue we are facing here today. We have got the vehicle there. Let us allow us now to look back.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, there is an old saying, ''Be careful of what you ask for, because you might get it.'' And I would urge my colleagues to keep that saying in mind, because if you ask for this, you very well just might get it.

What is this amendment going to require of the Government? And what rights is it going to permit? Is this going to permit somebody to petition who is aggrieved in business, who feels he has been wronged with regard to a regulation which is imposing unnecessary costs on him? Yes, it is. But it is also going to permit Ralph Nader, the Sierra Club, the Natural Resources Defense Council, and ordinary individuals to do the same, because the language of the amendment says, ''Any person,'' any person without limitation as to who. And they can submit this petition each 6 months for 8 years, 15 times, and if they do not get what they want the first time, they can resubmit it, and in resubmitting it, they can again ask for the same relief.

And when the agency has decided whether they are or are not entitled to the relief they have sought with regard to having the matter reopened, it is a final action. Now, for the benefit of my colleagues who do not understand these things, ''a final action'' is a word of art in the Federal law which says that that final action then is reviewable in court.

So let us look. Any chemical company is subject to having a reopening on any of their additives or any of their agricultural pesticides every 6 months for 8 years. They can be in court constantly and can be harassed under the provisions of this particular amendment.

The auto industry, on fuel efficiency or auto safety or clean air, can be in court constantly, and the subject of whether or not they are entitled to have a particular regulation that is in place remain in place or be subject to having it reopened by some outsider is settled by this amendment. What it says is anybody who wants to can go in and force this process and can then, on the conclusion of the action of the regulatory body in approving or disapproving, have the matter opened to litigation by any person who has an interest.

Now, let us look at an electrical utility. Let's suppose an electrical utility has gotten a particular ruling from the EPA with regard to emissions of sulfur. That particular judgment is open to review every 6 months for 8 years, and again it is subject not only to regulatory action of the agency but to judicial review. Imagine the harassment that can take place of the American electrical utility industry or any other industry in this situation.

Let us go to others. A food additive, or fluoridation of water in a community, comes open at every turn, because that regulation is subject to this particular provision. The individuals affected can demand that this be done every 6 months for 8 years, and every American water company, every American municipality that delivers water is going to be subject to being sued under this and to have the whole matter carried through not only the entire administrative process but then subject to judicial review as often as a complainant may want. Every 6 months it can be done.

I do not think this body wants anything of this character to be put in place. There are regulations in place which make sense, and there are regulations in place which do not, but if you are going to address the ones that do not make sense, I would beg you to understand that this is not just limited to one particular regulation, or one particular kind of regulation which might be hostile to industry, or which might cost too much, nor is this legislation going to be used only by responsible citizens or American businessmen concerned about competitiveness, but malefactors and irresponsible parties as well.

It is going to open the door of the regulatory process to every crackpot, nut, special interest group that you might care to name, and they are going to run all the way from the environmental extremists to the right wing reactionaries, and all the way from crackpot left-wing advocates to reactionaries who think that industry is being excessively hurt by sensible regulations.

□ 1545

The result of the adoption of this amendment, very frankly, is not only going to be to bring the administrative process in this Government to a halt by compelling tremendous relitigation, reexamination of every existing rule but it is going to go further. It is going to harass and drive American industry to its knees.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage in a colloquy with the gentleman from Virginia [Mr. BLILEY].

Mr. Chairman, I would like to ask my colleague a series of questions that relate to the impact of this bill on the Great Lakes States, because my district has more shoreline than any other district except Alaska.

As you know, the Army Corps of Engineers operates and maintains approximately 12,000 miles of commercial navigation channels; it maintains 297 deep draft harbors and 549 shallow draft harbors. Under the River and Harbors Act of 1899, the Corps of Engineers issues permits to private contractors for most harbor dredging. In addition, the Corps of Engineers issues general and regional permits for dredging—for instance, in New York and New Jersey.

Under title I, dealing with risk assessment, on page 8, beginning on line 5 and ending on line 9, it says that this title applies to ''any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior.''

Later in the same title, on page 25, on lines 12 and 13, the U.S. Army Corps of Engineers is listed as a ''covered Federal agency''; I assume for purposes of the rest of the title.

My question to the gentleman is: Does this bill apply to individual, regional, or general permitting actions by the Corps of Engineers for dredging?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Virginia [BLILEY].

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Chairman, individual, regional, or general permitting actions by the Corps of Engineers for dredging under the Rivers and Harbors Act are not included as significant risk assessment or characterization documents for purposes of title I. The corps could, by rulemaking, add such actions to the scope of title I but the act does not mandate this outcome. Title II applies to major rulemaking and such major rulemakings may subsequently affect the permit program.

Mr. STUPAK. In addition to dredging activities, the Corps of Engineers has 376 projects under construction. Does this bill apply to construction projects under the jurisdiction of the Army Corps of Engineers?

The corps also owns or operates 273 navigation lock chambers, including one in my district—the Poe Lock System at Sault Ste. Marie, MI. Does this bill apply to the lock systems under the jurisdiction of the Army Corps of Engineers?

Mr. BLILEY. The bill does not apply to construction projects or operations of lock systems per se. The bill only addresses regulatory programs to protect health, safety, or the environment.

Mr. STUPAK. As I said, I am concerned about the impact of H.R. 1022 on the Great Lakes. As you may know, the Great Lakes shoreline covers more than 11,000 miles—a distance equal to almost 45 percent of the Earth's circumference.

About 25 million people get their drinking water from the Great Lakes and the St. Lawrence River, and each day, 655 billion gallons of Great Lakes water are used for various purposes. Ninety-four percent of this water produces 20 billion kilowatt-hours of electricity by passing through hydroelectric plants.

Which brings me to my next question. In 1986, a Russian-flagged ship introduced into the Great Lakes a nonindigenous species—the zebra mussel. Zebra mussels attach themselves to hard surfaces like pipes, making them very difficult to remove. They quickly gang up on a desired target, clogging water intake and distribution systems.

These animals have cost municipal and industrial water facilities millions of dollars in cleanup and control costs. They've disrupted Great Lakes recreation, causing thousands of dollars in damage to boats, docks, buoys, and beaches. Over the next decade, scientists estimate that the cost of the zebra mussel invasion for Great Lakes water users could go as high as $5 billion.

And they're spreading beyond the Great Lakes. The flood of 1993 has helped the mussel spread as far south as Louisiana; it pushed the zebra mussel over levees, up rivers and drainage ditches and into sewage treatment plants and other riverside facilities.

Section 1201(f) of the Nonindigenous Aquatic Nuisance Prevention and Control Act authorizes the National Oceanic and Atmospheric Administration to conduct research to find a solution to the problem of nonindigenous species like the zebra mussel, sea lamprey, and European ruffe.

My question to the gentleman is: Does this bill apply to research projects conducted by NOAA?

Mr. BLILEY. Research projects, themselves, do not fall into the mandatory definition of significant risk assessment or characterization documents. If such a document were used as a basis for a major rulemaking or report to Congress, then title I would apply for the rulemaking or report to Congress. NOAA, however, can add risk assessment or characterization documents to coverage through a new rulemaking.

If title I requirements applied, they would require disclosure, best estimates, and comparisons. These requirements are broadly viewed as important benchmarks which should be followed for all risk assessments and characterization.

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Virginia for engaging me in a colloquy and creating this legislative history.

Mr. GRAHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, of all the things that I have had a chance to vote on, I am more excited in voting on this amendment than just about anything we have done here, because to me the November 8 election said something pretty strong, that we feel distant from our government. The gentleman from Michigan talked about groups that were extreme in nature being able to talk to their government. I think one of the reasons we had such an extreme change in the way the country is being run is because people felt very alienated from this country, they felt alien from regulatory bodies that could pass on huge costs of doing business in private and public life, and nobody could ask commonsense questions.

Of all the things that I voted on in this Congress, I am very proud to support the opportunity for average citizens, not crackpots, not nuts, to be able to come and talk to their government in a meaningful fashion, something that has been lost in this country.

There are triggers in this bill. It has to have a $25 million effect in the aggregate before you can petition your government. Twenty-five million dollars is still a lot of money in South Carolina, and still a lot of burden to bear in this country. And when $25 million gets to be nothing, then we really do have a problem here.

The exciting thing to me, Mr. Chairman, about this amendment is it allows average, everyday citizens, people trying to make a living, trying to pay the bills, to come to their government and ask them to give answers to commonsense questions, making the government accountable, having to explain why they regulate the way they do, having to explain the benefit and, yes, the cost. That is something that is missing in government in 1995, and, yes, this amendment will bring government back to the people more than anything I can think of.

I would ask every Member of this body who believes that the U.S. Government has gotten distant from its people to vote for this amendment which allows you to petition your government to answer your questions. What a novel concept in democracy.

I move very urgently that we pass it.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I want to point out that a good part of the debate, at least yesterday, was on the point this bill was going to be prospective. We are not going to open up all the laws on the books now to protect the public health and environment.

This particular amendment specifically goes backward and says we are going to look at and review Federal programs designed to protect human health, safety or the environment, to revise rules and program elements, where possible, to achieve certain results.

Now I want to give a real-life example of what is likely to happen under the circumstances under this proposal so that we can understand that this is a likely result that I think the proponents of this amendment would not want to see happen.

Under the Clean Air Act, in order to achieve the pollution reductions of VOC's, which cause ozone, there is a requirement that there be a strategy to reduce pollution on those that cause the pollution.

The pollution caused by big polluters, like automobiles or smokestacks or factories, the reduction is anywhere from $2,000 to $10,000 per ton, according the testimony from the head of the Environmental Protection Agency.

But if you ask that the reductions not be from the major polluters but from individuals by requiring them to spend money to be sure that their older vehicles achieve the reduction requirements or achieve what their cars are supposed to achieve by way of emission reductions, the Environmental Protection Agency has told us that would be nearly $500 a ton. Now, that could mean that the auto industry, or a factory or a big polluter can come into EPA and complain about the regulations that have been imposed on them by their own States and say that, ''We don't think it is reasonable because you can achieve an equivalent reduction but going after individual drivers and owners of vehicles.'' And they will be right because it is more cost effective to achieve the same pollution reduction.

But what we have to ask ourselves is, is that the result we would want to see? If individuals are going to have to bear the costs to repair their cars, the older the car the more polluting it will be and therefore the more it may cost to repair it. That means, often, low-income people will have to spend that money. But it is a more cost-effective way to achieve the result.

I would like to ask the gentleman from Texas [Mr. BARTON], who is the proponent of this amendment, would he want to see a regulation that imposes controls on a major polluter be relieved of that responsibility by having the burden placed on individuals to bear the costs because it would be a less costly may to achieve the same results?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Chairman, I point out that we do not change the law, we do not change the Clean Air Act. The Clean Air Act specifics that if a certain percent of environmental increase in air quality is going to come from stationary sources, we do not change that, but we could under this amendment——

Mr. WAXMAN. Reclaiming my time, the gentleman is wrong on that point, because the Clean Air Act says you achieve the reduction and achieve it any way that the State thinks is appropriate. They develop an implementation plan. They can develop a mix of strategies; they do not have to go after stationary sources for a certain amount or vehicles for a certain amount. They factor in all the sources of pollution.

The point I am making is they may well have decided to tell a factory to spend a couple of thousand dollars per ton in order to achieve the reductions from a major source. But that major source can now come in and say, ''Wait a second, you can get the same result from an individual car owner at a less expensive rate, and we demand that you do that.''

As I read that the gentleman's amendment, the EPA would have to go along with that petition.

Mr. BARTON of Texas. If the petitioner, in the gentleman's case, the mobile source industry, shows substantial evidence they can achieve the same result with greater flexibility and lower costs, EPA does have to agree to review it. Then it has to make a final decision, and it has to prove that final decision with substantial evidence. Then the current law kicks in on the review.

Mr. WAXMAN. My point is that, using the criteria the gentleman set out in his amendment, they are going to establish that case that they do not have to have the burden placed on them as a major polluter because they can achieve the same result by requiring individual consumers who own vehicles, through an inspection and maintenance program, to achieve those same reductions, but at a cheaper rate.

Therefore, as I read the gentleman's amendment, they would be mandated to grant that petition.

Mr. BARTON of Texas. But the bottom line is we want cleaner air at lower cost or more flexibility. And I think we both agree on that.

Mr. WAXMAN. But I do not think that is the bottom line because I do not think the major polluters ought to get out from under by shifting the burden on individual citizens, since ordinary people that are going to have to pay the cost out of their pockets, many of whom would not be able to repair their cars sufficiently to achieve the standard, and that is why I object to this amendment.

□ 1600

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, members of the committee, on a visit to the British parliament recently I learned something rather interesting about a phrase we use in America, a phrase called ''in the bag,'' and when we say something is in the bag, we normally mean it is completed, it is a done deal.

Mr. Chairman, the phrase comes from something that refers to this amendment and is appropriate to the discussion of why this amendment is vitally important and why it should be passed.

In the history of the British parliament and the fight for democracy with the monarchs in Great Britain the concept of petitioning the government for redress was a very important concept, one that was won at great cost and great loss of life in that struggle between monarchy and tyranny and the rights under a democracy. The British Parliament has come to respect that right to petition as such a strong right that it now includes in its construction a bag, literally a bag, that is placed at the door of the Parliament, and, when a petition arrives from the people of Great Britain and is accepted by the Parliament, that petition goes in that bag. Hence the expression ''It's in the bag.''

The expression means it is a done deal, the Parliament can no longer ignore the wishes, the petition, of the people of the country. The government must respond to the people in their request for some action, some redress of wrongs, some correction of some grievance, and so it is with the Barton-Crapo-Tauzin amendment.

Mr. Chairman, this amendment literally does the same thing for the people of America. It says that when the people of this country who are affected by rules and regulations of this Government honestly believe and can substantiate with documentation to that effect, that our Government has passed a rule or regulation which unduly burdens their life which could be amended to provide the same equivalent protection to safety, health, and the environment as the old regulation does, which could be revised so that they could live with it with less cost, fewer job losses, fewer plant closures, fewer property damages, fewer impacts upon small businesses; if there is a way to have the same protection, and yet do it with less of an impact of regulation in our lives, this amendment says the people shall have the right to petition the Government and that petition is in the bag. Government cannot ignore it, but it must act upon it in a given and expressed time period where the Government must review it.

Now it does not say that the Government must take the action that I petitioned them to take. It simply says, ''If I support my petition with enough documentation to justify a request that

substantial protection, the same equivalent protection provided under the old rule, can be made available with a more flexible rule, one that will cost our citizens less, one that will employ, in fact fewer lost jobs in our society, one that will shut down fewer plants, one that will let us continue to be a productive society and yet have the same safety, health and environmental protection as the old rule, that the Government cannot ignore that petition. It is in the bag, and the Government must consider it.

Now let me read to my colleagues the most important section in our amendment. It says that the purpose is to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliancy or a much more flexible manner.

Mr. Chairman, those are the goals of this thing, and that is the only basis upon which petitions can be filed and accepted by the Government agency. I ask,

> Who among you would not want our Government to review its rules to find out if we can have the same protection and still have people employed in this country? Who among you would not want our government to review its rules to make sure that small businesses did not have to shut down, that mills don't have to close, that our country can go on working and producing food and fiber for our families and have the same equivalent protection?''

Mr. Chairman, that is what this amendment does. It says when the people of our country affected by the rules this Government makes petitions this Government to look over its rules and to see whether or not there is not a better way to do it, that the Government ought to hear it and the Government ought not deny those petitions. It ought to accept them, take them into the bag, if my colleagues will, and give us a chance to get a better rule.

That is all it says, that is all it does, and anyone who opposes this amendment, says that they are just happy as a lark with any old rule that puts people out of work, and costs us too much in small businesses, and creates to much of a problem in our society, and we are not going to do anything about it. If risk assessment cost analysis has value for the future, it also has value for citizens who want to petition this Government about wrongs and to redress those wrongs with a petition process that looks back at an old rule that could be made better. This is all this does.

Mr. Chairman, I want to call to my colleagues' attention one last section of the amendment that is probably equally important. It says that nothing in this section shall be construed to preclude the review of revision of any risk assessment or risk characterization document, rule or program element at any time under any other procedures. It says in effect that while we create the accelerated review process where Government has to take account of the petitions filed by people in this country, that we still reserve the right of our people to petition this Government and to seek changes under any other procedures, any other rights guaranteed under our Constitution, protected.

In fact, Mr. Chairman, under that Constitution is a right bought and paid for with many, many lives in the history of the struggle for democracy against tyranny. The right to petition Government is what we are debating today on this amendment.

I say to my colleagues, ''Those of you who believe in that right, who believe that Government ought not ignore the wishes of the people of this country when they petition Government, ought to vote for this amendment.''

