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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. JOLLY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 9, 2014.

I hereby appoint the Honorable DAVID W. JOLLY to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2014, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes, but in no event shall debate continue beyond 11:50 a.m.

HONORING THE LIFE AND SELFLESS SERVICE OF SERGEANT FIRST CLASS SAMUEL C. ''SAM'' HAIRSTON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. MILLER) for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, it is with profound sadness and gratitude that I rise to pay tribute to a fallen and decorated American hero.

Army Sergeant First Class Samuel C. ''Sam'' Hairston of Houston, Texas, was killed on August 12, 2014, in Ghazni, Afghanistan, from injuries sustained when his unit was engaged while in support of Operation Enduring Freedom by enemy small-arms fire.

Sergeant First Class Hairston was assigned to the 1st Battalion, 504th Parachute Infantry Regiment, 1st Brigade Combat Team, 82nd Airborne Division, Fort Bragg, North Carolina.

Born to Bernett and Josephine Hairston June 22, 1979, at Shaw Air Force Base, South Carolina, Sergeant First Class Hairston was raised in Shalimar, Florida, and graduated from Choctawhatchee High School in 1997.

Sergeant First Class Hairston wanted to follow in the footsteps of his father and brother by joining our Nation's Armed Forces. After pursuing a Division I football scholarship as defensive lineman at the University of Houston and earning a bachelor's degree in economics, he joined the U.S. Army in 2003 as an infantryman.

Upon completion of the basic airborne course at Fort Benning, Georgia, he was assigned to 1st Brigade Combat Team, Fort Bragg, North Carolina, in August of 2013. He selflessly served four combat tours throughout his career, which included two tours in support of both Operation Iraqi Freedom and Operation Enduring Freedom.

Sergeant First Class Hairston has been described as someone whose smile could light up a room, and to his wife Tawana and stepson Hayden, he was a loving and devoted husband and father.

In terms of his military service, whenever he was thanked, he responded that serving our country was his choice and his service was so Americans can enjoy the freedoms that are all too often taken for granted.

He took pride in every mission and never expected anything in return. ''An exceptional noncommissioned officer and a valued member of our team,'' is how he was described by Lieutenant Colonel Chris Hockenberry, Hairston's battalion commander.

Sergeant First Class Hairston's qualifications included the Ranger Tab, Combat Infantryman Badge, Pathfinder Badge, Military Master Free Fall Parachutist Badge, and the Army Parachutist Badge.

Throughout his time in service, he was awarded the Bronze Star, Purple Heart, Meritorious Service Medal, Army Commendation Medal with three oakleaf clusters, Army Achievement Medal, Meritorious Unit Citation with two oakleaf clusters, Army Good Conduct Medal with two oakleaf clusters, the National Defense Service Medal, Afghanistan Campaign Medal with two campaign stars, Iraqi Campaign Medal with two campaign stars, the Global War on Terrorism Expeditionary Medal, and the Global War on Terrorism Service Medal.

Throughout his unwavering dedication to country, Sergeant First Class Hairston helped ensure that our constitutional rights were upheld and that our Nation was protected from harm, both here and abroad. His ultimate sacrifice will never be forgotten.

To Sergeant First Class Hairston's loving wife Mrs. Tawana Hairston; his stepson Hayden; his parents Bernett and Josephine Hairston; his brothers Junnee Cardama, Broady Hairston, and T.J. Hairston; his entire family; and friends, my wife Vicki joins me in offering our sincerest condolences and prayers.

Mr. Speaker, on behalf of a grateful United States Congress and Nation, I stand here to honor Sergeant First Class Sam C. Hairston and all of those heroes we have lost.

May God continue to bless them, the men and women of our United States Armed Forces, and may God continue to bless the United States of America.

LEGALIZING MARIJUANA

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

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Mr. BLUMENAUER. Mr. Speaker, there is much that Congress deals with that seems intractable. We struggle with the great issues of war and peace. We view climate change and its devastating impacts and are paralyzed. We look at this still-simmering racial unrest and the painful events of Ferguson, Missouri, and largely are ignoring the underlying issues.

There is one area where government at the State and local level and here in Congress can make things a little easier, a little more sensible, and that is dealing with our failed policy of marijuana prohibition.

There was a sad article on the front page of The Times yesterday about a call center employee, paralyzed since he was 16 years old, who was fired from his job because he used medical marijuana in a State where it is legal, on his off-hours, at home at night, to control his back spasms.

That had nothing to do with his job performance, yet this person was terminated. There is a certain degree of hypocrisy, where someone having a glass of wine at home is treated radically different.

This is just one small example of a much larger problem. The cost of our failed prohibition causes untold damage to racial minorities, especially African American young men who are much more likely to be arrested and jailed, even though they use marijuana no more frequently than young White men, jailed for something most Americans now think should be legal.

That hypocrisy was on display with the NFL, who suspended a player for a year for smoking marijuana, but remember, the wifebeater was suspended for only two games until an even more graphic video of the beating forced the NFL's hand because of the public outrage; yet this is the same NFL that encourages—some would say pressures—players to be pumped with shots and pills to dull their pain, which often leads to serious consequences for these players later in life, especially prescription drug dependency.

Remember, we have an epidemic of prescription drug abuse that kills more people every year than heroin, methamphetamines, and cocaine combined, and of course, no one has ever been killed from a marijuana overdose.

We are wasting lives, law enforcement resources, and money when we have more important issues to tackle. I am pleased that my State of Oregon, which was the first State to decriminalize a small amount of marijuana, now may become the next State to legalize adult use.

We have seen significant progress here in Congress to allow the cultivation of industrial hemp, allow Kentucky tobacco farmers and Oregon ranchers to grow hemp for products that are perfectly legal and you can buy in any city in America.

We have helped rein in the Federal Government interference with the 23 States that allow over 1 million people to use medical marijuana. People are picking up and moving to States that permit medical marijuana to get access to the therapeutic benefits of marijuana, which can reduce the violent epileptic seizures that torture their children.

It is time for us to do a reality check. Let's legalize, regulate, and tax marijuana, and then get on to those bigger problems that need our attention, like war and peace, the consequence of a failure to deal with climate change, and the epidemic of prescription drug abuse that is killing three or four Americans every hour. Let's get our priorities straight.

RADICALIZED AMERICANS FIGHTING WITH ISIS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. WOLF) for 5 minutes.

Mr. WOLF. Mr. Speaker, according to a new poll released by CNN last evening, ''Americans are increasingly concerned that ISIS represents a direct terror threat'' and that they are ''fearful that ISIS agents are living in the United States.''

A Washington Post poll released this morning shows that 90 percent of the American people believe that ISIS poses a ''serious'' threat to the U.S.

This threat is growing, largely due to the fact that an increasing number radicalized westerners, including more than 140 Americans, are freely traveling to Syria to link up with ISIS and al Qaeda-affiliated groups.

Consider that over the last month, while this Congress was out on recess, the number of Americans killed fighting with terrorist organizations in Syria quickly grew, signaling a trend that should be troubling to all Americans.

Earlier this summer, Moner Mohammad Abu-Salha, a 22-year-old from Florida, became the first American suicide bomber fighting in Syria for the al Qaeda-affiliated al-Nusra.

Equally concerning as his deadly act was the fact that he traveled from Syria to Florida and back again in the months before his deadly terrorist act. In August, two more Americans were reportedly killed fighting with ISIS—Douglas McArthur McCain and Abdirahmaan Muhumed, both originally from Minneapolis, Minnesota.

We must take proactive steps to discourage Americans from traveling to Syria to link up with these groups. Unfortunately, current law does not prevent Americans from traveling freely to Syria and back, which creates loopholes would-be jihadists can exploit.

Currently, unless the U.S. has solid evidence that they have joined one of these terrorist groups, the FBI cannot arrest suspects upon their return. Unfortunately, it can be very hard to prove that suspects fought with a terrorist group in Syria, due to limited U.S. intelligence about their activities in the region.

I am concerned that the absence of laws preventing unrestricted travel to Syria means the U.S. is not taking any substantial steps to discourage Americans from going over to fight. This is an untenable situation that puts our country at greater risk of attack from a radicalized American who trains and fights with these groups and later returns home. That is why I have introduced legislation in March, aimed at curbing this threat.

Over the last 6 months, since its introduction, the dramatic gains by ISIS and a growing number of foreign fighters has only reaffirmed the need for legislation to address this issue.

My bill, H.R. 4223, the International Conflicts of Concern Act, will give the President authority to temporarily restrict travel and material support to countries like Syria, and the President could add additional countries of concern when conflicts spill over into other countries, as we have seen in Iraq.

The bill would also contain important protections, allowing legitimate travel by licensed humanitarian aid workers, journalists, and other groups cleared by the U.S. Government. I want to add that this bill was developed with the input of the FBI and has been supported by Director Comey of the FBI.

I believe it is a commonsense solution to an increasingly urgent threat, and the House should bring up this bill and pass it before it recesses. Should we fail to do so, I believe that one day we will regret not doing all that we can to protect our homeland from the radicalized fighting with ISIS in Syria.

Mr. Speaker, I also want to close by encouraging the President to call on the expertise of two men who know more about fighting terrorists and insurgent threats in Iraq than anyone, General David Petraeus and General Stanley McChrystal.

Although both have retired and neither work for this administration anymore, our country would benefit greatly from their expertise as the military and intelligence community address the growing threat in Iraq. I hope the President and his team will ask for their assistance.

THE SEPTEMBER MESSAGE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. HOYER) for 5 minutes.

Mr. HOYER. Mr. Speaker, September should be a particularly important month for this House. It will be a month of contrasts. It will be a month in which the American people will be able to see that the Republican message to the American people is, ''You are on your own,'' while Democrats say, ''We are on your side.''

All right. Well, what does that mean? The Republicans' announced agenda for this month ought to be no surprise to anyone who has been paying attention to the gridlock in Congress.

Instead of focusing on the issues that matter—creating jobs, raising the minimum wage, fixing our broken immigration system—they are planning to reintroduce partisan messaging bills the House has already passed.

So we are repeating what we have already done, as little as that may be.

□ 1015

Mr. Speaker, it appears as if the Republican House majority in the 113th Congress will go out much as it came in: fixated on a single goal. The Republican chairman of the Rules Committee, PETE SESSIONS, summed up that goal late last year when he said—and I quote Congressman SESSIONS, Republican chairman of the Rules Committee: ''Everything we do in this body should be about messaging to win back the Senate.'' Not about creating jobs, not about making America more secure, not about energy, not about the minimum wage, not about immigration reform, not about making sure that women get equal pay for equal work, not about any of those things. The chairman of the Rules Committee that controls how we consider legislation on this floor said it is about messaging so we can take back the Senate.

All of us should remember that when Senator MCCONNELL was asked a few years ago in the first term of the President of the United States, Barack Obama, he said, when asked, What is your major objective? his response was, To ensure that President Obama is a one-term President. Again, not about jobs, not about the economy, not about growing the middle class, not about making sure voting rights were secured, but making sure that President Obama only served one term. He failed in that objective, but the fact of the matter is they have stayed on that messaging and objective.

Central to achieving that goal Republicans believe is to repeal or undermine the Affordable Care Act. And it comes without a shock to anyone that this month will also feature—as a matter of fact, this week—the 53rd vote to do just that.

However, Mr. Speaker, the American people are obviously tired of partisan gridlock. All of us hear that and all of us on both sides of the aisle say we don't want partisan gridlock, but we have seen wasted opportunities in this House over and over again for Congress to make headway on the challenges that we face as a nation.

Many are asking what happened to the promise Republicans made in 2010 when, in their pledge to America, they wrote—and again I quote—in their pledge to America: a plan to create jobs, end economic uncertainty—by the way, they are the ones who threatened to default on the debt twice and who shut down the greatest government on the face of the Earth and the greatest country on the face of the Earth, shut down its government for 16 days at a cost of $24 billion. A plan, they said, to create jobs and economic certainty—it was uncertainty they created—and make America more competitive. They said that must be the first and most urgent domestic priority of our government.

That is what they said in the pledge, but Chairman SESSIONS said, of course, messaging to take back the Senate was their major objective; therefore, that was a promise forgotten.

Throughout September, House Democrats will be outlining how Republicans have failed to focus on the issues Americans care about and what Congress should be doing instead. House Democrats are ready to jump-start the middle class. That is not just a phrase.

We know the middle class is shrinking, and we know to the extent the middle class is shrinking, America will not be doing as well. We need to expand the middle class, giving opportunities for those who are not in the middle class to climb ladders of opportunity to get into the middle class. We need to move our economy beyond recovery and into prosperity. We are for raising the minimum wage and ensuring equal pay for equal work. The overwhelming majority of Americans are for that.

Poll after poll after poll shows that over 70 percent of America is for those two propositions. In my opinion, both have majority votes on this House floor. But Americans must be surprised that those two issues are not brought to this floor for action so that the people's House can speak.

Now, there may be differences of opinion. Many Republicans may want to vote against the minimum wage, but America deserves to have a vote on that issue, and it has a right to have a vote on making sure that women get paid equally to what men get paid for the same job. They do that in the House of Representatives. Women are paid exactly what men are paid. That is right. That is what ought to happen.

We need to fix our broken immigration system. My friend, Mr. Cantor, who is no longer with us, and I had colloquies, week after week after week, in which Mr. Cantor said, We understand the immigration system is broken. I said, We agree, it is broken. And we have done nothing to fix it.

The Republicans have passed some five or six bills to fix it. They haven't brought their own bills to the floor so that the House could work its will. I don't believe that is the kind of Congress, Mr. Speaker, that America wants. We need to fix that system in a way that secures our border and brings millions out of the shadows.

Mr. Speaker, we need to bring to the floor bipartisan Make It In America jobs bills designed to grow our manufacturing base, help our businesses to compete, and attract jobs that pay well and open doors of opportunity to workers and their families.

The Republican-led committee passed out a bill sponsored by Mr. LIPINSKI almost unanimously—I think it was on a voice vote—a bill that passed in the last Congress with over 300 votes. I have been asking for the last 10 months that that bill be brought to the floor. All it says is America needs to have a playbook, a plan, a strategy, if you will, to grow our manufacturing sector, create more middle class jobs and compete with the rest of the world. We cannot get that bill to the floor. Mr. Speaker, I don't believe that is the kind of Congress America wants.

These are the issues that the American people want Congress to focus on, not undoing the patient protections and cost savings that health care reform has brought, not rebranding an antiregulatory and antiworker platform as a jobs package that would add—Mr. Speaker, Americans are going to be astounded, legislation we are going to consider this week will add $560 billion to the debt. Now, we passed most of those bills and created a larger debt by more than that $560 billion already, but we are going to do it again—not wasting taxpayers' money and time on partisan lawsuits and investigations, not giving the American people the least productive, and least open Congress in modern history.

The pledge to America talked about transparency. We have had more closed rules in this Congress than any Congress in which I have served.

Mr. Speaker, Americans want leaders who are on their side, not ones who have broken their promises. They need and deserve a people's House that is truly on their side.

VETERANS OF FOREIGN WARS DAY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Tennessee (Mrs. BLACK) for 5 minutes.

Mrs. BLACK. Mr. Speaker, this September 29 marks the 115th birthday of the Veterans of Foreign Wars. It is a day that will be celebrated at VFW posts and in communities around the country, and it is a day that deserves our recognition here in Congress as well.

As a member of our local VFW Ladies Auxiliary and the proud wife of a Vietnam veteran and a VFW member, I have seen firsthand how our VFW makes good on its promise every day to honor the dead by helping the living.

Each year, the nearly 2 million VFW and Auxiliary members contribute more than 8.6 million hours of volunteerism in their communities. These are men and women who have already sacrificed for their country by traveling into harm's way to defend our freedoms or waiting anxiously for our loved ones to return home from combat, yet they continue to serve wherever they see a need.

At our VFW post in Hendersonville, for example, members maintain a food pantry for disadvantaged veterans, and they started an Operation Spearhead to specifically serve the families of those called to serve in the war on terror.

Perhaps most importantly, the VFW has always risen above partisanship

and politics to maintain a strong, steady voice on behalf of our heroes since its founding in 1899.

On this upcoming Veterans of Foreign Wars Day, may we pause to honor the many contributions of this organization and be reminded to pray for those who continue serving around the world.

ISSUES OF THE DAY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON LEE) for 5 minutes.

Ms. JACKSON LEE. Mr. Speaker, many of us are disappointed that sometime on the floor today we will spend precious time that could be utilized for our focus on ISIS, focus on increasing the minimum wage and addressing social issues across America on condemning the President for authority that he had and for, in essence, rescuing Sergeant Bergdahl. But that is, unfortunately, where we find ourselves. I am here to indicate that the President has enormous responsibilities and has been thoughtful but forceful on behalf of the American people.

As they indicated, there are many issues that we have great concern with, and last evening colleagues of mine in the Congressional Black Caucus stood on the floor of the House to address the heinous killing of Michael Brown in Ferguson, Missouri.

First, let me thank Congressman LACY CLAY and Congressman CLEAVER for their leadership. They had to be on the front lines embracing the family members and community. But those of us in distance want to extend our deepest sympathy to the family of Michael Brown and indicate that we have had great police-community relations through many of our districts overcoming some very serious obstacles, as we did in Houston, Texas. We started community-oriented policing at the leadership of former Mayor Lee P. Brown. It can be done.

On the Judiciary Committee, I have worked with funding for community-oriented policing, and, therefore, I don't take a backseat to my support of law enforcement across this Nation. The actions that were played out by the media in video, to me, took the life of a boy who had a life in front of him.

So it is crucial that this body does not leave for its recess again and not address, in some direct way, the killing of Michael Brown, hearings regarding the militarization of our police, adding more funding back to community-oriented policing, and, yes, asking the question of the utilization of firepower against an unarmed Black boy.

The epidemic of the killing of Black men is real; you can see the numbers. Those of us who are mothers who have to tell our sons how they ought to respond when they are on the street—educated, military personnel, high school graduates or not—this is something that all of America should be concerned about because we are America. I hope to be part of the solution and not the problem.

We will be looking to introduce legislation that addresses the question of how we utilize equipment that was given for natural disasters and fighting terrorism, not to go against unarmed civilians. That is, I believe, a charge for this body.

Let me also indicate that, as a member of the Homeland Security Committee, having just come from the Mideast, I know that ISIS is real, and I believe that the President had a strategy. It was a deliberative strategy. It was one that was not to be spoken of precipitously or to announce what you are going to do next. But as he engages in consultation with our leadership, it is crucial that he engages in consultation with Members of Congress. I know that that is the President's effort. He has done so in the past.

We have willing allies in the Mideast who are willing to stand up with United States leadership on strategy where they are in the front. We must define what boots on the ground means, what does the 1,000 individuals who are there now who are military personnel. We must find a way to address Syria without collaborating with President Assad. And we must be reminded that the religious minorities in Iraq are still under siege and attack, and there are, in the wake of those attacks, often children that we must address.

□ 1030

We must be able to provide international resources for the children who are left after the bloody siege of ISIS. And then we must explain to the American people that we have their national security in our hands, that we realize that the rising numbers wanting to attack Syria and wanting to continue to attack Iraq in those areas where ISIS is is because of the fear of the homeland.

As I indicated, as the senior member on Homeland Security, we get that. We will be holding a hearing in the Border and Maritime Security Subcommittee, where I serve as ranking member, along with my chairwoman, Congresswoman MILLER. I have introduced legislation as an aside to declare the Russian rebels as terrorists. I look forward to looking at this question, as Congressman WOLF has, this issue of those with U.S. passports and this question of how do we keep them from flying, adding them to the no-fly list. We are looking at ways of getting our walls around those individuals being able to attack the homeland.

Again, we have many issues to come together on as a body. We must address the crisis of the killing of Michael Brown. But we also have to say that we can do it together. We must address this crisis of dealing with ISIS. It is real, it can be assessed, and it can be handled. Collaborate with our Western allies and our friends in the Mideast. It is our duty, and we must do it now.

HELPING FAMILIES IN MENTAL HEALTH CRISIS ACT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY) for 5 minutes.

Mr. MURPHY of Pennsylvania. Mr. Speaker, ''cowardly,'' ''a heathen,'' ''selfish''—those are the words some used to describe Robin Williams' suicide. These underscore that there is a great deal of ignorance and misunderstanding about suicide.

Myths surrounding suicide are pervasive and persistent. Given that September is National Suicide Prevention Month, we have an opportunity to dispel these common misconceptions, such as ''suicide is not that common.'' This year, 9.3 million adults will have serious thoughts of suicide, 2.7 million will make suicide plans, 1.3 million will attempt suicide, and nearly 40,000 will die by suicide. One suicide occurs every 16 minutes, and one veteran commits suicide every hour. More will die by suicide this year than in car accidents.

Here is another misconception: ''Those who die by suicide should just have sucked it up.'' But the vast majority of individuals who have died by suicide had a diagnosable mental illness. Mental illness is a contributing factor in 90 percent of suicides, and the risk of suicide increases more than 50 percent in individuals experiencing depression.

Consider this mistaken belief: ''Suicide is well planned and a thoughtful act.'' Twenty-five percent of people who attempt suicide do so within 5 minutes of their initial decision, and 75 percent do so within the first hour.

Although there is a lot we know about suicide, these myths continue to perpetuate because we don't understand enough why certain populations are at higher risk and what is happening in the brain at the time of suicide.

A recent report from the Centers for Disease Control and Prevention found that in the last decade, here is what happened with suicide rates:

The rate for those 35 to 64 years of age increased 28 percent; for women, it increased 31 percent; for white Americans, it increased 40 percent; for American Indian and Alaska Natives, it increased 65 percent; and the use of suffocation or hanging increased 81 percent. And despite a continued focus on youth suicide, it remains either the second- or third-leading cause of death for those between the ages 10 and 25. Rates have also increased dramatically among elderly White men.

The report goes on to note that ''additional research is needed to understand the cause of the increase and why the extent of the increase varies.''

Suicide is a public health crisis demanding a policy response that, to date, has been tepid at best. The impulsive nature and correlation with mental illness requires us to treat suicide as a mental health crisis. To this end, I have introduced the Helping Families

in Mental Health Crisis Act, H.R. 3717, which authorizes research at the National Institute of Mental Health to enhance our understanding of suicide and advance evidence-based approaches to prevention that are not solely centered around raising awareness.

Families of those with serious mental illness already are aware that there is a problem. Unfortunately, a small percentage of those with serious mental illness are not aware they have a problem, but everybody is also painfully aware they cannot get help when someone is in mental health crisis.

We can save lives and help families in mental health crisis, but only if we, as a Nation, have the courage to confront mental illness head on rather than just use phony, feel-good measures.

My legislation also reauthorizes the Garrett Lee Smith Memorial Act, which is the largest youth suicide prevention and early intervention program in the country. However, this program does not address the full scope of suicide, which can affect individuals of any age.

Thus, the House Energy and Commerce Subcommittee on Oversight and Investigations, which I chair, will continue its investigation into our Nation's broken mental health system by looking at proven strategies to reduce the staggering number of suicides. It begins with fixing our broken mental health system and providing hope and evidence-based treatment to individuals and families in crisis. I call upon Members to cosponsor that bill.

Mr. Speaker, we need to tell Americans that if someone you know needs help, they should call 1–800–273–8255 for the National Suicide Prevention Lifeline. They can also find more online at www.afsp.org, the Web site of the American Foundation for Suicide Prevention.

It is clear that this is a national crisis. If we saw any other disease in this country that had numbers as high as these—1 million attempts and 40,000 deaths—we would call upon Americans, the National Institutes of Health, and others to take action. Certainly, we would call upon Congress to take action. This is demanding our action, for every day more and more take their lives from this serious public health problem. Let us address this. Let us no longer ignore it. So many more lives are at stake.

THE ENDURING STRUGGLE OF THE CRIMEAN TATARS

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. ROYCE) for 5 minutes.

Mr. ROYCE. Mr. Speaker, I rise today to talk a little bit about the enduring struggle of the Crimean Tatars, a people who have suffered much over the many generations of war that they have seen in their region. I had an opportunity to meet with many of them when I was in Ukraine. ELIOT ENGEL and I sat down with all of the different minority groups that have been through so much in that region.

I just wanted to say this to the Members of the House, and that is that Russia's aggression in Ukraine has produced many tragedies, but none—none—more so than that of the Crimean Tatars. For centuries, this Muslim community has suffered greatly at the hands of Russia's rulers. Russia's rulers have devastated the population, and they have driven countless numbers from their homes. And now, Moscow's forcible occupation of Crimea has imposed a new oppression on this long-suffering community, forcing large numbers to flee and making the rest increasingly unwelcome in their ancestral homeland.

When I was in Ukraine, besides meeting with senior Ukrainian officials, we had these conversations with the representatives of their community as well as other minority groups, other ethnic Russian communities. And I was privileged to meet and talk at length with the most prominent Tatar leader, Mustafa Dzhemilev, who is the former head of the Mejlis, the executive body of the Tatar parliament, as well as with other senior leaders in their community. He and his colleagues have been blocked from returning to Crimea by the ruling authorities there, as so many other Tatars have been blocked once they go over the border from Crimea to come back into their home. They are refugees unable to go home.

During our meeting, we discussed the increasing pressure on the Tatars in Crimea and the situation they live under. Thousands have fled, and those who remain face a very uncertain future. They are subject to increasing pressure and restrictions by the local authorities, who they believe are trying to force them out because of their ethnicity and because they didn't welcome Russia's armed occupation and illegal annexation. Of course, there was never any possibility that they would be allowed to participate in the phony referendum held in March in which 97 percent of the population supposedly voted one way in that election to join Russia, even though the entire ethnic Russian population numbers only 58 percent of that overall community. The Tatar population is about 12 percent. Knowing that the vote would be rigged, they refused to provide the propaganda exercise with any credibility, and they and many other ethnic groups there in Crimea urged a boycott and undertook that boycott.

Unfortunately, their current struggle is only the latest chapter in their long history of great suffering and very brave perseverance. Many times in the past, they have been subjected to mass deportation and assaults, with great loss of life. The most terrible was Stalin's mass deportation of the Muslim Tatar population to Central Asia in 1944. Over half—over half—of the men, women, and children died in what only can be called a genocidal process. And those that survived the privations found themselves in an alien world, forced to begin their lives again in great hardship.

In the mid-1980s, the Tatars were finally allowed to return to Crimea. Most of the surviving population—and it was a fraction of the original population—eventually did come back. In the last census, they comprised 12 percent of the population. There they reestablished their ancient community and proudly took their place in Ukraine's new democracy.

All of the people I spoke with in Ukraine, including the ethnic Russians whose interests Moscow claims it is protecting, said that they opposed Russian intervention, and at the end of the day they supported a united Ukraine. And that was especially true of every ethnic community and civil society group in eastern Ukraine that we talked with. And the Tatars, including some still alive who survived Stalin's crimes, have a deep historical memory of Russia's actions in Crimea. They are not fooled by Moscow's protestations of peace there.

In our efforts to secure a lasting peace in Ukraine, the U.S. and our allies must not accept Russia's forcible expulsion of Tatars from Crimea, but that is, once again, what the Russian Government is doing to these people. They must recognize the religious and ethnic rights there. And we must not forget the people there. We must not leave them to this fate at the hands of merciless authorities who seek a region cleansed of all those they deem to be enemies of their imperial ambitions.

By refusing to surrender to endless threats and centuries of oppression, the Tatar people continue to give hope to all those around the world who are battling overwhelming forces in defense of their homes and of their freedom.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 42 minutes a.m.), the House stood in recess.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

PRAYER

Reverend Glen Berteau, The House Modesto, Modesto, California, offered the following prayer:

I thank God for the men and women of this House and their commitment, concern, and call to help America to be a great nation. I bless them and their families with health, wisdom, and supernatural peace.

George Washington said: ''It is impossible to rightly govern the world without God and the Bible.''