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would say to my colleagues we could almost call the Barton amendment the hallelujah amendment because for many of us who have been in the private sector and have worked all our lives trying to live with all the regulations, the fact that we can now finally petition the Federal Government, hallelujah! So I compliment my colleague for what he is doing here.

We have heard examples from the gentleman from California [Mr. WAXMAN], these hypothetical examples, but let me give my colleagues a clear example that has occurred which could have been petitioned, it could have been redressed, and it could have been stopped:

In the early 1980's, Mr. Chairman, Government scientists argued that asbestos exposure could cause thousands of deaths. Congress responded by passing a sweeping law which led cities and States to spend between $15 and $20 billion to remove asbestos from public buildings. However 3 years ago EPA officials acknowledged further research. Ripping out the asbestos had been a mistake. In fact they pointed out that this mistake had really raised the exposure of the public to the dangerous asbestos fibers which became airborne during removal.

To the EPA it was a mistake. To the American taxpayers it was a $20 billion mistake. Wasted. I ask, ''Wouldn't it have been nice, colleagues, to have had a second chance at that rule, to have the opportunity to petition the EPA to change its needless rule to save the American taxpayers $20 billion?'' Again and again examples like that are going to occur.

To those colleagues that are watching on television, we need to pass this amendment, hallelujah amendment.

I want to conclude. Last term I was involved as a ranking member of a committee called Commerce, Consumer Protection and Trade. We had discussion on redesigning a 5-gallon bucket that is used for painting and hauling water. The Consumer Product Safety Commission analyzed it because a few children got caught in it, and their heads got caught in it because of negligence by the parents. They issued—the Consumer Product Safety Commission issued—a 101-page report. In the report the staff notes that one of their suggestions to the industry was making the bucket so that they deliberately leak. It is being objected to by the bucket makers. Naturally the bucket maker is a little concerned about designing a bucket that deliberately leaks. According to the report, quote, industry representatives claim that they do not envision any use for a bucket that leaks.

My colleagues, now is the time to pass the hallelujah amendment. I compliment my colleague, the gentleman from Texas, for what he is doing.

Mr. NORWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment.

Mr. Chairman, I also would like to congratulate the gentleman who produced this amendment in a bipartisan fashion. I think that this probably is the most exciting thing that I have witnessed in my 54 days in Congress.

There are two parts of this amendment that I believe are very important.

What have we been doing for 2 days? For 2 days we have debated the changes needed with the rules and regulations that have been oppressive to the American people.

Why did we ever write H.R. 1022? Because the American people have finally said that they have had enough of a bureaucracy that tells them what to do from morning until night.

What is my standing in this bill, in this debate? Well, I have only been a Congressman for 54 days. I have not had the last 10–15 years writing legislation in terms of our air quality. But I have lived in the economy of this country, and I have lived under the impressive oppressive rules and regulations that this great large bureaucracy in Washington, DC, feels that they know best how I should live.

Part of the problem is I guess I am a rebel. I am much like those rebels who opposed the king, who did not want to be told what to do from the minute they get up to the minute they go to bed, and I do not want to be told what to do from the Federal Government, 435 elected officials and millions of bureaucrats.

This bill is not, my colleagues, necessarily just about General Motors and Dow Chemical. I agree with my friend from South Carolina when he says that this is a bill for the people, and it excites me every time I read this part of the bill, and if I may, Mr. Chairman, I will.

Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection B may submit a petition.

That is what is important here. People at home do not believe they have any control over their lives. They believe we want to control their lives right up here. This will give them great good feelings to know that they, as an individual, can petition their government to change what we are doing.

I heard earlier this afternoon the question asked what does it require of the Government, what does this amendment require of the Government. I ask, ''Who amongst you is standing up and saying, 'What does this rule require of the small business man?''' I am ready to hear a little bit more of that in this body than just what does it require of the Government.

I ask each of my colleagues to consider strongly passing and voting for this amendment, and I congratulate the gentleman from Texas [Mr. BARTON] and the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Idaho [Mr. CRAPO]. I think this is exciting legislation.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Barton-Tauzin-Crapo amendment. Too often we hear about how Washington works in a vacuum. Too often, when the American public thinks of Washington, they think of government bureaucrats sitting behind a desk doing their own thing. To often they see a government which thinks it has all the answers. Too often they also see a government that is afraid to admit when it is wrong.

Well, Mr. Chairman, maybe we do not have all the answers. Maybe we did make some mistakes in the past. Maybe someone else knows something we do not. And maybe, just maybe, it is time we started listening and then acting.

This amendment establishes a process for agencies to update old regulations using the most current scientific data. The public would be able to submit scientific data to Federal agencies and have those agencies check the findings of old rules against new information.

Right now, when a private party asks a Federal agency, particularly EPA, to review new data and possibly modify the current understanding of a particular substance or activity, there is no guarantee that the study will even be looked at. And often it isn't.

This amendment simply requires agencies to consider and respond to new information in an open and timely manner. It keeps the scientific underpinnings of regulations evergreen.

This amendment is really about continuous improvement. It is about making government respond to scientific changes and advancements. Mr. Chairman, it's about common sense—regulations should be based on the best available information. I strongly urge my colleagues to support the Barton-Tauzin-Crapo amendment.

□ 1615

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. We have heard a lot of compelling arguments as to why we ought to do this particular amendment, and many of them make a great deal of sense. The fact is that many people are disturbed about regulations that are already on the books.

I personally am concerned about making the regular legislation before us work, because I feel very strongly that putting a process into place that brings good science and common sense and smart actions into the process is in fact the right thing to do. But I also know that if you take the step too far, that makes this into a litigious bill that in fact destroys our ability to do all of that kind of work, and we will in fact destroy that which we are attempting to do out here.

Now, I want Members to think for a moment about that whole cart of regulations that was rolled in on the floor when we were debating another bill the other day, stacks and stacks of books and paper, of Federal Registers of all the regulations that were done in just 1 year, and virtually every one of those regulations has somebody out there that does not like them.

Now, you think of all those pages and pages and pages of regulation, and then you think of all the people that have some complaint about each of those regulations, and you think about the numbers of petitions that could potentially be filed and the amount of litigation that is going to come from all of those filings, and all of a sudden you are going to have these agencies at a point where they will not be able to do some of the things we want them to do; namely, to put into effect a process for good science and common sense.

I would like to see this process work. I do not want to pass a bill that is simply an employment policy for lawyers. That is what I am afraid this amendment does. I am afraid that our attempts thus far to limit the amount of litigation that would be necessary under the bill are in fact undermined by what we do with this amendment, and I do not want to turn this bill into a lawyers' employment act.

The amendment by opposing reachback does something different from what we have done in the bill thus far. We have made a prospective bill. We have said that from now on in we are going to require regulations to come under the kinds of reviews that we have. The reviews that are in the bill are in fact designed for that kind of prospective status. You undermine our ability to do that when you pass this particular amendment.

The fact is that we can get to a lot of the regulations and the laws that are presently on the books over the next several years as this process rolls forward. Put the bill into effect that sets up a good process, and what you will have then is a series of bills coming up for reauthorization. At every one of those reauthorizations the bill then becomes covered under what we have brought to the floor today. That seems to me to be the right kind of process.

I know that the big guys, the National Association of Manufacturers, the chemical manufacturers, the petroleum people and so on, they all want this amendment. They have all worked very, very hard. But I have got to tell you, I think that it stands the possibility of being the exact kind of lawyers' employment bill that will destroy exactly the things that we are trying to accomplish here.

I would hope the Members would reject this. I think it is being done with good intent. I realize there is a body of regulation out there we would all like to get to, but let us get a process that works. Let us make this thing work as a way of demonstrating then that we can handle the whole body of regulation. There are literally tens of thousands of pages of regulation.

I have got to tell you one other thing that bothers me. I agree with some of the Members who have stood up and talked about the fact that any person can bring an action under this bill, and that sounds like a great American tradition. Trouble is, ''any person'' also includes foreigners, my friend, any person who wants to bring some damage to this whole process. But remember we are in a global environment, and by doing that, it also means any foreign interest can make a determination they are going to come in and disrupt regulations that may in fact in some cases protect our businesses.

It seems to me that is not something we want to do just haphazardly on the floor. I have got a concern that we are doing something here that we may not understand the full implications of. I would like to think that we could do this bill the right way, and it seems to me doing it the right way is to reject the amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I appreciate the gentleman yielding. His eloquence in opposition to this has moved me to rise in order to compliment him for his good judgment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. It was my feeling initially that this bill might

not be germane to the legislation because as the gentleman correctly points out, this is an effort, through the improvement of risk assessment, characterization and cost-benefit analysis, to improve prospectively the regulatory process. This goes way beyond that to retrospectively in effect seek to review every kind of regulation that is on the books.

But I was persuaded by the ambiguity of the Parliamentarian that this might be germane.

Mr. WALKER. Parliamentarians are often ambiguous.

Mr. BROWN of California. It is true that the impact of this amendment overwhelms the impact of the rest of the bill, and it is more appropriately considered in connection with other efforts at regulatory reform.

It was also my feeling, since you and I are primarily concerned with the nonregulatory aspects, that others should carry the burden of opposing this. But I think that it is appropriate that we suggest that this would in effect hamstring the entire, not improve, hamstring the entire regulatory process.

Now, some have said that most Members would not like that. I think there are Members here who do want to hamstring the Federal Government in every way that they can. While I can understand that, I cannot support it. My only reason for possibly supporting this would be that I guarantee you it would cause the bill to be vetoed if it ever were to get through.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman and certainly respect his opposition. I would like to see if the gentleman could tell me where there is additional litigation required by the petition process, because we do not preclude any potential litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BARTON of Texas and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, we do not add anything in the petition process that requires litigation or precludes litigation that could exist under current law.

Mr. WALKER. Mr. Chairman, reclaiming my time, first of all to bring the process in the first place, you are going to require it to come in in a form that can in fact be done by the agencies, and the agencies, in collecting all of this material and so on, are going to have to put it in a form that legally reflects the regulations. So right away you set up that process.

Ultimately, I assume, it is my understanding that under the bill you subject it to the same judicial review that is already in the bill. You do not include judicial review in your petition, but in relating to the rest of the bill, you bring it to the stage of judicial review. So all of that regulation, all of that cart of regulations brought on to the floor the other day, if all of that was challenged, it would also be subjected at some point to judicial review.

So while it is not stated in your amendment, the effect of your amendment is to dramatically increase the amount of regulation that would come under judicial review.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman would yield further, I would respectfully disagree with that, because we set up a process that is fairly circumscribed as to what has to be in the petition, the time frame the petitions can be reviewed, and we do have a date certain in which if the agency determines to take a petition, that they have to consider it and make a ruling. So none of that is litigious.

Mr. WALKER. Mr. Chairman, reclaiming my time, but under that ruling, under the provisions of the bill, this is a final action subject to judicial review at that point.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will continue to yield, the bottom line, and I respect the gentleman for letting me ask some questions, we simply have to have a way to at least review existing rules and regulations that allows America to come in and request this. We disagree on that.

Mr. WALKER. No. But I understand that. But we have some idea of what we are dealing with in terms of regulations. For instance, we know that in a period of time in the early nineties, about 2000 EPA regulations were written. We know how many of those fall over the $100 million mark. We have some idea how many fall over the $25 million mark. We have some idea how much we are going to be dealing with over the next few years as these agencies write the regulations.

What we do not know under the gentleman's process, since any person can come in and complain about anything ever done in the regulatory sense of the Federal Government, we have no idea how that may explode.

Mr. BARTON of Texas. We have the same requirements. It has to be the $25 million threshold. We do not change that. We require quite a bit of documentation in the petition process. We also require they show it would be cost effective.

Mr. WALKER. All of that documentation process is going to involve attorneys and all kinds of people in order to do the appropriate documentation. That to me is litigation. The idea that any citizen is going to be able to pop out of the woodwork and bring it in, the gentleman describes it correctly, that is not really going to happen. You are going to have monied interests that are going to be involved here.

Mr. EHLERS. Mr. Chairman, I rise to oppose the amendment and support the comments made by the committee chairman, who spoke just a few moments ago, although I come at it from a somewhat different angle, speaking from my scientific background.

Mr. Chairman, I simply want to repeat a warning I gave during our discussion of this bill in the Committee on Science. Risk assessment is in fact an idea whose time has come. It is a good idea. But at the same time, let us not assume that this is a panacea, that it is going to resolve regulatory difficulties, and that everyone is going to agree with the results and say hallelujah, this is wonderful, and now we can do this and save money and still protect the environment.

It is difficult to do. There are many factors involved which are not fully understood, as we can see just from the debate here over the past day. It is not going to be a panacea, it is going to be difficult to implement. The number of people who truly understand risk assessment and how it proceeds is limited in this Nation, and we have a considerable amount of expertise to build up.

In other words, I support the bill. I am anxious to see it go into effect. I hope it works as well as I think it will. But I believe that we have to evaluate how well it works and get a better handle on it before we try to broaden it too much. For that reason, I oppose this amendment, even though I do commend the gentleman from Texas [Mr. BARTON] because the amendment is indeed better than the original version that was contained in the Committee on Commerce version of the bill.

I believe that as written, and given the nature of the backlog of cases out there that people are concerned about, this amendment would result in overwhelming the process and perhaps in fact very likely making the entire risk assessment process unworkable. I think it is very important to put this bill in place, prove that it does work when properly applied, and develop the experience and expertise that we need to really make risk assessment work and work well.

We will have ample opportunity in the future to broaden the process, to adopt the petition process, and to go back and review other regulations. But I truly worry that we will overwhelm the system, we will overwhelm the process, we will overwhelm the people who are available to do risk assessment, unless we proceed carefully and first of all establish the process according to the bill, demonstrate that it works, and then it is going to become, if we succeed, as I hope we do, so self-evident that this process should be used in all cases, that in fact we should go ahead and apply it to other cases.

□ 1630

In other words, I oppose the amendment because I believe it is going to be deleterious to the bill and deleterious to the goals of the sponsor of the amendment.

I urge the defeat of the amendment and the passage of the bill.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, H.R. 1022 is a good bill. It will dramatically change the way regulations are promulgated in this country and bring some common sense into the process. However, there is one serious flaw—it does nothing to improve regulations that were promulgated under standards lacking in cost-effectiveness or based on poor science. The Barton-Tauzin-Crapo amendment addresses this problem.

The current cost of regulation on the economy is conservatively estimated to be $500 billion annually. This translates into $10,000 for a family of four. To put it another way, 10 cents out of every dollar goes to pay for the cost of regulation. The current lack of risk assessment and cost/benefit analysis means resources are being used inefficiently and only adding to this burden.

We need to address the issue not only of unreasonable prospective regulations, but also of those that are currently weighing down the economy. Under this amendment, any party affected by a major regulation or risk assessment covered in H.R. 1022 can ask the Federal agency to review its rule to take into account new information on risk and/or cost.

The review is only available in cases where the petitioner demonstrates that existing regulations are not cost-effective methods of addressing the targeted risks. The point of this amendment is to give citizens the opportunity to find better ways to achieve the same protections currently provided.

Some concerns have been raised about the potential for increased lawsuits as a result of this process. Several points should be made in response:

In the first place, remember that a petition process already exists under the Administrative Procedures Act, complete with judicial review. The Barton amendment simply expedites the process for the agencies covered by this bill.

Further, no new rights to go to court are created by this amendment. Citizens retain their right to judicial review under the petition process currently in the APA.

To prevent frivolous petitions, the amendment sets up many hurdles. The burden is placed on the petitioner to provide the scientific and economic evidence to support the rule revision. The result is that few petitions are likely to be offered.

Additionally, because petitions can be filed only to decrease costs imposed by regulations or to make them more flexible, antibusiness interests are not likely to file petitions. Nor can antibusiness interests use this amendment to increase the costs or make regulations more inflexible.

The bottom line is this: H.R. 1022 establishes improved risk assessment and cost/benefit standards for new regulations; why should we leave untouched the scores of current regulations that fall short of these standards? Instead, we should allow citizens to petition agencies with their ideas for revising existing regulations to achieve the same amount of protection at a lower cost of compliance, in a more flexible manner, and using sounder science.

There are many who have had years of experience complying with these regulations and seeing firsthand the inefficiencies of how they work—or do not work. Where they can identify a way to do things better for less cost, we should welcome the opportunity to take advantage of their experience to make the process more efficient and more effective.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman referred throughout his remarks to American citizens. The gentleman would grant that the language in the bill would give the same rights to foreign citizens as Americans citizens, would it not?

Mr. DELAY. Mr. Chairman, yes, I would assume so.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. DELAY. I find no problem with that. If foreign citizens are creating jobs in this country and are being regulated by this country, they ought to have the right to petition, if they have a better idea on how to save costs and implement these regulations in a more efficient way.

The CHAIRMAN. The time of the gentleman from Texas, [Mr. DELAY], has expired.

(On request of Mr. COLEMAN, and by unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, I yield to the gentleman from Texas [Mr. COLEMAN].

(Mr. COLEMAN asked and was given permission to revise and extend his remarks.)

Mr. COLEMAN. Mr. Chairman, I thank the gentleman from Texas for yielding to me.

Being in opposition to H.R. 1022, in many ways I viewed this as really a character of many of the valuable aspects of risk assessment.

Instead of imposing a $100 million threshold before setting into play the complex cost-benefit analysis proposed by the bill, this bill sets a $25 million threshold; is that correct?

Mr. DELAY. Mr. Chairman, that is correct. We set a $25 million threshold because we said if you set a $100 million threshold, you eliminate 95 percent of the regulations that we are trying to bring good, efficient cost-benefit analysis to.

Mr. COLEMAN. Mr. Chairman, if the gentleman will continue to yield, I notice the Wall Street Journal pointed out that the bill ''is harder on Federal regulators than even industry thinks wise.''

I just thought I would point that out. Another little problem which I consider a missed opportunity.

Mr. DELAY. Mr. Chairman, that is one of the fallacies of the arrogance of the elite into thinking that it is more important for the bureaucrats to have an easier time to impose regulations rather than American citizens.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I rise today in opposition to H.R. 1022, the Risk Assessment and Cost-Benefit Analysis Act. I do so with some reluctance, because I made a concerted effort to find reasons to vote in favor of this legislation. I am a firm believer in the benefits of cost-benefit analysis. Indeed, when I worked in the Texas State Legislature, we operated under the principles of cost-benefit analysis, and the results were quite positive.

Under such a system, we were required to determine whether the costs imposed by our legislation would be more than offset by the benefits to public health, safety, and economic well-being. I strongly support such a system. I know that it eliminates wasteful and unnecessary regulation, and that it lends greater legitimacy and force to those regulations that provide important safeguards for human health and the environment. I know the Congress needs to pass a similar bill. But once again, I find myself confronted with a bill that I simply cannot support.

The current administration has already made substantial gains in streamlining and improving the Federal regulatory process. Under an Executive order issued in September of 1993, every regulation with an economic cost of over $100 million is subject to an agency cost-benefit analysis. This is an important first step, and there is a great deal that we can do to further this efforts. We need to give greater consideration to the views of those affected by regulations, including those who must perform regulatory tasks. We need to move away from litigation as the solution to the regulatory nightmare, and instead solve the problems at their source: the regulatory agencies. We need to show flexibility in our evaluation of existing regulations. The administration supports such initiatives. We have the opportunity to draft legislation that will complement this endeavor. H.R. 1022 represents a missed opportunity.

The bill before us today is, in many ways, a caricature of many of the valuable aspects of risk assessment. Instead of imposing a $100 million dollar threshold before setting into play the complex cost-benefit analysis proposed in this bill, H.R. 1022 sets a $25 million threshold. The Wall Street Journal noted on February 9 that in this respect, the bill ''is harder on Federal regulators than even industry thinks wise.'' The $25 million threshold is simply too low. It will impose a costly and time-consuming examination process on regulations with economic effects so minor that they do not warrant this level of scrutiny. That translates into the squandering of taxpayer dollars.

Additionally, rather than eliminate the legalistic nightmares often associated with regulations, this bill will compound them. By allowing judicial review for regulations deemed

noncompliant with the terms of H.R. 1022, we are inviting years of litigation on numerous regulations. This will not be good for business; it will not be good for the environment; it will not be good for human health. No one will really benefit from the glut of court cases that will occur as the result of this bill. And we have rejected an amendment that would prevent this litigation explosion.

Furthermore, under the guise of giving increased consideration to the views of affected groups and front-line regulators, this bill allows for review panels with inexcusable biases. Those industries with large financial interest in regulatory issues at stake would, under the terms of the bill, participate on a Federal peer review panel. Major polluters will now play a legitimate role in illustrating why their financial interests are more important than clean air or water. Peer review should not be skewed so far in favor of powerful industrialists. Yet that is the situation created by H.R. 1022.

Finally, I have stated that we should look with critical eyes upon past regulations, and see what can be fixed. But H.R. 1022 fails to take a rational course of action with respect to this aspect of regulatory reform. Instead, it threatens all of the progress that we have made over the past few decades through regulation. The bill ensures that in cases where the new law conflicts with old regulations, the old regulations are systematically superseded. This puts important legislation such as the Clean Air Act and the Safe Drinking Water Act at risk.

In the name of numerical scientific analysis, we are threatening to gut regulations which, through the years, have had extremely positive effects on the lives of the people of this country. In short, Dr. Gibbon, Director of the Office of Science and Technology Policy testified the bill ''would place the safety of all Americans in the hands of recipe-following number-crunchers whose idea of public health is the bottom line on a ledger sheet—the very antithesis of what we should be doing.''

I am not ready to give up on regulatory reform. I believe there is still time for an effective and prudent bill to be passed by this body. We still have the opportunity to work with the Senate in crafting a piece of legislation that will stop the relentless regulatory regime. We can still create a law that will allow us to work with the Clinton administration in their efforts to change the regulatory system.

I would like to have the future opportunity to vote in favor of a more carefully framed risk assessment and cost-benefit analysis act. But I am disappointed that the rush to meet the 100-day deadline of the Republican contract has resulted in such shortsighted legislation, which I believe will put many Americans at risk. Therefore, I am voting against H.R. 1022.

Mr. LARGENT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of this amendment.

Mr. Chairman, there has been a lot of question, a lot of debate, a lot of rhetoric about whether this amendment would in fact increase the amount of litigation in this country. There is no question about that. It certainly would increase the amount of litigation. There is good reason for that.

Who would question in this body that there have been a number, a large number of laws, regulations and rules that have been enacted in this country that are both egregious and punitive, that have had the law of unintended consequences take place.

And if I have the picture correct on the arguments as to why this bill should be defeated, it is this, that Mr. Constituent, Mrs. Constituent, the reason I had to vote against the Barton amendment was that we have passed so many laws and so many rules and so many regulations that are egregious and punitive and that are wrong and that have had unintended consequences that we now are afraid that there is going to be so many legal actions taken that we have to vote against the Barton amendment because we have overwhelmed you with this type of rules and regulations and so now we are afraid of the brunt of your anger and the brunt of your legal actions against the Government for the rules that we have passed that we cannot allow you the opportunity to redress those situations.

I want to speak and give one particular example from my district. As I campaigned before the election in November, I had the opportunity to talk to a gentleman in my district who is the CEO of a large oil and gas company that owns and operates an oil refinery in Louisiana. And he said in their budget over the next 5 years they have budgeted $1.5 billion to meet EPA standards as they impact their oil refinery in Louisiana.

And his comment was this, we have no problem with the goal that the EPA establishes for us for clean air and clean water for those citizens that live in and near the community that our refinery operates in, but the problem we have is this, we have no problem with the goal. But the problem is the rules that establish how we reach the goal are so rigid that in fact if we could use our own ingenuity, our own enterprise and left to our own device, that we could meet or exceed the goals established by the EPA and cut the cost $1.5 billion, we could cut the cost in half, save $750 million.

You want to know what the cost of this regulation is, the cost of this amendment? It is that we will improve the efficiency and the effectiveness of the business community, thereby increasing the number of jobs. We talk a lot about improving the living conditions and the wages of the common man. That is what this amendment is all about, is by relieving the regulatory burden that we have already placed upon the backs of our business community and the industries in this country today, we want to give them an opportunity to relieve themselves of the burden, the law of unintended consequences, thereby creating more jobs, improving the standard of living. That is what the Barton amendment is all about, and that is why I rise in support of the Barton amendment today.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. LARGENT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. There has been some talk that somehow it is just the big business interests that support this amendment. The American Petroleum Institute does support it. The Chemical Manufactures Association does support it. But the National Federation of Independent Businesses, which is a small business organization, supports it. And if you look at the list, the Alliance for Reasonable Regulation and you look through all the companies that support the bill, they also specifically support the Barton-Tauzin-Crapo amendment. There is some companies in here, while I am not personally cognizant of them, I do not think Barney Machinery Co. is a big business. I do not think the American Lawn Mower Co. is a big business. So it is small business, the people that exist, and as the gentleman pointed out, have to live day to day under these regulations that are supporting this very important amendment.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with all due respect to my chairman of the Committee on Science, I rise in support of the Barton amendment, because I think that it is important to stop the Government regulation and the strangulation that is happening to the American jobs. This Barton amendment is going to allow the average American citizen to rise against regulations. It sets up a process that allows them to have a voice in this, because I think many of these regulations were developed, they implemented using some type of a risk assessment approach that would be somewhere between a 5-year weather forecast and voodoo.

Unfortunately, it has not stopped the long arm of big Government from getting into my home State of Kansas. There is a heavy equipment dealership in Kansas City, KS. Dean runs it, and he has fallen subject to the net of CERCLA, which is the Comprehensive Environmental Response Compensation Liability Act. His name showed up on a 1972 ledger. This came up last December so it had been brewing for some time, 22 years, but he had $127 worth of waste that was put into the now closed Doepke-Holliday landfill in Kansas City, KS.

The company had shipped some paper cardboard boxes, some similar debris. It was not hazardous waste. Yet the law places a burden on Dean to prove it. Because Dean and 17 other companies are minimal contributors to this landfill, the EPA has given them the option of paying $10,000 to $20,000 each to settle potential cleanup problems. If they do not pay this amount of money, then they will run the risk of paying that portion of the bill later on which could be as high as $10 million.

So this current regulation is putting them under a problem. They would like

to fight against this problem, this regulation. But under current law they have not.

We talked about the increased amount of litigation that would go on here. I think there are safeguards in place. I have another man in my district that would really like to get at some current regulations. He recently sent me a Privacy Information Act that was given to him by the ATF when he applied for a gun license. He is not going to be able to fight this even under the Barton amendment because he will not be able to prove the $25 million threshold as a safeguard that is in place. But under this form it says that the information that he will provide to this Federal U.S. Government bureaucracy says that they may disclose this information to a foreign government. And he is upset by that and would like to fight it. But because of the safeguards that are in place, there will be no court action on this one issue.

So I think that there are safeguards in place. I think it allows the average American citizen to fight against the loss of his job by grouping together inside the guidelines, and I would stand here in support of this amendment.

□ 1645

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. CHAIRMAN, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 220, not voting 8, as follows:

[Roll No. 179]

AYES—206

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barton
Bass
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Forbes
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Geren
Gillmor
Goodlatte
Goodling
Gordon
Graham
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kleczka
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Mica
Mollohan
Montgomery
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Pombo
Poshard
Pryce
Quillen
Quinn
Radanovich
Riggs
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Upton
Vucanovich
Waldholtz
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOES—220

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Cardin
Castle
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Goss
Green
Greenwood
Gunderson
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—8

Gonzalez
Gutierrez
Hunter
Lipinski
Miller (CA)
Pickett
Rush
Ward

□ 1703

Messrs. DEUTSCH, OWENS, MARTINEZ, MANZULLO, TOWNS, NETHERCUTT, MOAKLEY, JOHNSON of South Dakota, and DOYLE changed their vote from ''aye'' to ''no.''

Messrs. HYDE, ROTH, BURTON of Indiana, and KASICH, and Ms. PRYCE changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HAYES: On page 8, at the end of line 3, add the following:

''Nothing in this Section (iii) shall apply to the requirements of Section 404 of the Clean Water Act.''

Mr. HAYES. Mr. Chairman, this is an amendment that simply furthers the purposes of this act, the purposes which I wholeheartedly support in regulatory reform.

It merely says that under the permit section that there are some permits like section 404 of the Clean Water Act that ought to be clearly distinguished from some of the language of the bill in its application.

I have spoken to the majority, and I would certainly yield to the distinguished chairman for any comments he may have.

Mr. BLILEY. Mr. Chairman, we in the Committee on Commerce see what the gentleman from Louisiana is attempting to do. We in the majority have examined the gentleman's amendment and agree that there was no intention to include wetlands permits under the Clean Water Act. Section 404 is also sometimes coordinated with the Corps of Engineers. An exclusion would be consistent with the colloquy I had earlier today with the gentleman from Michigan [Mr. STUPAK].

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. This is the gentleman's amendment on page 8, is that correct?

Mr. HAYES. That is correct, yes, sir.

Mr. WALKER. We have no objection to the amendment.

Mr. HAYES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: Page 29, strike line 18 and all that follows through line 6 on page 30, and insert in lieu thereof the following:

(1) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

(2) FAILURE TO CERTIFY.—In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefore in such report and publish such statement together with the final rule.

Mr. BOEHLERT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I would like to point out at the outset, this amendment has bipartisan support and is strongly endorsed by every environmental and consumer advocate group that is identified with this legislation. That is critically important.

H.R. 1022 makes regulations that are being issued pursuant to existing laws subject to risk and cost-benefit analysis. I agree with the authors of H.R. 1022 that these analyses should be done. By conducting the analysis outlined in H.R. 1022, agencies will be assessing regulations in a manner which should lead to more reasonable regulations, and that is something we all want, more reasonable regulations.

However, H.R. 1022 carries the use of risk and cost-benefit analysis one step too far. Under this bill, critically important health and safety regulations could be stopped if one of the many elaborate analyses required under this measure could not be certified.

This means that existing statutes debated and approved by Congress could be, in effect, gutted because some administrative bureaucrat could not certify, for example, that the regulations was the most flexible regulation option. Existing law would be superseded by the supermandate language of H.R. 1022.

Let me read this language. It appears on page 29 of the bill, lines 18 through 23.

Nothwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

What my amendment would do, Mr. Chairman, is ensure that risk assessments and cost-benefit analyses are done. However, when there is a conflict between a regulation arising from legislation debated and approved by this Congress and an assessment done by some bureaucrat, the head of the relevant agency will report the conflict to Congress.

Congress, the people's elected body, will then examine the conflict and, where appropriate, amend the statute giving rise to the regulation. The U.S. Congress, not some nameless, faceless bureaucrat, will decide our Nation's health, environment and safety policies.

I would like to now read the amendment that the gentleman from Louisiana [Mr. HAYES] and I are offering.

Section 1, Rule of Construction. Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

Section 2. Failure to Certify. In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Mr. Chairman, this amendment has broad bipartisan support, and for good reason. It provides for risk assessment to be used in a manner that improves our laws, not gut them on an ad hoc basis. We support taking a hard look and revising where warranted existing health, safety and environmental standards. But the way to accomplish this is through a statute-by-statute examination, not through a shotgun approach that will likely do more damage than good to the American people.

I urge my colleagues to join the bipartisan coalition led by the gentleman from Louisiana [Mr. HAYES] and myself is assuring that risk assessments are used effectively. I urge support of the Boehlert-Hayes amendment. We have a very, very important responsibility in this House. Let me stress, every single environmental agency that has examined this proposed legislation and this amendment is supportive of this effort as is every consumer advocate group.

Ms. ESHOO. Mr. Chairman, I rise in strong support of the Boehlert amendment which ensures that the risk assessment bill does not override existing laws.

The Boehlert language is necessary to safeguard critical safety and health regulations and the people which these regulations are designed to protect.

Mr. Chairman, despite the good intentions of this bill, the Boehlert amendment is needed because this legislation is poorly drafted, hastily reviewed, and now before us without a clear understanding of its consequences.

Let me give my colleagues one ominous example of what we are faced with here:

During the Commerce Committee markup of the bill, I offered an amendment which highlighted the unintended dangers posed to women's health by this bill, specifically breast cancer.

What I did was subject one bill—the Mammography Quality Standards Act—to the requirements of the risk assessment bill. Not only did this example show how dangerous this bill is to women's health and mammography standards, it demonstrated how little the framers understand it and the effects it will have on current laws and regulations.

The Mammography Quality Standards Act helps ensure sound mammography services by regulating facilities which provide mammograms.

Under the bill considered by the Commerce Committee, the FDA, which implements the mammography act would have needed to perform a series of complex, costly, and time-consuming risk assessments and cost-benefit analyses before those regulations could take effect.

As a result, this important law could have gone unenforced or been subject to lengthy court procedures.

Mr. Chairman, breast cancer is already the second leading cause of death in American women and 50,000 women die each year from this disease.

We all know that without a known cure, the key to battling this devastating killer is early detection. Mammograms can detect breast cancer up to 2 years before a woman or her doctor can feel a lump and if the disease is found at these early stages, it is 90–100 percent curable.

Prior to passage of the Mammography Quality Standards Act, there were no national, comprehensive quality standards for mammograms that applied to all facilities.