We need a visitation from Heaven. We need Your word to answer our questions. We need Your love to resolve our differences, and we need Your understanding to embrace our purpose.

Thank you, Lord, for sending us what mankind needed, a savior, Jesus Christ, who paid the ultimate price for freedom on the cross.

Thank you, Lord, for the men and women in the United States military who have paid the ultimate price, who gave their lives for our freedom.

We repent of our pride, embrace humility, and call the Creator of creation to bless America.

In Jesus' name, amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REVEREND GLEN BERTEAU

The SPEAKER. Without objection, the gentleman from California (Mr. DENHAM) is recognized for 1 minute.

There was no objection.

Mr. DENHAM. Mr. Speaker, it is a great honor today to introduce to the House our guest chaplain, Glen Berteau, of Modesto, from The House. Glen currently serves as senior pastor at The House in Modesto. A church of more than 8,000, his congregation was named as one of the 50 top largest churches in America.

The House's outreach has touched the lives of people all across the Central Valley. He is a leader who has pulled our faith-based community together and our pastors together to address so many of our issues in California's Central Valley.

Glen is a youth pastor and author of a popular youth manual and two books: ''Christianity Life'' and ''Christianity to Go.'' He is a gifted speaker and evangelist and teacher, speaking not only in California's Central Valley but in conferences all over the world.

Mr. Speaker, I ask my colleagues to join me in welcoming Glen this afternoon. We thank him for offering this morning's opening prayer in the United States House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROONEY). The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

RECOGNIZING DAIMLER TRUCKS NORTH AMERICA

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to mark a momentous occasion at the Daimler Trucks North America Cleveland plant in Rowan County, North Carolina.

The plant, which began manufacturing Freightliner trucks in 1989, recently rolled truck number 3 million off the assembly line. This milestone is a testament to the high-quality workforce that can be found in Rowan County specifically and North Carolina in general.

In 1989, the plant began building Freightliners with 124 employees. While market forces have caused fluctuation over the years, the plant currently employs about 2,600 people, making it the third-largest employer in Rowan County. All together, the company employs about 8,000 people throughout North Carolina.

Mr. Speaker, I congratulate Daimler on its successful North American truck business, and I commend the good people of Rowan County, North Carolina, for making that business thrive.

NATIONAL CHILDHOOD CANCER AWARENESS MONTH

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Mr. Speaker, today I rise to recognize September as National Childhood Cancer Awareness Month. Cancer continues to be a leading cause of death by disease for America's children.

Every year in the United States, almost 16,000 children under the age of 21 are diagnosed with cancer. Approximately one-fourth of these children will not survive. Two prominent health institutions in western New York, Roswell Park Cancer Institute and Women & Children's Hospital in Buffalo, work collaboratively to conduct research, provide treatment, and raise awareness on behalf of these children.

I urge my colleagues to support increased funding for the National Cancer Institute.

SEPTEMBER IS HUNGER ACTION MONTH

(Mr. HULTGREN asked and was given permission to address the House for 1 minute.)

Mr. HULTGREN. Mr. Speaker, I rise today during Hunger Action Month to raise the alarm of food insecurity and hunger that afflicts our fellow citizens.

Many of us cannot imagine going to bed hungry and then waking up still hungry, but this is the sad reality for far too many people. Nearly 200,000 of those who are food insecure in northern Illinois—one in five—are children who lack adequate food and nutrition to grow up healthy.

Chicago's suburban hunger grew by a stunning 99 percent over the past decade, notwithstanding the great efforts of hardworking volunteers at places like the Northern Illinois Food Bank, Between Friends Food Pantry, and Kendall County Food Bank. I have seen firsthand their service to our communities.

This September let's redouble all of our volunteer efforts and use our resources to help our neighbors in need.

Colder months are up ahead when families feel the harsh brunt of food insecurity. It takes the effort of community to care for our neighbors, as Jesus called us to do without judgment or stigma. Whatever we do for these, the least of these, we do for Him.

PGA 2017 PRESIDENTS CUP IN JERSEY CITY

(Mr. SIRES asked and was given permission to address the House for 1 minute.)

Mr. SIRES. Mr. Speaker, I rise today to congratulate the people of Jersey City, New Jersey, upon the recent announcement to host the PGA 2017 Presidents Cup at the premier Liberty National Golf Club.

The prestigious tournament will not only expose golf fans to Jersey City, but also bolster tourism, investment, and raise awareness for charities in the area. In addition, all the living Presidents will be at the opening ceremony as honorary chairmen. The Presidents Cup is one of 10 PGA events that will be held at Liberty National during a span of 25 years.

I congratulate the father and son team of Dan and Paul Fireman for their unwavering commitment and vision to bring a world-class course to Jersey City, New Jersey. Built on top of an old landfill, Liberty National offers sweeping views of the Hudson River and views of the Statue of Liberty nearly at every hole.

The Firemans' dedication to bringing a world-class golf course to the area was never about a profit, rather, giving back to the game and the community. In correlation with the tournament, the Firemans announced a $5 million, 5-year commitment to the First Tee program, an international youth organization that promotes life skills and leadership through the game of golf.

I congratulate the city of Jersey City and the Fireman family.

FEDS COOK UP NEW RULES FOR BAKE SALES IN SCHOOLS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE of Texas. Madam Speaker, turn off the ovens; the school bake sales are over.

Bake sales in schools are as American as apple pie and the flag. Parents like Janet Huberty in Atascocita, Texas, and other parents and PTAs and PTOs use bake sales to raise money for the school band, cheerleader uniforms, and iPads for students.

But now the almighty Federal Government has cooked up new rules controlling public school bake sales. No more cupcakes, oatmeal raisin cookies, popcorn, or pizza can be sold for playground equipment or student trips. The Washington regulators, many of whom have their kids go to private schools that are not covered by the new rules, say kale chips and quinoa are to replace snow cones and Valentine candy. Isn't that lovely.

Local parents and educators should control bake sales, not the Federal Government. So today I am introducing legislation to keep the Feds from interfering with bake sales by local schools. What is sold in bake sales to help schoolkids in Texas or anyplace across America is, frankly, none of the business of the Federal Government food police.

And that is just the way it is.

RETURN TO REGULAR ORDER

(Mr. NOLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NOLAN. Madam Speaker, the simple truth is that this Congress is the most unaccomplished Congress in the history of the country. The fact is the people's House has become a very undemocratic institution where bills are brought to the floor without hearings, without authorizing committee consideration, where a few leaders make all the major decisions, and where the people's business is constantly ignored in favor of legislation advanced solely for political purposes.

The fact is we need to return to and restore regular order, where every bill brought to the floor of the House is required to be considered by committee, with open rules, where every amendment, every idea is debated, voted on, and fully considered. To do that, the Congress needs to go to work 5 days a week, like everybody else in America.

With that in mind, Madam Speaker, I hope my colleagues will join me in support of my Restore Democracy Act, H. Res. 695. This bill represents a roadmap to change the way we do politics in America, take the corruptive effect of money out of our politics and return to regular order.

Madam Speaker, it is about time we restore democracy right here in the House of Representatives, the people's Chamber.

THE WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Madam Speaker, I rise in support of H.R. 5078, Waters of the United States Regulatory Overreach Protection Act, which is basically going to get boiled down to tell the Federal Government to stay away from our water. There seems to be plans to make every drop of water that falls or pools in the United States Federal waterways; therefore, they can be regulated by Federal regulators.

In our State of Texas, water is as precious as oil. It is the lifeblood of our people and of our economy. Without water, Texas dies. We are not ready to put the control of water in the hands of the inept Federal Government. Water belongs in the hands of the States.

This bill will keep it where it belongs. Support H.R. 5078 and keep the Federal Government out of our water.

MIDDLE CLASS JUMPSTART

(Mr. VEASEY asked and was given permission to address the House for 1 minute.)

Mr. VEASEY. Madam Speaker, while House Republicans spend the next 2 weeks bringing up silly partisan bills aimed at embarrassing the President, House Democrats remain focused on the real solutions that matter to the American people.

It is time to put the middle class above partisan politics. It is time to vote to raise the minimum wage to $10.10 an hour and give struggling families a real chance to be in the middle class.

What is wrong with women receiving equal pay for equal work? Let's bring the Paycheck Fairness Act to the floor to make sure that women are treated equally in the workplace.

These bills and many others are part of the Democrats' Middle Class Jumpstart America agenda, a plan to fight for the middle class, put families before special interests, and reignite the American Dream for all those who want to work hard for it.

Let's put partisan politics aside and help the people that are struggling out there in the middle class to get back on their feet.

□ 1215

WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT

(Mr. ROONEY asked and was given permission to address the House for 1 minute.)

Mr. ROONEY. Madam Speaker, the Federal Government is attempting yet another power grab in our own backyards. A new rule proposed by the EPA will mandate the most significant expansion of Federal Government water regulation in more than a quarter of a century.

In Florida alone, preliminary costs to projects in eight counties are estimated at over $182 million. In my district, all this rule will do is make it harder for farmers to grow food and more difficult for local businesses to thrive.

Floridians understand and respect our waterways unlike any other State. Environmentalists, farmers, and businesses have all come together in Florida to protect our environment and eliminate water pollutants. And their efforts are working. The Obama administration, in its never-ending quest to bypass Congress and the States, is seeking to upend this functioning dynamic.

Therefore, I rise today to encourage my colleagues to support Congressman STEVE SOUTHERLAND's bill, H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act.

COMPREHENSIVE IMMIGRATION REFORM

(Ms. HAHN asked and was given permission to address the House for 1 minute.)

Ms. HAHN. Madam Speaker, the news that the White House will not take action this summer on immigration reform came as a huge disappointment, not just to me, but to millions across this country. Our broken immigration system hurts millions of families, and every day that we delay leaves both these families and our economy suffering. But immigration reform can and should come from Congress.

It has been well over a year since the Senate did their job and passed fair, bipartisan legislation that would bring people out of the shadows and on a pathway to citizenship. Let's not blame the President. Here in the House, my friends on the other side of the aisle have not brought the Senate bill to the floor for a vote. That is how we have comprehensive immigration reform not through executive orders. If we held a vote tomorrow, I am confident that it would pass.

Madam Speaker, it is time for my Republican friends to realize the damage that not taking up comprehensive immigration reform does to our Nation every day. This issue is too important to be put on the back burner until after the election. Enough is enough. It is time to bring the Senate bill on comprehensive immigration reform to a vote.

ESTABLISHING FEDERAL GUIDELINES AND REPORTING REQUIREMENTS FOR CUSTODIAL TRANSFERS

(Mr. STIVERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STIVERS. Madam Speaker, I was first made aware of the practice of rehoming earlier this year when it was

discovered that a girl who had been adopted from Haiti was transferred back and forth from an abusive environment in central Iowa, where I live, to Idaho via a Yahoo Internet forum.

Rehoming is the transfer of children into the custody of unvetted strangers without the use of the child welfare system, and currently there is no Federal law prohibiting it. That means there is nothing stopping dangerous and unfit individuals from using online mediums like Craigslist to seek custody and then abuse, neglect, or exploit children.

As a father of two young children, the idea of children being treated as goods or property is reprehensible. Our Nation must address rehoming. That is why I am introducing legislation to establish Federal guidelines and reporting requirements for custodial transfers. I urge my colleagues on both sides of the aisle to help me solve this problem of rehoming.

BRING BACK OUR GIRLS

(Ms. WILSON of Florida asked and was given permission to address the House for 1 minute.)

Ms. WILSON of Florida. Madam Speaker, Boko Haram's attacks on the people of Nigeria have become more vicious. Their wicked deeds are devastating men, women, and children, Christians, and Muslims. Everyone is a target. Like ISIS, the terrorist organization they align themselves with, Boko Haram, has beheaded hundreds of innocent people, including a 6-year-old Christian boy in June.

Madam Speaker, this week, I am introducing a bill to help combat Boko Haram, and today I am meeting with five of the kidnapped girls who escaped from the terror of Boko Haram.

Madam Speaker, we have a major international crisis to deal with in the Middle East and in Nigeria. Boko Haram has the potential to explode any day, like ISIS. They have killed hundreds, including elected officials.

We shall tweet every day #bringbackourgirls to raise alarm over the kidnapped Nigerian schoolgirls. We must not forget these girls, and we must stop Boko Haram.

Tweet, tweet, tweet: #bringbackourgirls. Tweet, tweet, tweet: #followrepwilson.

HONORING OFFICER SCOTT PATRICK

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Madam Speaker, I rise today to honor the life of the Mendota Heights police officer Scott Patrick, who tragically lost his life in the line of duty recently. Officer Patrick was a 19-year veteran of the Mendota Heights police force. He loved his community, and he served it with honor.

Whether he was checking in with accident victims at the hospital or stopping by local businesses for a chat, Officer Patrick will be remembered as somebody who was friendly, who was helpful, and always looking to serve others.

A dedicated family man with two teenage daughters, Officer Patrick would constantly remind his fellow officers to enjoy their days off and make sure that they spent time with their loved ones.

Madam Speaker, Officer Patrick's tragic death reminds us of all the dangers that members of the Thin Blue Line face each and every day in order to help keep our communities safe. His sacrifice will not be forgotten.

Our thoughts and prayers are with his wife, Michelle, his daughters, and the Mendota Heights police officers.

HUMANITARIAN CRISIS

(Ms. TITUS asked and was given permission to address the House for 1 minute.)

Ms. TITUS. Madam Speaker, I rise to give voice to the 63,000 unaccompanied minors who have sought refuge at our borders since last fall. These vulnerable children have fled terrible violence and poverty in their home countries.

In August, I traveled to McAllen, Texas, where I visited the border with CBP agents, I toured processing centers, and I met with Mexican officials to discuss the issue.

There is no easy or quick solution to this very complex problem, but there are some steps we can take to relieve the crisis: provide resources for shelter and other social services for these children in U.S. custody; encourage economic investments in Central America; assess the effectiveness of U.S. funding for antigang programs in Central America; and increase the number of immigration judges to ensure children move quickly and fairly through the process.

But in the end, this crisis simply underlies the necessity for us to enact comprehensive immigration reform. So I urge the House Republican leadership to listen to the American people and bring this reform to the floor for a vote.

TERRORISM RISK INSURANCE ACT

(Mr. STUTZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUTZMAN. Madam Speaker, with the anniversary of 9/11 just a few days away, we are reminded not only of the enormous loss of innocent life and physical destruction that terrorism can bring, but also the long-term, economic harm that follows an attack.

As we have seen with the rise of ISIS, the American people and our interests are always a target and remain under constant threat. With our economy remaining stagnant over the past several years, Congress must make sure we are doing everything we can to protect our citizens and safeguard our fiscal health.

One of the steps we can and must take before the end of this year is to reauthorize the Terrorism Risk Insurance Act. This will provide much-needed certainty in the marketplace by making sure that terrorism risk insurance coverage is readily available. This insurance is absolutely key to maintaining our economic security.

Without this reauthorization, we will leave the American people vulnerable to danger that could have been prevented. The Senate has passed a TRIA reauthorization, and I applaud Chairman HENSARLING for passing a TRIA bill through the committee in June. While reasonable people can disagree on how this gets done, we should all agree that it must happen.

THE NEED TO BREAK THE CYCLE OF VIOLENCE

(Mr. LEWIS asked and was given permission to address the House for 1 minute.)

Mr. LEWIS. Madam Speaker, I rise today with pain in my heart and soul. There is not any room in a civilized society for the abuse of anyone, but especially women and girls. I have seen and known women who are victims and survivors. Mother, sisters, and daughters must know that their pain is our pain.

The thought of another human being living in constant fear breaks my heart. Imagine life day in and day out afraid to come home at night and with no safe place in the day. It hurts my soul.

Throughout my life, I have taken a stand against violence in thoughts, in words, and in action. Violence is not in keeping with the human spirit. We do not come into this world beating and abusing our fellow human beings. We learn it from our environment and from our experiences.

Together, we have a moral obligation to teach our children—especially our young men—the way of peace, the way of love, and the way of nonviolence. There can be no place for abuse in our society. Madam Speaker, we must break this cycle, and we must do it now.

IN DEFENSE OF CHRISTIANS INAUGURAL SUMMIT

(Mr. GARRETT asked and was given permission to address the House for 1 minute.)

Mr. GARRETT. Mr. Speaker, today I rise to welcome all those who have traveled to Washington, D.C., this week for the In Defense of Christians Inaugural Summit.

This summit unites human rights groups and religious leaders concerned about the plight of ancient Christian minorities of the Middle East. Many of these ancient churches have survived

centuries of hardship, foreign invasion, and domestic despotism.

As we have seen recently in Iraq and Syria, millions are now caught up in the middle of sectarian violence and conflict and end up paying the ultimate price for it.

The bedrock of our Nation's establishment was freedom of religion. But what many experience today, even here in the United States, is the subjugation of religious beliefs by a government or military decree. A people cannot be free without religious liberty.

So, Mr. Speaker, again, I welcome all those who are here for the summit, and I commend them for their enduring fight for religious freedom.

PROVIDING FOR CONSIDERATION OF H.R. 5078, WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT OF 2014, AND PROVIDING FOR CONSIDERATION OF H. RES. 644, DISAPPROVAL OF THE ADMINISTRATION'S FAILURE TO NOTIFY CONGRESS BEFORE RELEASING INDIVIDUALS FROM GUANTANAMO BAY

Mr. BISHOP of Utah. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 715 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 715

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill are waived. No amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Upon adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 644) condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists. The amendments to the resolution and the preamble recommended by the Committee on Armed Services now printed in the resolution shall be considered as adopted. The resolution, as amended, shall be considered as read. The previous question shall be considered as ordered on the resolution and preamble, as amended, to adoption without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mrs. BLACK). The gentleman from Utah is recognized for 1 hour.

□ 1230

Mr. BISHOP of Utah. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. BISHOP of Utah. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which they may revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. BISHOP of Utah. Madam Speaker, this resolution provides for a structured rule for consideration of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014, and makes in order three amendments, all from Democrats, for floor consideration.

It provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the House Committee on Transportation and Infrastructure.

In addition, this resolution provides for a closed rule for consideration of House Resolution 644, which condemns the administration's clear failure to follow the law requiring 30 days' advance congressional notification if any terrorist detainees at Guantanamo are to be released and condemning this administration's policy of selectively negotiating with terrorists to secure the release of an Army staff sergeant.

The rule provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Armed Services Committee.

While these are separate issues, the two separate pieces of legislation covered under this rule, unfortunately, share one common theme: the practice of this administration to stretch the law.

As Bill Veeck used to say when he was running his baseball team, he doesn't break the rules, he just tests their elasticity. This administration has tested the elasticity from some of these rules and laws to the point where they have broken, and it is an overreach of the authority under the law.

Madam Speaker, let me talk for just a second about H.R. 5078 that deals with the Clean Water Act. This is a bipartisan bill. It was passed in the committee by a voice vote supported by many State and local governments and has largely been ignored by this administration as the administration seeks to go around Congress and attempt to revise administrative rules asserting a Federal stranglehold on private enterprise and job creation.

One may want to know why the U.S. economy is still in a Jimmy Carter-like malaise situation after 6 years with this administration. Just taking a look at the underlying issue of this bill finds an answer: the administration wants more rulemaking authority, more regulations, and a stronger Federal stranglehold on what you and I can and can't do, what business owners can and can't do, and what farmers can or can't do with their own property.

Clearly, when the Clean Water Act was passed, it specified that the primary responsibility for water issues were to lay with the States. It is very clear when they came up with the concept of navigable waters of the United States, the Federal Government had a jurisdictional interest in interstate water regulations, but not intrastate.

Twice the Supreme Court of the United States has ruled against the agencies that have been managing the Clean Water Act and saying simply that they overstretched their authority, they stretched their limits, and they stretched what is the power given to them under this particular act.

Now, unfortunately, we see an administration that is trying to move around that. Two Congresses—the 110th and the 111th—had legislation that was introduced to try and change these provisions of the Clean Water Act. Both times they were met with strong bipartisan opposition which didn't go anywhere.

Now, the administration, with much of their work done in closed-door session without local input, are trying to draft a proposed administrative rule that takes the Supreme Court decisions—it misconstrues their decisions and manipulates their decisions, so that, in effect, it turns the cases that we are attempting to put limitations on what the Clean Water Act authorized the government to do and use that as a justification for the Agency to broaden its jurisdiction and increase the controls it has over waters of the United States and individuals. In so doing, it actually harms people.

Overregulation seems to be one of this administration's hallmark. This

bill, in a bipartisan manner, will address the proper way to go about modifying the Clean Water Act and its relation to Federal power, such that it will not further stifle jobs, economic growth, or hurt people, while it still protects the environment.

The rule before us is still a good bill. It deals with two vitally important pieces of legislation. I urge their adoption, and I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

I thank my friend, the gentleman from Utah (Mr. BISHOP), for yielding me the customary 30 minutes for debate.

We are back here, and this is our first legislation after a lengthy recess, and the fact of the matter is that, after next week, we will be on yet another lengthy recess headed into the November 4 election.

When we began this session, the 113th Congress, the Speaker of the House commented—and I won't bother to quote him, I will just summarize briefly what he said—that this would be the most open legislative period that we have seen.

Ironically, today, dealing with these two pieces of legislation in this particular rule, we are seeing one portion of it structured, and for the 74th time—count them, 74 times—we are dealing with a closed rule.

What that means, America, is that your Representatives here in the House of Representatives, on the subject of legislation dealing with House Resolution 644, having released Taliban prisoners in exchange for Sergeant Bergdahl, your Representatives will not be able to amend that legislation, and the general debate period will be the only time that a limited number of Members, in 1 hour, will have an opportunity to speak to the issue.

I think that is wrong, as I think that most of the closed rules previous to this 74th have been wrong. Let me hasten to add, when Democrats were in the majority—and I remember being here in 1993 and hearing on the radio that Democrats were doing closed rules, I had not come to Congress, I didn't understand that dynamic, and Democrats did closed rules as well.

I don't think that is right. I think this body should operate openly. Even if it takes time for us to have Members who choose to come down and debate legislation, I think they should have that opportunity.

Madam Speaker, there is a lot that we could be doing this September. Americans need good-paying jobs. The working poor who are making the minimum wage deserve to make a living wage. We have recently seen demonstrations in 100 cities where people working at $7.35 or $8 an hour are demonstrating, saying, ''Give me a chance.''

While the economy may be, as my good friend from Utah says, in a Carter-like malaise, Wall Street is in a mushroom boom, and somehow or other, the rich are getting richer, and the poor are getting poorer, and the middle class is slipping into the lower class.

Something is wrong with that picture, and we can do better as a society. I defy anybody to tell me that if you are a mother or father and you have one child and you work 8 hours a week at $7.35 an hour anywhere in the United States of America, how do you provide adequate child care, how do you provide the necessary food for your child, and how do you provide the necessary medical services?

I don't believe that anybody believes that that can be done with such a limited amount of resources for a family.

Americans who have lost their jobs through no fault of their own—companies moving all over the world to avoid paying taxes in the United States of America—I believe that those people need help keeping food on the table.

We find students in our country, young people that work here on Capitol Hill, and their brothers and sisters who are graduating from elite institutions, online institutions, for-profit institutions, and State universities throughout this country are faced with crushing debt that keeps them from entering the housing market, keeps them from starting a family, or opening a small business.

I know everybody agrees that women deserve equal pay for equal work, but are we doing any of those things here? No. We are discussing a waterways issue that isn't going to go anywhere fast, and everybody here knows that.

We are discussing the condemnation of the President's administration about a measure that I believe most of us would have done pretty much the same thing, about whether or not there was going to be a 30-day notice to the House of Representatives.

No, we are not dealing with the family situations that exist in this country as it pertains to poverty, we are not dealing at all with equal pay for equal work for women, while the resolution, I repeat, condemns President Obama's administration for action to ensure the safe return of an American soldier, Sergeant Bowe Bergdahl; yet I know my friends on the other side of the aisle celebrate Sergeant Bergdahl's return because this resolution even says it right there in the text.

Here is the quote:

> Now, therefore, be it resolved that the House of Representatives expresses relief that Sergeant Bergdahl has returned safely to the United States.

I have been taught and all of us here believe, when our military is in harm's way, we have had for years—and more recently, we have made ourselves gender perfect, but for years, we say we leave no man behind, we leave no soldier behind.

I have been on missions with Republicans and Democrats in this particular body in places far away from here, in Korea, where we were looking for the remains of American soldiers to bring them home.

Now, I don't know Bowe Bergdahl, and I certainly don't know his family, but as a citizen of this country, I do know this: five old men in Guantanamo that were exchanged—and yes, indeed, they were former members of organizations that would do us harm, but they are not likely to return to the battlefield at their age.

If so, then old people like me need to be in the war, and probably, we wouldn't have so many in the first place. Are their minds going to be utilized? That may very well be the case, but I don't think all five of them put together were worth as much as one American soldier, Bowe Bergdahl.

Toward that end, I defy anybody to tell me that the Bergdahl family and those of us who believe that we should leave no soldier behind are not pleased. We send our soldiers into harm's way under the American flag, we assure them that they will not be left behind, and President Obama and Defense Secretary Hagel made good on that promise.

Now, I am sorry that you object to how we secured the safe return of one of our soldiers, but you don't get to have it both ways. Instead of bringing bills to the floor that would help our students, that would help those struggling to find jobs, that would help women get the pay they deserve, or help small business owners, we get this resolution which allows that you can have it both ways. We are glad he is home, but we are not glad about how you brought him here.

Let me say, hurriedly, too that I think President Obama should have given the 30 days' notice. I for one know that this matter in the intelligence community was debated previously, but I don't think anybody believes that we should have left young Mr. Bergdahl behind, and what would we be doing if we were standing here talking about he died in captivity and we had that slight window of opportunity to bring him home.

□ 1245

Madam Speaker, the plan for the next 2 weeks is to stoke up the base. These are message measures. That is all they are. It is just saying something so you can go home to your base and argue: Look what we did. We condemned the Obama administration. We repealed health care 52 times.

You aren't passing laws and you aren't doing anything in a cooperative way, institutionally, to allow both sides to have input to measures that are needed in this country in order for us to go forward.

Thursday we will pass a continuing resolution and then we will hear a whole lot of sound and fury signifying exactly nothing but nonsense.

Welcome back, my friends, to Congress.

I reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I agree with my friend from Florida that significant issues need to be addressed on this floor. Nothing is more significant than the future of our water rights, which does impact the economy, especially for areas of interest where that is significant, like agriculture. Because of that, I am glad to yield 3 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS of Georgia. Madam Speaker, I rise in strong support of this rule and the underlying legislation.

This rule will expand the regulatory jurisdiction of the EPA and Corps and, in turn, place more restrictions on landowners who will fall under this new umbrella of jurisdiction.

It has been said many times from others that our side is, at best, uncaring about the environment and, at worst, we actually want to make the environment terrible. I think what we have got to deal with here is the Clean Water Act has provided a good parameter and needs to be continued to work because it has a clear direction and a clear parameter of how you bring in bodies of water and what is under that jurisdiction.

I think what has happened here and what is a concern that I have heard from my constituents especially in north Georgia, and all over the country as I have traveled in the past few weeks talking in different parts of the country, is about what is the actual role in dealing with this waters of the USA and what are we taking jurisdiction from.

This is not just an agricultural issue, Madam Speaker. This is also an internal issue for the rural and urban areas, because what is being talked about here is taking under consideration navigable waterways that have never been thought of in my part of the world, many times, as any more than a dry ditch, and they will simply say: We are not dealing with dry ditches. In fact, a dry ditch will not be uncovered. However, there is a caveat that basically says that when water from that dry ditch flows into another waterway, then it could be considered navigable. And I don't know about anybody else, Madam Speaker, but in my part of the world, I have never seen a ditch run uphill and stop. A ditch is running to somewhere.