Quality needs to be assured at these facilities—studies show that faulty diagnoses or early tumors due to poor image quality or incorrect interpretations result in delayed treatment, more costly medical procedures, and higher mortality rates.

Mr. Chairman, when I offered my amendment at the Commerce Committee I asked if the mammography bill would be affected by the risk assessment bill. With the assistance of the majority counsel, the majority response was ''yes'' the risk assessment bill would affect provisions of the Mammography Quality Standards Act.

Despite this acknowledgement by the majority, my amendment to exempt critical women's health protections from this drawn out process was defeated along party lines. In fact, one of my Republican colleagues said he could not support the amendment because it would prevent us from setting appropriate priorities—in other words, there might be higher priorities than providing women with good-quality mammograms; there might be higher risks than the deadly disease of breast cancer.

After the committee reported out the bill, I received a memo from the chairman of the Health and Environment Subcommittee informing me that after taking another look at the bill, the Mammography Quality Standards Act would not be subject to the requirements of the risk assessment bill because it is administered by the Department of Health and Human Services which is not subject to the requirements of the bill. The chairman said in the memo that the point would be clarified in the committee's report.

This point was never clarified in the committee's report.

And upon checking myself, I learned that although HHS has statutory authority over the bill, the FDA, which is subject to the bill, implements the Mammography Quality Standards Act and therefore has administrative authority over the bill.

□ 1715

The large bells went off. The reason why I take this time to explain all of this, which is a long story but a very important one, is that if we take the laws of the land today, and have to subject them to the language, and I only use this one example, the Mammography Standards Act, it does not pass muster.

So I pay tribute to my colleague from New York and to the bipartisanship of this effort with this amendment. I think it is needed. I hope I have given a very good example of why it is needed.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment and I do so for much the same reason that I opposed the previous amendment. In the case of the previous amendment there was an attempt to reach back, and in my view that does not make good sense in terms of this legislation. But this legislation is designed to do regulations prospectively, and that is what the author of this amendment now comes to us and tells us we should not be able to do. He says that under the laws that presently exist, even amendments written in the future ought not be covered by the provisions of the bill that we are passing.

I just think that makes no sense. It seems to me that if in fact we are going to require good science on legislation that we pass now, we ought to require good science on things that were passed before. If we are going to require cost-benefits on legislation we pass now, we ought to require cost-benefit analysis on things that were passed before.

This is not anything talking about regulations already in place. This is talking about regulations that the agencies are going to write in the months and years ahead. And it seems to me that the provisions of this bill should apply to those kinds of things.

All we are requiring is risk assessments and cost-benefit analysis that are objective and unbiased. We are saying that the incremental risk reduction benefits of a major rule will be likely to justify and be reasonably related to the incremental cost of the rule and that regulation is either more cost-effective or provides more flexibility to State and local government or regulated entities or other options.

That is all this bill is about, and all we are saying is regulations which are pursuant to the laws that are presently in place ought to meet that kind of criteria.

In short, this legislation would supplement and if inconsistent with prior law would supersede the requirements of prior law when that prior law prohibits regulators from considering the criteria just described.

Regulators should be forced to justify their laws. Why? We have already seen the kinds of things that too often happen and could be stopped if we had good patterns. For instance, under the Safe Drinking Water Act, Columbus, OH, must monitor a pesticide that is only used to grow pineapples. I do not know how many pineapples are grown in Columbus. That is probably some overkill that is in the laws. Maybe some of that overkill could be utilized in better ways.

The Superfund Program has cleaned up fewer than 20 percent of the hazardous wastes sites at a cost of $25 million per site. Much of this money has been used to clean up sites that pose no health risks. According to EPA's own data, only 10 percent of the Superfund sites pose actual health risks. The other 90 percent pose hypothetical risks dependent upon future behavior.

Now once again, I think we ought to have some criteria that judges that, and if what we are doing is spending our money to clean up hypothetical problems rather than real problems, maybe we ought to get real, maybe we ought to start cleaning up real problems and have some process by which we evaluate that.

There is the now famous incident where EPA required a hazardous waste dump site to be cleaned up to a point where a child with a teaspoon eating the dirt could eat a teaspoonful of dirt for 70 years under the provisions of the agreement.

Well, I do not know, I mean kids in my area I know do from time to time go out and eat some dirt. Most of them, though, sometime before they reach age 70 stop that behavior. And it seems to me that once again we have a regulation that was written in a way that makes no sense. We ought to require regulators to have a higher standard.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding. He points out a very interesting issue that we are going to be dealing with, wrestling with in our committee as far as Superfund is concerned, and the gentleman is absolutely right. The cleanup standards are beyond belief. They have driven the cost of the Superfund Program skyward when we are not really getting the cleanup where needed. It is based on poor science, it is based on politics, it is based on scare tactics instead of real science. And this bill is to address those kinds of inconsistent, very expensive kinds of propositions in the regulations.

So, if the amendment were to be adopted, it would destroy the ability to really solve the problem of these new regulations that are coming about.

We want to do them by each program and we will be doing those within the Superfund Program, but obviously if you believe in the regulatory madness that is going on right now, you would support this amendment.

I suggest quite the contrary, so I appreciate the gentleman pointing out the Superfund Program. It is an excellent example of these regulations run amok.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank my chairman for bringing this up, but I want to point out that if the agency cannot certify all of the things that are required in H.R. 1022, then the agency has to come back to the Congress and the Congress, the people's representative body, would make the determination.

Mr. WALKER. But all we are saying in terms of prospective regulations is why do we have to have the extra step of coming back to the Congress for every regulation that is issued? Under present law they have to comply with these regulations. There is no need to come back to the Congress. All we want to say is for any new regulations written under old law there should be no need to come back to the Congress. All of this is going to come back to the Congress anyway because we are going to go back to reauthorization approaches. The gentleman wants to add an extra step with regard to old law and I think that makes the risk assessment more inflexible and does not make any sense in terms of where we are headed.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. I would point out if the rule the gentleman is advocating were applicable 25 years ago, we would not have had the progress we have had with lead in gasoline.

Mr. WALKER. I just absolutely disagree with that. The head of the Harvard School of Public Health, the risk analysis portion, says absolutely the opposite. Lead-based gasoline would

have been approved under science-based application.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. If I were trying to draft an amendment that very clearly defeated this bill, I could not have done a better job than the author of this amendment.

This bill provides for two requirements in the law basically. It says that when a new rule is going to be promulgated by an agency it needs to do two things. It needs to do a risk assessment and it needs to do a cost analysis.

Now if I were drafting an amendment designed to kill this bill I would see to it that I gave the agency a chance to avoid both of those requirements, and guess what? This amendment does exactly that.

If the agency currently is writing rules under a statutory requirement that costs cannot be considered in the implementation of those rules, and many of our regulatory laws have such a provision, the endangered species is a good example. It says that once a species is listed you have to cover it, regardless of costs, regardless of how many people are put out of jobs, regardless of how many businesses have to shut down, regardless of how much private property has to be put out of commerce. It says you protect that species regardless of the cost of it.

So, if you were operating under a statutory requirement that says do this and you do not have to worry about costs, under this amendment you would be protected in that statutory requirement. You would never have to do a cost analysis.

Let us assume that you want to avoid doing a risk assessment as well. Under this amendment the author has included words to say that nothing in this act shall be construed to modify or to alter any statutory or judicial deadline. Here is the way you avoid risk assessment under this deal. You simply say we are under a statutory deadline. We do not have time to do a risk assessment, cost-benefit analysis. We have to meet this deadline, therefore, we have promulgated this rule without the benefit of risk assessment, cost-analysis.

How do you avoid it under a judicial deadline? Let me tell my colleagues how cleverly some of these agencies work. Friends of the Earth sued our Interior Department recently and sued the Department on a claim that the Interior Department was not listing species fast enough. There were 4,000 candidates for listing before the Interior Department, by the way, nominated by a single biologist in most cases, and they were not moving fast enough to list these species. So Friends of the Earth filed a suit, and guess what our Interior Department did? It did not contest the suit, it did not go to court and argue that we really have to do a scientific study before we list a species. It instead went into closed doors, behind chambers and agreed to a consent judgment that said okay, we give up; we are going to list 200 new species within the next 18 months, regardless of whether we do any scientific review of whether those species ought to be listed as threatened or endangered. We automatically list 250 new species and under this amendment you have to meet this new judicial deadline of 18 months so we cannot do a risk assessment, cost-benefit analysis of that rule listing 250 new species which may not be threatened, may not be endangered, but the Interior Department has consented to judicial judgment agreeing to do so.

□ 1730

If I wanted to defeat this bill, if I wanted to make sure you never did risk assessment, if I wanted to make sure all the statutes that say you cannot take cost into account are not changed by this bill, I would adopt this amendment. This amendment says you do not have to take cost into account. If the statute says that currently, this amendment says you do not have to do risk assessment if you do not have time. This amendment says you do not have to worry about risk assessment, cost-benefit analysis if you are operating under a consent judgment that you agreed to, so list 250 new species even though they may not be threatened or endangered.

This amendment ought to be defeated.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress to my colleague from Louisiana that I am fully supportive of risk assessment and cost-benefit analysis. Let us make that very clear at the outset. But if the agency involved could not make the certification required under H.R. 1022, that agency would have to report to Congress, and the People's House would make the ultimate determination, not some bureaucrat in the bowels of some building downtown. The People's House, the Congress.

Mr. TAUZIN. The problem, if I can respond, is this House has already spoken in many of these regulatory statutes, and in many cases unfortunately those statutes were written in another day and time. Those statutes say you cannot take cost into account. This bill would change that. It would say from now on you take cost into account. You provide the same level of protection. You simply try to do it with the least-cost option. You do it with more flexibility.

If this amendment is adopted, you go back to the old law. This bill to create risk-assessment, cost-benefit-analysis requirements is defeated by this amendment. This amendment ought to be defeated.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out that the substitution the gentleman from New York is attempting to offer, if he offers it successfully, in my opinion, it really guts the intent of this bill, because the whole reason that we are doing risk assessment is to say that we ought to put in process a basis, a system, that uses scientifically valid risk-assessment principles in a forward way in terms of new laws and new rules and in terms of existing law.

If there is something underway already, they have to use these principles that we put in the legislation, and the amendment offered by the gentleman from New York [Mr. BOEHLERT] very, very plainly states that nothing in the act shall be construed to modify any statutory standard or requirement in existing law.

He also eliminates the substantial-evidence test that has been put into the legislation that says when we do risk assessment in the future, promulgate a new rule or regulation, you have to show there is substantial evidence proving it should be done.

So there are a number of reasons that I think this is an unwise substitution. I oppose it. I would hope my colleagues would oppose it.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress what is said in my amendment under that section entitled ''Failure to Certify,'' it says in the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Then Congress would work its will. We are the people elected by the citizens of America. We have the public trust in hand.

Mr. BARTON of Texas. Reclaiming my time, what we have said in this act of Congress that is before us, H.R. 1022, we are saying in earlier sections that we want scientifically valid risk assessment to be used in the future, and we say in this section notwithstanding any other provision of Federal law, we want it to be used from now on if there is a conflict.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania [Mr. WALKER], who just defeated me on my amendment.

Mr. WALKER. Mr. Chairman, well, the gentleman and I are together on this one.

Mr. BARTON of Texas. Hallelujah.

Mr. WALKER. But the question is here what happens in terms of regulations, and the gentleman from New

York keeps reading this statement about coming to Congress. All they are doing is reporting to Congress. The final rule goes ahead despite the fact it is in violation of the cost-benefit analysis, so the gentleman has come up with a way of reporting to the Congress that we, the agency are going to disobey the law and the heck with you. That is exactly the kind of arrogance that we are hoping to stop with the bill that we are writing.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think it is even worse than that. If you read the language, it says no failure or inability of an agency to make the certification is required under this section. The language of the line just above it says you are not required to do it. You are not required to do a cost-benefit analysis if it is going to alter any statutory requirement, for example, you have to consider cost. You are not required to do it if you are under an agency deadline. You are not required to do it if you are under a judicial deadline. If you are not required to do it, you do not have to issue any certifications either. It is a very clever set of language. If you read it together, it makes pretty good sense. If you can make sense out if it, it kills the bill, It ought not pass.

Mr. BARTON of Texas. That is why I am opposed to it. The gentleman from Pennsylvania [Mr. WALKER] is opposed to it.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me tell you the case about Milwaukee, the cryptosporidium when 104 people died, 400,000 people were made ill because they drank the water from a public water system in one of our Nation's premier cities.

I would suggest if we are able to determine the likely cause of that problem to protect other cities and other millions in the future, and there was a proposed rulemaking and somewhere along the line some bureaucrat screwed up, you would say then stop everything, we cannot go forward.

Mr. BARTON of Texas. Reclaiming my time, on section 3, line 5, page 4, it says the situation that the head of an affected Federal agency determines to be an emergency, the act does not apply.

Mr. WALKER. If the gentleman will yield further, the gentleman is absolutely correct. He cites exactly the right chapter, and the fact is that that is an emergency situation that was raised by the gentleman from New York that certainly would covered under the provisions of the bill, and the agency head would be permitted to go forward without doing anything that is required under our bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, I would point out that the dire emergency is behind us, not prospective, and what we are trying to do is prevent something like Milwaukee occurring again. We cannot foresee a dire emergency in the future.

But if we analyze what happened in Milwaukee and we are trying to protect future millions in other cities and we come up with a proposed rulemaking that somewhere along the way something went awry during the development of that rule and someone made a mistake, we would stop everything in its tracks and say, sorry, millions of Americans, we cannot protect your water supply, we cannot protect you because somebody made a mistake and we cannot do it.

Mr. BARTON of Texas. Reclaiming my time, what we are saying is we can protect you but we want to use sound science to promulgate rules in the future and rules in the present that are based on existing law.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are being called upon today to legislate on the basis of anecdote and to pass a bill of rather doubtful benefit to the society on the basis of anecdote.

My good friend, the chairman of Committee on Science, got up and talked about a pineapple pesticide which was used. This is required to be tested by the EPA. Why? Because it has been widely used in some 40 States in crops until 1979. It is highly persistent. It is a carcinogen, and it has been found in the drinking water of 19 States, one of which would be Hawaii.

I think we ought to look at what it is we are doing. If we are talking about cost-benefit analysis, let us have some cost-benefit analysis. Let us try and understand what this bill is really about.

The bill is really about cost. I have been as critical of the EPA and other agencies for the inadequacy and the impropriety of their science. I am the only fellow around here who held hearings to denounce the misbehavior of EPA in terms of bad science, but let us talk about what we are concerned with here.

This is a draconian bill. They have talked about science and peer review, but mostly, again, what has been discussed here has been cost.

The question is that are we going to supersede all health, safety, and environment and other regulations if they cost too much?

Well, let us look, and let us look at what really counts, and that is the benefits: Public health, public safety, safe and a wholesome environment. How can we tell that the benefit and the costs can be properly equated? What is the cost-benefit analysis that is going to determine the price of a healthy child? What is going to determine what is a safe workplace, and what is this worth to the American society?

We have talked about infestation of microorganisms in water in a major U.S. city. What is the price of a clear glass of water? What is the price and the cost of the benefit of 400,000 people who do not get sick or 100 people who do not die? What is the price of a safe airplane ride to the American citizen? What is the price of a safe workplace? What is the price of a clean Lake Erie in which you can fish and swim? That lake was about to be a dead lake. What is the price of seeing an eagle flying overhead, and how are we to fix the cost-benefit ratio for removal of DDT from the society and that eagle flying above us which was about to be wiped out because of that?

We are talking about the overturn of standards that have been regarded by the American people for years, indeed, for scores of years, and as the basis of their safety, as the basis of a healthy environment.

People rely on these standards every time they get a drink of water, every time they take an airplane ride, every time they get in a car, every time they walk out of their house to breathe. Go to California now and look at the situation in Los Angeles. The air is safe, the air is clean. Why? because we passed legislation which did it.

Was it as good as it should have been? No. I was roundly castigated for years because I sat on that legislation until we could work out a situation where it was going to make good sense.

This House passed that legislation. That legislation says you will not consider costs in determining the safety of standards and regulations.

This legislation is going to put that at risk and raise questions about it. The bill is purported to be about assessment of risk, but what this bill, again, is really about is just simply pulling the plug.

I know my colleagues who support this legislation would say they do not support the idea we pull the plug on life, but today, without this amendment that is exactly what we are going to be doing. We are going to be pulling the plug on health standards. We are going to be pulling the plug on standards which protect the environment and which enable us to live with safety and with comfort with the environment of which we are a part.

Now, I think it is better for our citizens to have the current law. If we have to address the problem of legislation to deal with the problem of inadequacy of cost assessment, and I think we have to do it, then let us do it by addressing the problem under amendment of each of the specific statutes that are involved here. Why? Because

here we are seeking to add one enormously complex set of regulatory practices on top of another set of regulatory practices which we complain.