This is simply a landgrab that takes land away from owners who could use this land in very productive and very carefully thought-out ways in their own localities and States, and actually takes it away. This is nothing more, frankly, than a landgrab that is based on a desire to put political agendas ahead of property owners. That is why I support the rule and I will support the underlying bill dealing with the Waters of the USA Act.

I rise also in support of our underlying bill, as well. And we have got to understand that the law clearly states the President shall notify Congress of any release of Guantanamo Bay detainees. It clearly states this. And if changing or breaking that law isn't enough, the President released five of the most dangerous detainees held at Guantanamo Bay. These Taliban leaders have orchestrated plans to engage in hostilities against Americans and in association with al Qaeda. By his own admission, there is the possibility that these detainees would return to the fight.

As someone who has been in that fight over the past 10 years and has been over there, they do not need any help. They do not need their poster heroes coming back to them and giving them support, even though they have been off the battlefield. This was wrong.

My friend from Florida says they are message bills.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BISHOP of Utah. Madam Speaker, I yield the gentleman an additional 1 minute.

Mr. COLLINS of Georgia. Madam Speaker, let's be sort of open and transparent, which is what the American people want here. There is not a bill that hits the floor of this House that is not a message bill. It sends a message of the priorities of the Congress. It sends a message of the priorities of the people that we represent. Yes, they are messaging bills. They are messaging bills for Florida. They are messaging bills for Georgia. They are messaging bills for the American people. What happened in this instance is the message was loud and clear from the executive office, saying: I don't care what the law says, I am going to do it anyway.

That is a bad message, Mr. President, and we need to stop it.

The SPEAKER pro tempore. The Chair would request that Members refrain from engaging in personalities toward the President.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume, and I am glad to know that I am personality enough to be recognized.

I understand the passion of my young friend. I also understand an awful lot about the waterways in Georgia and Florida and other areas of the United States of America, and I appreciate his concern.

The message bill that I get from these measures allows that, when we know something is not going to pass the United States Senate and reach a President's desk, then what we are doing in the final analysis is just addressing measures so that we can go to the electorate and claim that we did something when, in fact, we did not. And it is just that simple.

Many of the measures that we have dealt with over the course of the 113th Congress have been just that—measures that were designed to reach the base of the party. And that is a prerogative, but it is not good legislating, and I will stand by that throughout the remainder of this debate and any others that I participate in.

I reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I appreciate the comments that were made by the gentleman from Florida just recently, except that I would take exception to the idea that anything that we should bring to this floor has to be generated and has to be passed by the Senate.

I reject the idea that we have to get permission from that body to discuss things here on the floor, and if they allow it to go forward, then, and only then, would we bring something to the floor, because this rule will bring a significant piece of legislation that has to be addressed dealing with a potential rule and regulation that deals with the waters of the United States that could have enormous consequences—enormous consequences not only for the economy of this country, but also for individuals who use the water and live with that water.

We have the potential of actually doing something positive by stopping a bad rule from going into effect by changing its direction and saying that only Congress should be the one that would change those concepts. Unfortunately, if we don't do that, we end up hurting people. And that is why I want this rule to go forward and I want the underlying bill to go forward on water, because we have to stop hurting people.

Let me give you a story of an old farmer in northern Utah I met when I was first elected. He was a very kindly gentleman because, in his entire ordeal with the Federal Government, I never heard him say an unkind word. I, on the other hand, will spend quite a few years in purgatory about what I was saying about this situation not only verbally but inside my head.

This gentleman had a problem because he was renting a farm that had been a family farm since the 1800s. He was a sugar beet farmer, which, parenthetically, I have to note for the record, is a root crop that cannot be grown in a wetlands.

Nonetheless, his farm was watered by irrigation that came from a valid right that came from a creek that was diverted by a ditch. Around 1905, the creek was diverted to a higher level on the farm so that it would run there, and the old waterbed became vacant. It became part of his sugar beet farm. The water then went through a ditch that irrigated that particular area.

Well, as the farmer for over 80 years, his family was growing sugar beets on this creekbed. As the gentleman's siblings left the farm and his kids didn't want to take it over, this land became his inheritance that would provide for his retirement and an inheritance for his kids to pass on.

It came to the point where it was rezoned by the local community for commercial property, and the company gave him a very decent offer to try and

buy his old farm. This was back in 1993. But what it would require is to actually fill up the old riverbed and run a pipe underneath the property so the water would go from the original point over to the neighbors.

Everything was great until the Army Corps of Engineers came by and one Army regulator saw them irrigating the land, which was now used to grow hay and not sugar beets, and declared that, since water was now pooled in this land, it was a wetland. His recognition was that it was a wetland. Now, the fact that no water reached that land if the ditch was shut off didn't stop him from saying: This now is a wetland, and I get to regulate it under the Clean Water Act as waters of the United States.

So the soil and conservation service came in and conducted tests. They drilled 22 holes 8 feet or longer to find out that under the topsoil is a level of clay, so no water would ever percolate up onto this land. The only way you got water there is if you opened the ditch to let water come back. Nonetheless, the Army Corps regulator still said: I declare this to be a wetland, and I have jurisdiction over it under the Clean Water Act regulations that we have.

The guy tried to prove his point by putting in a pipe that shows that if you actually ran the water past this area, nothing actually pooled on this land, to which he was threatened with jail time if he did not take the pipe that he owned off the land that he owned from the water right that he owned, actually take that away.

We said: Look, no water actually appears there normally. You go out there and you can break a shovel trying to dig up this wetland. How long will it take before you recognize the fact that this is not a generating wetland?

The regulator said: Well, you know, we are in a drought cycle. So maybe in 7 to 15 years, if no water appears on that land, we will actually not declare this a wetland and allow the owner of the land to actually sell his property for his retirement and his inheritance.

My predecessor started this case. I met the man as I was early elected. Finally, after 10 years of haggling with the regulators of the United States over what is or is not waters of the United States, he simply got tired of doing it. He sold his land at one-quarter of the value that a neighboring piece of property got for the same size but had not been declared as wetlands by a single regulator in the United States.

Now, why is this bill so significant? Because this bill, if not put in some kind of parameters and checks, allows the Federal Government to hurt people. It gives them the power and authority to hurt people. Indeed, the direction that this proposed rule is going would not limit the control the agencies have over people's lives. It would significantly expand it. That is why it is so significant.

It is important for Congress to simply say: No, we will no longer make rules in this country simply by agencies deciding to expand their own control where they have a terrible track record and they actually hurt people. We will say: If you are going to expand it, it has got to be done by Congress—specifically by Congress—and not by rulemaking authority of some agency of the Federal Government.

That is the significance of this piece of legislation. That is why this legislation has to come to the floor. That is why we are not wasting time.

This is not a message issue. This is something where people are being harmed by the agencies of the Federal Government, and Congress must exert its rightful role in trying to rein in these agencies and trying to write the laws so these agencies will not simply abuse people because they have the power to abuse people.

I am sorry, Madam Speaker, but I consider that to be significant. I consider that to be our responsibility. If the Senate doesn't want to take up that responsibility, if the Senate wants to still abuse people, then that can be their prerogative, but it should not limit what we do here in the House in speaking out for our constituents.

I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased to yield 3 minutes to the gentleman from Virginia (Mr. CONNOLLY), my good friend.

Mr. CONNOLLY. I thank my good friend from Florida.

I listened to my friend from Utah and I heard him make reference to fact that he thought he might be spending some time in purgatory. I just want him to know that I rise in support of him. I want to help him expiate whatever transgressions he has committed and lessen that time in purgatory by opposing this rule. I think that is how we ought to begin.

Madam Speaker, here we go again. Should it surprise any of us that the most antienvironmental House majority is once again engaging in science suppression and denial simply because they don't like the findings and where they take us?

□ 1300

Apparently, the narrative is environmental regulations and rulemaking can only be abuse. My friend from Utah used that word. That is the choice: ''Do you like being abused or not?'' And I find that not only something I have to reject, but I don't think that is, in fact, the choice we face at all.

I think environmental regulation, since we adopted rigorous standards in 1970 under the Richard Nixon administration, a Republican President, actually has served the American public, by and large, very well, the story my friend from Utah tells about the farmer, the sugar beet farmer, notwithstanding.

There may be anecdotes that are compelling and where, indeed, Federal regulators abuse their authority. That does not characterize rulemaking, and it can't serve as a substitute for protecting, not abusing, the American public and its environmental safety.

We have all grown accustomed to repeated efforts here on the floor to gut important environmental safeguards that protect public health.

All told, my friends on the other side of the aisle have had something like 200 votes to block action to address climate change, to halt efforts to reduce air and water pollution, to undermine protections for public lands, coastal areas, and the ecology. The bill that will be before us if this rule passes is more of the same.

What really should alarm the American public is the House majority's effort to suppress and openly reject science. They have done it in denying climate change. They have done it in opposing commonsense protections against mercury, lead, and arsenic. And today they want to throw out the scientific findings of the proposed clean waterways rule and prohibit them from being used moving forward.

Where does that end?

This know-nothing kind of approach fails the public we are sworn to protect and serve and again abandons the model of environmental leadership going back to the Republican days of Teddy Roosevelt.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Florida. Madam Speaker, I yield the gentleman an additional 1 minute.

Mr. CONNOLLY. I thank my friend.

We, as elected officials, have to recognize the valuable role science must play in making good public policy—not anecdotes, science. I think Neil deGrasse Tyson said it best when he said: ''The good thing about science is that it's true whether you believe in it or not.''

Let's have science inform our public policymaking and our legislation. I urge my colleagues to reject this rule and the underlying repeat legislation.

Mr. BISHOP of Utah. I appreciate my friend from Virginia's effort to try and save my mortal soul. You failed.

Whether it is one person or multiple people being abused, abuse is wrong and, unfortunately, we have two Supreme Court decisions that have said the same thing: the agencies abuse their authority. It is time for Congress to step in.

Madam Speaker, I am happy to yield 3 minutes to my good friend from Texas (Mr. GOHMERT).

Mr. GOHMERT. Madam Speaker, the two bills that this rule brings before the House today are critical. I have a resolution here adopted by the County Commissioners' Court and Judge of San Augustine County, and they state the obvious:

Be it resolved that San Augustine County strongly opposes the proposed new rule to define waters of the United States in that it increases the need for burdensome and costly

permitting requirements, infringes on private property rights, and circumvents the legislative process, thus, the will of the people.

Be it further resolved that Congress, not Federal agencies, make the laws, and therefore any such change in jurisdictional power of the Federal Government should only occur as a result of the passage of Federal legislation.

We have a power grab in this administration. It goes on and on. That is why it is so critical to take up this bill, to rein in the EPA in this effort at an oligarchy, or actually, a monarchy, where we just have rules spoken into law, or breathed into law in bureaucratic back rooms, taking private property rights away.

This needs to be dealt with on the floor, and that is what this House Republican majority is trying to do.

Now, when it comes to the Taliban Five, it was very clear from the GAO conclusion that ''when DOD failed to notify specified congressional committees at least 30 days in advance of its transfer of Guantanamo Bay detainees to Qatar, DOD used appropriated funds in violation of section 8111 of the law.''

The law goes on, in part, and says that none of the funds appropriated or otherwise made available in the act may be used to transfer any individuals detained at the United States Naval Station Guantanamo Bay.

We also find out here, I have seen, today, that the Taliban brothers over in Afghanistan and Pakistan, one with the Taliban Five that have been released, are saying they support and are brothers with the Islamic State that is cutting off the heads of American citizens.

There is no question that the five murdering and complicit murderers that were released back to the Taliban will kill Americans again. They will be complicit in killing Americans again even if their hands don't actually do that.

So the question I have, and I will yield to anybody that wants to answer it: What do you call somebody who breaks the law to let lawbreaking complicit murderers go free? What do you call somebody that breaks the law to release murderers?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BISHOP of Utah. I yield the gentleman an additional minute.

Mr. GOHMERT. I am glad to yield to anybody that has an answer.

Madam Speaker, hearing none, the listener, those who have ears to hear, should take note. This is a serious violation. It is not merely an administrative mistake. This has and will cost American lives in violation of United States law. It is time we reined in the lawbreakers.

Mr. HASTINGS of Florida. Madam Speaker, I would advise my colleague from Utah that I have no additional speakers, and I reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I am pleased now to yield 2 minutes to the gentleman from Kansas (Mr. HUELSKAMP) to talk about this significant issue.

Mr. HUELSKAMP. Madam Speaker, I appreciate the time from my colleague from Utah, and thank you for the opportunity to be here today.

I was at the Kansas State Fair this past weekend, and the number one issue at the fair was this particular rule coming out of the EPA. I stopped by the booth of the Kansas Farm Bureau, I heard it as I walked through the streets of the state fair: ''Ditch the rule.'' And that is what we are trying to do here, to make certain that EPA regulators can't go in the backyards, the farm ponds, the road ditches, every place there might be a drop of water.

This is a radical redefinition from the EPA, unelected, of course, trying to redefine the current language of the Clean Water Act. It is so radical, Madam Speaker, that a Congress controlled by the other side of the aisle even refused to authorize these changes, so the EPA is trying to do an end run, as they have done on numerous other accounts, trying, again, to rewrite clear law in reference to navigable waters.

In western Kansas, where I farm, and where I have most of my constituents, they are worried. What kind of place have we come to in this country in which average ordinary Americans, whom we work for, whom the EPA claims to work for, are worried about those regulators?

The State of Kansas will continue to regulate these issues. The EPA does not need additional authority. They have stepped well beyond the bounds of the authority we have given them as a Congress.

I would encourage my colleagues to allow us to proceed, to move forward on this rule, and then get to the underlying bill, which is to ditch the rule from the EPA.

Mr. HASTINGS of Florida. Madam Speaker, I continue to reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN. Madam Speaker, I thank my colleague from Utah for his leadership on this and many other natural resource issues.

All across Oregon, farmers and ranchers and other property owners are walking around their land wondering what the EPA will regulate under the proposed rule to expand its Clean Water Act jurisdiction.

Ranchers in eastern Oregon wonder about their stock ponds. Wheat growers in Columbia Basin worry about an intermittent stream adjacent to a field. Fruit growers in Hood River and onion growers in Ontario are concerned about their irrigation ditches.

This proposed rule is based on faulty science. It underestimates the tremendous harm it poses to our rural economies, so it is no wonder people are concerned.

At a town hall meeting I had in Grants Pass Saturday morning, three of them, 30 people there, this was their number one issue. They are involved in real estate. They are very, very upset, very concerned about what this could do.

Further, this regulatory overreach by the EPA blatantly ignores Congress' repeated rejection of similar legislative efforts to expand jurisdiction of the Clean Water Act.

Of course, we shouldn't be that surprised. The EPA has tried this before. They have been rebuked by the Supreme Court, twice in fact, in 2001 and 2006.

The EPA says this new rule was meant to ''clarify'' the scope of the Clean Water Act, but I have heard across my district how the vague language in this proposal actually creates more uncertainty, not less, more red tape, not less. And for our farmers and ranchers, property owners, and other Oregonians and others that utilize our water and resources, it is a huge threat.

I have long opposed expansion of this authority, whether through legislation or administrative rulemaking. Detrimental action of this size and scope should not be pushed by anyone, much less by unelected bureaucrats.

The economies of rural Oregon and other communities around the country face enough obstacles already. The broken Federal forest policies have strangled our communities, often leaving only agriculture to grow jobs and combat unemployment rates that now are still in double digits.

We don't need agencies in Washington erecting more hurdles and creating more uncertainty as our farmers and ranchers work to feed the world and create jobs in rural communities. It is time to ditch this rule.

So I applaud Mr. SOUTHERLAND from Florida for writing this bill, and I appreciate Chairman SHUSTER for helping to bring it to the floor. I urge its passage to stop yet another regulatory overreach by a Federal agency out of control, threatening jobs, threatening private property rights, threatening rural communities and our way of life.

Mr. HASTINGS of Florida. Madam Speaker, I continue to reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I am proud to yield 2 minutes to the gentleman from California (Mr. CALVERT) because if anyone can be considered an expert on water issues in the United States, it is the chairman of the Subcommittee on Interior Appropriations, as well as a former member of the Natural Resources Committee.

Mr. CALVERT. Madam Speaker, there is a clear sense in my district, and I believe around the country, that the constant expansion of the Federal Government and its bureaucratic red tape is holding back our economy.

One the worst offenders of government is the overreach of the EPA. The proposed rule they jointly released

with the Army Corps attempts to regulate waters that were never intended to be covered under the Clean Water Act, and would grant them authority over streams on land even when the water beds have been dry, in some cases, for hundreds of years. This is a serious threat to both private property rights and our economy.

As the chairman of the Interior Appropriations Subcommittee, I have worked along with our subcommittee members to try to rein in EPA's regulatory overreach.

The fiscal year 2015 bill prohibits the EPA from changing the definition of navigable waters. It is absolutely critical that we uphold the Federal-State partnership and prevent the administration from finalizing a rule that results in the biggest land grab in the history of our country.

So we need to support this rule to bring this important legislation to the floor. And I certainly hope that all the Members will support it.

Mr. HASTINGS of Florida. Madam Speaker, I continue to reserve the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Alabama (Mr. ROGERS).

□ 1315

Mr. ROGERS of Alabama. I thank the chairman.

Madam Speaker, I rise today in strong support of the rule and passage of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014.

This legislation would stop another unlawful regulatory overreach by the EPA which, in this case, would expand the definition of the waters of the United States. We have all seen that this administration believes it can bypass Congress to create laws through executive rulemaking, and it is flatout wrong.

The administration's proposed rule could have damaging effects on American property rights, particularly those in Alabama's largest economic sector, agriculture. Expanding the role of the EPA, as this proposed rule does, to enforce almost all bodies of water, including puddles, small ponds, and ditches, will have a profound and, I fear, a very negative impact on those who produce our Nation's food and fiber.

As we approach the 227th anniversary of the ratification of the U.S. Constitution, I want to remind my colleagues that the Constitution created three separate but equal branches of government. The Congress writes the laws, not the executive branch.

This is an issue the Congress of elected officials must address, not unelected bureaucrats in Washington. I urge my colleagues to stand for common sense and support H.R. 5078.

Mr. HASTINGS of Florida. Madam Speaker, does my friend have additional speakers?

Mr. BISHOP of Utah. The only one to hear from now is I.

Mr. HASTINGS of Florida. With that, I am prepared to close, and the only one he has to hear from is I, so we will speak to each other right about now.

Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would have thought—and I was at home over the past month—that when we came back here that we would be most immediately discussing matters pertaining to Iraq and the threat from ISIL and Ukraine and the ongoing matters.

I guess I could twist myself into understanding how the particular measure in dealing with the release of prisoners from Guantanamo in exchange for the life of Sergeant Bowe Bergdahl could have some relationship to terrorism at large, but this morning, while I normally do not look at television in the early hours, as I am not a fan of listening to the talking heads, I have to come here and listen to their heads talk.

Toward that end, I did hear this morning the Speaker of the House of Representatives in his daily briefing on the subject of ISIL. All of us anticipate tomorrow that President Obama will speak to the issue and will give us greater clarity as needed, with reference to the administration's approach to dealing with this particular subject.

I raise it for the reason that I may not get an opportunity to speak further on the floor today or the subject may not be at hand in the continuing resolution, although it may be, since funding is going to be an issue.

I was distressed to hear when the Speaker was asked—you could not hear the queries from four media representatives, but in each instance, his statement was that they were waiting for a strategy from the administration. I don't think we need to wait for a strategy from the administration.

What I get a little bit tired of is hearing people say that the administration needs a strategy—and they do—without having a strategy of their own. It would be similar to health care. We went through all of that business in trying to repeal the Affordable Care Act, and we didn't have a measure come forward from my friends in the majority offering what their plan is.

It is easy enough for us here on the House of Representatives' floor and in our respective offices in air-conditioned conditions to talk about very complicated matters around the world and then talk about somebody else's needing a strategy when, in fact, we don't have one. The Speaker said it—and I heard it eight times—that the President needed to have a strategy, but he refused to say that he has a strategy.

We have a responsibility. Senator KAINE, I, and several others did request that we be called back into session, so that we could discuss this particular matter and give forth the necessary dialogue for authorization to be followed.

Madam Speaker, we are here for 2 weeks, essentially, to finish a continuing resolution. The rest of the time, we will spend dealing with—and I repeat—messaging bills that won't go anywhere. That is what I mean when I say a messaging bill: you know it isn't going to pass, and when you know it isn't going to pass, all you are doing, whether you consider it significant or not, is offering up a message for your base. You are entitled, but let's not kid anybody about what we are doing.

We need to stop calling this Congress the least productive ever because that implies that the Congress did something, in some kind of way or another, but not enough.

In reality, this Congress—and this House specifically—far from being unproductive, has actively been destructive and obstructive and detrimental to the interests of hardworking Americans, repeatedly trying to undo the fixes to our broken health care system, quite frankly, and offering none; defunding programs that help Americans who have fallen on hard times, not even passing measures to extend unemployment insurance; refusing to move on immigration reform and then casting aspersions when all of us know that our immigration system is broken.

Yet we here in the House of Representatives in this instance—not in the Senate, which did pass a bipartisan measure—will not even put an immigration measure on the floor. No matter who said that they would do something when, I am saying that all you have to do is put it on the floor, and I promise you that we could pass immigration reform.

Yet we refuse to address climate change, and all of the naysayers—I spoke to a group that produced energy, along with one of my Republican colleagues and one of my Democratic colleagues, during the break. During that period of time, I said, ''Do you know something? Something is happening here. You can call it science, or you can call it anything you want, but something is happening here.''

Madam Speaker, the gentlewoman was not here earlier, and I am in closing, but I am happy to yield 1 minute to the gentlewoman from Texas (Ms. JACKSON LEE), if there is something she wishes to add.

Ms. JACKSON LEE. I thank the gentleman for his courtesy, for his time, and for his very eloquent words.

Very quickly, Madam Speaker, as I indicated in the Rules Committee, what poor timing for a resolution, in the midst of a crisis with ISIS, to be able to criticize the President for using his constitutional powers, and now, in a debate on ISIS, why he isn't doing something. The American people are confused. This is the wrong time for the wrong resolution. It has no purpose.

I am grateful that Sergeant Bergdahl is home. We don't leave our soldiers behind. We looked at the heinous killing of our two precious journalists. Now, we are asking for the great leadership of this administration, which it has been doing, but this resolution is wrong.

It is misdirected in law, and it is conflicting with law, and we have already addressed the question. I am not condemning the administration. I believe that this resolution should be pulled off the floor.

Madam Speaker, I rise in opposition to the rule governing debate of H. Res. 644, and the underlying resolution.

I oppose the resolution because at bottom it is nothing more than another partisan attack on the President and will make it difficult for this body and the Administration to find the common ground and goodwill needed to devise and support policies needed to address the real threats and challenges facing our country, particularly the threat posed by ISIS.

H. Res. 644, a resolution disapproving of the Obama administration's failure to provide Congress with 30 days advance notice before making the transfer of certain Guantanamo detainees that secured the release of an American soldier, U.S. Army Sgt. Bowe Bergdahl.

Sgt. Bergdahl's health was poor and rapidly deteriorating at the time his release from captivity was secured by his Commander-in-Chief, President Obama, who speaking for the nation, said on June 3, 2014 in response to critics of his decision:

> The United States has always had a pretty sacred rule, and that is: we don't leave our men or women in uniform behind. Regardless of the circumstances, we still get an American soldier back if he's held in captivity. Period. Full stop.

Madam Speaker, the resolution condemns the Obama Administration for failing to comply with the 30-day advance notice requirement imposed by Section 1034 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76).

I disagree for several reasons. First, as Defense Secretary Hagel testified before the House Armed Services Committee on June 11, 2014, "this was not simply a detainee transfer, but a military operation with very high risk and a very short window of opportunity that we didn't want to jeopardize—both for the sake of Sergeant Bergdahl, and our operators in the field who put themselves at great risk to secure his return."

As a military operation, rather than a routine transfer of detainees, the President had the constitutional authority as Commander-in-Chief to authorize this sensitive military operation for which time was of the essence.

The resolution put forward by the House majority assumes that the provisions of Section 1034 of National Defense Authorization Act trump the President's constitutional authority under Article II if the two are in conflict. This clearly is an erroneous assumption since Article VI of the Constitution makes clear that the Constitution is the supreme law of the land and prevails in the event of a conflict with federal or state law. See, e.g., *INS* v. *CHADHA*, 462 U.S. 919 (1983) (federal law conferring "legislative veto" power to be exercised by only House of Congress held unconstitutional).

But even if it were less clear whether a conflict existed between a federal law and the President's authority as Commander-in-Chief, as Justice Robert Jackson pointed out 62 years ago in the famous "Steel Seizure Case," *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 640 (1952), it does not automatically follow that the President has "broken the law" if he relies upon his claimed constitutional authority:

> [B]ecause the President does not enjoy unmentioned powers does not mean that the mentioned ones should be narrowed by a niggardly construction. Some clauses could be made almost unworkable, as well as immutable, by refusal to indulge some latitude of interpretation for changing times. I have heretofore, and do now, give to the enumerated powers the scope and elasticity afforded by what seem to be reasonable, practical implications instead of the rigidity dictated by a doctrinaire textualism.

Additionally, Madam Speaker, it should be pointed out that the constitutionality of Section 1035, the statutory provision which the resolution asserts the President has violated, has never been upheld by any court, and certainly not upheld against a challenge that it impermissibly infringes upon the President's duty as Commander in Chief to protect the lives of Americans abroad and to protect U.S. servicemembers.

The Administration strongly objected to the inclusion of Section 1035 in the National Defense Authorization Act for 2014, on the ground that it unwisely and inappropriately interferes with the Executive Branch's ability to manage detainees in a time of armed conflict.

Indeed, the President has informed Congress of his objection to the inclusion of these and similar provisions in prior versions of the Defense Authorization and Defense Appropriations Act in law, and it is interesting to note that they only began to be inserted after President Obama assumed the office.

Madam Speaker, not only is the resolution before us ill-conceived and unwise, its timing could not be worse.

There are only a few days left before the Congress adjourns. We need to devote all our time on addressing the real problems facing the American people, like raising the minimum wage, making college more affordable, passing immigration reform, and responding to the threat to the security of the nation and the homeland by ISIS.

Madam Speaker, the threat posed by ISIS is serious and real and the President has reached out to Congress to work with him to develop a unified and international response to meet the threat.

And tomorrow evening, the President will address the nation on the nature of the ISIS threat and the actions the United States will take to protect the security of the nation and the homeland.

In the midst of this international crisis, it does not help or strengthen our country for the House to be debating a partisan resolution condemning the President and Commander-in-Chief.

In concluding, let me quote again Defense Secretary Hagel:

> The options available to us to recover Sergeant Bergdahl were few, and far from perfect. But they often are in wartime, and especially in a complicated war like we have been fighting in Afghanistan for 13 years. Wars are messy and full of imperfect choices.
>
> In the decision to rescue Sergeant Bergdahl, we complied with the law, and we did what we believed was in the best interests of our country, our military, and Sergeant Bergdahl.
>
> The President has constitutional responsibilities and authorities to protect American citizens and members of our armed forces. That's what he did. America does not leave its soldiers behind.
>
> We made the right decision, and we did it for the right reasons—to bring home one of our people.

I hold to the beliefs of the role of Congress in any declaration of war and the value and purpose of the Administration adhering to the rules of consultation with Congress. In this instance the administration explained its reasoning and Congress already through committee hearings expressed its disagreement. This resolution is nothing but political and wholly without purpose and just simply wrong.

Madam Speaker, we should not waste this precious time remaining on matters intended to score political points or to hold the current President to standards we never applied to his predecessors.

I urge all Members to join me in opposing the rule and the underlying resolution.

Mr. HASTINGS of Florida. Continuing, Madam Speaker, my friends in the majority shut the government down. I didn't think that was helpful. The matter of not dealing with immigration reform and climate change, I don't think, makes our country better. Their attempts to mold a conservative utopia can never work outside the pages of novels.

This is a House whose leadership judges success not by how it has improved the lives of families in this country, but how successful it was to thwart the President of the United States. This is a body that would rather be trapped in gridlock than to go about the business of the country.

So we will live through these next 2 weeks, and then we will return to our districts. What will we tell our constituents that we accomplished in the House of Representatives in the 113th Congress? We will tell them that we condemned the President for refusing to leave an American prisoner of war behind.

How far are we going to follow an extreme fringe minority down this path into poverty? We have got 2 weeks. Once again, House Republicans are proving that they would rather put partisan politics and petty intrigue first and discredit the President than to govern responsibly and address the many challenges facing our Nation.

Madam Speaker, I urge a ''no'' vote on the rule, and I yield back the balance of my time.

Mr. BISHOP of Utah. Madam Speaker, in closing, historically, the wise use of water has made the desert bloom, but much of my time and some of the most egregious problems that I face deal with the overreach of executive agencies when it comes to water. To claim that their tactics are arbitrary and capricious would be overly generous.

The bottom line is the Supreme Court has twice said that the executive branch agencies have overreached their authority. Twice there was legislation to try to expand that authority, which failed miserably, and now what the Supreme Court said they could not do and what Congress would not grant them to do, the agencies are trying to accomplish by creating a rule to give them powers that they ought not to have.

That—I am sorry, Madam Speaker—is simply wrong. The reason it is wrong is that it hurts people. People trying to live their lives find themselves frustrated by executive agency overreach.

That is why Congress must indeed pass not only this resolution and rule, but also the underlying bill, and it must move forward to make sure that Congress controls these issues in the future, not an executive branch agency. I have to reiterate that this rule is fair, and the underlying legislation is appropriate.

With that, Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 179, not voting 23, as follows:

[Roll No. 484]

YEAS—229

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Culberson
Daines
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—179

Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Maffei
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—23

Bucshon
Cassidy
Cicilline
Clark (MA)
Clarke (NY)
Davis, Rodney
DesJarlais
Dingell
Gosar
Jones
King (IA)
Lee (CA)
Lynch
Maloney, Carolyn
Meng
Miller, Gary
Nadler
Nunnelee
Poe (TX)
Rush
Sewell (AL)
Tierney
Velázquez

□ 1352

Ms. FRANKEL of Florida, Messrs. MORAN, BARROW, and COHEN changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RODNEY DAVIS of Illinois. Madam Speaker, on rollcall No. 484 I was unavoidably detained. Had I been present, I would have voted "yes."

Mr. BUCSHON. Madam Speaker, on rollcall No. 484, had I been present, I would have voted "yes."

Mr. KING of Iowa. Madam Speaker, on rollcall No. 484, I was not present to vote. Had I been present, I would have voted "yes."

WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT OF 2014

GENERAL LEAVE

Mr. SHUSTER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 5078.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 715 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5078.

The Chair appoints the gentleman from Texas (Mr. POE) to preside over the Committee of the Whole.

□ 1356

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, with Mr. POE of Texas in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from West Virginia (Mr. RAHALL) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chair, I yield 2 minutes to the Congressman from Florida (Mr. SOUTHERLAND), who is the original sponsor of H.R. 5078, the

Waters of the United States Regulatory Overreach Protection Act.

I think it is a thoughtful piece of legislation.

Mr. SOUTHERLAND. Mr. Chair, I appreciate the efforts of you and Ranking Member RAHALL, and those efforts, how they have advanced this bipartisan piece of legislation. I would also like to thank Subcommittee Chairman GIBBS for giving this issue the urgent attention that it deserves.

For more than 40 years, America's waters have been made cleaner and safer by a balanced regulatory partnership between the States and the Federal Government. The basis for this partnership was a commonsense understanding that not all waters are subject to Federal jurisdiction and that the States must have the primary responsibility for regulating waters within their own boundaries.

But, now, decades of success have been put at risk under the guise of clarifying the scope of the Federal jurisdiction.

Under its proposed rules, Federal agencies like the EPA and the Army Corps of Engineers would see their regulatory authority under the Clean Water Act drastically expanded, to the point of covering almost any body of water throughout America, from ditches to culverts to pipes to watersheds to farmland ponds.

This would have devastating consequences on virtually every major section of our economy, including farming, construction, manufacturing, transportation, and energy development.

That is why I have introduced H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014. Our bipartisan bill draws a line in the sand that preserves the critical Federal-State partnership in place today.

By preventing the EPA and the Corps of Engineers from finalizing or implementing the proposed rule, we are providing a safeguard against the Federal Government's overreach into regulatory decisions best made by officials at the State and local levels.

We are also requiring the EPA and the Corps to consult with the State and local officials to form a consensus proposal on the scope of the future water regulations under the Clean Water Act.

This bill is not anti-environment. It is not anti-clean water. Our bill preserves the partnership we have had in place for years to strengthen the health of our waterways and manage our water quality, and it does so in a way that maintains certainty for our job creators.

□1400

For these reasons, I urge all of my colleagues to support this bipartisan bill.

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

Mr. Chairman, I rise in strong support of H.R. 5078.

In proposing its latest version of regulations defining ''waters of the United States,'' the EPA claims to be attempting to provide clarity. It claims to be attempting to provide certainty for multitudes of Americans who have been left perplexed by Clean Water Act jurisdiction for many years.

Without a doubt, confusing and conflicting Supreme Court decisions have helped to create a regulatory jumble. But the EPA's proposed new regulations are doing little, if anything, to clear and calm those murky and roiling regulatory waters.

These proposed regulations have only stirred up more worry, aggravation, and, frankly, anger. In truth, the only certainty that these regulations provide is the sure knowledge that, under them, anyone undertaking nearly any activity involving so much as a ditch in the United States will have to deal with the bureaucracy known as the EPA.

I stand here today voicing the sheer dread and utter frustration of enterprises and individuals across southern West Virginia—from coal miners and coal mining families to farmers and farming families to builders and businesses, large and small. We have seen firsthand how this EPA uses its limited legal authorities to drive a broad and growing ideological agenda. We have seen this EPA use permits to threaten our coal industry, browbeat our State, and elbow out other federal agencies. And we have witnessed this EPA's cold and callous disregard for how its politically driven agenda is affecting the lives of hardworking West Virginia families.

The proposed regulations concerning ''waters of the United States'' certainly amount to an expansion of EPA's reach into waters never before envisioned by the Congress to be subject to the Clean Water Act. They would stake out Federal Government oversight of areas long reserved to the States. If implemented, they would entail more than a power grab; they would result in a land grab, enabling EPA to dictate to more and more citizens just how they can use their own property.

I stand with our coal miners, our farmers, our builders, and our manufacturers. Our citizens need—and certainly they are owed—clarity and certainty. For the EPA to claim that these proposed regulations answer that need, well, one has to wonder just what is in the water over at the EPA headquarters.

I support the pending measure, and I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, it is now my honor to yield 1-1/2 minutes to the gentleman from Ohio (Mr. GIBBS), the chairman of the Water Resources Subcommittee.

Mr. GIBBS. Mr. Chairman, I rise in support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014.

Mr. Chairman, I have serious concerns about the administration's proposal to redefine the scope of jurisdiction under the Clean Water Act and the unilateral approach the agencies took developing this rule. The agencies' attempt to expand their jurisdiction under the Clean Water Act will have serious consequences for the Nation's economy, threaten jobs, and restrict landowners from making decisions about their property.

In my subcommittee hearing earlier this year, we discovered that the EPA could not identify a single State that supports this rule. Under the Clean Water Act, the States are supposed to act as coregulators with the Federal Government, and this partnership has enjoyed much success over the years. It is unfortunate that the agencies have chosen to take a closed-door approach to this rulemaking instead of engaging in a proper and transparent process working with their State counterparts.

Mr. Chairman, H.R. 5078 will put an end to the EPA's overreach and will ensure that any new rule is adopted openly and responsibly, and takes into consideration the concerns of the State, local governments, and other stakeholders. Mr. Chairman, I strongly urge all Members to support this bipartisan bill.

Mr. RAHALL. Mr. Chairman, I am very honored at this time to yield 4 minutes to the gentleman from New York (Mr. BISHOP), the distinguished ranking member of our Subcommittee on Water Resources and Environment on our Transportation Committee, although we are not in full agreement on this measure.

Mr. BISHOP of New York. Mr. Chairman, I thank my friend and our ranking member from West Virginia for yielding and for his leadership on the T&I Committee.

Mr. Chairman, I rise in strong opposition to H.R. 5078. Last session, the Republican majority pushed through a rider to the Energy and Water Appropriations bill to block this administration from using Agency guidance to clarify how they would interpret two confusing decisions of the U.S. Supreme Court that called into question the protections of the Clean Water Act over our Nation's waters.

At that time, the Republican majority claimed that this use of administration guidance was unprecedented and in violation of the law, notwithstanding the fact that the previous administration followed the exact same process in issuing two guidance documents which, coincidentally, remain in force today. In fact, it is these two Bush-era guidance documents that have compounded the confusion, uncertainty, and increased compliance costs faced by our constituents today.

But don't take my word on this. Let me quote from some of the comments made in opposition to the Bush-era guidance. According to the American Farm Bureau Federation and others:

> With no clear regulatory definitions to guide their determinations, what has emerged is a hodgepodge of ad hoc and inconsistent jurisdictional theories.

Again, according to the American Farm Bureau Federation and others:

> The Bush administration guidance is causing confusion and added delays in an already burdened and strained permit decisionmaking process, which ultimately will result, and is resulting, in increased delays and costs to the public at large.

Finally, according to the Waters Advocacy Coalition:

> Until a comprehensive set of rules regarding which water bodies the agencies will regulate is promulgated, the public and Agency field staff will be beleaguered by partial answers, confusing standards, and ad hoc, overbroad, and arbitrary decisions pertaining to the scope of Federal jurisdiction.

In April of 2011, over 150 Members of this House wrote to the Environmental Protection Agency and to the Corps requesting that a proposed guidance document of the Obama administration be reconsidered. In that letter, these Members suggested:

> If the administration seeks to make regulatory changes to the Clean Water Act, a notice-and-comment rulemaking is required.

In the intervening months, this is exactly what the administration has done. In 2012, the administration chose to withdraw the proposed 2011 guidance document and instead pursued a notice-and-comment rulemaking to address much of the confusion, uncertainty, and increased costs surrounding the scope of the Clean Water Act protections.

However, many of these same Members who asked for a formal rulemaking are now vehemently opposed to this rulemaking going forward. I have to ask why? Are these Members opposed to providing greater clarity on the scope of Federal Clean Water Act protections? Are they opposed to trying to reduce the confusion and uncertainty facing our regulated communities while at the same time trying to ensure that our network of waters and wetlands are protected from pollution or destruction?

Opponents of this rulemaking are trying to portray this as a Federal attempt to regulate birdbaths, puddles, and driveways, but both common sense and the testimony of representatives of the EPA and the Corps before our committee would confirm that these were never subject to Clean Water Act jurisdiction, nor would they be subject to the act under the administration's proposed rule.

In short, this is not a debate about the Federal Government trying to regulate someone's backyard birdbath, but it is about ensuring that those waters and wetlands that provide hundreds of millions of Americans with their drinking water, provide vital protection to our towns and communities, and provide valuable habitat to our native fish and wildlife are protected.

Mr. Chairman, to be fair, several of my own constituents have expressed concern with the substance of the proposed rule. I have listened to their concerns, and I have pressed the Agency witnesses who have appeared before our subcommittee on several critical areas. I have questioned the agencies to ensure that the scope of the proposed rule lives solely within the confines of the two Supreme Court decisions on this matter; otherwise, such changes would require an act of Congress.

The CHAIR. The time of the gentleman has expired.

Mr. RAHALL. I yield the gentleman an additional 1 minute.

Mr. BISHOP of New York. Mr. Chairman, I have asked for Agency assurance that this proposed rule does not expand the scope of the Clean Water Act jurisdiction over what was covered by prior rulings of the Supreme Court. Again, I have been assured that this is the case.

I have asked the Agency staff to clarify that these proposed rules do not eliminate any existing statutory or regulatory exemptions for agriculture, including activities on prior converted cropland. Again, we have been assured by the Agency that all of the existing exemptions for farming, silviculture, and ranching in the current Clean Water Act and regulations remain in place.

In my view, this is not a perfect proposed rule—few are—but it does establish a reasonable process for providing additional clarity on Clean Water Act protections that we desire. To suggest that the solution is to simply throw out this proposed rule and to forever leave the regulated community with the current regulatory morass simply makes no sense.

Mr. Chairman, I urge a ''no'' vote on H.R. 5078. I thank the ranking member for his indulgence.

Mr. SHUSTER. Mr. Chairman, it is now my honor to yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER), the chair of the House Administration Committee.

Mrs. MILLER of Michigan. Mr. Chairman, recently, I met with about 600 farmers at an annual gathering in my district which we call Dinner on the Farm, where local farmers express their concerns over the negative impact EPA's proposed regulations would have on their businesses.

The Michigan Farm Bureau actually showed me this map of my district which shows what could be subject to Federal regulation if the proposed EPA rule is actually adopted. And highlighted are the water sources that would be impacted. It actually excludes wetlands because then it would cover my entire district, including just about anything that includes moisture.

Mr. Chairman, this is another shocking example of this administration trying to do an end run around the Congress and the legislative process with more overreaching regulations that will drive up food prices for American families.

By stopping the EPA from expanding their scope and requiring the Agency to coordinate with States, this legislation will help to protect this Nation's agricultural community from Federal overreach that threatens their livelihood and ultimately this Nation's economic success.

Mr. RAHALL. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), a very valued member of our committee. He is also the ranking member of the Committee on Natural Resources.

Mr. DEFAZIO. It is unfortunate that we are here today. We have departed from reality, which would be the districts we represent, where I just spent 5 weeks, and now we are back inside the Beltway. And we are doing things in this case that we know will never become law, but we do have an opportunity actually to do something real and allay the concerns—legitimate concerns—of farmers, ranchers, and others who feel that the EPA is either overreaching or has written a somewhat garbled rule. I would agree with that.

But instead of approaching it in a measured way and saying we want to be certain that you are not doing this, and we want to be certain that you are doing this, this would say that anything and everything that they have considered over the last 2 years in developing this rule is now ineligible for future consideration. Well, what does that mean? Well, it means that the determination that certain things are exempt, well, we probably can't revisit those. Can we use the Court's decision or any of those documents? Seems not.

So where do we end up if this cockamamy thing passes the House and becomes law—which it won't? Well, where we end up is back in the earlier era of the 2003 and 2008 guidances. And many of the groups that are here today supporting this unbelievably broad overreach are actually groups who had objected strenuously to what the Bush administration did in the 2003 guidance and the 2008 guidance.

Here is a quote from the American Farm Bureau, 2003:

> No clear regulatory definitions to guide their determinations. What has emerged is a hodgepodge of ad hoc and inconsistent jurisdictional theories.

2008, American Farm Bureau:

> Guidance is causing confusion, added delays in an already burdened and strained permit decisionmaking process which ultimately will result and is resulting in increased delays and costs to the public at large.

Then, on the other side, groups such as the National Wildlife Federation and Ducks Unlimited also found the objections of the 2003 and 2008 guidances to be totally inadequate, and, of course, the Supreme Court itself split 4–1–4 on one of the guiding documents behind this.

□ 1415

So instead of wading in, rolling up your sleeves, and acting like legislators, you are acting like idiot ideologues here today. You are saying nothing that was considered in developing this rule can ever be used again

to develop a future rule. What does that mean? That means you are stuck with a 2003–2008 guidance, which all these groups found to be disturbingly inconsistent, expensive, causing unnecessary delays, and we need new guidance. We do need new guidance. We do need new definition.

There are some who have the agenda of wanting to repeal the Clean Water Act altogether. Let's go back to the good old days, when you could light a match and watch the Cuyahoga River burn or when the Willamette River in Oregon was an open sewer. Let's go back to those good old days before the Clean Water Act.

No, I don't think the American people want to go there, and I don't think a majority in this House want to go there, but instead of fixing and limiting the problems and the potential defects of this incompetent rulemaking that is ongoing and is, at this point, only proposed, perhaps the Agency itself will wake up and withdraw and revise the rule.

That is what public comment periods are all about; but no, we are going to preempt it before then and say nothing that went into developing this rule can ever be considered again in developing another rule. You are stuck with something that doesn't work, which these same groups object to.

It is just very sad that we are aren't a legislative body anymore. You take someone who has got a tough race, you give them a bill, they go out and rah-rah-rah, they pretend they did something, and they go home and get reelected, instead of really doing something.

Mr. SHUSTER. Mr. Chairman, I urge the gentleman from Oregon to go back and read the second part of the bill—the last half of the bill. He may find a little different perspective on it.

With that, I yield 1 minute to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Chairman, I want to thank the chairman of the full committee and the ranking member as well.

I stand in strong support of H.R. 5078 because it represents another administration overreach that will impact our entire economy. Under the vague regulation proposed by the EPA and the Corps, Federal power will grow and tie up our agriculture, construction, and energy industries in even more red tape.

Expanding the scope of Federal jurisdiction will require many more Clean Air permits, which will mean more permitting delays, and more permitting delays means fewer jobs.

During the August recess, I traveled all across the State of West Virginia and met with farmers who were particularly concerned, construction workers, miners, and many others, who are very, very upset about the EPA's regulatory assault that is costing us West Virginia jobs.

We should support this bill today, reject this proposed rule, and send Federal officials back to the drawing board to work with State and local leaders on a jurisdictional water rule that makes sense for our economy and our environment.

Mr. RAHALL. Mr. Chairman, I am very happy at this time to yield 2 minutes to the gentleman from Minnesota (Mr. PETERSON), a strong supporter, the cosponsor of this legislation, original cosponsor of it, and the ranking member of the Committee on Agriculture.

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

I rise today in strong support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act.

As others have said, H.R. 5078 would prohibit the EPA and the Army Corps of Engineers from redefining waters of the United States under the Clean Water Act.

The bill would also prohibit implementation of the interpretive rule for agriculture which, while it probably was meant to provide some clarity to farmers and ranchers, only creates more confusion and is bad for agriculture.

This legislation is necessary because, in my view, the EPA does not seem to understand the real world effects that these regulations will have on farmers across the country.

We still don't have any clear definition of a wetland in agriculture, an issue that is dating back to the eighties and nineties. Maps used by the USDA were unclear then and often mislabeled wetlands. This rule would not clarify it. It would only add more to the uncertainty that we are facing in that regard.

In my State, the USDA's Natural Resources Conservation Service has done a great job working with farmers to encourage voluntary conservation efforts. This rule would severely disrupt those positive efforts.

I urge my colleagues to support this legislation.

Mr. SHUSTER. Mr. Chairman, can I inquire as to how much time is remaining on each side?

The CHAIR. The gentleman from Pennsylvania has 24½ minutes remaining. The gentleman from West Virginia has 16½ minutes remaining.

Mr. SHUSTER. Thank you, Mr. Chairman.

I now yield 1 minute to the gentleman from Pennsylvania (Mr. BARLETTA).

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

Mr. BARLETTA. Mr. Chairman, I rise in support of the bill.

For 4 decades, the Clean Water Act has worked as a strong partnership between the Federal Government and the States. This bill protects that partnership against the proposed rule from the EPA and the Army Corps of Engineers.

I have heard from many of my constituents that this rule would force them to prove that large mud puddles and ditches on their property are not federally regulated waters.

However, the new definition of Federal waters is so vague that it is impossible to know what standards you will need to prove. This rule will cost my constituents time, money, and jobs.

Mr. Chairman, I support this bill because sometimes a mud puddle is just a mud puddle.

Mr. RAHALL. Mr. Chairman, at this time, it is my pleasure to yield 4 minutes to the gentlelady from Ohio (Ms. KAPTUR), a very powerful lady on the Committee on Appropriations, the ranking member on Energy and Water Development.

Ms. KAPTUR. Mr. Chairman, I thank the ranking member, Mr. RAHALL, for his great leadership and consider it a privilege to speak today.

Let me inform this House why it should vote down this death bill—yes, death bill.

This is a jar of algae, toxic to humans and animals. It was just drawn from Lake Erie, one of our great freshwater lakes, a drinking source for some 11 million people.

On August 2, this green muck filled with toxic microcystin surrounded the Toledo drinking water intake, leaving over half a million people with no safe drinking water for 3 days. It almost seemed surreal. One of America's biggest cities and regions with no fresh drinking water.

Now, the region that our watershed drains is 85 percent agricultural. How fortunate we are. In fact, it is the largest watershed in the entire Great Lakes, but allowing farm field runoff of manures and fertilizers, applied at four times the rate of 20 years ago, with excessive phosphorous and nitrogen that feed the growth of this green muck, is simply no longer acceptable.

The number of people who live in our tristate watershed totals 2 million, Ohio, Indiana, Michigan, and of course, with Canada even more; but the number of animals in the watershed is 10 to 15 times the human population. The manure load of those animals—compared to 20 years ago—spread on the land, even in the wintertime, contributes, with increasing rainfall, to the pollution that then drains to places like Toledo.

Utility rates are going up—what are they going to do? How are they going to afford the bills to pay to clean up the pollution from a massive tristate and, indeed, international watershed?

Instead of helping clean up our water for future generations, this Republican bill takes America backwards. Do you know what I say? Shame on you. Shame on you.

Today, the United States Environmental Protection Agency recognizes that harmful algal blooms are a major environmental problem in all 50 States, with severe impacts on human health.

The Toledo water plant and what happened to us is a severe warning for our country, and we better pay attention. Communities are incurring massive costs for water treatment as a result of pollution and toxic algae because our water plants have to somehow clean this mess up and then send

fresh drinking water to our citizens. These costs are being paid not by the polluters, but by the ratepayers downstream at the receiving end of the muck—how unfair.

I am back here in Washington, fighting for our lake. Our citizens must turn this green muck back into blue water to sustain life itself. One of the ways we start is by defeating this bill. It is an embarrassment to the country at this point in our history.

I can tell you, to the people who still don't know what their future holds in places like Toledo and along Lake Erie, I urge my colleagues to oppose this bill. Reject the dead water direction in which it leads America because it isn't just this generation, but it is those that follow that we should be voting for here in this House. I urge defeat of this measure.

I want to thank Congressman RAHALL and those who understand what it takes to build a great nation. Let us do something worthy in our time and generation.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. MULLIN).

Mr. MULLIN. Mr. Chairman, I rise today in support of H.R. 5078.

As you have heard from many Members today, the EPA's proposed rule is a clear overstep of authority. Back in my home State of Oklahoma, ranchers and farmers have been very clear that this rule would significantly limit their operations.

As a rancher myself, I understand and agree with their concerns. The definition of ''navigable waters,'' as stated and written by the EPA, would put all farmers and ranchers on notice that they are no longer in charge of their own land. From now on, they will have to ask permission to get a permit or to operate their own land the same way they have for many years.

In summary, this would be an unprecedented land grab by our government through the EPA and the bureaucrats of Washington, D.C. The EPA is simply out of touch with rural America.

I stand with our farmers and our ranchers when I say it is time to stop the EPA's overreach and their redefinition of navigable waters.

Mr. RAHALL. Mr. Chairman, at this time, I am happy to yield 4 minutes to the gentleman from Virginia (Mr. MORAN), who is leaving this august body, but certainly, we will continue to rely upon his wisdom and friendship, wisdom that is except on this particular bill, the ranking member of the Subcommittee on Interior and Environment on the Committee on Appropriations.

Mr. MORAN. Mr. Chairman, I want to thank my good friend from West Virginia, and I understand where we sit is where we stand. The gentleman has always been in the forefront of protecting his citizens in West Virginia and his workforce, including the mine workers of West Virginia, and I fully understand that, but nevertheless, I rise in opposition to this regressive legislation.

With very few days remaining before this Chamber adjourns, we are wasting what limited floor time remains debating a legislative proposal that this Chamber has already passed and the Senate has rejected.

Today, we will be voting for the 218th time—the 218th time this session—to weaken existing laws that protect our health and the environment that we depend upon.

Later this week, we will vote for the 53rd time to weaken the Affordable Care Act, which the American people are beginning to realize is actually working on their behalf.

None of these measures that have passed this session or will pass the House this week will become law. The President has already said if it passes, he will veto it, and my friend knows that. In fact, he reminded me. We know he is going to veto that if it were to pass, so you would think this is kind of a misguided and wasteful use of this institution.

We are planning on only 6 full legislative days before the election, and we are using one of those days on such a fruitless exercise. How about addressing the problems at our border or passing an extension of unemployment benefits or even passing a budget, which is one of our most basic responsibilities?

Instead of doing something useful and productive that might become law, we will again vote on a measure to prevent the Corps of Engineers and the Environmental Protection Agency from finalizing their joint proposed rule clarifying the limits of Federal jurisdiction under the Clean Water Act.

□ 1430

This is what the Supreme Court instructed us to do. This rule is necessary. It is our responsibility. EPA and the Corps of Engineers need to clarify their authority because there is a lot of confusion on what falls under the protection of the Clean Water Act following two Supreme Court rulings.

Clarity will also help the States that use the Federal definition to operate their State water protection programs. Ninety percent of what the EPA does is in fact carried out by the States.

The proposed rule clarifies that most seasonal and rain-dependent streams are not affected. Wetlands near rivers and streams are not included. Other types of waters that may have more uncertain connections with downstream water will be evaluated through a case-specific analysis of whether the connection is or is not significant. EPA and the Corps have encouraged recommendations from the public for how best to determine whether a water body has a significant connection to downstream waters.

My colleagues, an estimated 59 percent of all stream miles in the lower 48 States fall into the category of intermittent or ephemeral—they don't exist for part of the year—yet they receive 40 percent of all individual wastewater discharges. That is what the problem is. More than 117 million Americans get some of their drinking water from these very streams that don't flow year-round. Shouldn't their drinking water be safe from toxic elements?

If this measure were to be enacted, it would only ensure that the confusion continues and that these sources of drinking water remain a serious risk to the public's health. That is why I urge my colleagues to oppose this bill.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from California (Mr. MCCARTHY), the Republican leader.

Mr. MCCARTHY of California. I thank the gentleman for yielding.

Mr. Chairman, I rise today against an unlawful expansion of Federal power. The EPA's attempt at an unprecedented power grab will ultimately saddle hardworking Americans, small businesses, and farmers with new, onerous regulatory burdens.

Under this proposed new rule, the EPA will be able to claim jurisdiction over almost all bodies of water in the U.S. So, along with the bays and rivers, EPA's hand will extend over streams, ponds, ditches, and even storm water runoff. Beyond sounding ridiculous, this rule will impact farmers, energy producers, and any private citizens that use their land for economic or recreational purposes. It is harmful and unnecessary.

I live in the West. The West is burdened right now with the drought. Some of that drought is based upon excess regulations that choose fish over people, and that water will run out to the ocean because of a regulation and a lawsuit.

I have seen where regulatory effects and burdens have gone before. I have a town in my community called Taft. It is a hardworking town like many of you have. The EPA has been a part of it before. It is a town that could be anywhere in America.

Taft had a waterway, the EPA said, called Sandy Creek. The only challenge, though, in Sandy Creek is it was a dry ditch. It had been dry for 30 years. So when they came to me and they wanted to be able to move forward, they found that the Federal Government was trying to impose a permitting regulation of excess regulation on this private land. I had to personally call them, and they said: No, you cannot do it because of the creek. I had to drive an individual all the way out to the dry dirt and sit them in the dry creekbed until finally they said ''yes.''

Under the new bill, Sandy Creek will not be dry anymore because that burdensome regulation can possibly be back on them. It could be redesignated, and we will not be able to grow again.