As I have pointed out to my colleagues in earlier comments, what we are doing is not just stopping legislation and regulations which are going to protect the health and safety and the welfare of the American people, but also which are going to adversely impact upon regulations and changes in regulations which will be of benefit to business.

I urge my colleagues to adopt the amendment and to reject the bill.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment, which would strike the supermandate provision contained in H.R. 1022. I have reviewed H.R. 1022, and I have grave reservations about the bill in its current form. There is no question that we do need to reevaluate our environmental, health, and safety laws in order to reduce regulatory burdens and costs and to improve the protection of our citizenry. This reevaluation should be undertaken carefully and deliberately, on a statute by statute basis, with a full airing of views by all interested groups.

This is not however, the approach that is taken in H.R. 1022. H.R. 1022 would explicitly supersede every environmental and safety law on the books. This bill would prevent any new regulation from being issued unless the agency could muster substantial evidence that the benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs.

We all believe that agencies should execute the mandates of this body in the most cost-effective manner possible. However, the cost-benefit test embodied in H.R. 1022 would make it extremely difficult for an agency to take any rulemaking action whatever—whether good, or bad, or indifferent. Unless the agency was prepared to show in court that the benefits from a rule justified its costs, the agency would be unable to move forward. Agencies would be compelled to place a dollar value on the survival of an endangered species, the purity of a river, the breathability of our air. If the balance sheet did not come out even, or if a judge disagreed with the agency evaluations, then the regulation would be held unlawful under the bill before us.

Make no mistake: H.R. is retroactive in its effect, whether or not it contains a reach-back petition process for reopening existing rules. H.R. 1022 is retroactive because for key statutes like the Clean Air Act, most of the regulations mandated by Congress have not yet been issued by the agencies. According to the Congressional Research Service, EPA has yet to promulgate 75 percent of the air toxics rules required by the act. These 75 percent of the clean air standards would fall within the purview of H.R. 1022 and most likely would never be issued at all if this bill passes in its current form.

The Clean Air Act is but one of many laws that would be superseded by H.R. 1022. Laws governing hunting and fisheries management, the Atomic Energy Act, the Safe Drinking Water Act, the Poison Prevention Packaging Act—these are just a few of the laws whose fate is in the balance today. Who among us can say with any degree of confidence what would be the effect of this risk/cost/benefit bill on these important statutes?

Enviromentalists, consumer organizations, and labor unions are not the only groups to oppose H.R. 1022. Industry too has some significant misgivings about this legislation. Several major manufacturers have told us, over the past several days, that H.R. 1022 goes too far. Industry does not want a rollback of environmental regulation; industry does not want to risk another popular backlash against its activities. In the recent Newsweek article on this bill, an official of Occidental Petroleum is quoted as saying, ''This reminds me of 1981, when industry shot itself in the foot.'' Industry has invested billions of dollars in emissions control equipment already: To rescind the rules that made that equipment necessary is to squander industry's prior investment.

Mr. Chairman, in enacting the past 25 years environmental legislation, Congress has reflected the widespread public belief that protection of public health and the global environment are objectives of paramount importance to society. In my opinion, the public at large continues to hold these views.I therefore urge adoption of this amendment.

□ 1745

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I will confess I am not an expert on regulatory proceedings, but based upon what I have heard here this evening and on our earlier expressions that this method of revising badly needed risk assessment and cost-benefit analysis should really be applied on a department-by-department basis in order to achieve the maximum effect.

I think that this amendment moves us in that direction.

What the basic point that it seems to me needs to be made is that in H.R. 1022 we have a valuable new process that is set into place which would help us make better regulatory decisions, but it requires that there be a certification process according to the criteria which result from this which override existing law.

Now, it is my view that it is not desirable to override the existing law, for the reasons set forth far more eloquently than I can by the gentleman from Michigan [Mr. DINGELL] and others, that what we really need is to reconsider existing law and see if the original basis for that law's criteria—that is, whether or not it should not require cost-benefit analysis or risk assessment—still are valid. We can then proceed, ourselves, to make the judgment that is necessary to either correct the law or to bring it into accordance with the decision criteria resulting from the operation of H.R. 1022.

This is a more moderate approach. I agree with that. It certainly is not satisfactory to those who want a revolution today. But I can feel much more comfortable with this kind of a process because I have been a party to putting into effect most of these regulatory laws over the last 30 years.

On the air pollution legislation, for example, I should not have to repeat this, but 30 years ago this was the key to getting elected to Congress in California, to promise to cure air pollution, and I made that promise, and I failed to do so. But I have supported every effort to do so that has been made in Congress.

And I think most of what we have done has been reasonable and valuable, and in southern California I can certify today we are far better off than we were 30 years ago or 20 years ago or 10 years ago.

Now, we seek to pass this all-encompassing legislation which contains many valuable additions which I fully support, but we put into this a provision that says if the process results in decision criteria which are different from existing law, it overrides the existing law. And I think that is unwise.

I think we need to reconsider the existing law, and the amendment provides for that, through the reporting process to Congress. But I think we should be very reluctant to override much of the health and safety and other legislation that we have passed.

The gentlewoman from California spoke eloquently of the impact upon mammography standards, for example. I think we should be very careful to be put into the position of having the women of this country say the Congress neglected or showed no concern for the importance of proceeding with the laws that we put into place already, and proposing to override them through the effect of this risk assessment and cost-benefit analysis legislation.

So I am very strongly supportive of the legislation offered by the gentleman from New York [Mr. BOEHLERT]. I join the gentleman from Michigan [Mr. DINGELL] in fearing for the consequences of the legislation before us unless it is amended in such a fashion, and I hope that you can all support the amendment of the gentleman from New York.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us first of all make something very clear; that is, the supermandate language in this bill is

the guts of the legislation. If you are against the supermandate, you are against the bill; then vote for the Boehlert amendment. But if you want to have a reasonable risk assessment and cost-benefit analysis bill, then vote against the Boehlert amendment and vote for the bill.

That is basically as simple as it can be. The gentleman from Louisiana [Mr. TAUZIN] made it very clear, and he is right, that if you are against the bill, you want to vote for this amendment. So I think most Members recognize it is important we look forward in dealing with these kinds of legislation and give the opportunity for the Congress to set these kinds of standards. That is exactly what we get elected to do.

I want to point out for the edification of the Members that we tried to carefully deal with the question that came up in our committee about mammography screening.

The gentlewoman from California who has spoken earlier raised that issue. We worked very hard to make certain that that was taken care of. I want to stress that in the language in the legislation, on page 5, line 14, section 4:

> Program designed to protect human health. The term ''program designed to protect human health'' does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

Now, the last time I looked, mammography screening would be covered under health care diagnostic services. So I put that issue to rest.

We listened to the gentlewoman from California and others in our committee. That issue is not an issue in this amendment, nor is it an issue in this bill because we took care of it, as a result.

Now, we spend some $430 billion to $700 billion on regulations. Does it not make sense, since we have already defeated an amendment that would look back that would keep us from looking back, to now take a look at an opportunity to take the new regulations that are coming out and apply reasonable cost-benefit analysis and risk assessment to those regulations?

That really is the issue. The question is do you want to do that, or do you not? Do you want to stick with the status quo of these old regulations that are in many ways totally not based on science, or do we want to simply give regulators an opportunity to use good science? That is really what this is all about.

Now, if we are going to believe our friend from New York, we are going to say we are just going to walk in place, we are going to, essentially, freeze the decisionmaking process and go back to what cost billions of dollars. I do not think that makes a whole lot of sense, and that is why the Boehlert amendment should be defeated, because it goes against the heart of what we are trying to do here, the very heart of this supermandate language.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding to me.

Mr. Chairman, I stress that I too favor cost-benefit analysis and risk assessment. What this amendment points out is that there are going to be disagreements in the future sometime and where there is a failure on the part of the agency to be able to certify all the certifications required in the bill, then that agency has to report back to the Congress, the people's House, and we debate it and we make the necessary changes.

Mr. OXLEY. Mr. Chairman, I have perhaps less confidence that that particular procedure will work. If they report back, they report back.

The gentleman from Michigan [Mr. DINGELL] said he has had a lot of hearings about some of the abuses in the regulatory process. It is true we have had a lot of hearings, but until today we have not done very much about it. Today we have a chance to strike a blow for reasonable regulations. That is why this bill is so important, and that is why, in my humble estimation, the amendment of the gentleman from New York cripples our ability to do that.

Mr. BOEHLERT. If the gentleman would yield further, I want to increase the comfort zone a little bit by telling the gentleman that we are part of the new majority now, so things will be different now and in the future, in the Congress, in the way Congress responds to agencies.

Mr. OXLEY. I am concerned that we get an overburdened effort. That is what the job is, it is for those regulators to make those regulations based on good science. That is what we want them to do. We do not want them to dump their problems into the Congress' lap. We are going to be authorizing Superfund, I say to my friend from California, we are going to be reauthorizing other programs, and that is clearly one of our goals.

But it seems to me that in the overall scheme of things, we are dealing with regulations, this bill now, this bill now is a chance to get some common sense into that procedure, and then when we start to reauthorize these kinds of regulations and the regime that is used in the regulations, the regulators will be very used to them and they are going to be able to come up with a good response.

(Mr. HAYES asked and was given permission to revise and extend his remarks.)

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly, but not reluctant in support of the gentleman's amendment.

Mr. Chairman, I say reluctantly rise because there is no one in the course of the last several years who has seen more of the consequences injurious to people by having regulators make rules not reflective of laws made by their elected officials and to make those rules without any correlation to actual risk and without any consultation of actual cost.

So I rise reluctantly because I am in strong support of a legislative initiative, in support of the chairmen of both committees to which it was referred. But here is the problem I have and why I welcome the amendment offered by the gentleman from New York [Mr. BOEHLERT]: This is breaking ground on important new legislation. In doing, section 202 of the bill establishes a prohibition for the issuance of a rule that has not been certified to comply with the section's decision criteria. That is fine. But the decision criteria listed and described are described in terms that are not duplicated in any other Federal law.

The point I am making is they are standards with which I happen to agree. It is an initiative on which I happen to be supportive. But it is new, and therefore it will be at variance with existing application of standards.

The bottom line, I am saying, is there will always be a conflict between H.R. 1022 and other laws. And an administrative proceeding is going to leave a judge without previous decisions to look to for interpretation of this new language.

Now, that being the case, we would wonder why we do not have a fallback and a recognition there should be a safety valve. And the answer is, once again, in the committee, a fallback was placed. There is language under one title of the bill dealing with risk assessment, saying, ''Hold it, here is a safety net. When there is a conflict we have got some exceptions, and we are going to make sure this escape clause works.''

But for some reason that language is not incorporated in both titles of the bill. It is omitted in the one dealing with cost analysis.

□ 1800

I am simply saying, ''If you recognize the one, you ought to recognize the other, and we ought to have the sanity added so that, when we have this legislation go forward, and I believe this legislation should and will go forward, then we have not done untold harm to untold beings.''

Mr. Chairman, there was a terrible news report earlier, a few days ago, about a hospital, I believe was in Florida, where an incredible and horrendous event occurred in which the wrong foot was amputated.

Let me tell my colleagues, ''If we don't have some legislative language to be certain that the goal of this assessment, the goal of cost assessment, has a means by which we can actually enter into administrative law and review, and do so in the same process, we are going to cut off the wrong foot in the name of risk assessment.'' I, for

one, do not want to be part of that process.

I do want to be part of a signing ceremony at the White House where the President hands a pen and says, ''Here is a bill for the kind of risk assessment that you and others have been fighting for for 8 years.'' I want to be there for that event. I do not want to be going home to explain why I supported unintended consequences that were never envisioned by the best of intentions.

Mr. Chairman, I rise in reluctant—but strong—support of this amendment to keep from overriding, at this time, in a one-size-fits-all fashion, the statutory standards of virtually every Federal law protecting health, safety and the environment.

I do so reluctantly because, as my colleagues know, I have long been a proponent of real risk assessment and cost benefit reforms. I am an original cosponsor, along with BUD SHUSTER and 14 other Transportation Committee members on a bipartisan basis, of legislation amending the Clean Water Act to add strong, new risk assessment and benefit-cost requirements.

I stood shoulder-to-shoulder last Congress with most of my colleagues on the other side of the aisle and with many Democrats in working to have real risk assessment language added to the EPA Cabinet bill. As the Science Committee's Investigation and Oversight Committee Chairman, I held the first hearing of the 103d Congress stating the need for more and better risk assessment in our public policy decisionmaking process.

There should be no doubt in the minds of H.R. 1022's managers, or others, that I support their efforts to build risk assessment and cost-benefit analysis into our laws to prevent wasteful, counterproductive regulations.

In spite of this, or, more accurately, because I feel so strongly on this subject, I support this amendment based on the fear that the supermandate being proposed in H.R. 1022 is likely to be worse than the regulatory waste that we are attempting to address.

I believe—and I don't say this lightly—that we are on the verge of committing the legislative equivalent of the terrible incident that occurred a few days ago in a Florida hospital. In this incident, which was widely reported by the media, a patient went into surgery to have an injured leg amputated. The doctors, though well-intentioned, removed the wrong leg by accident. My point is that it is the result and not the intentions that matter, and I firmly believe that the results of H.R. 1022's supermandate language may prove to be disastrous.

The supermandate approach being taken in H.R. 1022 is flawed substantively, procedurally and tactically. Perhaps most alarming, however, is that no one on this floor—or anywhere else, I submit—can provide us with any meaningful explanation of how the bill's supermandate language is going to affect the individual statutes that underpin our system of health, safety and environmental protections.

From a substantive perspective, section 202 of the bill prohibits the issuance of any rule that has not been certified to comply with that section's decision criteria. These criteria are listed and described in terms not duplicated in any other Federal law pertaining to health, safety or the environment. Subsection (b) of section 202 provides, however, that H.R. 1022's decision criteria supersede current law whenever there is a conflict between the two. Because every Federal health, safety and environmental statute contains standards and criteria that are at odds with today's bill, there will always be a conflict between H.R. 1022 and the other laws. All that remains to be determined is which conflicts can be described and which interest groups will benefit from these pre-ordained conflicts. The pursuit and debate of these conflicts will grind our legitimate regulatory processes, and our already-clogged courts to a complete halt as contestants—industry or public interest group; competitors within an industry; or private property owners and environmental organizations—take their controversies to the courts based on their own conflict-based arguments stating why H.R. 1022 should prohibit the rule in question from being promulgated.

For a group of well-intentioned legislators, whom I am certain want to cure the ills our constituents suffer because of overregulation, this bill's approach is insane. It's worse than cutting off the wrong leg. It's like cutting off both legs to make sure you get the problem, wherever it is.

My second reason for supporting this amendment is procedural. There is absolutely no good reason for us to be taking, at this time, the extraordinary and extreme step represented by the supermandate language. If we were in the last two weeks of the 104th Congress, then at least there would be an argument that there was not time to make changes properly. But we haven't even finished the second month of this Congress, and there will be plenty of opportunity in the next 18 months to address overregulation problems in a more reasonable, tailored and understood fashion.

We will be reauthorizing the Clean Water Act, the Safe Drinking Water Act, Superfund, and the Endangered Species Act this Congress. As each of these bills move through committee and the floor, we should include the kind of risk assessment and cost-benefit provisions that make sense in light of particular structure, standards and experience of each statute. Where overregulation problems are being experienced with statutes not expected to be reauthorized this Congress, appropriations bills will be available as legislative vehicles to carry necessary corrections. And if, for some reason, there is a more pressing need, Speaker GINGRICH has announced that we will soon be having ''Correction Days'' each month to do away with the most destructive and least useful Federal regulatory requirements.

My third reason for supporting the amendment is tactical. The rushed, shotgun approach of H.R. 1022's supermandate language is producing a public relations backlash, reflected in numerous media stories like Time magazine's, ''Environmental Chain Saw Massacre,'' last week, that may do serious damage to our shared objective of incorporating risk assessment and cost benefit principles into the body of our Nation's laws. Taking the overbroad supermandate approach of H.R. 1022 may result in ''throwing the—risk assessment/cost-benefit—baby out with the bath water.'' That would be a tragedy.

Finally, Mr. Chairman, it is no comfort at all to me to hear from some of the supermandate language, ''Don't worry Jimmy, the Senate will fix it.'' We here in the House of Representatives are not staff for the real legislators in the Senate. Under the Constitution, we have an equal responsibility—indeed a duty—to develop laws in the best interest of our great Nation. It is a complete abdication of our constitutional obligation, as well as of the duty we own our constituents to pass legislation in the House that we know is defective.

H.R. 1022's supermandate provision is seriously defective. It must be amended. Please join us in our efforts to do just that.