Mr. Chairman, we are struggling with job creation in America. We are struggling with small businesses trying to make ends meet. Milk prices are at an alltime high. Why would we burden

America with more regulation? Why would we not unshackle what holds us back and let us be able to grow and let people keep their private land and protect our water, but do it in a sense that has common sense?

Mr. RAHALL. Mr. Chairman, I am happy to yield 3 minutes to the gentleman from Illinois (Mr. ENYART), who is on the Agriculture Committee and an original sponsor of the legislation. He has been of tremendous help in moving this forward.

Mr. ENYART. I thank the gentleman for yielding.

Mr. Chairman, today I rise in support of this legislation and to share my concern about overreaching jurisdiction in the proposed rulemaking expanding the reach of the EPA and the Army Corps of Engineers.

I have spent the last 5 weeks talking to constituents in my district, meeting with landowners, and discussing legislation with my agriculture advisory committing, talking to leaders from small communities and large cities alike.

Again and again, I hear the same thing: southern Illinoisans believe the Army Corps of Engineers and the EPA went too far rewriting the Federal Government's jurisdiction over waters of the United States. The Federal Government is claiming to have jurisdiction over small private property waterways.

The biggest concerns voiced by constituents were over the new areas that would become waters of the U.S. Under the proposed rule, many ditches, small ponds, and low spots in fields could be considered within the purview of the Federal Government.

Farmers and growers already protect their waters. They need it for livestock, orchards, soybean fields, and cornfields. Our Nation's farmers are the first conservationists of our time.

Additionally, I am further concerned about the lack of scientific analysis and economic outlook used to determine the scope of jurisdiction. Our farmers, land owners, communities, and our country's waterways deserve better planning than this. They deserve detailed studies and thoughtful execution. Our constituents sent us to Washington to keep their best interests in mind, not to pile on more red tape in a blanket fashion.

I urge you to join me and take into consideration those who will be affected by the proposed expansion of the EPA and the Corps' power.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Mr. Chairman, the EPA is at it again, this time with an overly burdensome rule that would expand their reach and power to regulate under the Clean Water Act.

I have heard from roadbuilders, homebuilders, and small businesses who are concerned about this overreach. In particular, farmers in my district are very concerned that this rule could add new permitting requirements for farming activities like irrigation ponds and drainage ditches.

That is right. The EPA, which is the same Agency that inexplicably released the personal information of livestock producers, is now telling farmers ''just trust us'' when it comes to this new rule. There is a trust gap between the EPA and the agricultural community. One of my priorities is trying to bridge that gap.

Instead of this proposed rule, the EPA and the Corps of Engineers should engage with States and local governments to produce a more commonsense approach to regulating our waterways.

I urge my colleagues to support this bill, the WOTUS Regulatory Overreach Protection Act.

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

Mr. SHUSTER. It is now my pleasure to yield 1 minute to the gentleman from Florida (Mr. JOLLY).

Mr. JOLLY. Mr. Chairman, I rise in support of this legislation and in opposition to the EPA's Waters of the U.S. Act.

I represent Pinellas County, Florida, a district that lies between the Gulf of Mexico and Tampa Bay, surrounded by water and prone to flooding and storm runoff. So, like many coastal communities, this is an important issue to us.

EPA issues can be divisive—we know that—but they need not be. My message today is not one of anger. It is simple common sense. We can do better. The EPA can do better and the Corps can do better.

This is not a debate over clean water. Everybody in this body supports clean water. But this is a debate over the expanded jurisdiction of a Federal Agency and the current overreach of that Agency. In this case, this legislation is opposed by a variety of interests, from agriculture, shopping centers, chambers, homebuilders, manufacturers, transportation interests, but very importantly, by counties and mayors like many in my district who spoke to me in August.

We are called as Members of this body to represent our communities. Let's do that today. Let's represent the interests of our communities. This is not a moment for ''Washington knows best,'' because Washington does not know best in this case.

Mr. Chairman, we can do better. In this case, let's send it back and insist on a better rule.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS), the chairman of the Agriculture Committee.

Mr. LUCAS. Mr. Chairman, I rise today in support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act.

The Environmental Protection Agency is once again seeking to overstep its authority, and we are here to remind them of the balance of powers.

This year, EPA proposed a rule to redefine the waters of the United States under the Clean Water Act. This rule expands Federal control of land and water resources across the Nation. This rule would trigger an onslaught of additional permitting and regulatory requirements to protect not our great natural resources but, rather, our backyard ponds and agricultural ditches.

These requirements would extend to every landowner, farmer, and rancher. What this means for farmers and ranchers is that their normal business activities for the production of food would be subject to even more permitting requirements or faced with penalties. Traditional conservation guidelines which were once voluntary will become mandatory or the farmer will be subject to fines and vulnerable to lawsuits.

In this rulemaking, EPA assumes discretion never intended or granted by Congress through which Federal agencies would be empowered to make decisions, and those decisions could be made in an arbitrary fashion.

H.R. 5078 blocks the Agency from finalizing, implementing, and enforcing this rule. It preserves States' rights, ensures the Obama administration consults States and local officials on any future proposal to regulate and protect our Nation's waters under the Clean Water Act.

Protecting our natural resources is a noble cause and one that the agricultural community stands solidly behind, but this proposal is an underhanded way to harm American agriculture and threaten America's food security.

Mr. Chairman, I urge my colleagues to join me in supporting this bill.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I rise in favor of this bill and against the EPA's ditch rule.

If this rule were to go forward, two things would assuredly occur: less clarity of what waters are jurisdictional under the Clean Water Act for our farmers and ranchers, and more overreach of jurisdiction by the EPA.

This rule joins a long list of initiatives undertaken by the Agency which would increase the regulatory burden on Nebraska's farmers, ranchers, businesses, and everyday citizens.

In my State, multiple organizations banded together to fight this rule. The group calls itself Common Sense Nebraska Coalition. It includes folks that you would expect, such as farmers and ranchers, but what is interesting is that so many others have heard about this and joined in the fight, including the Nebraska Chamber of Commerce, Nebraska Bankers Association, county officials, resource districts, the Water Resources Association, homebuilders, general contractors, and the Rural Electric Association. They have all joined in this cause because of its uncertainty and massive jurisdiction under the EPA.

My State supports this bill, and I stand proudly with them.

Mr. SHUSTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. SMITH), former chairman of the Judiciary Committee and now a member of the Science and Technology Committee.

Mr. SMITH of Texas. First of all, let me thank the chairman of the Transportation Committee, the gentleman from Pennsylvania (Mr. SHUSTER), for yielding.

Mr. Chairman, Science Committee investigations revealed that the EPA prepared State maps that show the widespread impact of their proposed regulations. As you can see by the colored areas on this map, the EPA plans to regulate nearly every square inch on the map. More detailed maps of every State can be found on our Science Committee's Web site, science.house.gov.

The EPA's rewriting of the law is an unprecedented expansion of Federal control over Americans' private property, and these maps make that clear. The Waters of the United States Regulatory Overreach Protection Acts stops the EPA and protects Americans from the President's drive to regulate private property.

□ 1445

I thank the gentleman from Florida (Mr. SOUTHERLAND) for taking the initiative on this bill, and I thank the chairman again for yielding me time. I urge my colleagues to support this legislation.

The CHAIR. The gentleman from West Virginia has 6½ minutes remaining, and the gentleman from Pennsylvania has 16 minutes remaining.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from New York (Mr. COLLINS).

Mr. COLLINS of New York. I thank the gentleman from Pennsylvania for yielding.

Mr. Chairman, expanding the scope of ''waters of the United States'' is a dangerous expansion of authority strongly opposed by the farmers in my western New York district.

In May, I led a bipartisan letter with Mr. SCHRADER of Oregon, supported by a majority of this House, asking the EPA and the Army Corps of Engineers to withdraw this overreaching rule.

EPA officials have testified that they realize this rule, as drafted, is confusing and needs modification, but they have refused to withdraw the rule and start over.

I ask my colleagues to join me in supporting H.R. 5078, the bipartisan legislation that will address this problem.

Mr. SHUSTER. Mr. Chairman, it is now my pleasure to yield 1 minute to the gentleman from Florida (Mr. YOHO).

Mr. YOHO. Mr. Chairman, I want to congratulate my friend and colleague, STEVE SOUTHERLAND, for crafting the Waters of the United States bill, this important piece of legislation.

Mr. Chairman, I have heard from farmers, ranchers, contractors and even homeowners across my district and across this country. They have had enough of regulatory overreach by the administration and the EPA.

As many of my colleagues have already stated, this bill will stop this administration from using a pen and a phone to unfairly target those who are our greatest stewards of our land, the farming and ranching families of this country.

I urge all of my colleagues to support this legislation. Government should facilitate businesses, not hinder them.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. STUTZMAN).

Mr. STUTZMAN. I thank Chairman SHUSTER for bringing the Waters of the United States Regulatory Overreach and Protection Act to this body.

Mr. Chairman, this administration has continually tried to expand the role of the Federal Government in the everyday lives of American families, and now the EPA wants to regulate almost all bodies of water throughout the country, including ditches, pipes, and even farmland ponds.

After meeting with many of my constituents back home throughout the month of August, I know that my fellow farmers, whom I sat with in Indiana, and those of any other State don't want or need more regulatory overreach from Washington, D.C.

From irrigation for crops to water for livestock, farmers feed us and the world with this precious resource. This legislation is an opportunity to maintain the relationship between local and Federal officials already established in the Clean Water Act.

I would like to thank Chairman SHUSTER, Ranking Member RAHALL, and the rest of Committee on Transportation and Infrastructure for their hard work on this issue. I urge my colleagues to support this very important bill for rural America.

Mr. SHUSTER. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. I appreciate the chairman yielding me time here today on this very important measure.

We have seen the EPA now trying to claim jurisdiction over virtually every body of water in the United States, puddle or not, navigable or not, manmade or natural, year-round or just even seasonal. In order to protect these waters, the EPA claims it needs to control vast amounts of land surrounding these waters.

Now, the residents of my district in northern California are already familiar with this type of regulatory act. In California, the EPA is already ignoring clear exemptions for farming activities that have been going on for years and years and are even in the law as exempt; this, in order to pursue massive fines against family farmers simply for changing crops or maintaining their already manmade irrigation systems, thus, in the process paralyzing farmers who are waiting months and months or even years for EPA or their cohorts in the Army Corps to decide these legal activities can continue to go on, otherwise they will be subject to huge fines.

This is form of tyranny that is a gigantic overreach and needs to be stopped. That is why I support H.R. 5078 as a way to limit EPA back to the proper role of actually watching out for clean waters, not regulating to the last drop every water drop in the United States.

Mr. SHUSTER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. HURT).

Mr. HURT. Mr. Chairman, today I rise in support of this regulatory overreach protection act. I believe that it is safe to say that no one has a greater interest in protecting our water resources than our Nation's farmers, farmers who depend on clean water for their livelihood.

Just last month, I met with many farmers across Virginia's Fifth District who expressed their grave concern about the Federal Government's unilateral expansion of the Clean Water Act far beyond that intended by Congress. This overreach will add huge costs for our farmers and the millions of American families that depend upon them.

That is why I ask my colleagues to join me today in supporting this commonsense, bipartisan bill to stop this administration's sweeping overreach on American farms.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to first commend the chairman of our Transportation and Infrastructure Committee, Mr. SHUSTER, for bringing this legislation forward and commend the staff on both sides of the aisle for the work in producing this bill. I commend the gentleman from Florida (Mr. SOUTHERLAND) as well.

This legislation is truly about giving the American people and giving our States a say in what is theirs and in the direction that they wish for the people within their borders.

Much has been said about the homebuilders' support for this bill, the contractors' support for this bill, and many, many, many other organizations. But I have two quotes here from the National Association of Home Builders and the Associated General Contractors.

These individuals are on the ground. They know what the effect is, the day-to-day effect of policy that emanates or regulations that are promulgated from our Nation's Capital.

These are the individuals that provide jobs for our people. As I said, they are on the ground, on the front lines every day trying to provide those jobs for our people, and in an environmentally sound way, I might add, as well.

Mr. James Tobin has written Members of Congress on behalf of the National Association of Home Builders, and he says, and I quote:

For home builders, this proposed rule adds confusion and increases the cost and time needed to obtain a Federal wetlands permit prior to home construction. The costs of this rule will increase the price of a home at a time when home construction is beginning to recover from the devastating effects of the economic downturn. Many American families will be priced out of the housing market if this rule is finalized in its current form.

That hits home. That hits home to the young people of this Nation seeking to buy their first-time home. It speaks to those seeking to refinance their homes. It speaks to a key sector of our economy that provides jobs and provides a future for this country that many of our young people are looking to improve.

The Associated General Contractors has written Members of Congress. Their senior executive director, Mr. Jeff Shoaf, has said that we must find ''a more predictable definition to clearly differentiate those waters that are regulated by the Federal Government from those that fall under the jurisdiction of State and local governments.''

In my opinion, it is time that this EPA recognize that our States do have a say in the future of regulations that affect people within their borders.

Unfortunately, we have seen too many instances, as I said in my opening comments, where this EPA has overreached. It has reached beyond what its legal authority is in trying to promote an ideological agenda that is not good for the heartland of America, the true areas that have built this country and provided jobs for our people in the past, and can provide jobs to a very talented and available workforce that is available, if only given a chance to work without further intrusion from the EPA.

So I conclude, and, again, commend my chairman for bringing this bill forward, and urge all Members to support the pending legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. SHUSTER. Mr. Chairman, I will conclude and yield myself the balance of my time, first, by thanking Mr. RAHALL for working with us to come forward with a commonsense approach to stopping another grab by the executive branch.

I also want to thank Congressman STEVE SOUTHERLAND from Florida, who introduced H.R. 5078. Mr. SOUTHERLAND has been a leader on the water issue since he arrived in Congress.

As we have been talking about here, and as Mr. RAHALL agrees, this proposed rule would significantly increase the geographic scope of the Federal Government's authority under the act and is outside the bounds of what can legitimately be done by the rulemaking.

It also is going to create great uncertainty within the many industries in this country. The rulemaking proposed by the administration is yet another example of the disturbing pattern as this Presidency seeks to use brute force to expand executive action while ignoring Congress and the Supreme Court.

I would urge all the Members, all 435 Members of this body, to look seriously at this piece of legislation and what this administration is trying to do. The President tries to grab Congress' legitimate constitutional authority. And if you have any doubts on that, the Supreme Court, twice, rejected a rulemaking by the EPA.

I think all 435 of us ought to be looking closely, whether it is a Republican or a Democrat administration, at these power grabs by the executive branch. It has gone on for far too long, and Congress needs to stand up and maintain its constitutional authority.

This is a massive Federal jurisdiction grab. In the 110th and the 111th Congresses, there were attempts through various committees and through various amendments which were rejected on a bipartisan basis to stop this.

H.R. 5078, introduced by our colleague, Mr. SOUTHERLAND, simply prevents the EPA and the Corps from finalizing the ill-conceived proposed rule, and directs the agencies to consult with the States and local officials. That is the way forward, going back to our States and our local governments.

They care as much or more about the waters in Pennsylvania and West Virginia and California and Oregon than the EPA does. This notion in Washington that Washington has the greater concern, that Washington has the better idea, the one-size-fits-all, just doesn't work, and it has been proven time and time again.

So again, this stops the administration proceeding. It has a path forward. I would urge my colleagues to read all nine pages of this bill. If you get to the end, you will see there is a way forward, and that is to consult with the States and the locals to come up with a consensus rule that can result in reasonable regulatory process that protects our waters.

So, with that, Mr. Chairman, I support this legislation. I urge all Members to vote in favor of H.R. 5078, and I yield back the balance of my time.

Mrs. McMORRIS RODGERS. Mr. Chair, I rise today in strong support of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014. I commend Chairman SHUSTER and the members of the House Transportation and Infrastructure Committee for their work on this important legislation.

For over forty years, the quality of our nation's waters has been managed through a partnership between individual States and the Federal Government. This relationship, established by the Clean Water Act (CWA), recognizes that some waters are more effectively regulated by local stakeholders and state officials than the Federal Government in Washington, DC. This partnership has led to less pollution and cleaner water for Eastern Washington and our nation. Despite decades of success, the Obama Administration has recently proposed a rule that would significantly alter this partnership by increasing Federal oversight of our nation's waters.

The Administration's proposal would dramatically expand the definition of ''waters of the United States'' under the CWA, potentially placing ditches, drainages, creeks, and even seasonally wet areas under Federal jurisdiction. Additionally, the U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) issued an interpretative rule that would increase regulation of our nation's farms by narrowing an exemption under the CWA for certain agricultural practices. As such, this proposed interpretative rule will negatively impact farmers and growers in Eastern Washington and throughout the nation.

I support the Waters of the United States Regulatory Overreach Protection Act of 2014 because it seeks to rein in the Administration's overreach into our nation's waters. First, this bill prohibits finalization and implementation of the proposed rule expanding Federal regulatory authority over bodies of water currently managed by or jointly with the States. Additionally, this bill prohibits the interpretative rule which expands Federal regulation of our nation's agricultural communities. The legislation also requires the EPA and the Corps to engage in a ''federalism consultation'' with State and local governments to help identify which bodies of water should be federally regulated and which should be left to the states. In short, H.R. 5078 restores the Federal-State partnership envisioned by Congress when it passed the CWA.

I believe regulation of our nation's waters must be done in a manner that balances the need to responsibly protect the environment with the economic needs of our communities. To that end, I support H.R. 5078 because it ensures that we can continue to protect our waters without unreasonable and burdensome regulation. I urge my colleagues to support H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and shall be considered as read.

The text of the bill is as follows:

H.R. 5078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Waters of the United States Regulatory Overreach Protection Act of 2014''.

SEC. 2. RULES AND GUIDANCE.

(a) IDENTIFICATION OF WATERS PROTECTED BY THE CLEAN WATER ACT.—

(1) IN GENERAL.—The Secretary and the Administrator are prohibited from—

(A) developing, finalizing, adopting, implementing, applying, administering, or enforcing—

(i) the proposed rule described in the notice of proposed rule published in the Federal Register entitled ''Definition of 'Waters of the United States' Under the Clean Water Act'' (79 Fed. Reg. 22188 (April 21, 2014)); or

(ii) the proposed guidance submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget for regulatory review under Executive Order 12866, entitled ''Guidance on Identifying

Waters Protected By the Clean Water Act'' and dated February 17, 2012 (referred to as ''Clean Water Protection Guidance'', Regulatory Identifier Number (RIN) 2040–ZA11, received February 21, 2012); or

(B) using the proposed rule or proposed guidance described in subparagraph (A), any successor document, or any substantially similar proposed rule or guidance, as the basis for any rulemaking or decision regarding the scope or enforcement of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(2) USE OF RULES AND GUIDANCE.—The use of the proposed rule or proposed guidance described in paragraph (1)(A), any successor document, or any substantially similar proposed rule or guidance, as the basis for any rulemaking or decision regarding the scope or enforcement of the Federal Water Pollution Control Act shall be grounds for vacating the final rule, decision, or enforcement action.

(b) EXEMPTION FOR CERTAIN AGRICULTURAL CONSERVATION PRACTICES.—

(1) IN GENERAL.—The Secretary and the Administrator are prohibited from developing, finalizing, adopting, implementing, applying, administering, or enforcing the interpretive rule described in the notice of availability published in the Federal Register entitled ''Notice of Availability Regarding the Exemption from Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices'' (79 Fed. Reg. 22276 (April 21, 2014)).

(2) WITHDRAWAL.—The Secretary and the Administrator shall withdraw the interpretive rule described in paragraph (1), and such interpretive rule shall have no force or effect.

(3) APPLICATION.—Section 404(f)(1)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1344(f)(1)(A)) shall be applied without regard to the interpretive rule described in paragraph (1).

SEC. 3. FEDERALISM CONSULTATION.

(a) IN GENERAL.—The Secretary and the Administrator shall jointly consult with relevant State and local officials to develop recommendations for a regulatory proposal that would, consistent with applicable rulings of the United States Supreme Court, identify—

(1) the scope of waters covered under the Federal Water Pollution Control Act; and

(2) the scope of waters not covered under such Act.

(b) CONSULTATION REQUIREMENTS.—In developing the recommendations under subsection (a), the Secretary and the Administrator shall—

(1) provide relevant State and local officials with notice and an opportunity to participate in the consultation process under subsection (a);

(2) seek to consult State and local officials that represent a broad cross-section of regional, economic, and geographic perspectives in the United States;

(3) emphasize the importance of collaboration with and among the relevant State and local officials;

(4) allow for meaningful and timely input by State and local officials;

(5) be respectful of maintaining the Federal-State partnership in implementing the Federal Water Pollution Control Act;

(6) take into consideration the input of State and local officials regarding matters involving differences in State and local geography, hydrology, climate, legal frameworks, economies, priorities, and needs;

(7) promote transparency in the consultation process under subsection (a); and

(8) explore with State and local officials whether Federal objectives under the Federal Water Pollution Control Act can be attained by means other than through a new regulatory proposal.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary and the Administrator shall publish in the Federal Register a draft report describing the recommendations developed under subsection (a).

(2) CONSENSUS REQUIREMENT.—The Secretary and the Administrator may include a recommendation in the draft report only if consensus has been reached with regard to the recommendation among the Secretary, the Administrator, and the State and local officials consulted under subsection (a).

(3) FAILURE TO REACH CONSENSUS.—If the Secretary, the Administrator, and the State and local officials consulted under subsection (a) fail to reach consensus on a regulatory proposal, the draft report shall identify that consensus was not reached and describe—

(A) the areas and issues where consensus was reached;

(B) the areas and issues of continuing disagreement that resulted in the failure to reach consensus; and

(C) the reasons for the continuing disagreements.

(4) DURATION OF REVIEW.—The Secretary and the Administrator shall provide not fewer than 180 days for the public review and comment of the draft report.

(5) FINAL REPORT.—The Secretary and the Administrator shall, in consultation with the relevant State and local officials, address any comments received under paragraph (4) and prepare a final report describing the final results of the consultation process under subsection (a).

(d) SUBMISSION OF REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Secretary and the Administrator shall jointly submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate and make publicly available the final report prepared under subsection (c)(5).

SEC. 4. DEFINITIONS.

In this Act, the following definitions apply:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) STATE AND LOCAL OFFICIALS.—The term ''State and local officials'' means elected or professional State and local government officials or their representative regional or national organizations.

The CHAIR. No amendment to the bill is in order except those printed in House Report 113–581. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chair understands that amendment No. 1 will not be offered.

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AMENDMENT NO. 2 OFFERED BY MR. BISHOP OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 113–581.

Mr. BISHOP of New York. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Beginning on page 3, strike line 7 and all that follows through page 4, line 20, and insert the following:

(a) IN GENERAL.—The Secretary and the Administrator are prohibited from implementing any final rule that is based on the proposed rule described in the notice of proposed rule published in the Federal Register entitled ''Definition of 'Waters of the United States' Under the Clean Water Act'' (79 Fed. Reg. 22188 (April 21, 2014)) if such final rule—

(1) expands the scope of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) beyond those waterbodies covered prior to the decisions of the U.S. Supreme Court in *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers* (531 U.S. 159 (2001)) and *Rapanos* v. *United States* (547 U.S. 715 (2006));

(2) is inconsistent with the judicial opinions of Justice Scalia or Justice Kennedy in the *Rapanos* decision;

(3) increases the regulation of ditches when compared to existing Federal Water Pollution Control Act regulations or guidance;

(4) eliminates historical statutory or regulatory exemptions for agriculture;

(5) increases the scope of the Federal Water Pollution Control Act with respect to groundwater;

(6) requires Federal Water Pollution Control Act regulation of erosional features;

(7) requires Federal Water Pollution Control Act permits for land-use activities;

(8) requires Federal Water Pollution Control Act regulation of farm ponds, puddles, water on driveways, birdbaths, or playgrounds;

(9) is inconsistent with the latest peer-reviewed studies; or

(10) was promulgated without public notice or comment.

The CHAIR. Pursuant to House Resolution 715, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. Mr. Chairman, my amendment gets to the heart of the debate on this proposed rule.

For months, opponents of the proposed rule have made numerous claims about its impacts. Yet, despite numerous efforts by representatives of the administration's to answer these claims and to point out how many of these claims are simply false, we seem to go around and around, again and again, on these allegations. My amendment simply addresses these concerns and claims, saying that, if any of them prove to be true, then the Secretary and the Administrator are prohibited from issuing any final rule that would bring about these occurrences.

For example, opponents of the proposed rule have claimed that this rule expands the scope of the Clean Water Act authority. When asked this direct question during our subcommittee hearing, the administration's witness stated clearly that the proposed rule ''would not assert jurisdiction over any type of waters not previously protected over the past 40 years.'' Under my

amendment, if the administration is proven incorrect, the final rule could not be implemented.

Similarly, opponents have suggested that the rule is inconsistent with the rulings and jurisdictional tests outlined by the Supreme Court. The administration's witness has testified that this rule is consistent with the tests outlined by the U.S. Supreme Court. If my amendment is adopted and if the administration is wrong about this assertion, then the final rule could not be implemented.

Opponents of the proposed rule have claimed that the proposed rule increases the regulation of ditches. The administration has testified that, in fact, it would reduce the scope of jurisdictional ditches that are covered by the Bush administration guidance. If my amendment is adopted and if the administration is incorrect in this assertion, the rule cannot be implemented.

Opponents contend that, under this rule, individuals would be required to have Federal Clean Water Act permits for draining farm ponds or for activities in the water on your driveways or your birdbaths or puddles in your backyard. The administration has asserted, obviously, that these types of waters have never been subject to the Clean Water Act, nor would they be under this rulemaking. If somehow the administration is wrong about this, under my amendment, the final rule could not be implemented.

Lastly, opponents contend that the rule would eliminate existing statutory and regulatory exemptions for agriculture or increase the regulation of groundwater or require Federal Clean Water Act permits for land-use activities. Yet the administration has time and time again testified that these assertions are simply inaccurate. Again, if my amendment is adopted and if the administration is incorrect, the final rule cannot go forward.

In my view, this administration has put forward a good faith effort to provide additional clarity on the scope of Clean Water Act protections for our Nation's waters that are consistent with current scientific information as well as the precedent of the Supreme Court. While it is not perfect, this rule is far better than the current regulatory process that has led to numerous delays, significant increases in compliance costs, and greater difficulty in protecting our Nation's water resources.

I urge the adoption of my amendment, and I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Mr. Chairman, I must strongly oppose the gentleman's amendment because it seeks to gut this legislation.

This amendment would allow the administration to go forward and finalize its flawed rule, expanding Federal jurisdiction over the Clean Water Act if they determine entirely of their own discretion that the rule is consistent with the Supreme Court decisions and other factors listed in this amendment. Basically, the EPA can self-certify that they are ready to move forward.

This amendment is misleading. The administration has already stated that they believe the proposed rule is consistent with the Supreme Court decisions and with other factors listed in this amendment. The effect of this amendment is to allow the agencies to finalize their flawed rule that many believe is not consistent with the Supreme Court decisions and other listed factors.

This amendment would put the U.S. EPA solely in charge of America's waters, and it would take away the Federal-State partnership that H.R. 5078 seeks to preserve. It would allow the EPA to finalize and implement the rule without consulting with the States. Let me repeat that. It would allow the U.S. EPA to move forward without consulting with their counterpart State EPAs.

In contrast, H.R. 5078 preserves the Federal-State partnership that was set up under the Clean Water Act in 1972. This important legislation recognizes that the proposed administration rule has created controversy, confusion, and discord in the clean water regulatory programs. H.R. 5078 calls for a timeout to stop the final development of this ill-conceived rule. In addition, it requires that the agencies consult with State and local governments to develop a consensus rule that will work and protect our water resources.

As I said during the general debate in our subcommittee, they were not able to identify any State regulatory agency that supports this proposed rule. That ought to be a red flag to all American people and to all of the stakeholders involved.