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to be very simple and very brief. I say to my colleagues:

You've heard a lot of discussion, you've heard a lot of legal language, you've heard a lot of lawyers talk on this piece of legislation, but very simple what this bill does, and what this amendment does, and what the, quote unquote, supermandate does, is allow, when we have to authorize or reauthorize pieces of legislation, that the regulation that comes out of that is based on the new law, that we actually can do cost based regulation. So all the discussion here, when you boil it down, is saying, whether you take an old law, whether it's the Clean Water Act or the Clean Air Act, and when you apply new law to that or reauthorize it, is that the regulations that come out of that hence forward are the same type of regulations under the same type of regulation writing that comes out of any new law that we'd write. So, if you want consistency, and if you want fairness, and if you want the ability for this country not be overwhelmed by old legislation and old regulation, you simply say that we do not pass this amendment that guts, quote unquote, supermandate, but what it does is allow us to go forward when we write, when we reauthorize, old bills or old pieces of legislation, and we write new regulation out of it that is very simple, very concise and very consistent.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to point out to the chief deputy whip that this year Congress is going to consider the reauthorization of the Clean Water Act, the Safe Drinking Water Act, the Superfund legislation, the Endangered Species Act. That is the time for this Congress to make the changes during that reauthorizing process.

Mr. HASTERT. Absolutely, and, reclaiming my time, if the gentleman understands when we do those that, if we change that bill, or we write it, the regulations henceforth will be under the language of this bill, and that only seems sensible to do.

Mr. BOEHLERT. Mr. Chairman, if I may ask the gentleman to yield one more time, well, I think then we have got some area of common ground, some agreement. We want the Congress, the elected Representatives of the people, to be making the decisions, the important decisions, not some nameless, faceless bureaucrat.

Mr. HASTERT. If the gentleman from New York will listen for a second, Mr. Chairman, I would say, ''You know, we don't write the regulation. We write the law. We write the policy. And regulation that follows is done by the bureaucrats, you know, down the street. And what we're saying is when we write the regulation, that the regulations they write are based on the law that we're trying to establish here, and it's only fair that we do this, or we set this policy, and when you reauthorize and new legislation that comes forward from reauthorization is written on the same type of language and basis.''

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment. This supermandate in this legislation is about the most far-reaching proposal, has sweeping impact on existing environmental laws.

Now those laws are up occasionally for renewal, and, when we revisit those laws, we ought to deal with problems in those laws, but under this legislation they are going to supersede all those laws as if they did not exist.

The gentleman from Louisiana [Mr. HAYES] said that all the precedents, all the court decisions interpreting the statutes involved, would be thrown out. They would have to look at it in the light of this one bill.

This is what they call one-size-fits-all. Forget whether the Clean Air Act operates in a health based standard, or the Toxic Substances Act is a risk assessment bill, or some other legislation were designed to have a technology standard. Whatever those laws might have said on those points, we are going to ignore, and we are going to let this bill supersede those laws.

Mr. Chairman, what is really at stake is a rollback of protections for people. The reason those laws were designed the way they were is based on the historical experiences.

For example, in the Clean Air Act we had a law saying that, if there are toxic air pollutants, they ought to do a risk analysis before they set a standard, and so, when we had toxic pollutants that cause cancer, or birth defects, or neurological problems, in 1970 to 1990 the law was to do a risk based standard, and EPA could not figure out how to do that. So, after 20 years only seven standards were set for pollutants.

Finally in 1990 we said in the Clean Air Act, ''This doesn't make any sense. Let's require the use of the technologies that will reduce these pollutants that cause such enormous harm,'' and that made a lot of sense, and, after the law was adopted in 1990, we have seen an enormous amount of progress in protecting people from tons and tons of these toxic air pollutants.

In the urban areas of our cities we have a health based standard, and we say, ''Let's achieve the health based standard set of strategies to do it,'' and we have a law that has been working, it has been successful, but with the supermandate under this legislation we would not have a health based standard anymore. It would have to go to a cost-benefit analysis.

The point that I want to make is really what is at stake are all these existing laws. If someone does not like the Clean Air Act, or the Toxic Substances Act, or the Endangered Species Act, when those bills come up for renewal let us fight the fight out. Let us debate those issues, not adopt something that has such sweeping consequences.

Now we have to ask why are we facing something with such sweeping consequences. It is one of two, and maybe a combination of the two, motives. One is to, I think, not having thought through what the implications are going to be, or the second is, if they thought through very carefully what the implications will be, and those that have thought it through would like to weaken all of those environmental laws. I think this legislation before us is seriously flawed in that it goes back to existing laws, weakens them.

I say to my colleagues, ''If you want to say for the future we ought to do cost-benefit analysis, risk assessment, as a tool, that's fine, but not to take that analysis and tie up things for years.''

In the toxic substances law, not under the clean air law, but the toxic substances law, they spent a decade trying to set one standard, and they finally set one standard, and it was challenged in court and then thrown out because not the standard was flawed, because they challenged the analysis.

Economists can come up with different points of view when they look at an analysis. Everyone knows economists disagree with each other. But we are going to allow courts and judicial review to throw out laws and regulations to enforce those laws based on whether the analysis met some court's viewpoint.

Mr. HASTERT. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from southern California, my good friend, and let us talk about the Clean Air Act for just a second.

When we wrote the Clean Air Act in 1990, there was a provision in there for employer trip reduction. It was based off technologies that were going on in southern California, in my State, in Texas and other—Pennsylvania and other States around the country. It has not worked, but yet that technology is in the law, and what we are saying, if we reauthorize that, that ought to be looked at as a cost-benefit analysis. If it does not——

Mr. WAXMAN. If I can reclaim my time, Mr. Chairman, just to tell the gentleman, I don't disagree with you, if you want to look at that issue on a cost-benefit analysis. But why take the whole Clean Air Act, which by the way was adopted by a vote of 401 people in the House voted aye, 25 voted no? There was an initiative by President Bush and signed by him. Why take that whole law and toss it out because you have a supermandate in this risk bill?

Mr. Chairman, I do not want to see this bill override, and destroy, the progress this Nation is finally making, after decades of inaction, to protect the American people from cancer-causing air pollution. This savings amendment would allow that progress to continue.

From 1970 to 1990, the Nation conducted a full-scale experiment in the use of risk assessment to regulate toxic chemicals. During those years, the Clean Air Act directed EPA to use risk assessment to control air pollutants that can cause cancer, birth defects, neurotoxicity, and respiratory disease. More than 2.5 billion pounds of toxic chemicals were released into America's air every year, according to industry's own right-to-know records from the late 1980's.

By 1990 everyone—industry, environmentalists, the States, and EPA—was united in agreement that this experiment had failed. Over a 20-year period EPA was paralyzed in endless debates over risk assessments and cost-benefit analyses for cancer risks. In all this time, EPA managed to set standards for only seven toxic air pollutants.

In 1990, Congress replaced the failed risk-based approach with a technology-based system that even many industries agree is proving to be practical, effective, and affordable. In the 4 years since 1990, EPA has achieved many times what was accomplished in the prior 20 years.

Since 1990, EPA has taken steps that will eliminate more than 1 billion pounds of toxic emissions annually from nearly a dozen types of industrial emitters, including chemical plants and steel industry coke ovens.

H.R. 1022 would erase this breakthrough in a single stroke: It would re-institute the paralysis that reigned from 1970 to 1990.

The 1990 Clean Air Act amendments establish a practical, affordable technology-based approach to controlling air toxics sources. The law lists 189 toxic air pollutants, establishes a clear footing for technology-based standards, and sets a detailed schedule for action.

This approach is bringing clear results. Since 1990, EPA has set standards for nearly a dozen major industries, reducing toxic emissions by more than 1 billion pounds per year.

EPA has also proposed standards for municipal waste incinerators and medical waste incinerators that will reduce emissions of dioxin—one of the most toxic chemicals known—by more than 99 percent. The standards will also cut thousands of tons of mercury, lead, cadmium, and other highly toxic pollutants.

The reason so much progress has been made so fast is that the act establishes a simple, workable criterion for standards: all major facilities of a given type must upgrade their pollution controls at least to the quality that has been achieved by the better-controlled facilities already in operation.

Risk assessment still plays a role. It is used to add or remove chemicals or sources from the lists that require regulatory control. It will also be used, at the turn of the century, to see if high risks remain after the technology-based

first step. If so, the act calls for further progress through risk-based control measures.

H.R. 1022 would return us to 20 years of risk-based paralysis. The bill's risk assessment and cost-benefit decisionmaking criteria would supersede the 1990 Clean Air Act's technology-based approach. These requirements are even more onerous than those that failed before 1990.

Under these criteria, lives of the most exposed and most vulnerable Americans may not be worth saving. EPA would protect the most exposed or most vulnerable Americans only if the extra lives saved—compared to the next weaker standard—justify the extra cost to industry.

What's worse, Americans' right to protection from cancer-causing air pollution could depend on what region they lived in or what company they lived next to.

These daunting requirements would effectively hogtie the future efforts to continue reducing toxic air pollutants. The data simply are not available to perform risk assessments for 189 different toxic emission sources emitted in innumerable combinations from hundreds of different kinds of facilities.

In short, unless we pass this savings clause, both the industries that release toxic air pollutants and the Americans who still breathe them would be condemned again to the 1970–1990 situation of paralysis by analysis.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. OLVER asked and was given permission to revise and extend his remarks.)

Mr. OLVER. Mr. Chairman, I rise in support of the Hayes-Boehlert amendment. In fact, I offered a similar amendment in the Committee on Science a week or so ago. This, I think, is a fairly straightforward issue.

I agree with the purpose of the amendment which is namely that, when the results of a cost-benefit analysis under this new law, H.R. 1022, appear to conflict with an existing statutory requirement, the existing law should not be overwritten except by a specific new act of Congress. Without this amendment, Mr. Chairman, H.R. 1022 has the potential to reach back to eviscerate every law on the books designed to protect peoples' health and/or environment.

Congress already has a process, as has been pointed out, for fixing laws which are not working as we wanted them to do, and that is the reauthorization process. Hopefully we will reauthorize the Clean Water Act, the Superfund law and a number of others this year, and many of them have been criticized for requiring extensive and expensive remedies not consistent with cost-benefit criteria. But the right time to deal with that is during the reauthorization process.

Mr. Chairman, this becomes fish-or-cut-bait time. Did Congress mean it when Congress decided by huge votes to reduce sewage pollution in our rivers, or are we going to reopen and reverse those gains? Did Congress mean it when Congress decided to reduce industrial air pollution, or are we going to reopen that issue at this time and reverse those gains?

Mr. Chairman, ultimately this Congress in those cases has the responsibility to determine the necessary levels of protection for public health and environmental protection, and in the reauthorization process that is the time to make that decision, not reaching back through the provisions of H.R. 1022 to do that aside from the reauthorization process.

In a few weeks, we have the so-called Personal Responsibility Act on the floor of this House. I challenge every member of this House to show some personal responsibility. Reject this blind, blanket overhaul of our laws and do the hard work of making changes statute-by-statute.

Support the Hayes-Boehlert amendment.

Mr. DELAY. Mr. Chairman, this amendment would create two different classes of regulations for the purposes of risk assessment and cost/benefit analysis—the first would be the post-H.R. 1022 class, and the second would be the pre-H.R. 1022 class.

The post-H.R. 1022 class of regulations would be subject to modern risk assessment and cost/benefit analysis procedures based on sound science, while the pre-H.R. 1022 class of regulations would be promulgated under outdated, inefficient, and inflexible procedures with sometimes no attention paid to their cost on the economy.

Does this make sense?

The American people have asked us to establish a reasonable regulatory system based on scientifically sound risk assessment with attention paid to the costs versus the benefits incurred. That is what this bill accomplishes.

Some are claiming that the bill will roll back all of our health, safety, and environmental protection regulations. Those who would make this claim have unfortunately resorted to scare tactics.

As the chairman of the Commerce Committee, Mr. BLILEY, has written, ''Nothing in the bill itself changes a single existing health, safety, or environmental regulation currently on the books. This bill only applies to new regulations and situations where the agency revises an old regulation through a public notice and comment process.''

H.R. 1022 is not a supermandate—instead, it establishes consistent, clear standards under which all new regulations will be promulgated. The Boehlert amendment would gut this bill and I urge a ''no'' vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 238, not voting 15, as follows:

[Roll No 180]

AYES—181

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gordon
Goss
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Meyers
Mfume
Mineta
Minge
Moakley
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Porter
Poshard
Rahall
Ramstad
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—238

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock

Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—15

Baesler
Brewster
Cox
Gonzalez
Gutierrez
Hunter
Lipinski
Livingston
Miller (CA)
Mink
Rangel
Rush
Torres
Ward
Williams

□ 1830

The Clerk announced the following pairs:

On the vote:

Mr. Rush for, with Mr. Cox against.

Mr. Ward for, with Mr. Livingston against.

Messrs. MCINNIS, SKELTON, and ROHRABACHER changed their vote from ''aye'' to ''no.''

Mr. KENNEDY of Massachusetts changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 30, after line 23, insert:

SEC. 204. ENVIRONMENTAL CLEAN-UP

For purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as major rule subject to the provisions of this title (other than the provisions of section 201(a)(5). As used in this section, the term ''environmental clean-up'' means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

Page 4, after line 18, insert the following new section and redesignate section 4 as section 5:

SEC. 4. UNFUNDED MANDATES

Nothing in this Act itself shall, without Federal funding and further Federal agency action, create any new obligation or burden on any State or local government or otherwise impose any financial burden on any State or local government in the absence of Federal funding, except with respect to routine information requests.

Page 16, beginning on line 8, after ''uncertainties'' add:

''Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women and disabled persons.''

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Under the rule, there are 8 minutes remaining for debate. The gentleman from Pennsylvania [Mr. WALKER] will be recognized for 4 minutes, and a Member on the other side will be recognized for 4 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

I will try to go quickly so we might be able to get to another amendment, if this could be taken on a voice vote.

This amendment is offered by myself, the gentleman from Ohio [Mr. OXLEY], the gentleman from Pennsylvania, [Mr. SHUSTER], the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Pennsylvania [Mr. CLINGER]. What is says is that we are going to include environmental cleanup under 1022. We want to be sure the cleanup dollars are used wisely; subjecting major cleanups to this legislation will go a long way in doing that. Also, there is some concern about any kind of unfunded mandates. The mandates are some of the most costly of mandates when we deal with the environment. Accordingly the Conference of Mayors, of the top 10 most burdensome unfunded mandates on State and local governments, 7 are environmental mandates. H.R. 1022 speaks to ease the burden of regulation. We certainly do not want to add to it. CBO was not able to cost out what, if any, costs may be passed onto the States. With this amendment that I am offering on behalf of the gentleman from Pennsylvania [Mr. CLINGER] and myself, we offer protection against unfunded mandates.

There is also some concern about definitions of the bill that refer to sensitive subpopulations. That is included in this language as well to make certain that sensitive subpopulations would include children, elderly, pregnant women, and disabled persons. It clarifies what is in the committee report.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding to me.

I also am in support of this legislation. I also support the amendment en bloc and want to thank my colleague, the gentlewoman from Arkansas [Mrs. LINCOLN] for her good work on this and also the gentleman from New York [Mr. TOWNS], a member of our committee.

These amendments make a good deal of sense. They track the specifics of this bill very well.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER] for his work on this.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I simply want to say I support this amendment. It ought to be passed.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

(Mr. CONDIT asked and was given permission to revise and extend his remarks.)

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and the bill.

Mr. WALKER. Mr. Chairman, I yield to the gentlewoman from Arkansas [Mrs. LINCOLN].

(Mrs. LINCOLN asked and was given permission to revise and extend her remarks.)

Mrs. LINCOLN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is an amendment that has been worked out with Mr. OXLEY and Mr. CLINGER. Last month many of us supported H.R. 5, a bill that would ease the amount of unfunded mandates on the States. This amendment is aimed to ensure that provisions in this bill achieve the goal set forth under the unfunded mandates bill by not adversely affecting States. It has the full support from the National Conference of State Legislatures and the State of Arkansas.

As you well know, States often act as agents of the Federal Government in enforcing Federal statutes. For example, under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act, to name a few, the States are delegated the authority to carry out the requirements of the statutes and enforce their provisions. Because H.R. 1022 as written explicitly requires risk assessments for documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, States might be required to conduct risk assessments when carrying out the provisions of Federal statutes. Such documents include the issuance of permits under the Clean Water Act and the Clean Air Act.

Over 40 States have delegated authority over the Clean Water Act's section 402 permitting program. Under this bill, States acting on behalf of the Federal Government might be forced to conduct risk assessments for each

permit they issue. States neither have the financial nor the personnel resources to take on such a burden.