As my friend on the other side talked about expansion and jurisdiction, I would argue of the proposed rule, if it is not necessary, why does the Secretary of Agriculture have to put together an interpretive rule when it has been said that agriculture is exempt from these practices? Why move forward?

We don't need this rule. I urge the Members to oppose this amendment and support the underlying bill.

I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield whatever time I have remaining to the gentleman from Oregon (Mr. DEFAZIO).

The CHAIR. The gentleman from Oregon is recognized for 2 minutes.

Mr. DEFAZIO. I thank the gentleman.

Mr. Chairman, remember, should this bill pass and become law, which it never will, it will tie us to the 2003–2008 guidance, which the Farm Bureau has described as a hodgepodge of ad hoc and inconsistent jurisdictional theories, and will result in and is resulting in increased delays and costs to the public at large. That is why we are here today.

Everybody agrees that we need clarification, but you are excluding them from using the judicial decisions and any document that was used in coming up with this problematic rule, and you are saying you can't use any of that. So, basically, we are stuck with the 2003–2008 guidance, which, prior to this grandstanding over here, everybody agreed needed to be fixed. Now we are going to be stuck with it forever.

Instead of using a legislative scalpel, you pulled out the giant sledgehammer here. Sometimes it is harder to be a legislator and to actually get into the guts of something and figure out what is wrong and what isn't wrong, and Mr. BISHOP has done that.

They cannot expand the scope beyond those water bodies covered prior to the decisions of the U.S. Supreme Court in those two cases, and it cannot be inconsistent with the judicial opinions of Scalia's and Kennedy's in Rapanos. This is not judgmental stuff. These are clear legislative restrictions. This would be taking and putting walls around their rulemaking and saying, no, you're staying inside those rules. In addition to that, they can't increase the regulation of ditches. They can't eliminate any historical statutory or regulatory exemptions for agriculture, which do not exist under the 2003–2008 rules. There are questions about ditches under the 2003–2008 rules, and they are interpreted differently in all parts of the country.

You are going to bind us to something that doesn't work because you want to grandstand and pretend you are doing something for people who have legitimate concerns. Sometimes it is harder to say to them that this is a difficult and complicated question, because Americans want to preserve the clean waters of the United States. We don't want to go back in time, but we also want you people to farm and to ranch and to do other productive activities. That is hard to do, and that isn't what this bill before us today will do. It will bind us to the problems of the past.

The CHAIR. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

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

Mr. BISHOP of New York. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. BISHOP OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 113–581.

Mr. BISHOP of New York. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 5. LIMITATION ON APPLICABILITY.

None of the provisions in this Act shall apply if the Administrator determines that the implementation of such provisions is likely—

(1) to increase the interstate movement of pollutants through surface waters;

(2) to increase the costs to be incurred by a State to maintain or achieve approved water quality standards for the State; or

(3) to cause or contribute to the impairment of surface or coastal waters of a State.

The CHAIR. Pursuant to House Resolution 715, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. BISHOP of New York. Mr. Chairman, my amendment would address one of the fundamental flaws I see in this legislation. The enactment of H.R. 5078 would almost certainly block current and future efforts to clarify the scope of the Clean Water Act.

Unfortunately, this would lock in place the interpretive guidance of the Bush administration, which took the narrowest and most cumbersome and confusing interpretation of the two recent Supreme Court decisions, and it has been uniformly criticized by the stakeholder community as well as by the conservation and environmental community.

I think it is important to remember that, under the current Bush administration's guidance, traditional Clean Water Act protections over a significant percentage of waters has been called into question or have simply been lost. These are Clean Water Act protections that existed for over 30 years prior to the issuance of the first Bush-era guidance in 2003 and are now all but lost, making it harder and more costly for individual States to protect their own waters should their upstream neighbors be unwilling or unable to fill in the gap in protecting water quality.

As we all know, if pollution is allowed to increase due to the competing financial and political interests of States, that pollution needs to go somewhere, and since pollution does not respect State boundaries when it travels downstream, it will have an adverse impact on the quality of life and the quality of the environment of those downstream States. As highlighted in my amendment, the end result of this will be that downstream States will become responsible for treating the pollution of their upstream neighbors, which, at a minimum, will increase the compliance costs of downstream States and, at a maximum, may destroy the ecological or economic health of these States.

As I have noted before, my district in New York is separated from Connecticut by the Long Island Sound. Over time, the number of polluters in the area has increased exponentially, killing fish, lobsters, and imperiling the $5 billion of economic output that the region depends upon. Fortunately, the State has decided that the Sound was impaired, and it proposed a more restrictive water quality standard for nitrogen. A $5 billion crisis has been averted. However, under the current Bush-era guidance, questions have arisen as to whether the Clean Water Act protection continues to apply to the upper reaches of watersheds, streams, and wetlands which feed the rivers that eventually flow into the Sound.

Under H.R. 5078, the EPA would be prohibited from ensuring that polluters in Connecticut continue to reduce excessive amounts of nitrogen in the Sound, leaving my constituents in the State of New York without any recourse under the Clean Water Act to stop them.

If this bill were to pass, individual States would decide that collective efforts to address the water quality impairments of the Chesapeake Bay, the Puget Sound, the Great Lakes, or the Gulf of Mexico were unnecessarily restrictive or burdensome, and they would refuse to participate in a meaningful way towards the restoration of these regional water bodies. This go-it-alone approach flies in the face of science, of common sense, and of decades of experience in implementing the Clean Water Act.

My amendment would limit the impact of this legislation if the administration determines that this bill were likely to, one, increase the interstate movement of pollutants through surface waters; two, increase the costs incurred by a downstream State to maintain or achieve approved water quality standards for that State; or three, to cause or contribute to the impairment of the surface or coastal waters of another State.

The Committee on Transportation and Infrastructure created the Clean Water Act over 40 years ago as a response to burning rivers, to Great Lakes that were pronounced dead, and to an understanding that a State-by-State approach to protecting water simply didn't work.

Let's not repeat the sins of the past but commit to moving forward in our efforts to protect the Nation's waters. Support my amendment, and allow the Agency to put back in place reasonable, comprehensive protections of our Nation's waters.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR (Mr. THORNBERRY). The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Mr. Chairman, I most strongly oppose the gentleman's amendment because it seeks to undermine the intent of this legislation.

There is a great deal of controversy over what the EPA's proposed rule would do or would not do. Added to that, they have a subsequent proposal of the interpretive rule from the Department of Agriculture.

What H.R. 5078 says is, ''Stop. Time out.'' The bill says, ''Stop this rule process. Go back to the States and back to the stakeholders and local governments and work together,'' which was the intent of the Clean Water Act. Let's have these agencies work together to develop a consensus rule that will actually provide clarity and allow the Federal and State governments to work as partners in protecting America's waters. This amendment would give the EPA unfettered discretion in making determinations regarding State water quality standards, taking away the Federal-State partnership that this legislation is seeking to preserve.

I need to remind everybody what this bill does. This bill says, ''Time out. EPA and Army Corps of Engineers, go back to the drawing board. Go back to the States. Work with the States. Work with your counterparts in the States, and develop a consensus to the rule that you need. Go back to the partnership.''

Let's have a cooperative relationship between the States and the Federal U.S. EPA.

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Let's have commonsense proposals to protect our Nation's waters and not a one-size-fits-all policy coming out of Washington, D.C. Because when it comes to water bodies, streams, and so on, one-size-fits-all policies don't always work. We need to be working with those local governments and the States to develop the policies to protect and enhance our environment at the local level.

So let's send it back, support H.R. 5078, and make sure that our U.S. EPA and the Army Corps of Engineers will work with their counterparts to seek commonsense policies that protect and enhance our water quality and our safe drinking water here in the United States. I urge all Members to oppose the amendment.

I yield back the balance of my time.

Mr. BISHOP of New York. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

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

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

Mr. GIBBS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. POE of Texas) having assumed the chair, Mr. THORNBERRY, Acting Chair 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. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, had come to no resolution thereon.

DISAPPROVAL OF THE ADMINISTRATION'S FAILURE TO NOTIFY CONGRESS BEFORE RELEASING INDIVIDUALS FROM GUANTANAMO BAY

Mr. MCKEON. Mr. Speaker, pursuant to House Resolution 715, I call up the resolution (H. Res. 644) condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 715, the amendments to the text and preamble printed in the resolution are adopted and the resolution, as amended, is considered read.

The text of the resolution, as amended, is as follows:

Whereas section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) requires the Secretary of Defense to notify the appropriate committees of Congress not later than 30 days before the transfer or release of any individual detained at United States Naval Station, Guantanamo Bay, Cuba (hereinafter referred to as ''GTMO'');

Whereas on May 31, 2014, the Department of Defense transferred five Taliban detainees held at GTMO to the State of Qatar;

Whereas according to declassified United States government documents, the five detainees were all senior Taliban leaders: Abdul Haq Wasiq was the Taliban Deputy Minister of Intelligence, Mullah Norullah Noori was the Taliban military commander at Mazar-e-Sharif, Mullah Mohammad Fazl was the Taliban Deputy Minister of Defense, Khairullah Said Wai Khairkwa was the Taliban Minister of Interior, and Mohammad Nabi Omari was the Taliban communications chief and border chief;

Whereas these five senior Taliban leaders have had associations with al-Qaeda or have engaged in hostilities against the United States or its coalition partners;

Whereas these five senior Taliban detainees held leadership positions within the Taliban in Afghanistan when it provided safehaven for al-Qaeda to conduct planning, training, and operations for the September 11, 2001, attacks;

Whereas in 2010, after an extensive evaluation meant to identify detainees who could be transferred out of the detention facility at GTMO, the Obama administration determined that these five should remain in United States detention because they were ''too dangerous to transfer'' because each ''poses a high level of threat that cannot be mitigated sufficiently except through continued detention'';

Whereas the President has stated that there is ''absolutely'' the ''possibility of some'' of these former Taliban detainees ''trying to return to activities that are detrimental to'' the United States;

Whereas other former GTMO detainees that were transferred have become leaders of al-Qaeda affiliates actively plotting against the United States and are ''involved in terrorist or insurgent activities'';

Whereas Secretary of Defense Chuck Hagel testified before the Committee on Armed Services of the House of Representatives that, pursuant to an agreement with Qatar, the five former detainees transferred in May would not be allowed to leave Qatar for one year, but after that date there would be no restrictions on the movement of the former detainees;

Whereas notwithstanding the fact that Qatar is an important regional ally, after another GTMO detainee was transferred to Qatar in 2008, Qatar apparently had difficulty implementing the assurances Qatar gave the United States in connection with that detainee's transfer;

Whereas senior officials in the Obama administration negotiated, through intermediaries in the government of Qatar, with the Taliban, and with the Haqqani Network, which the Department of State has designated as a foreign terrorist organization, and which held Sergeant Bowe Bergdahl captive;

Whereas Secretary Hagel testified to the Committee on Armed Services of the House of Representatives that negotiations for the transfer of the five Taliban detainees in exchange for Sergeant Bergdahl began in January 2014;

Whereas the General Counsel of the Department of Defense signed a memorandum of understanding with the Attorney General of the State of Qatar on May 12, 2014, regarding the security conditions for transfer of these five Taliban detainees;

Whereas in addition to an unknown number of officials of Qatar, senior Obama administration officials acknowledge that approximately 80 or 90 individuals within the Obama administration were knowledgeable of the planned transfer of the five Taliban detainees prior to their transfer;

Whereas Congress was not notified of the transfer until June 2, 2014, three days after such individuals were transferred, and 33 days after the date on which such notification was required by section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76);

Whereas the Secretary of Defense, in consultation with the President and other senior Obama administration officials, did not comply with the 30-day notification requirement;

Whereas article II, section 3 of the Constitution stipulates that the President ''shall take care that the laws be faithfully executed'';

Whereas on January 15, 2009, the Office of Legal Counsel in the Department of Justice acknowledged that, under article I of the Constitution, Congress possesses legislative authority concerning the detention and release of enemy combatants;

Whereas the Obama administration has complied with the law in all other detainee transfers from GTMO since the date of the enactment of prevailing law; and

Whereas in 2011, after leaders of the Senate and House of Representatives expressed their bipartisan opposition to the prospective transfer of these Taliban detainees from GTMO, senior Obama administration officials assured these Senators and Members of Congress that there would be no exchange of Taliban detainees for Sergeant Bergdahl, and that any transfer of Taliban detainees that might otherwise occur would be part of a reconciliation effort with the Taliban and the Government of Afghanistan and that such a transfer would only take place in consultation with Congress pursuant to law: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns and disapproves of the failure of the Obama administration to comply with the lawful 30-day statutory reporting requirement in executing the transfer of five senior members of the Taliban from detention at United States Naval Station, Guantanamo Bay, Cuba;

(2) expresses grave concern about the national security risks associated with the transfer of five senior Taliban leaders, including the national security threat to the American people and the Armed Forces of the United States;

(3) expresses grave concern over the repercussions of negotiating with terrorists, even when conducted through intermediaries, and the risk that such negotiations with terrorists may further encourage hostilities and the abduction of Americans;

(4) stipulates that further violations of the law set forth in section 1035 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76) are unacceptable;

(5) expresses that these actions have burdened unnecessarily the trust and confidence in the commitment and ability of the Obama administration to constructively engage and work with Congress; and

(6) expresses relief that Sergeant Bergdahl has returned safely to the United States.

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) and the gentleman from Washington (Mr. SMITH) each will control 30 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H. Res. 644.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 644, a resolution offered by the gentleman from Virginia (Mr. RIGELL), condemning the Obama administration's failure to comply with the requirement to notify Congress before transferring individual detainees from Guantanamo Bay.

I would like to thank Mr. RIGELL for his leadership on this deeply troubling issue. He worked across the aisle to author a bipartisan resolution, sponsored by 94 Members of the House, including myself, focused on the Obama administration's clear violation of statute passed by the legislative branch and enacted into law by the President.

I would also like to thank Ranking Member SMITH. Though he did not support this resolution in its entirety, I

appreciate his candor and his commitment to fostering a thoughtful debate within our committee.

The administration violated the law, and House Resolution 644 articulates this simple message. It passed out of the Armed Services Committee with a bipartisan vote.

Section 1035 of the National Defense Authorization Act for Fiscal Year 2014 requires the Secretary of Defense to notify the appropriate committees of Congress at least 30 days before the transfer or release of any individual detained at GTMO. There are no waivers to this clause—no exceptions, period; yet, on May 31, at the request of the Taliban and in exchange for Sergeant Bergdahl, who was held by the Haqqani Network, the administration sent five senior Taliban leaders from GTMO to Qatar.

The administration took this action without notifying Congress. This is an obvious violation of the law. There can be no confusion on this point. In fact, the nonpartisan Government Accountability Office recently determined that the administration violated the law by failing to notify Congress, but also by expending funds to carry out the transfers without an appropriation for that purpose.

The statutory provision of the NDAA was written and approved by a bipartisan majority in Congress because of genuine concerns that dangerous terrorists were leaving GTMO and returning to fight against the U.S. or its allies.

By requiring the Secretary of Defense to convey detailed information to Congress, the provision is intended to allow Members to have a complete understanding of the risks of sending GTMO detainees elsewhere and how those risks might be mitigated.

In transferring the Taliban Five without lawfully notifying Congress, the administration deprived Congress of the opportunity to consider the national security risks that such a transfer could pose or the repercussions of negotiating with terrorists.

If Congress does not speak strongly now to condemn such blatant disregard for the law, any future administration may come to believe that obedience to statute is not a requirement for the executive branch. This is intolerable, and for this reason, I support this resolution and will ask my colleagues in the House to adopt it.

Again, I thank Mr. RIGELL, Mr. BARROW, Mr. RAHALL, and Mr. RIBBLE for introducing this important bipartisan resolution, and I urge my colleagues to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Speaker, I yield myself such time as I may consume.

There are two issues important to this piece of legislation. The first that the chairman mentioned is the legality of this. However, he is wrong in the idea in saying that this is clear on its face and there is no debate. There is actually considerable debate as to whether or not the President's actions were legal.

The President and the Secretary of Defense have stated unequivocally that they believe they acted within the law, and this is actually an issue that comes up repeatedly between the legislative and the executive branch. It has been coming up for a couple hundred years now.

The administration's position is that they acted in accordance with their article II Commander in Chief authority in the interest of national security and in bringing one of our soldiers home, and it is their position that article II of the Constitution, which is a law, supersedes the piece of legislation that was referenced about 30 days' notice that was passed, and therefore, their actions were legal.

The first thing to really understand about this is that this is in no way unprecedented. I am sure if we went back and examined the history, just about every President at one time or another did something contrary to a piece of legislation or a law because they felt article II required them to do so. They felt article II—the Constitution, which is a law—superseded the legislation in question.

In fact, we don't have to go back very far. President George W. Bush repeatedly took actions that were in violation of the clear law post-9/11. He basically authorized warrantless wiretapping. He authorized indefinite detention.

Both of those issues were clearly contrary to statutory law, but President Bush asserted his article II authority and said that, therefore, it was legal to do that.

Go back to Abraham Lincoln, who suspended habeas corpus in the same way. This is a long-running debate between the legislative and the executive branch, and never before has the legislative branch stepped out with legislation like this to censure the President.

So, number one, the President did not violate the law. He followed what he felt was article II of the Constitution, perfectly consistent with what George W. Bush and a whole lot of other folks did, so I think it is wrong to call him out and say that he violated the law when this is simply part of a long-running debate between the legislative and the executive branch.

Now, let me say I feel that the President should have given us 30 days' notice. I do believe that. Now, the reason that they didn't is because they were concerned that the information would be leaked.

This was a very sensitive negotiation, and they were told that if the information was leaked, it would kill the deal, and they were deeply concerned about Sergeant Bergdahl's health and that if any further delay happened, that he might not survive his current incarceration with the Taliban, so that was their reason for doing it.

While I have said and will continue to say that I think he should have given us that 30 days' notice, that I think Congress has proven repeatedly that we can, in fact, keep a secret—we have been told about a number of very sensitive things and have not revealed that information.

I think it is worth noting that the President isn't completely without reason for that. In fact, Senator SAXBY CHAMBLISS, after this was revealed, was asked, ''Well, if you had known about this, what would you have done?''

He initially said, ''Well, I would have let people know, absolutely, because I didn't think it was a good idea, and I would have done everything I could to stop it.''

Now, after having been explained that that is exactly why the President was reluctant to tell Congress, the Senator walked himself back from those remarks and said that he wouldn't, but his initial reaction sort of shows that the President and the administration were not completely out of bounds in thinking that their ability to bring Sergeant Bergdahl home might have been jeopardized by allowing Congress to know that.

Be that as it may, I think they should have. I think we have proven ourselves capable of keeping secrets, and they should have given us 30 days' notice, but on the legality question, this is perfectly consistent with what a large number of Presidents have done in the past.

So to call this President out specifically, I think, is wrong, which brings us to the second issue, and that is the partisan nature of this body. Now, it is not unique to this body. Regrettably, if you go back and you look at instances where the President is of one party and the Congress is of another, that is when investigations are off the charts.

Somehow, when both the President and the Congress are in the same party, we don't have anywhere near the condemnation, anywhere near the investigation for actions, on and on and on; and that regrettably reflects the deepening partisan rift in Washington, D.C.

That ultimately is what I think this legislation reflects. It is simply an opportunity for a Republican Congress to take a shot at a Democratic President. If it was more than that, then back 10 years ago, when President George W. Bush was violating all manner of different statutory law under his articulated article II powers, then we would have had something out of this Congress that said, ''Hey, don't do that.'' We didn't. All we had was silence.

Now, unfortunately, what that leads the public to believe is that this is a partisan exercise, and we need fewer partisan exercises, not more. I think it is perfectly appropriate for many Members, as I did and others, to say the President should have given us notice. He should have given us 30 days.

For this to be the first—or I guess the second issue, since we had the

water bill just before this—that we take up when we come back from recess, when you think of all the economic and national security challenges and everything that is going on out there, I think once again makes the public just shake their head and say, ''Here we go again, another partisan exercise.''

Unfortunately, I think this piece of legislation is unnecessary, and I think it further poisons the well between Congress and the President. Again, I do not feel that the President violated the law. He had a different interpretation of it, as many Presidents before him have.

With that, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I must respond to just a couple of points made by my good friend from Washington.

We agree on more than we disagree on. This item we disagree on, but it seems to me that his main argument is that because other Presidents have done it, it is okay for this President to do it. In other words, two wrongs make a right. I don't think that is the point. I think at some point, you have to draw the line, and that is what we are doing right now.

Secondly, he said that the President said that he really believed he wasn't breaking the law. You know, prisons are full of people that say they don't think they broke the law, but some judge thinks they did, and in this instance, until you take the matter to the court, it is the law. Even though he is the President of the United States, he did break the law.

At this time, Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. RIGELL), my friend and colleague who is a member of the Armed Services Committee, is the lead cosponsor, and is the one who has from day one provided the leadership on this issue.

Mr. RIGELL. Mr. Speaker, I thank Chairman MCKEON for his leadership and bringing this resolution to the floor. I thank the original cosponsors, Congressmen RIBBLE, BARROW, and RAHALL for standing with me on this.

I respect my colleague from Washington, Ranking Member SMITH, and my respect for him is not diminished by the fact that we have strong but different views on this matter. I don't share the ease with which he has accepted the President's, I believe, refusal to follow the law, and I reject outright—and I must do so in this Chamber—the assertion that this is partisan.

□ 1530

It is not partisan. It is in my service to Virginia's Second Congressional District.

An increasing number of men and women from a very diverse audience in my district are deeply troubled by the President's continued pattern of going outside of the law and executive overreach. This is an example that hits home in our district, which is home to more men and women in uniform, Active Duty and retired, than any other of the 435 congressional districts. They increasingly are asking me this question: What is Congress doing about this?

This resolution today is a direct manifestation of my duty and, I believe, our collective duty to hold the President accountable for breaking the law.

Now, again, the ease with which some have said that he hasn't broken the law, well, that is not shared by the GAO, the Government Accountability Office. It is an independent nonpartisan agency, and this summer it found that in releasing the Taliban senior commander, in fact, the administration did break the law. That is really not in dispute.

If we don't hold the administration accountable for this, who will? That is what we do: making sure that the balance of powers is adhered to.

I think it is important that we look at who was released. Among those released is Mullah Mohammad Fazl, the Taliban's deputy defense minister. The President himself acknowledged that there is absolutely the possibility of these senior Taliban commanders returning to the battlefield. They can be released by the Government of Qatar in less than 9 months. The President has more confidence in the Government of Qatar than I do and I think the American people do.

So, Mr. Speaker, despite the administration's lawful duty to engage Congress, despite Congress's clear objection in 2011 on these very same detainees, a bipartisan message was sent clearly to the administration: Don't release these prisoners; it is not in the national interests and security interests of the United States. And yet the administration did so.

Despite the damage that it has done to our policy of not negotiating with terrorists and, finally, despite the increased risk that this brings to Americans, I believe, on the battlefield in Afghanistan, the administration plowed ahead. And it was far more than unwise; it was unlawful, and it merits condemnation.

I will close with this. I really didn't want to bring this to the floor. I know we have plenty of partisan bickering around here, but I looked for someone else and maybe another Member that was bringing something to the floor. I couldn't find it. I thought, well, I guess it falls to us. And I appreciate the ranking member meeting with me and the conversation we had about this matter. We hold different views on this. But I believe this is best for our Nation and, indeed, best for our President and our country and certainly for our men and women in uniform that this is passed today, and I urge my colleagues on both sides of the aisle to vote in the affirmative.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

Mr. SMITH of Washington. Mr. Speaker, I yield myself 2 minutes just to respond quickly.

First of all, the GAO study specifically said they didn't address the constitutional issue; they didn't address article II. They simply said on the plain reading of the statute, 30 days' notice was required and 30 days' notice wasn't given, which, by the way, didn't take a GAO study to figure out. That is very plain.

The statute itself is really not in question nor that the President didn't give the notice required. The question is one that we have had repeatedly as to when the President has the authority under his article II authority to go in a different direction of the statute. As was mentioned, that happened many times, most recently with George W. Bush, a warrant with wire tapping and indefinite detention and a number of other issues. That's number 1. The GAO did not comment on that specific issue.

The second thing I would say is we are not really arguing that two wrongs make a right. We are arguing about whether or not it was wrong in the first place. All right? I still haven't heard anyone stand up on the other side who supports this issue and say: Gosh, we missed an opportunity. President George W. Bush was absolutely wrong to have taken those actions that he did and contrary to statute and did something that was illegal, and we are very mad about that. As long as we are talking about it, we should mention the fact that—so I haven't heard anyone say that, because I think the implication is, on that side, they didn't think it was wrong.

And that is the issue: Is it wrong for the President to do something that he believes is in the national security interest of the country under his article II authority? I think most people would say: Sometimes yes, sometimes no. It is a debatable issue. It is not a matter of saying two wrongs make a right. It is a matter of arguing whether or not it was wrong in the first place. And consistency is the hobgoblin of small minds, as the saying goes, but there certainly is enough inconsistency on this issue to make people believe this is more partisan motivated than it is purely policy and conscience motivated.

I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I pointed out to the gentleman recently that neither of us were in these jobs when President Bush was in office, so we don't know what we would have done at that time. I would hope that, if he went against the law, we would take similar action. I think that we would have done that.

I yield at this time 3 minutes to the gentleman from Virginia (Mr. WITTMAN), my friend and colleague, the chairman of the Subcommittee on Readiness.

Mr. WITTMAN. Mr. Speaker, I rise today as a member of the House Armed Services Committee and as chairman the Readiness Subcommittee to voice my support for H. Res. 644.

I would like to thank the chairman for his leadership in bringing this to the floor. I respect deeply the ranking member, but adamantly disagree with him on the points that he makes about this piece of legislation.

Very simply stated, the prisoner swap authorized by the President to exchange five Taliban captives for Sergeant Bergdahl was illegal. That part of the law was not followed. It is pretty plain and simple. By failing to notify the Congress in accordance with the 30-day reporting requirement, our President acted outside of the law. Clearly, it wasn't authorized and the law was ignored.

You can make arguments about what other prerogatives he had, but you can't say, well, article II we'll put in place and that trumps other areas of the law. I think you have to say that this law was disregarded.

Our Constitution clearly outlines those separations of powers. This principle is the cornerstone of our democracy. Our Framers carefully incorporated the division of the government and the responsibilities there in order to protect citizens by preventing any one branch of government from overreach and abuse of power. That is why we are here is to have these type of debates and say the President clearly acted outside of the law.

I will make this even clearer. Congress makes the laws; the President, on the other hand, has a constitutional charge of ensuring the laws are faithfully executed—not just part of them, but all of them. In this case, the President knowingly and wilfully disregarded his constitutional duties, and Americans deserve better.

Americans expect that their President will uphold his end of the constitutional bargain. Americans expect that the laws of the land apply to everyone and that they are applied properly in accordance with the direction from Congress. Americans also expect that their congressional leaders are simply not going to shrug their shoulders and look the other way. Congress has an obligation to the people to ensure that its laws are enforced. That is why we are elected.

Our Nation remains, today, at a tipping point in this world's history in a war against terrorism. The unlawful release of five Taliban prisoners, some of whom will certainly return to the battlefield, deeply concerns me. An investigation I led in 2012 indicated at the time that 27 percent return to the battlefield. That is why I remain skeptical of the administration's assessment that the released prisoners will not pose a threat to our national security.

We have no idea how much more terror those men now might unleash and what impacts they will have on the lives of others. By ignoring the law, the President has decided that he's going to shoulder this responsibility. I argue he had an obligation under the law to consult Congress in doing this. That is why it was put into the National Defense Authorization Act.

We live in a nation where people expect their elected leaders to carry out their duties as the Constitution directs them, and every day each of us is entrusted by the public to uphold the Constitution, and we must live up to that obligation.

Mr. Speaker, I fully support H. Res. 644 and urge my colleagues to support this institution and our Constitution.

Mr. SMITH of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, we are here to consider a technical violation of section 1035 of the National Defense Authorization Act. A fair reading of that section would indicate that it is drafted and focused on gratuitous prisoner releases, the many occasions prior to the adoption of that section when the prior administration or this administration chose to release a prisoner. When applied to the situation for which it was drafted, it is a practical and fully constitutional provision.

It is practical because it involves a 30-day delay in release of a prisoner where there is no particular hurry to release the prisoner. We release the prisoner 30 days after the notice; we make the decision to release the prisoner; the prisoner is released; and it gives Congress 30 days to perhaps pass a law prohibiting such release.

I believe it is constitutional because it doesn't interfere with the Commander in Chief's ability to safeguard and protect the soldiers under his command.

Now there is an attempt to criticize the President for not following this statute when it is applied to a situation for which it was not drafted and when it is applied in such a way where it becomes incredibly impractical, perhaps impossible, and constitutionally questionable.

We have had prisoner exchanges in every war we have fought, and they have been implemented by the executive branch. Even in World War II, we had prisoner exchanges before the end of the war.

Now, as a practical matter, if you have a 30-day delay in effectuating a prisoner exchange, it is not just the U.S. Government that has 30 days to think about whether to go through with the decision. You also give the enemy 30 days to think about it. And the hard-liners within the enemy's council can eliminate the deal. So it is impractical, especially if it was a good deal.

Now, this may not have been a good deal, but there may come a time when we have negotiated a very good, favorable-to-America prisoner exchange. And this provision would say it is prevented not by decisions of the Congress or the President, but by decisions made by our enemy in their council.

But, second, a prisoner exchange returns to the United States a soldier under the command and protection of the Commander in Chief. He has a constitutional duty to protect and hopefully return home safely our soldiers.

When you create a circumstance that makes it practically impossible to have a prisoner exchange because in order to have one you have to give the hard-liners within the enemy's council an ability to upset it, then you have, I believe, unconstitutionally interfered with the role of the Commander in Chief.

We tell our Commander in Chief to bring as many as possible of our men and women home safely. We cannot at the same time, in effect, prohibit any prisoner exchange with which the enemy hard-liners may disagree.

Now, I am not here to praise the Bergdahl decision. I think I disagree with it; I know I disagree with it. But I am here to say that this was a code section not designed to apply to the situation, cannot practically be applied to this situation, and is constitutionally questionable as applied to this situation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Washington. I yield the gentleman an additional 1 minute.

Mr. SHERMAN. Given that, how can it be said that it is a good use of Congress' time to pass some formal resolution attacking the President for not applying to this situation a code section so infirm?

I think that what we are doing today is dodging the real responsibility of Congress. We are engaged now in bombing ISIS. The Constitution says that Congress should play a role in making that decision. Many of our colleagues would prefer to dodge the issue. It is safer to attack the President for what he did in the past than to participate in the decisions of the future.

We should be dealing with an authorization to utilize military force against ISIS. We should be debating the term that that applies. We should be debating whether it applies to airpower alone or whether, under some circumstances, we should have boots on the ground.

But, no, we are not dealing with that. That is too tough a vote. That is a vote on which members of both parties might disagree. Instead, we are playing around with this resolution.

Mr. MCKEON. Mr. Speaker, just a little reality check here. I offered the points that went into the National Defense Authorization Act. One of the reasons I did it was because we specifically did not want any detainees to be taken from Guantanamo without alerting the Congress, because they had tried it before and it had pushback from the Congress and we felt like we should have a part in that protection of our people.

□ 1545

There are 80 people, detainees, in Guantanamo that have been vetted and that are approved for possible transfer to a suitable location. None of these five were on that list. All were considered too dangerous to be on that list. There were several months of negotiations. There was plenty of time to give us the 30 days' notice. They talked to 80 to 90 people in four different executive branches: the State Department, the Defense Department, the White House, and Homeland Security, but not one Member of Congress, in compliance with the law. They didn't talk to Senator REID, they didn't talk to Senator FEINSTEIN, and they didn't talk to the Speaker. Nobody. And that was not accidental. That was a firm decision to avoid the law and to avoid going to the Congress, which was required.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RIBBLE), my friend and colleague, a member of the Budget Committee, and cosponsor of the resolution.

Mr. RIBBLE. Mr. Speaker, I thank the chairman for yielding.

Article I, section 1 of the United States Constitution says: ''The Congress shall have the power''—I want to repeat—''the Congress shall have the power to make rules concerning the capture on land and water.''

December 26, 2013, the President of the United States signed into law the Congress' action on article I, section 8, regarding making rules.

The President had options on December 26, 2013. He could have signed it, as he did, accepted language that was in there, knowing it was in there—I am assuming someone over there read it. So he had an option to sign it. He had an option to send it back, and at that point the Congress could have done whatever they wanted to do. They could override it, they could rewrite it, they could revote on it and send it back again.

What the President didn't have the right to do was to change it. And, in fact, I have heard a couple of times today quoting of article II of the Constitution. I have read it probably a dozen times just sitting here today. It is relatively short. I am having a hard time finding the authority here, but I did find some interesting thing. Article II: ''Before he enter on the execution of his office, he shall take the following oath or affirmation, 'I do solemnly swear or affirm that I will faithfully execute the office of the President of the United States and will to the best of my ability preserve, protect, and defend the Constitution of the United States.' ''

Later it says that the President, he shall take care that the laws be faithfully—faithfully—executed.

The idea that the President can take the very law that he signed into existence by putting his name on it—the very law—as a suggestion—whether or not any President before him did it—is tantamount to someone being pulled over for speeding and saying, I can speed because the guy in front of me did it.

Then there is no law at all. The laws that this Congress sends over there and the President signs are not recommendations. They are not suggestions.

Mr. Speaker, the President of the United States broke the law. No matter what another Congress does, or another Congress did, or what another President ever did is irrelevant to this today.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

Mr. SMITH of Washington. I would again note that it is not a matter of speeding. It would be as if someone were stopped for speeding and said that there is no posted speed limit, how are you saying that I was speeding? That is the argument. It is the argument a number of Presidents have made, that their article II authority for national security purposes gives them the legal right to do this.

I would also note that in a couple hundred years of history, no court has ever said otherwise, has ever reversed one of these decisions by the President.

So this notion that the President knew he was breaking the law and just did it, and comparing it to two wrongs don't make a right or people speeding, it is the President's opinion—and, by the way, not just this President, but every President that I am aware of, including, again, George W. Bush, that this is not a violation of the law, this is not speeding, because of his article II authority. So it is not a matter of simply saying, well, he broke the law but if someone else did it, it is okay. It is arguing that none of those people actually broke the law. That is the argument in the debate.

As far as the bill itself, yes, the President was very much aware of it, that it was in that bill when he signed the bill, and it was part of a much larger bill. It was part of the National Defense Authorization Act.

When he signed that bill, he noted: ''I disagree with this portion. I think it has the potential to violate my article II authority.'' So he absolutely noticed that it was in there and gave us notice that he did not feel that it would legally bind him in certain circumstances.

Again, it is a debatable point. All I know is that in a couple hundred years of history, the Presidents, all of them, have won that debate. And now here we stand today saying that this one President somehow uniquely should be condemned for doing what all before him have done and what all courts have said is perfectly okay.

So, again, I find this to be more partisan than substantive.

With that, Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding.

Mr. Speaker, today, the President is meeting with congressional leaders to discuss our strategy moving forward in Iraq and Syria to protect Americans, our homeland, and our national interests.

It is hard for me to understand why we are debating this partisan resolution that would condemn the President and our government for having saved the life of an American soldier, Sergeant Bowe Bergdahl.

In the past month, we have seen with horror the sight of two Americans killed at the hands of some of these deranged insurgents, not unlike the situation many of our American soldiers have faced in Afghanistan where Mr. Bergdahl was captured.

So here we have 2 weeks to go in this congressional session because we are just back from an August recess where there were no votes, and we have already been told by the Republican leadership in the House that they don't intend to be in session more than 2 weeks now, this week and next week, possibly a few days in the following week, and we are going to be gone.

In that time, we have to finish a budget, we have to deal with all sorts of other pressing matters, and we have to work with the President to come up with a strategy to make sure that it is clear where America stands on these issues that impact the lives and security of Americans abroad and at home, and here we are debating a resolution that has no impact. It doesn't change the circumstance. Bowe Bergdahl is now alive and back home. It doesn't change the fact that James Foley is still dead and so is Steven Sotloff. They are both still gone. But what we do know is that the military kept its commitment to our men and women in uniform when they say we never leave one of our own in military uniform behind.

Now, you can have this semantic discussion about whether a statute supersedes the Constitution or whether this statute required the President to act a certain way. All I know is what General Dempsey has said before. General Dempsey being the chairman of the Joint Chiefs of Staff, Martin Dempsey, General Dempsey said this with regard to the rescue of Bowe Bergdahl:

> This was likely the last best opportunity to free him.

Now, anyone in this Chamber has the right to argue whatever they want. But no one was in the shoes of Bowe Bergdahl, quite honestly, no one was in the shoes of General Dempsey, and at the end of the day, not one of us is in the shoes of President Barack Obama. And if that window is closing, he has got to make a decision because there is an American life on the line. And if we don't believe that, just ask the families of Mr. Foley and Mr. Sotloff.

Bowe Bergdahl is alive today. Thank the Lord, thank you, President Obama, and thank you to our men and women in uniform who risked their own lives to make sure that men and women like that could come back home.

We have 2 weeks to go before we are gone and out campaigning for election. You would think that we would work on the things that people in America are concerned about most. They want us to not shut down this government again, they want us to make sure that we continue the success of the last 55 months of creating 10 million jobs—because remember, don't forget, it wasn't too long ago, January 2009, when George Bush handed the keys over to Barack Obama at the White House, we bled 800,000 jobs in just 1 month. We have got more work to do to get people to work. There are a whole bunch of families, including mine, who are sending their kids to college.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Washington. I yield the gentleman an additional 1 minute.

Mr. BECERRA. We have more student loan debt in America held by our young men and women trying to get their college degrees and, of course, their parents, as well, who are paying for them, than we hold in all the credit card debt in America today.

Does this bill do anything to help young Americans and their parents help their kids get through college? Not a thing. Does this help an American today who works full-time and still lives in poverty because he is working at a minimum-wage job? Not a thing.

Does this help a woman who is out there working just as hard as a man and doing the same exact thing but earning less money than he is? Not a thing.

We have got work to do.

Bowe Bergdahl is alive. Let's praise that. Let's make sure every American can come back home and say the same thing, and then let's get to work doing the real business of this country rather than passing partisan resolutions that have nothing to do with the business at hand.

Mr. MCKEON. Mr. Speaker, I respect my friend. We came to Congress together, and I appreciate his remarks on a lot of things. But we should get back to the subject at hand. This has nothing to do with Sergeant Bergdahl. This has to do with the action that the President took. We are all happy that Sergeant Bergdahl is home, and we are glad that he is here, and his case will be taken care of separately.

Mr. Speaker, there is a call to do something for the President. The President hasn't asked us to do anything yet. He is not even speaking until tomorrow. Then we will see what he has to say, and then we will see how we move forward.

I am not an attorney. My good friend from Washington is a great attorney. And I recall when we had Secretary Hagel, and Secretary Hagel made the comment that he thought what they did was within the law. And my good friend responded that here is the way it works: The President signed the bill and said that he disagreed with it, but that does not change it. It is still the law until it is challenged in the courts. That is our system.

Anyway, Mr. Speaker, at this time, I am happy to yield 2 minutes to the gentleman from Georgia (Mr. BARROW), my good friend from the other side of the aisle.

Mr. BARROW of Georgia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today as a supporter and a sponsor of this resolution, and I appreciate my friend from Virginia (Mr. RIGELL) for working with me on this bipartisan effort to hold the administration accountable. Under current law, the President is required to notify Congress prior to releasing any prisoners from Guantanamo Bay. Unfortunately, he failed to do that this summer when he transferred five high-priority detainees in exchange for Sergeant Bowe Bergdahl.

Although I am grateful that Sergeant Bergdahl has been reunited with his family, I strongly disagree with the President's decision to negotiate with terrorists, and I certainly don't agree with the President's decision to make this prisoner exchange without first consulting with Congress in the manner required by federal law.

The freeing of terrorists poses a national security threat to Americans and our Armed Forces, and it complicates our current efforts to combat terrorism worldwide. Negotiating with terrorists will only weaken this Nation in the future and encourage other terrorists to kidnap Americans in an attempt to extort future prisoner exchanges.

□ 1600

Checks and balances aren't negotiable. It is unacceptable for this or any other administration to treat Congress as an afterthought or adversary, particularly with decisions impacting our national security and especially since, in this case, Congress could have helped the President get this decision right.

For all these reasons, Mr. Speaker, I urge my colleagues to support this resolution.

Mr. SMITH of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Mr. Speaker, as a Member of the House Armed Services Committee and having the honor to serve under Mr. MCKEON and Ranking Member SMITH, I would like to just share a couple of thoughts, having sat through the hearing with Secretary Hagel where he was held accountable that day, he was asked very probing, difficult questions about a very difficult decision, which was happening at Mach speed, when an opportunity—a small window of opportunity opened up to recover an American soldier held in captivity by the enemy.

When the President signed the National Defense Authorization Act, including the 30-day notice, the administration put up a big red warning flag saying that article II of the U.S. Constitution, which empowers the President to be the Commander in Chief, conflicted with that section, and they reserved their rights to continue to act pursuant to the Constitution.

Now, any first-year law student—frankly, almost any high school student who takes American history—knows that a constitutional provision trumps a statute, that when there is a conflict of law between a constitutional provision and a statute, the Constitution prevails.

The President, as Secretary Hagel laid out in excruciating detail when he was asked about the sequence of events which led up to the decision that was made, again reviewed through the Justice Department their authority.

Realizing that again there was no plan B, there was no plan C to get Sergeant Bergdahl out of captivity, there was no Special Forces sort of ready to rev up and go in and free him, the fact of the matter is that it was this or there was nothing and that, exercising his rights under the Constitution, they moved forward and freed Sergeant Bergdahl, which apparently everybody agrees with the outcome, they are just upset with the fact that the President's interpretation of the law is different than the committee.

So where are we with this resolution? Is there a remedy? Is anybody proposing to do anything other than just sort of issue what I think is just a political polemic criticizing the President for his actions?

This resolution is a nullity in terms of any effect or impact that it actually has in terms of the President's actions. He is not being held to account by impeachment, which probably there is a lot of talk on the Internet when this was all taking place, but that is not happening.

So it is just really we are filling up space here on the floor of the House when we have so many other pressing issues. At the end of the day, it is not going to change the events. It is not going to change the two sides in terms of their interpretation of what happened here one iota.

Mr. Speaker, again, I understand that people had an honest disagreement about the way the statute was interpreted and implemented, but what I will just say to you is that that is an honest disagreement that happens and has happened in American history over and over again.

We should move on. We should let the military do whatever disciplinary proceedings they are going to do with Sergeant Bergdahl.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Washington. Mr. Speaker, I yield an additional 30 seconds to the gentleman.

Mr. COURTNEY. We should let the military act as they deem appropriate in terms of Sergeant Bergdahl's actions in the Middle East, but the fact of the

matter is it is Secretary Hagel who came before this committee as a wounded warrior from the war in Vietnam, an impeccable military history—in my opinion, one of the most outstanding individuals I have had the privilege to meet in Washington, D.C.—testified honestly and sincerely. He took his hits before the committee.

Let's move on. Let's accept his explanation. Disagree with it if we honestly feel that he acted improperly, but the fact of the matter is he acted pursuant to the Constitution. It is time for this Congress to focus on real issues that have a real effect on the American people.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. LAMBORN), my friend and colleague, and a member of the Committee on Armed Services.

Mr. LAMBORN. Mr. Speaker, I thank the chairman.

I rise today in strong support of H. Res. 644. The President's actions in unilaterally swapping five Taliban members for an American prisoner swept away a decades-old policy of not negotiating with terrorists. This policy prevents the United States from being extorted by evil people who hold no regard for human life.

The President's actions lead to an open season on Americans all over the world. Are we now in the business of negotiating with terrorists? Is ISIL up next at the bargaining table with this administration? These are senior Taliban detainees, not low-level foot soldiers. Will the administration stop at five next time? Why not 50 or 100? This is unacceptable.

The President's actions were also troublesome because he did not inform Congress prior to making the swap. Even the independent Government Accountability Office explicitly said that this exchange broke the law. Some will try to say that this is just partisan rhetoric, but what did they say to the findings of the nonpartisan GAO?

While it is a relief to have an American home, the way this was done further erodes the working relationship between the President and Congress. The President asked the Congress to act and pass bills, but how can we trust him with new legislation when time and time again he has abused that trust? How do we know he is not just going to ignore the next law that we send him?

Congress must stand up against the way this prisoner exchange took place. We are a nation that believes in the rule of law. We have a Congress that makes law and a President who is supposed to enforce them. In this case, the law was broken, and Congress cannot remain silent.

I urge every one of my colleagues to support this important resolution.

Mr. SMITH of Washington. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore (Mr. YODER). The gentleman from Washington has 7 minutes remaining. The gentleman from California has 10 minutes remaining.

Mr. SMITH of Washington. Mr. Speaker, I yield myself 2 minutes.

The issue here of negotiating with terrorists misses the fact that this happened on the battlefield. The five Taliban commanders were captured on the battlefield, as was Bowe Bergdahl. This was a prisoner exchange, as has happened in every war that we have fought.

Now, it is a slightly different situation because it is the Taliban who are now out of power. We are not actually fighting a government at this point. We are fighting a group of insurgents, but nonetheless, Bowe Bergdahl was captured on the field of battle, as were the five Taliban commanders, and this was a prisoner exchange.

To equate this with negotiating with terrorists I think totally misses the point of that aspect of it, that we were exchanging prisoners, not dealing with a straight terrorist situation. I don't think it sets that precedent at all, and I think we need to be aware that that was what the President was facing.

Was the exchange a good deal? That is highly debatable. I am glad I wasn't the Commander in Chief having to make that call, facing the deteriorating health of Bowe Bergdahl and wondering if five Taliban prisoners were worth saving his life, but these sorts of decisions are made all the time.

I would remind you that Prime Minister Netanyahu of Israel, no shrinking violet when it comes to terrorism, once exchanged over 1,000 Palestinian prisoners for two Israel soldiers because that was a prisoner exchange. That was bringing home the people that Israel wanted brought home, and it was not easy.

So this is not simply a matter of negotiating with terrorists or giving away prisoners. It is the difficult choice of what you do to bring your own soldier home, a difficult choice that every President or Prime Minister whose country is engaged in warfare has to face. I don't think we should diminish the difficulty or the importance of that decision.

I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana (Mrs. WALORSKI), my friend and colleague and a member of the Committee on Armed Services.

Mrs. WALORSKI. Mr. Speaker, I rise in support today of H. Res. 644, for which I am a proud cosponsor.

This bipartisan bill condemns and disapproves the Obama administration's failure to comply with the lawful requirement to notify Congress before releasing individuals detained at Guantanamo Bay and expresses national security concerns over the effects of releasing five Taliban leaders and negotiating with terrorists.

Our constitutional system of checks and balances maintains a separation of powers that ensures Congress is involved in major decisions that affect our country's national security.

I have serious concerns when the President deliberately ignores Congress, negotiates with terrorists, and violates the law which requires that he consult with Congress before releasing detainees.

Those five Taliban leaders that were released are already responsible for the deaths of many Americans. In 2010, they were determined ''too dangerous to transfer'' by President Obama's own task force. One of the five had ties to Bin Laden himself. Another is wanted by the United Nations for war crimes.

Unfortunately, there is a good chance these five terrorists will return to their radical jihadist fight against America and against our Western allies. Nearly 30 percent of detainees reengage in terrorist activity after being released.

In any major decision of war and peace, Congress must have a say because the American people must have a voice. As we continue to face many tough decisions over how to best protect Americans at home and abroad, Congress should be an active participant in decisionmaking. I will continue to work hard to ensure our homeland remains safe from terrorist attacks.

I urge my colleagues to support this resolution.

Mr. SMITH of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DESANTIS), my friend and colleague and a member of the Foreign Affairs Committee.

Mr. DESANTIS. Mr. Speaker, it seems to me you have two issues here: one, Congress, which we have an enumerated power to make rules for detainees captured on land and water; then you also have, as the GAO report pointed out, a funding prohibition that withheld funds contingent on the President providing that notification.

As Madison said in the Federalist Papers, the power of the purse is the most effectual weapon that we have in terms of vindicating the interests of our constituents. So whatever the President's article II power is, clearly, if we remove the funding, then he is not able to do that through the executive branch.

So the question is: Knowing that, why go ahead and do it? Why not comply with both the statute and the funding restriction? I think the reason is because they knew this would not be popular with the American people. One of my colleagues on the other side of the aisle said, ''Well, this statute really shouldn't apply in this situation because hard-liners in the enemy camp can nix the deal.''

I have got news for you, Mr. Speaker, the hard-liners were the subject of the deal. I served in Guantanamo for a time. The Bush administration released detainees who they thought may not have been a danger anymore. Nobody would have even suggested that

this Taliban Five did not represent a danger to our national security.

So here we have an instance where Congress clearly exercised its authority in order to check the President on an issue with, in terms of the terrorist detainees, that his views are, quite frankly, not representative of the American people as a whole. We did that legitimately, and this President decided to flagrantly violate the lawful actions that we took.

I urge support for this resolution.

Mr. SMITH of Washington. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SCHOCK).

Mr. SCHOCK. Mr. Speaker, I rise in support of this resolution.

The release of the Taliban Five, in violation of a law that President Obama himself signed, is among the greatest examples of this administration's disregard of the Constitution. It reflects contempt for this Congress and for the people who are represented here. Worst of all, his actions have emboldened Islamic militants and endangered American service personnel and civilians around the world.

Five years ago, when I first came to Congress, the President announced his intentions to close the terrorist detention facility at Guantanamo Bay. The Justice Department went shopping for a prison back in my State of Illinois to relocate those most dangerous and hardened enemy combatants from the wars in Afghanistan and Iraq.

Back then, Democrats had a majority in this House and a supermajority in the United States Senate. Even then, the President could not get authority from this Congress, controlled by his party in both chambers, to empty Guantanamo and move terrorists even detained back here to United States soil.

It is one thing for the President to defy any old law. It is another thing for the President to defy the very laws that he, himself, signed into law, but President Obama has gone even further.

By refusing to notify Congress of his intention to open the gates at GTMO and thus avoiding the anticipated political pressure that his carelessness would invite, the President has done the unthinkable. He has negotiated with terrorists, plain and simple.

I would say that he has abused the office and the power which comes with it, except in this case he has done something that he doesn't even have the power to do.

□ 1615

Tomorrow night the President will address the Nation about his latest strategy to deal with Islamic jihadists, but I would suggest that the world has seen enough about how this administration deals with terrorists and nothing he says tomorrow night can hide the growing sense among jihadists around the world that they finally have an American President who will negotiate with them.

It is important for Congress to tell the world where we stand. I urge my colleagues to vote ''yes'' on today's resolution.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

Mr. SMITH of Washington. Mr. Speaker, I have to ask: What is personalities toward the President, just for a point of clarification? Personal attacks, perhaps?

The SPEAKER pro tempore. Members are allowed to engage in debate on policy. They are not allowed to engage in personally offensive remarks regarding the President.

Mr. SMITH of Washington. Thank you.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Speaker, I think it is important to take note of the importance of this debate and, as well, the respect that we as Members of Congress owe each other and this institution.

I have long said that our longevity comes not only because of the democratic principles of our Constitution, but because there is the groundwork of the Founding Fathers and those who took to the floor to debate such raging issues as the question of slavery in the 1800s. Each time we are given the microphone, I think that we should adhere to that respect, and each time we put our pen to paper to create legislation, it should equally be based on the grounds of respect and understanding of the constitutional divisions of the three branches of government.

Today I think we have failed. This is, as I said, a personal attack against the President. If we would read the resolution, we would see five items that completely dictate the failure of the Obama administration.

Let me say that all of us concede the point that section 1035 that was added under the Obama administration in 2012—or, more recently—does ask the President to give a 30-day notice to Congress. No other President has been asked to do that.

The President has been very clear on his intent to close Guantanamo. Many of us have been to Guantanamo. But the issue before us was not an effort to close Guantanamo. And so to suggest that there was malicious intent of this President is, from my perspective, showing disrespect and dishonor to us, the institution, and the three branches of government.

Let me be very clear. There is a debate on the powers that the President has under the war powers. Some say there is a statute that says he had to notify us. But there was an explanation. This very strong committee, the Armed Services Committee, with the chairman, whom I respect, and the ranking member, had a very thorough hearing that many of us were able to read some of the transcript where the Secretary of Defense came and explained.

I think one of the key elements for me as a member of Homeland Security is that the Secretary made it very clear that this was a military operation with very high risk, as spoken by Secretary Hagel on June 11, 2014, and a very short window of opportunity that we didn't want to jeopardize, both for the sake of Sergeant Bergdahl—there is a sentence that congratulates us for not leaving our precious treasure behind—and our operators in the field who put themselves at great risk to secure this return. There are those of us who remember that brief glimpse that we had of the rescue. Our men and women swooped down and picked up Sergeant Bergdahl. It was a military action.

This is an unnecessary resolution, Mr. Speaker. It is wrongly condemning. The President had authority and he explained what the action was.

Vote against this resolution. It is untimely and wrong. Vote against it.

Mr. Speaker, I rise in opposition to the rule governing debate of H. Res. 644, and the underlying resolution.

I oppose the resolution because at bottom it is nothing more than another partisan attack on the President and will make it difficult for this body and the Administration to find the common ground and goodwill needed to devise and support policies needed to address the real threats and challenges facing our country, particularly the threat posed by ISIS.

H. Res. 644, a resolution disapproving of the Obama administration's failure to provide Congress with 30 days advance notice before making the transfer of certain Guantanamo detainees that secured the release of an American soldier, U.S. Army Sgt. Bowe Bergdahl.

Sgt. Bergdahl's health was poor and rapidly deteriorating at the time his release from captivity was secured by his Commander-in-Chief, President Obama, who speaking for the nation, said on June 3, 2014 in response to critics of his decision:

> The United States has always had a pretty sacred rule, and that is: we don't leave our men or women in uniform behind. Regardless of the circumstances, we still get an American soldier back if he's held in captivity. Period. Full stop.

Mr. Speaker, the resolution condemns the Obama Administration for failing to comply with the 30-day advance notice requirement imposed by Section 1034 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 10 U.S.C. 801 note) and section 8111 of the Department of Defense Appropriations Act, 2014 (Public Law 113–76).

I disagree for several reasons. First, as Defense Secretary Hagel testified before the House Armed Services Committee on June 11, 2014, ''this was not simply a detainee transfer, but a military operation with very high risk and a very short window of opportunity that we didn't want to jeopardize—both for the sake of Sergeant Bergdahl, and our operators in the field who put themselves at great risk to secure his return.''

As a military operation, rather than a routine transfer of detainees, the President had the constitutional authority as Commander-in-Chief to authorize this sensitive military operation for which time was of the essence.

The resolution put forward by the House majority assumes that the provisions of Section 1034 of National Defense Authorization Act trump the President's constitutional authority under Article II if the two are in conflict. This clearly is an erroneous assumption since Article VI of the Constitution makes clear that the Constitution is the supreme law of the land and prevails in the event of a conflict with federal or state law. See, e.g., INS v. CHADHA, 462 U.S. 919 (1983) (federal law conferring "legislative veto" power to be exercised by only House of Congress held unconstitutional).