The ultimate financial impacts of this bill on the States are unknown. Even in the committee report, CBO was unable to calculate the potential costs. CBO stated that the effect of this bill on State and local governments was ''unclear.'' ''CBO has no basis for predicting the direction, magnitude, or timing of such impacts.''

Because of the ambiguity associated with the potential costs and burdens placed on the States under the mandates of this bill, we have agreed to this amendment to protect States against unfunded mandates. This amendment requires further Federal action along with Federal funding in order for States to comply with the requirements under this act.

I encourage my colleagues to support this commonsense amendment.

Ms. MCCARTHY. Mr. Chairman, this amendment will alleviate concerns that have been raised in both the Science and Commerce Committees by myself and the Congresswoman from Arkansas regarding the placement of risk assessment and cost-benefit analysis requirements on State and local governments.

This amendment hopes to clarify that enactment of this bill will not place unfunded mandates on State and local government jurisdictions. This savings clause is needed because as currently written, the bill is unclear on the question of whether State and localities will have to engage in costly risk assessments and cost-benefit analyses. It should be remembered that States often act as agents for the Federal Government in administering laws such as the Clean Air Act and the Safe Drinking Water Act.

In fact, the Commerce Committee report states on page 50 that if we enact H.R. 1022, the ''affect on budgets of State and local governments is unclear.'' This bipartisan amendment, supported by the National Conference on State Legislatures, would make clear that the bill will not impose an unfunded mandate on States and local governments. Therefore, I urge my colleagues, who overwhelmingly supported the passage of the unfunded mandate bill last month, to support this amendment.

Mr. TOWNS. Mr. Chairman, I would like to thank my dear colleague from Pennsylvania, Mr. WALKER, for including the amendment dealing with subpopulations offered by myself and the gentlelady from California [Ms. LOFGREN]. Also, I would like to thank the gentleman from Ohio [Mr. OXLEY] for his support in getting this amendment in.

This amendment seeks to cure one of the many problems that arise when we try to put good and responsive science into law. Risk assessment may help improve regulatory decisions, but good risk assessment doesn't guarantee good regulatory decisions. Risk assessment should supplement the regulatory goal of safeguarding public health, but should not stand alone in the analysis.

This bill requires that a number of numerical estimates be made; yet it expresses those estimates in a crude way that fails to take account of the special needs of vulnerable subpopulations such as children, the elderly, and disabled individuals.

It is the concern for these vulnerable subpopulations that encouraged me to sponsor this amendment.

As we have learned in recent years, averages and best estimates often tell us almost nothing about the way in which a risk will have an impact on real people. On average a drug or device, a chemical or compound may be safe and effective, however, it may have terrible unsafe or ineffective consequences for special subpopulations such as the elderly, children, pregnant women, disabled people, or individuals with certain chronic illnesses.

Those who are vulnerable in our society need to be concerned about health care expenditures, salary loss for a lengthy illness, and years of work lost to premature death. And this is all because they have no option to choose the level of risk to which they are exposed to a health hazard. I believe that science cannot always explain complex or unusual relationships between the exposure to hazards and the potential health effects to all people.

This amendment simply says that when numerical risks are provided, estimates shall also be provided for these subpopulations where such estimates are relevant.

I urge adoption of this amendment.

Mr. WALKER. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. BROWN of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California to the amendment offered by Mr. WALKER: At the end of the amendment, insert the following:

Page 4, strike lines 5 through 9 (all of paragraph (1) of section 3) and insert the following and redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively:

(1) A situation that the head of the agency considers an emergency.

(2) A situation that the head of the agency considers to be reasonably expected to cause death or serious injury or illness to humans, or substantial endangerment to private property or the environment unless prompt action is taken to avoid death or to avoid or mitigate serious injury or illness to humans, or substantial endangerment to private property or the environment.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. BROWN] to explain.

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of this amendment which the gentleman from California [Mr. BROWN], the gentlewoman from Texas [Ms. JACKSON-LEE], and I are offering. This amendment allows a critical element to the protection of our public health and safety to continue.

This amendment ensures that agencies be provided the flexibility to act rapidly in the event of a serious threat to public health or public safety.

Our history is replete with examples where the prompt action by a Federal agency prevented death or prevented serious injury.

In Lorain County, OH, in northeast Ohio in the 13th district, the Centers for Disease Control and the Environmental Protection Agency are currently working with the Ohio Department of Public Health to avoid calamity from the use of a deadly pesticide in a residential area in Elyria. Within days these agencies were working together to mitigate the contamination, to relocate families, and to clean up the problem.

Without this amendment, agencies will spend more time in risk analysis and litigation than responding to these urgent situations.

In addition, while lawyers will have full employment, many of our constituents could become seriously ill or die waiting for Federal action.

The CHAIRMAN. The Chair will allocate 30 seconds to the proponents. If there is a Member on the other side that wants to have permission to speak, the gentleman from Pennsylvania [Mr. WALKER] may close.

Mr. BROWN of Ohio. Mr. Chairman, I ask for support of the Brown amendment.

Mr. BROWN of California. Mr. Chairman, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, let me say that the American people should not have to wait for agencies to study risks for months before acting to abate serious and in some cases life-threatening conditions.

Last year, for example, the FDA received a report from Canada of two cases of salmonella poisoning in infants using a particular infant formula manufactured in the United States.

We have to be able to save our infants and be responsive in having this provision to provide for our American citizens.

Mr. Chairman, the Brown-Jackson-Lee amendment to H.R. 1022 would allow agencies to take rapid response actions to address significant threats from toxic chemicals or discharged oil, without the need to wait for lengthy risk assessments to be completed. The amendment would expand section 3(l) to exempt from risk assessment requirements from not only classic emergencies, but also those situations where prompt action is needed to avoid death, illness, or serious injury to the environment.

The American people shouldn't have to wait for agencies to study risks for months before acting to abate serious, and in some cases, life-threatening conditions.

For example, the amendment would allow, without the delay of additional studies: repacking corroding drums before they leak; quickly relocating those people living in dangerously contaminated areas that require cleanup—moving them out of harm's way; stopping the

spread of contaminants from leaking underground storage tanks before drinking water is affected; acting promptly to save wildlife and beaches harmed by oil spills; and quickly supplying alternate drinking water where community water has been contaminated with toxic chemicals.

Often these are not classic emergency situations, but they are always situations where fast action is critical to preventing greater harm to surrounding communities and the environment. Would we not want agencies to be free to respond quickly to such serious situations?

Taking timely action before the contamination spreads would also serve to avoid more costly cleanups in the future, saving money for both taxpayers as well as industry.

This amendment makes good economic sense, and it makes good sense. I ask for your support.

Mr. MANTON. Mr. Chairman, I want to thank my colleague, Mr. BROWN, for offering this amendment designed to ensure that Federal agencies maintain the ability to respond quickly to serious risks to the public's health and safety.

In particular, I am concerned about how H.R. 1022's copious risk assessment requirements would impact the safety of our Nation's water supply.

The central importance of a safe drinking water supply was reinforced for me last November when cryptosporidium, the parasite which caused more than 100 deaths in Milwaukee in 1993, was detected in New York City's water supply.

There are few if any among us who are willing to accept a risk of significant exposure to serious disease through our water supply. I am pleased that my city of New York aggressively monitors for cryptosporidium through a watershed protection strategy. As of today, the New York City water supply is in avoidance, meaning that our water meets EPA standards for avoidance of cryptosporidium parasite.

There are no Federal regulations which cover this deadly parasite. However, New York City has tested for this pathogen since 1992 as part of a cooperative effort with EPA.

Unfortunately, there is a dearth of data about how to avoid illness from cryptosporidium, which has only been a reportable disease since March 1994.

The bill before us today would require a rigid approach to addressing unusual and new health problems, like cryptosporidium. H.R. 1022 would require agencies like EPA to complete more than 20 risk assessments before working with localities to address new-found hazards.

H.R 1022 would effectively tie the hands of cities like New York which currently are working jointly with EPA to address urgent situations like this public health issue. Furthermore, H.R. 1022 would lead to unnecessary and potentially life-threatening delays in regulatory action to protect the people of New York.

I want to congratulate my colleague for offering this amendment designed to allow EPA, the Centers for Disease Control, and other agencies the flexibility they need to work with localities to respond quickly to serious threats to health or safety.

I urge my colleagues to join me in supporting this critical amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

PARLIAMENTARY INQUIRIES

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, on what basis does the Chair rule that in this 10-hour rule that the Committee on Rules has generously given us and under the 5-minute rule for our time, that the time of the gentleman from California [Mr. BROWN] is taken away and part of it is given to someone else when he did not yield? Under what parliamentary rule is that, Mr. Chairman?

The CHAIRMAN. The Chair has discretion and the right to reallocate time when there is a limitation on time.

Mr. BROWN of Ohio. Mr. Chairman, under what rule is that? Would the Chair cite the rule?

The CHAIRMAN. Rule XXIII.

Mr. BROWN of Ohio. Mr. Chairman, a further parliamentary inquiry. It looks to me that it is past 6:40. I call for a vote, Mr. Chairman.

The CHAIRMAN. The Chairman recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the amendment to the amendment ought to be opposed.

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, we were told by the Parliamentarian that 6:40 is the final time.

The CHAIRMAN. That is correct.

Mr. BROWN of Ohio. Under what rule may we exceed 6:40?

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN] to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that there will be a 5-minute vote on the Walker amendment, if a recorded vote is ordered.

The vote was taken by electronic device and there were—ayes 157, noes 263, not voting 14, as follows:

[Roll No. 181]

AYES—157

Abercrombie
Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Moakley
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Torricelli
Traficant
Tucker
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOES—263

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan

Montgomery	Rogers	Talent
Moorhead	Rohrabacher	Tate
Morella	Ros-Lehtinen	Tauzin
Myers	Roth	Taylor (MS)
Myrick	Roukema	Taylor (NC)
Nethercutt	Royce	Tejeda
Neumann	Salmon	Thomas
Ney	Sanford	Thornberry
Norwood	Saxton	Thurman
Nussle	Scarborough	Tiahrt
Ortiz	Schaefer	Torkildsen
Orton	Schiff	Towns
Oxley	Seastrand	Upton
Packard	Sensenbrenner	Visclosky
Parker	Shadegg	Vucanovich
Paxon	Shaw	Waldholtz
Peterson (MN)	Shays	Walker
Petri	Shuster	Walsh
Pickett	Sisisky	Wamp
Pombo	Skeen	Watts (OK)
Porter	Skelton	Weldon (FL)
Portman	Smith (MI)	Weldon (PA)
Poshard	Smith (NJ)	Weller
Pryce	Smith (TX)	White
Quillen	Smith (WA)	Whitfield
Quinn	Solomon	Wicker
Radanovich	Souder	Wolf
Ramstad	Spence	Young (AK)
Regula	Stearns	Young (FL)
Riggs	Stenholm	Zeliff
Roberts	Stockman	Zimmer
Roemer	Stump	

NOT VOTING—14

Baesler	Lipinski	Torres
Brewster	Martinez	Ward
Gonzalez	Miller (CA)	Williams
Gutierrez	Mink	Wilson
Hunter	Rush	

☐ 1858

Mr. TAYLOR of Mississippi changed his vote from ''aye'' to ''no.''

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995, is long overdue. I agree with the bill's authors that it is essential that a cost-benefit analysis be performed on the thousands of Federal regulations that are prepared each year. Without this measure, the Federal Government would simply continue to create, without any accountability, a growing mountain of new Federal requirements. In far too many cases, these regulations provide little, if any, benefit to our economy, our environment, or our Nation as a whole.

While H.R. 1022 is not a perfect product and it will be refined throughout the legislative process, there are several very sound provisions which I would like to highlight.

First, the term ''major rule'' has been defined to cover any regulation that is likely to result in an annual cost of $25 million or more. It is, therefore, highly unlikely that this bill would require a full blown cost-benefit analysis for annual and routine housekeeping regulations like those that simply open or close various fisheries or stipulate the dates, hunting times, and bag limits for migratory bird species. Concerns about the effects on these types of activities by the regulatory moratorium bill passed last week required us to exempt them from the moratorium. The concern is not present here.

Second, although this legislation does require cost-benefit analyses for major rules, it does not mandate an outcome nor does it prevent the implementation of any regulations once a department or agency has certified the impact of a proposed rule. The fundamental goal of this legislation is to allow the American people and their elected representatives to know the true cost of a proposed Federal regulatory action. With this information, which is often currently lacking, policymakers can make rational decisions that prioritize and balance the diverse needs of this Nation.

Finally, this legislation contains a phase-in provision before the requirement of a cost-benefit and risk-assessment analysis kicks in. By postponing the effective date, Federal agencies will have at least 18 months to gear up to perform these important analyses in a scientific and unbiased manner.

I compliment the sponsors of this measure for providing this transition period. I am confident that because of this language, there will not be any unnecessary or unanticipated burdens placed on the executive branch of our Government.

The requirement of cost-benefit and risk-assessment analyses is neither a new nor a radical idea. The Army Corps of Engineers has, for instance, been performing these studies for many years. I believe it is time for the rest of the Federal Government to get with the program.

Mr. JOHNSON of South Dakota. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act is flawed legislation and needs to be much improved by the Senate and by the conference committee before I could vote for it on final passage. Nonetheless, I support the general thrust of requiring risk assessment and cost-benefit tests for Federal regulations and I will vote for this bill today as a means of allowing the debate to continue. The current version of this legislation would lead to costly increases in Federal bureaucracy, an enormous increase in litigation and possibly a risk for health and safety concerns. I am disappointed that the House leadership seems to be more concerned over making political statements with this bill than in crafting legal language which would actually serve the public interest. I do, however, believe that this issue should be moved on to the Senate and conference committees for, hopefully, more deliberate and responsible consideration. I will not vote for this legislation at that time unless it has been significantly improved.

Mr. CONDIT. Mr. Chairman, as many of you are already aware I am a strong proponent of risk assessment and cost-benefit analysis.

I have formed this opinion because I recognize that we do not have infinite resources and we cannot address every risk to health, the environment or society.

How then should we determine which risks to address?

The way things are being done today has to change. Risks are regulated in a complete absence of scientific fact. Tonight's news magazine show becomes tomorrow's regulation. Never mind that there might be 20 problems that are more pressing—they haven't been on TV yet.

In 1987 EPA experts conducted a review of what they felt were the greatest risks. When they collected all of the opinions, they produced a report titled ''Unfinished Business.'' This report concluded that what experts felt were the greatest risks had funding priority and the smallest risk had the highest funding priority.

Another problem is the approach to regulations in one agency might not resemble that of another. For example, a resources for the future expert was attempting to determine the amount of lives that would be saved by an EPA regulation. Using the EPA method he determined that 6,400 deaths would be prevented. However, when the same researcher used the same data with the FDA method, he came up with a figure of 1,400.

To put this in perspective, it is absolutely necessary to assess the risk, determine how much it is going to cost to address it and how great the benefit is if we do it. And this must be done consistently throughout the Federal Government.

This is not some far-out concept, this is simply common sense.

I have been very active in this area and worked hard to convince people in the administration that we need a policy on this. During the 103d Congress I successfully added an amendment to the Agriculture reorganization bill which creates an Office of Risk Assessment.

I think the time to act is now. H.R. 1022 presents the 104th Congress with a real opportunity to begin assessing risks in a coherent and consistent manner. People need to understand the purpose and price of regulations—and they need to be done in an understandable manner. As it is done today, regulations are complex and written in an inconsistent manner.

Supreme Court Justice Stephen Breyer is a great supporter of risk assessment. In his book on the topic ''Breaking the Vicious Circle'' he made the following observation:

> When we treat tiny, moderate and large too much alike, we begin to resemble the boy who cried wolf. Who now reads the warnings on aspirin bottles, or the pharmaceutical drug warnings that run on for several pages? Will a public that hears these warnings too often and too loudly begin too often to ignore them?

This is exactly what I am talking about. We need to restore some credibility to our regulatory process. H.R. 1022 helps this process along. As it stands today, when you say the words Federal regulation, people cringe. It should not be that way.

Mr. PORTMAN. Mr. Chairman, one of the goals of the Contract With America is to generate economic growth and encourage job creation. Relieving the regulatory burden on individuals and businesses is essential to achieving this objective. Today, the House of Representatives took a step in this direction by requiring Federal bureaucrats to assess the cost of their actions.

Washington bureaucrats are costing us $430 billion a year with regulations that often do more harm than good. They are coming up with $50 solutions for $5 problems. It's time for common sense in Washington.

Last year 69,000 pages of Federal rules and regulations were published. The process of regulating has become an industry in lawyers, lobbyists, and special interests.

These rules and regulations—9 feet of regulations, if laid end-to-end—inpact every aspect of Americans' lives. The rules are often contradictory, and frequently conflict with State, county and local rules.

Specifically, H.R. 1022 would ensure that risk assessments are objective, unbiased, and subject to peer review. The cost these rules

will eventually have on Americans must be taken into account, alternatives to complicated rules that might be more cost-effective must be considered, and a sound reason for the regulation in the first place must be demonstrated.

This legislation would simply require that the Federal bureaucracy assess the costs of their actions on the rest of us. We are living in an era of declining revenues, and we must make choices and set priorities. And our Government—bureaucrats as well as elected officials—must be accountable.

The problem is that we now tend to direct our resources to relatively low-risk concerns while other, more serious concerns receive little attention. Since there's no standarized method of risk-assessment to be used throughout the Government, policymakers are unable to prioritize regulatory strategies in a common-sense manner. This bill allows us to concentrate scarce dollars where they will do the most good, and analyze alternatives to achieve the goal of public safety at the lowest possible cost.

Mr. BENTSEN. Mr. Chairman, I rise today in opposition to House Resolution 1022, the Risk Assessment and Cost-Benefit Act. I am extremely disappointed with the lack of full consideration of this important piece of legislation.

I support regulatory reform. In particular, I support cost-benefit analysis and risk assessment as tools to develop rational regulations. I have spoken with small business owners, oil and chemical companies, and other constituents who have relayed to me their stories of frustration over the regulatory process. I've also talked to constituents who are concerned about health, safety, and the environment their kids will grow up in. Our job is to find the appropriate, delicate balance between the interests of commerce, industry, and the environment. This legislation is too quick of a fix to solve such a complex problem.

Reforming Federal regulations will help our economy to grow. The time-consuming process of filling out environmental impact statements or hundreds of pages of small business loan forms are good examples of why reform is necessary. But this bill doesn't guarantee regulations that are sensible. On the contrary, conducting across-the-board risk-assessments will lengthen the review process, transform simple rules into complex monstrosities, and cost taxpayers millions.

Given time for thorough consideration, I believe that this body might have crafted a sensible compromise. Unfortunately, this is not that bill. Mr. Chairman, I must add that I cannot support a process which limits debate to only 10 hours and restricts the number of amendments allowed for consideration. This is not full and fair disclosure. The American people expect and deserve a full airing of these important issues in the Congress, and not this reckless, hasty display.

Once again, the job of fair and bipartisan legislating is left to the other body. That is a terrible shame, because regulatory reform is deserving of much more thorough consideration.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KNOLLENBERG) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, pursuant to House Resolution 96, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DOGGETT. I am, most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DOGGET moves to recommit the bill H.R. 1022 to the Committee on Science with instructions to report the same back to the House forthwith with the following amendments:

Amend the heading of section 301 (page 31, line 2) to read as follows:

SEC. 301. PEER REVIEW PROGRAM AND PROHIBITION OF CONFLICTS OF INTEREST.

Strike paragraph (3) of section 301(a) (page 31, line 23 through page 32, line 5) and insert the following:

(3) shall exclude peer reviewers who have a potential financial interest in the outcome:

Mr. DOGGETT. Mr. Speaker, this is a short amendment, 13 words, and it is a short presentation on it after a lengthy debate in which one Member after another has attempted to clean up this bill.

Mr. Speaker, throughout the course of this lengthy debate, one Member after another has sought to clean up this bill and has been thwarted at every turn. There is one recurring theme throughout the debate, and, that is, whether we are going to turn the public's business over to special interests and their lobbyists.

All this very simple motion to recommit does is to send the bill back to recommit it to the committee to put in a conflict of interest provision instead of committing it and our Government to special interests.

That is what the American people want. They are tired of special interests coming to this House and getting special treatment while the hard-working families across this Nation get only the leftovers.

Mr. Speaker, this is supposed to be a bill about science, about risk assessment. But it has not really worked out that way. Because what this bill has ended up being is a matter of placing the risk on ordinary Americans as far as their health and safety and placing the benefits in the hands of a few. One of the things we can do about it is to try to sever the ties that bind the special interests to this bill and give us not good science but good special treatment for the few. That is what this conflict of interest amendment is about.

The House needs to know that a vote against this motion to recommit is a vote to mandate that registered lobbyists will rule, perhaps with a veto power, in these peer review committees.

I thought that perhaps the gentleman from Pennsylvania was going to do something about this. He talked about the possibility of doing something about it during the course of the amendment offered by the gentleman from Massachusetts this afternoon, but we have had plenty of time. We had some time in committee, and nothing has been done about it.

This bill as written for the first time will mandate that an agency of this Federal Government charged with protecting public health and safety cannot, shall not, indeed, exclude a lobbyist for a special interest group from serving on a peer review committee, exercising a potential veto power over regulations to protect the public health and safety.

I do not believe there has been a day recently that I have not received a letter from some lobbyist promoting this bill. They can salivate over the prospects under this bill. Every one of these letters has begun by telling me about the desire for good science, but when all was said and done, all they really wanted was delay and reduction of regulations.

That is why I am sure, Mr. Speaker, that the distinguished Republican Senator from Rhode Island, Senator CHAFEE, has described this bill in its current form as a prescription for gridlock and indeed it is.

What we can do at least is clean it up through this motion to recommit so that there is not this kind of blatant conflict of interest. That is all this one-sentence amendment and a new title on conflict of interest will do.

With this recommittal and the amendment, we will see that the peer review process is not converted from being an objective scientific process into only the best science that money can buy, and we will not let the special interests capture the whole regulatory process.

Think about what that means and take the practical example of tobacco. Two or three decades after we first heard about the dangers of tobacco and

cancer, we still cannot find a single tobacco company study that shows there is any link. They have had some of the best scientists that money can buy but when they are asked whether there is any link between tobacco and cancer, you can see them, they are just scratching their heads again, saying, ''Well, there might be, but not until my retirement vests.''

That is the kind of scientists that this bill mandates have to be on peer review panels across this country, and it is wrong.

We began with a desire for good science, good science over good politics, good science over silly regulations, some of which have come out under Democratic administrations and some of which have come out in 12 of the last 14 years under Republican administrations. What we have gotten is not good science but good protection for special interests. We can do something about that. We can rewrite this bill to attack special interests, to attack silly regulations, all in the same process. If you believe that we ought not to turn over our Government to special interests, vote in favor of this motion to recommit and do something about it with a strong conflict of interest provision.

Mr. WALKER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this is an amendment similar to an amendment that was turned down by a vote of 247 to 177 earlier.

What this does is make certain that the peer review process would fail because it assures that only those who know nothing about the subject would serve on the peer review panels. It is one of those dumb and dumber amendments that probably should not come before the House.

I yield to the majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I think the chairman has pretty well summed it up very quickly. Let me just say that in all of this cry for special interests being part of the peer review process, what the author of the motion to recommit wants to happen is his special interests get to serve on the peer review panels rather than our special interests. They want to load the system so that they can continue to control and manipulate the American economy and the American business men and women. That is what is going on here.

For years they get a study and they make sure that the conclusion is written before the study is even done on these regulations. That is what they want to continue. They want to load the system with their special interests, with their environmental extremist groups, or with the labor unions, or the other special interests, the Ralph Nader groups, the Public Citizens, they want to load them up.

What we want is a peer review process that brings everybody into the process and gets all points of view, particularly those people that have to deal with these oppressive regulations. They should have a say in this process and that is what we want.

Vote ''no'' on the motion to recommit.

Mr. Chairman, a New York Times article from a couple of years ago summed up perfectly the prevailing criticism of Congress' and EPA's choice of priorities:

> In the last 15 years, environmental policy has too often evolved largely in reaction to popular panics, not in response to sound scientific analysis of which environmental hazards present the greatest risks. As a result . . . billions of dollars are wasted each year in battling problems that are no longer considered especially dangerous, leaving little money for others that cause far more harm.

No one who supports this bill wants to harm children or hurt our environment—the fact of the matter is, every time you get out of bed and start a new day you are faced with risks, and every day you make decisions about whether to accept those risks based on an analysis of the costs versus the benefits associated with them.

Likewise, the Federal Government must set priorities on how to spend its limited resources. There is no way the Government could ever protect everyone from every risk there is, and I don't believe Americans expect that. Risk assessment and cost/benefit analysis will both help us focus on those areas that are the greatest threat to the public, and provide the data needed to make those tough budgetary choices.

When granting a tolerance for a new pesticide or an air pollutant, EPA's standard is protection against a lifetime risk of one in a million for cancer. For a little perspective, the chance of death by lightning is 35 times as great; by accidental falls, 4,000 times as great; and in a motor vehicle, 16,000 times as great.

Just to demonstrate the need for reform, I'd like to present a few examples of how our system has gone haywire:

First, under the Clean Water Act, if flooding creates pools of water on someone's property as the result of a clogged-up drainage system, the owner may not clear the clog to drain the new wetland without Government permission.

Second, EPA regulations require that municipal water treatment plants remove 30 percent of organic material before discharging treated water into the ocean. Because water in Anchorage, AK is already very clean, the town has had to recruit local fish processors to purposely dump 5,000 pounds of fish guts into its sewage system each day so that it would have something to clean up and meet EPA's requirement.

Third, the Cleveland Plain Dealer, a newspaper company, wanted to build a new production plant near Lake Erie, a plant which would bring 400 new jobs to the otherwise abandoned inner-city industrial area. But because of cleanup costs of $200,000 for residual chemicals, the newspaper chose to build the plant in cleaner suburbs.

Another socially conscious Cleveland developer also wanted to develop a 200-acre industrial park downtown, but discovered he would have to spend $200 million just to clean up the property before beginning construction. He abandoned the project.

I think everyone would agree that these are not the intended consequences of Federal rules and regulations, and yet these things continue to happen over and over again. What we want is to bring some common sense and sound science into the process, so that regulations will serve the people, rather than people serve the regulations.

Vote ''no'' on this motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, this amendment really is not about the peer review process. That was dealt with in the Markey amendment. The Markey amendment went down as it should have.

The provision in this bill provides for everybody of every interest, labor and environmental groups and business groups and everyone, to participate in the peer review process, and they have to report any potential conflict of interest. That is what makes this bill so strong.

But really the opponents of this bill who are trying to hide behind the motion to recommit are worried about three strikes and you're out, changing a $25 million coverage to $100 million, changing the enforceable law in not allowing judicial review, and providing for prior law to prevent consideration and to change the risk and cost-benefit analysis.

This is an effort to try to stifle the ability to change the way Washington works in its regulatory process. Members should vote against the motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I too want to urge a vote against this motion to recommit.

The bill as presently constructed says that anyone with any interest in the rule has to disclose that interest, whether you have an interest from an environmental standpoint, whether you have an interest from wherever you are coming from, from a labor or management standpoint. It allows all of those with expertise to serve on the panel provided you disclose your interest. That is they way it ought to be.

This motion to recommit will defeat that provision of the bill. We need to defeat this motion to recommit.

Mr. WALKER. The gentleman from Louisiana is absolutely correct. The bill calls for peer review panels that are broadly representative and balanced and include representatives from State and local governments, industries, small businesses, universities, agriculture, labor, consumers, conservation organizations, and public interest groups.

We ought to keep that kind of broad language and reject that which the gentleman from Texas has offered.

□ 1015

The SPEAKER pro tempore (Mr. KNOLLENBERG). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 174, noes 250, not voting 10, as follows:

[Roll No 182]

AYES—174

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—250

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Browder
Gonzalez
Gutierrez
Hunter
LaTourette
Lipinski
Martinez
Metcalf
Rush
Ward

□ 1931

The Clerk announced the following pair:

On this vote:

Mr. Rush for, with Mr. Metcalf against.

Mr. PARKER changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KNOLLENBERG). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROWN of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 141, not voting 7, as follows:

[Roll No 183]

AYES—286

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)

Smith (NJ)	Taylor (NC)	Wamp
Smith (TX)	Tejeda	Watts (OK)
Smith (WA)	Thomas	Weldon (FL)
Solomon	Thornberry	Weldon (PA)
Souder	Thornton	Weller
Spence	Thurman	White
Stearns	Tiahrt	Whitfield
Stenholm	Torkildsen	Wicker
Stockman	Towns	Wilson
Stump	Traficant	Wolf
Stupak	Upton	Young (AK)
Talent	Volkmer	Young (FL)
Tanner	Vucanovich	Zeliff
Tate	Waldholtz	Zimmer
Tauzin	Walker	
Taylor (MS)	Walsh	

NOES—141

Abercrombie	Furse	Murtha
Ackerman	Gejdenson	Nadler
Andrews	Gephardt	Neal
Baldacci	Gibbons	Oberstar
Barrett (WI)	Hall (OH)	Obey
Becerra	Harman	Olver
Beilenson	Hastings (FL)	Owens
Bentsen	Hilliard	Pallone
Berman	Hinchey	Pastor
Boehlert	Hoyer	Payne (NJ)
Bonior	Jackson-Lee	Pelosi
Borski	Jacobs	Rahall
Boucher	Jefferson	Rangel
Brown (CA)	Johnson, E. B.	Reed
Brown (FL)	Johnston	Richardson
Brown (OH)	Kanjorski	Rivers
Bryant (TX)	Kaptur	Roybal-Allard
Cardin	Kennedy (MA)	Sabo
Clay	Kennedy (RI)	Sanders
Clayton	Kennelly	Sawyer
Clyburn	Kildee	Schroeder
Coleman	Kleczka	Schumer
Collins (IL)	Klink	Scott
Collins (MI)	LaFalce	Serrano
Conyers	Lantos	Shays
Coyne	Levin	Skaggs
DeFazio	Lewis (GA)	Slaughter
DeLauro	Lofgren	Spratt
Dellums	Lowey	Stark
Deutsch	Luther	Stokes
Dicks	Maloney	Studds
Dingell	Manton	Thompson
Dixon	Markey	Torres
Doggett	Mascara	Torricelli
Durbin	Matsui	Tucker
Engel	McCarthy	Velazquez
Eshoo	McDermott	Vento
Evans	McHale	Visclosky
Farr	McKinney	Waters
Fattah	Meehan	Watt (NC)
Fazio	Meek	Waxman
Fields (LA)	Menendez	Williams
Filner	Mfume	Wise
Flake	Miller (CA)	Woolsey
Foglietta	Mineta	Wyden
Ford	Mink	Wynn
Frank (MA)	Moakley	Yates

NOT VOTING—7

Gonzalez	Lipinski	Ward
Gutierrez	Martinez	
Hunter	Rush	

□ 1940

Mr. VISCLOSKY changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–61) on the resolution (H. Res. 101) providing for the consideration of the bill (H.R. 925), to compensate owners of private property for the effect of certain regulatory restrictions, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 70

Mr. TORRES. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 70.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF MS. JUNE ELLENOFF O'NEILL AS DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

The SPEAKER pro tempore. Pursuant to the provisions of section 201(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, Public Law 93–344, the Chair announces that the Speaker and the President pro tempore of the Senate on Wednesday, February 22, 1995 did jointly appoint Ms. June Ellenoff O'Neill as director of the Congressional Budget Office, effective March 1, 1995, for the term of office beginning January 3, 1995.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES ON AMENDMENTS TO H.R. 956, THE COMMON SENSE LEGAL REFORM BILL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I wish to announce to House Members that the Rules Committee is planning to meet on Tuesday, March 7, to grant a rule which may restrict amendments for the consideration of H.R. 956, the Common Sense Legal Standards Reform Act of 1995.

Any Member contemplating an amendment to H.R. 956—the product liability bill—should submit 55 copies of the amendment and a brief explanation to the Rules Committee, no later than 3 p.m. on Friday, March 3.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

It is the intention of the Rules Committee to make the text of H.R. 1075 in order as a substitute to the reported text of H.R. 956 for amendment purposes. This new text reflects the work of both the Judiciary Committee and the Commerce Committee on this issue. The copies of H.R. 1075 can be obtained from the majority offices of the Commerce Committee or the Judiciary Committee. Legislative Counsel will draft all amendments to this revised text.

□ 1945

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT TOMORROW, MARCH 1, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule; The Committee on Banking and Financial Services; The Committee on Economic and Educational Opportunities; The Committee on Government Reform and Oversight; The Committee on House Oversight; The Committee on International Relations; The Committee on Transportation and Infrastructure; and The Committee on Veterans Affairs.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. KNOLLENBERG). Is there objection to the request of the gentleman from Texas?

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I just want to concur that these are the lists of committees that the minority was consulted on, and we have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TOMORROW, MARCH 1, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, once again I would acknowledge that this was discussed with the minority.

The minority has no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NOTICE OF INTENT TO TAKE UP RESOLUTION OF INQUIRY ON MEXICAN PESO CRISIS

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, let me just take this moment to report to the House, pursuant to the agreement that I made with the minority leader last week, that we would give Members a