But even if it were less clear whether a conflict existed between a federal law and the President's authority as Commander-in-Chief, as Justice Robert Jackson pointed out 62 years ago in the famous "Steel Seizure Case," Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579, 640 (1952), it does not automatically follow that the president has "broken the law" if he relies upon his claimed constitutional authority:

> [B]ecause the President does not enjoy unmentioned powers does not mean that the mentioned ones should be narrowed by a niggardly construction. Some clauses could be made almost unworkable, as well as immutable, by refusal to indulge some latitude of interpretation for changing times. I have heretofore, and do now, give to the enumerated powers the scope and elasticity afforded by what seem to be reasonable, practical implications, instead of the rigidity dictated by a doctrinaire textualism.

Additionally, Mr. Speaker, it should be pointed out that the constitutionality of Section 1035, the statutory provision which the resolution asserts the President has violated, has never upheld by any court, and certainly not upheld against a challenge that it impermissibly infringes upon the President's duty as Commander in Chief to protect the lives of Americans abroad and to protect U.S. service members.

The Administration strongly objected to the inclusion of Section 1035 in the National Defense Authorization Act for 2014, on the ground that it unwisely and inappropriately interferes with the Executive Branch's ability to manage detainees in a time of armed conflict.

Indeed, the President has informed Congress of his objection to the inclusion of these and similar provisions in prior versions of the Defense Authorization and Defense Appropriations Act is law, and it is interesting to note that they only began to be inserted after President Obama assumed the office.

Mr. Speaker, not only is the resolution before us ill-conceived and unwise, its timing could not be worse.

There are only a few days left before the Congress adjourns. We need to devote all our time on addressing the real problems facing the American people, like raising the minimum wage, making college more affordable, passing immigration reform, and responding to the threat to the security of the nation and the homeland by ISIS.

Mr. Speaker, the threat posed by ISIS is serious and real and the President has reached out to Congress to work with him to develop a unified and international response to meet the threat.

And tomorrow evening, the President will address the nation on the nature of the ISIS threat and the actions the United States will take to protect the security of the nation and the homeland.

In the midst of this international crisis, it does not help or strengthen our country for the House to be debating a partisan resolution condemning the President and Commander-in-Chief.

In concluding, let me quote again Defense Secretary Hagel:

> The options available to us to recover Sergeant Bergdahl were few, and far from perfect. But they often are in wartime, and especially in a complicated war like we have been fighting in Afghanistan for 13 years. Wars are messy and full of imperfect choices.
>
> In the decision to rescue Sergeant Bergdahl, we complied with the law, and we did what we believed was in the best interests of our country, our military, and Sergeant Bergdahl.
>
> The President has constitutional responsibilities and authorities to protect American citizens and members of our armed forces. That's what he did. America does not leave its soldiers behind.
>
> We made the right decision, and we did it for the right reasons—to bring home one of our people.

Mr. Speaker, we should not waste this precious remaining on matters intended to score political points or to hold the current president to standards we never applied to his predecessors.

I urge all Members to join me in opposing the rule and the underlying resolution.

Mr. MCKEON. Mr. Speaker, might I inquire as to how much time is left?

The SPEAKER pro tempore. The gentleman from California has 4½ minutes remaining. The gentleman from Washington has 2½ minutes remaining.

Mr. MCKEON. We have just one more speaker.

Mr. Speaker, the inference has been that this happened on the spur of the moment and they didn't have time to tell Congress. These negotiations on this transfer went on for months. They have admitted they told 80 to 90 people in four of the departments of the executive branch but not one Member of Congress, in compliance with the law.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Speaker, I yield myself the balance of my time.

On the last point about the people who were noticed how long this was going on for, yes, the negotiations were going on for around 3 years, but the timeliness came in when they actually had a deal. The President's concern was once they got to the point where they had the deal, if the details of it had been leaked, it would have nixed the deal. And they were deeply concerned about Sergeant Bergdahl's health.

As I have said, this is an extraordinarily difficult call. I don't know if I would have done this deal or not. It is hard. The Commander in Chief has that responsibility. As I have mentioned, other leaders through the world have done it, including Prime Minister Benjamin Netanyahu, who gave up over a thousand prisoners in exchange for two Israeli soldiers. Those choices are difficult, and I am certain that those thousand Palestinians that were released posed some risk to Israel, but that is the decision they made. And that is the decision the President made.

This resolution is not primarily about whether or not the deal should have been done; it is about whether or not we should condemn the President for a clear violation of the law. And I will simply come back to the fact that this President has only done what every other President before him did in exercising his article II authority—under his interpretation and every previous Executive's—that this was legal.

It has been implied throughout this resolution that the President looked at the law and said: I'm just not going to follow it. That is not what he did. He did what every President before him has done. He said that he believed it was within his legal authority to make this decision.

So to put forward a resolution that said he intentionally broke the law, I think, is wrong on its face. This President made a determination about his article II authorities and went forward with it. He did not knowingly violate the law. Secretary Hagel has explained that repeatedly.

Again, I said it a little while ago that President Bush did the exact same thing. He violated any number of different laws and said that article II is the reason. We have been told: Well, that was years ago. I don't know what we would have done then.

I have offered up the opportunity for anybody on the other side to as roundly criticize and condemn President Bush for those actions now that we are here. I haven't heard it. It hasn't been said. All of which leads us to the inescapable conclusion that this is more partisan than principled. This President is the one who is being condemned by a Republican Congress. All the other Presidents have done it and it is just: Oh, we are just not going to do anything about that. That leads to the belief that this is a partisan action.

I think Congress should comment on this. We had great hearings on this. We should have had a hearing on this. We brought in Secretary Hagel. He explained himself. We criticized some of those decisions. That is appropriate.

This resolution is unprecedented and I think once again shows that this body has become more partisan than principled.

I urge everyone to reject the resolution, and I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am leaving Congress at the end of this year, but I am sure at home I will still be able to hear blame on President Bush for at least the next 2 years.

One thing we can't escape is the fact that this went on for months. Even

though they had to make a critical last-minute decision, they still had time to notify 80 to 90 people in the executive branch and not one Member of the House of Representatives or the U.S. Senate, in accordance with the law.

Mr. Speaker, I am proud to yield such time as he might consume to the gentleman from Texas (Mr. THORNBERRY) to give the concluding remarks on this debate. He is the vice chairman of the Armed Services Committee and the chairman of the Subcommittee on Emerging Threats and Capabilities.

Mr. THORNBERRY. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman has 3½ minutes remaining.

Mr. THORNBERRY. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman from Virginia (Mr. RIGELL) for introducing this measuring and shepherding it through the committee and onto the House floor.

Mr. Speaker, I think that it is important for us to vote on this measure for two reasons. One is that it is important for Congress to speak clearly and directly when a President violates the law, and that is exactly what GAO said the administration did. They violated section 811.

Now, it is true that throughout the country's history there have been differences of opinion about the constitutionality of various provisions of law. I think it is fairly rare, however, that a President has chosen to violate a provision that is as clear as this one. There was no waiver authority. There was no ambiguity. There was no matter of interpretation. The law was clear. It says, if you are going to transfer somebody from Guantanamo Bay, you have got to give at least 30 days' notice. And they did have meetings within the administration that discussed whether to follow that 30-day requirement, and they decided not to do it. So it was a clear-cut decision not to follow the law.

In addition to that, the point was made by the gentleman from Florida that they also violated the Antideficiency Act. There has never been a dispute about the ability of Congress to put conditions on funding. And yet, by carrying out this action, they spent funds for which they were not authorized to spend, which also violated a separate law.

They didn't have to tell everybody. They could have just told the Speaker and majority leader. I think they are pretty safe at keeping secrets. Yet the President chose not to. The rule of law is important. It is fundamental to our system. And so it is important to speak clearly on that.

But here is the second reason. The Constitution gives Congress a variety of powers related to national security; but in carrying out those powers, whether it is oversight of the money we spend, oversight of the operations, making decisions to authorize the use of military force, all of that depends upon Congress having accurate, timely information. This decision not to follow the law undercuts the trust that is required between the military and the intelligence community and the Congress in carrying out our responsibilities.

Tomorrow night we are all going to listen to the President as he, hopefully, gives us his goals and strategy for achieving the goals to diminish and destroy ISIL, but all of that is possible only if there is an exchange of information so that we can carry out the responsibilities that the Constitution puts upon us.

When we don't have trust that the President and the military or the intelligence community following his orders are giving us that information, then we can't have trust that we have the ability to carry out our duties under the Constitution.

On a bipartisan basis, over the last several years, we have set up oversight structures on cyber, on terrorism, on sensitive military operations that allow the military to operate in a complicated world but give us the ability to get the information to carry out the oversight that we have to have.

That is the other reason this is important. This undermines that trust that is necessary for an executive and legislative branch to defend the country in a complex world. For that reason, I think it is important for us to speak clearly about it because there are going to be more instances in the days ahead.

We need—we deserve—to have full information.

Mr. MCKEON. Mr. Speaker, I yield back the balance of my time.

Mr. WILSON of South Carolina. Mr. Speaker, the United States should not negotiate with terrorists. Members of Congress on both sides of the aisle agree, which is why we have passed laws requiring the President notify us if he wishes to change effective foreign policy. Sadly, when the President unilaterally organized a prisoner swap with the Taliban for the release of Army Sgt. Bowe Bergdahl, he broke the law, disregarded the Constitution, and placed all American families at risk.

A recent GAO report details the extent of which the President ignored current law and disregarded Congress in his decision-making. In addition to violating the thirty-day rule, funding was used that was not available to complete the transfer, which violates the Antideficiency Act

The five members of the Taliban whom the President released and effectively pardoned from Guantanamo Bay are "high risk" and dangerous with extensive ties to al Qaeda. These terrorists have the blood of innocent civilians by the 9/11 attacks and American soldiers on their hands and are fixated on destroying our freedoms. Immediately upon their release, members of the Taliban praised this "big victory" as the first time the "enemy officially recognized our status." One Taliban leader went as far to say that the return of one prisoner was "like pouring 10,000 Taliban fighters into the battle on the side of jihad. Now the Taliban have the right lion to lead them in the final moment before victory in Afghanistan." These detainees are sure to relocate to Afghanistan and resume launching attacks against the United States and our Allies. At a time when our brave men and woman are still fighting the Global War on Terrorism in Afghanistan, this decision further places our heroes in harms way.

This administration has a history of ignoring our laws in order to achieve its own agenda. According to Secretary of Defense Chuck Hagel, these negotiations did not happen overnight, but were in the works for months. The reason why the President did not notify Congress thirty days before giving the go-ahead to release and pardon five jihadists as required by law is because he did not feel it was necessary. It's time to put a stop to this irresponsible behavior and hold the President accountable. I urge my colleagues to support this bipartisan resolution that condemns and disapproves of the President's unlawful actions, which have placed American families at risk here at home and abroad.

Mr. THOMPSON of California. Mr. Speaker, I rise today to express my strong concern regarding President Obama's failure to notify Congress at least 30 days in advance of exchanging five Taliban prisoners held at U.S. Naval Station, Guantanamo Bay, for U.S. Army Sergeant Bowie Bergdahl, who was held by the Taliban as a Prisoner of War (POW).

However, this resolution is a clear example of partisan overreach by the House Majority and does not appropriately address these issues. Nor does it advance this debate in a constructive way. In the words of the Dissenting Views of the House Armed Services Committee members, this resolution is "an overstated and unnecessary product of a rhetorical exercise fueled by over partisanship."

We, as a nation, have an obligation to the men and women who serve in our Armed Forces to do everything in our power as a nation to bring them home. Americans do not leave our soldiers behind.

Section 8111, of the Department of Defense (DOD) Appropriations Act of 2014, prohibits the President from using any Congressionally appropriated funds to transfer any individuals detained at Guantanamo Bay, unless Congress is notified 30 days in advance. This is the law, and the President is required to comply with the law.

The nonpartisan Government Accountability Office (GAO) concluded that "DOD violated section 8111 because it did not notify the relevant congressional committees at least 30 days in advance of the transfer." Additionally, GAO concluded that DOD violated the Antideficiency Act "because DOD used appropriated funds to carry out the transfer when no money was available for that purpose."

While I agree with the GAO findings, I cannot vote for a purely partisan measure written under the pretense of addressing a violation of the law.

This is a serious matter that requires deliberative debate in Congress. The President should have followed the law, as laid out in section 8111, and notified Congress 30 days in advance of this release. However, the American peo deserve better than this highly politicized resolution.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 715, the previous question is ordered on the

resolution and on the preamble, as amended.

The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCKEON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 163, not voting 19, as follows:

[Roll No. 485]

YEAS—249

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Braley (IA)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Brownley (CA)
Buchanan
Bucshon
Burgess
Bustos
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gabbard
Gallego
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
Lipinski
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Michaud
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
O'Rourke
Palazzo
Paulsen
Pearce
Perry
Peters (MI)
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Ruiz
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schrader
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Walz
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—163

Barber
Bass
Beatty
Becerra
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Garamendi
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meng
Miller, George
Moore
Moran
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schwartz
Scott (VA)
Scott, David
Serrano
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Visclosky
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—19

Cicilline
Clark (MA)
Clarke (NY)
DesJarlais
Dingell
Engel
King (IA)
Lee (CA)
Maloney, Carolyn
McIntyre
Meeks
Miller, Gary
Nunnelee
Olson
Pelosi
Rush
Sewell (AL)
Tierney
Velázquez

□ 1655

Mr. CARSON of Indiana changed his vote from ''yea'' to ''nay.''

Mr. FARENTHOLD changed his vote from ''nay'' to ''yea.''

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: ''Resolution condemning and disapproving of the failure of the Obama administration to comply with the lawful statutory requirement to notify Congress before transferring individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing concern about the national security risks over the transfer of five Taliban leaders and the repercussions of negotiating with terrorists.''.

A motion to reconsider was laid on the table.

Stated for:

Mr. MCINTYRE. Mr. Speaker, during rollcall vote No. 485 on September 9, 2014, I was unavoidably detained. Had I been present, I would have voted ''yes.''

Mr. OLSON. Mr. Speaker, on rollcall No. 485, had I been present, I would have voted ''aye.''

WATERS OF THE UNITED STATES REGULATORY OVERREACH PROTECTION ACT OF 2014

The SPEAKER pro tempore. Pursuant to House Resolution 715 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 5078.

Will the gentleman from Georgia (Mr. COLLINS) kindly take the chair.

□ 1656

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, with Mr. COLLINS of Georgia (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 3 printed in House Report 113–581 offered by the gentleman from New York (Mr. BISHOP) had been postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 113–581 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. BISHOP of New York.

Amendment No. 3 by Mr. BISHOP of New York.

The Chair will reduce to 2 minutes the minimum time for any vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BISHOP) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 163, noes 248, not voting 20, as follows:

[Roll No. 486]

AYES—163

Barber
Bass
Beatty
Becerra
Bera (CA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Garamendi
Garcia
Gibson
Green, Al
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Serrano
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Woodall
Yarmuth

NOES—248

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Cárdenas
Carter
Cassidy
Chabot
Chaffetz
Chu
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallego
Gardner
Garrett
Gerlach
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Grayson
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jeffries
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
McNerney
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perlmutter
Perry
Peters (CA)
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schneider
Schock
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Vela
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Yoder
Yoho
Young (AK)
Young (IN)

NOT VOTING—20

Cicilline
Clark (MA)
Clarke (NY)
Davis, Danny
DesJarlais
Dingell
Ellison
Engel
Enyart
Gingrey (GA)
King (IA)
Lee (CA)
Maloney, Carolyn
McIntyre
Meeks
Nunnelee
Rush
Sewell (AL)
Tierney
Velázquez

□ 1702

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. McINTYRE. Mr. Chair, during rollcall vote No. 486 on September 9, 2014, I was unavoidably detained. Had I been present, I would have voted "yes."

AMENDMENT NO. 3 OFFERED BY MR. BISHOP OF NEW YORK

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. BISHOP) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 170, noes 240, not voting 21, as follows:

[Roll No. 487]

AYES—170

Barber
Bass
Beatty
Becerra
Bera (CA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castro (TX)
Chu
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schwartz
Scott (VA)
Serrano
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Van Hollen
Vargas
Veasey
Vela
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOES—240

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Enyart
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam

Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOT VOTING—21

Castor (FL)
Cicilline
Clark (MA)
Clarke (NY)
DesJarlais
Diaz-Balart
Dingell
Engel
Honda
King (IA)
Lee (CA)
Maloney, Carolyn
McIntyre
Meeks
Nunnelee
Peters (CA)
Rush
Sewell (AL)
Tierney
Tsongas
Velázquez

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1707

Mr. GINGREY of Georgia changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. McINTYRE. Mr. Chair, during rollcall vote No. 487 on September 9, 2014, I was unavoidably detained. Had I been present, I would have voted "yes."

The Acting CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. YODER) having assumed the chair, Mr. COLLINS of Georgia, Acting Chair 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. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, and, pursuant to House Resolution 715, he reported the bill back to the House.

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

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

Mr. HUFFMAN. Mr. Speaker, I have a motion to recommit at the desk.

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

Mr. HUFFMAN. I am opposed in its current form.

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

The Clerk read as follows:

Mr. Huffman moves to recommit the bill H.R. 5078 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following:

SEC. ____. PROTECTING THE QUALITY OF WATER FOR PUBLIC WATER SUPPLIES AND AGRICULTURAL USES AND TO MITIGATE AGAINST DROUGHT.

Nothing in this Act affects the authority of the Secretary or Administrator to protect the quality of surface water that is available—

(1) for public water supplies, which are a significance source of drinking water for municipalities;

(2) for agricultural uses, including irrigation; or

(3) to mitigate against the harmful impact of drought.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. HUFFMAN. Mr. Speaker, this is the final amendment to the bill. It will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

Mr. Speaker, the underlying bill before us today will make it harder for the Army Corps of Engineers and the EPA to clarify the jurisdictional coverage of the Clean Water Act, leaving watersheds across the country in continued legal limbo.

Now, I have visited with ranchers, landowners, and folks from around my district. I understand the anxieties that have been expressed about what the Waters of the United States rulemaking means, but the solution to this situation is to seek tighter definitions and clearer rules, not to prohibit agencies from further developing an important proposal.

In particular, I am concerned that H.R. 5078 could have unintended consequences for those who rely on healthy watersheds. We need clarity in the law, so that we can protect water quality for drinking water supplies and for agricultural uses.

We are suffering from a historic drought in California, and the current legal mess—the ambiguity of what qualifies as waters of the U.S. under the Clean Water Act—actually makes it harder to know which water bodies are covered by the law.

It makes it harder to protect upstream wetlands that reach our groundwater supplies. The importance of these intermittent streams and wetlands is most notable during extreme weather events like torrential rains or droughts because wetlands and streams can absorb and then release water gradually to surrounding streams and aquifers.

This underlying bill would keep regulatory uncertainty in place, and it could leave upstream water sources subject to expensive and long-lasting litigation. That situation is not good for the communities in my district who need clean drinking water and clean water for their businesses. It is not good for my downstream ranchers who are already facing water shortages and are hurting from rising feed prices.

Now, remember, Mr. Speaker and colleagues, that the current proposal from the EPA and the Army Corps is actually very narrowly targeted.

Under President Reagan, the Clean Water Act covered any body of water that could serve as habitat for migratory birds, a much more far-reaching standard than the one the Obama administration is considering.

The GAO determined in 2004 that the Reagan rule would have allowed the Army Corps to regulate almost any body of water or wetland. Let's remember that when we hear the characterizations of the Obama administration's proposal as some vast overreach, it is far more narrowly tailored than what existed under President Reagan.

Right now, the Federal agencies have a proposal—again, much less expansive than President Reagan's—that they are reviewing with ranchers, with water utilities, and with States. It should be, it can be, and I believe it will be a workable proposal. We should let that process play out.

Let's not make the current situation worse. Let's ensure that this bill doesn't harm drinking water or water supplies for irrigation needs. Let's ensure that we aren't making it harder to respond to an extreme drought. I ask my colleagues to support this motion to recommit.

I yield back the balance of my time.

□ 1715

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

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 5 minutes

Mr. SHUSTER. Mr. Speaker, I must strongly oppose this motion to recommit because it basically aims to gut the underlying bill. The purpose of H.R. 5078 is to uphold the Federal-State partnership in regulating the Nation's waters by maintaining a balance between the States and the Federal Government in carrying out the Clean Water Act.

H.R. 5078 restricts the administration's current administrative efforts to expand Federal jurisdiction under the Clean Water Act, and requires the agencies to engage in a federalism consultation with the State and local government partners in implementing the Clean Water Act. However, this motion is designed to undermine the legislation by giving the EPA unfettered discretion in making State water quality

determinations in order to allow the administration to continue implementing its flawed rule. In effect, the amendment says that the underlying bill will not apply virtually anywhere the EPA decides that the bill should not apply. This amendment would further erode the Federal and State partnership that H.R. 5078 seeks to preserve.

I would urge all 435 Members of this body to take notice. This is another attempt by the executive branch to take Congress' constitutional authority away from us. We should all take this as a serious challenge to us. For too long, this body has allowed the executive branch to take our authority granted to us by the Constitution. I say whether it is a Republican or a Democrat administration, we have to stop that. This bill, H.R. 5078, is a step in the right direction.

H.R. 5078 is a good bill that maintains the balance of our Nation's water. We must preserve the State and Federal partnership that has existed under the Clean Water Act until this administration chose to impose an overbearing EPA on our States.

I urge a ''no'' vote, and I yield back the balance of my time.

The SPEAKER pro tempore. 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. HUFFMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 235, not voting 19, as follows:

[Roll No. 488]

AYES—177

Barber
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schwartz
Scott (VA)
Serrano
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOES—235

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Daines
Denham
Dent
DeSantis
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Enyart
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallego
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schrader
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOT VOTING—19

Braley (IA)
Cicilline
Clark (MA)
Clarke (NY)
Davis, Rodney
DesJarlais
Dingell
Duffy
Engel
King (IA)
Lee (CA)
Maloney, Carolyn
Meeks
Nunnelee
Rush
Scott, David
Sewell (AL)
Tierney
Velázquez

□ 1724

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

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BRALEY of Iowa. Mr. Speaker, on roll-call No. 488, had I been present, I would have voted "yes."

The SPEAKER pro tempore. 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.

Mr. BISHOP of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 262, nays 152, not voting 17, as follows:

[Roll No. 489]

YEAS—262

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Bustos
Byrne
Calvert
Camp
Campbell
Capito
Carter
Cassidy
Chabot
Chaffetz
Clawson (FL)
Cleaver
Clyburn
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Costa
Cotton
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Daines
Denham
Dent
DeSantis
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Enyart
Farenthold
Farr
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Fudge
Gallego
Garamendi
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (FL)
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Horsford
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter

Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (IL)
Kelly (PA)
King (NY)
Kingston
Kinzinger (IL)
Kirkpatrick
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Loebsack
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Negrete McLeod
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Richmond
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Ruiz
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Veasey
Vela
Wagner
Walberg
Walden
Walorski
Walz
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—152

Bass
Beatty
Becerra
Bera (CA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castro (TX)
Chu
Clay
Cohen
Connolly
Conyers
Cooper
Courtney
Crowley
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Doggett
Doyle
Duckworth
Edwards
Ellison
Eshoo
Esty
Fattah
Foster
Frankel (FL)
Gabbard
Grayson
Green, Al
Grijalva
Gutiérrez
Hahn
Hanabusa
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kennedy
Kildee
Kilmer
Kind
Kuster
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis
Lipinski
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schwartz
Scott (VA)
Serrano
Shea-Porter
Sherman
Sires
Slaughter
Smith (NJ)
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Titus
Tonko
Tsongas
Van Hollen
Vargas
Visclosky
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—17

Castor (FL)
Cicilline
Clark (MA)
Clarke (NY)
Davis, Rodney
DesJarlais
Dingell
Engel
King (IA)
Lee (CA)
Maloney, Carolyn
Meeks
Nunnelee
Rush
Sewell (AL)
Tierney
Velázquez

□ 1731

Ms. WATERS changed her vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RODNEY DAVIS of Illinois. Mr. Speaker, on rollcall No. 489, I placed voting card in machine and it did not register. Had I been present, I would have voted "yes."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3522, EMPLOYEE HEALTH CARE PROTECTION ACT OF 2013

Mr. BURGESS from the Committee on Rules, submitted a privileged report (Rept. No. 113–584) on the resolution (H. Res. 717) providing for consideration of the bill (H.R. 3522) to authorize health insurance issuers to continue to offer for sale current group health insurance coverage in satisfaction of the minimum essential health insurance coverage requirement, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

EXTENSION OF ENFORCEMENT INSTRUCTION FOR OUTPATIENT THERAPEUTIC SERVICES IN CRITICAL ACCESS AND SMALL RURAL HOSPITALS THROUGH 2014

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4067) to provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF ENFORCEMENT INSTRUCTION ON SUPERVISION REQUIREMENTS FOR OUTPATIENT THERAPEUTIC SERVICES IN CRITICAL ACCESS AND SMALL RURAL HOSPITALS THROUGH 2014.

The Secretary of Health and Human Services shall continue to apply through calendar year 2014 the enforcement instruction described in the notice of the Centers for Medicare & Medicaid Services entitled ''Enforcement Instruction on Supervision Requirements for Outpatient Therapeutic Services in Critical Access and Small Rural Hospitals for CY 2013'', dated November 1, 2012 (providing for an exception to the restatement and clarification under the final rulemaking changes to the Medicare hospital outpatient prospective payment system and calendar year 2009 payment rates (published in the Federal Register on November 18, 2008, 73 Fed. Reg. 68702 through 68704) with respect to requirements for direct supervision by physicians for therapeutic hospital outpatient services).

The SPEAKER pro tempore (Mr. WENSTRUP). Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous materials in the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4067, which provides for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014. This was a bill introduced by Congresswoman JENKINS of Kansas.

Mr. Speaker, this is a commonsense solution to a problem that has the potential to limit or delay access to health care for America's seniors in rural communities.

The bill would delay until the end of the year enforcement of supervision requirements for outpatient therapeutic services in critical access hospitals. This delay would give the Centers for Medicaid and Medicare Services and provider groups time to identify which services will eventually fall under the requirement.

I ask my colleagues to support this important piece of legislation and reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4067 would suspend current enforcement of Medicare rules relating to physician supervision of staff in rural and critical access hospitals for certain outpatient therapeutic services. Enforcement of these rules was delayed from 2009 through 2013, but began again in January of this

year. My understanding is that there has not been any issue with enforcement to date and that the Medicare program has not taken any action against a facility for failure to meet physician supervision standards since January. But as this bill did not follow regular order through the committee process, we have not had an opportunity to hear from interested parties about the issue and bring to light what the implications might be of an additional delay. Frankly, the likely result of such a bill would be confusion for hospitals.

Medicare's physician supervision requirement places a premium on patient safety, and I understand that rural facilities sometimes face difficulty in securing staffing. However, it seems reasonable to me that outpatient clinics that provide services to Medicare beneficiaries should meet some basic standards for having supervisory physicians available if an emergency arises—for example, when patients are receiving potentially lethal doses of chemotherapy medication.

Meanwhile, there are countless public health issues that the committee could productively devote its time to, such as looking into the recent outbreak of Ebola, the effects of e-cigarettes, or perhaps the decline of routine vaccinations that has led to an explosion of preventable illnesses like measles. Rather, the bill before us seems to be only responsive to the fears of certain health care providers that someone could file a complaint that a facility was allowing staff to practice medicine on Medicare patients without any supervision. But isn't that the kind of thing that we might be concerned about—and want a whistleblower to report? Yet, that is just what this bill would prevent.

It remains unclear to me why an additional delay of this Medicare policy is needed. Simply saying that the Senate passed this bill by unanimous consent in February is not sufficient justification—and makes even less sense now that the calendar year is nearly over.

So, Mr. Speaker, we should be finding time to address the real and pressing public issues facing our Nation rather than those that merely cause an inconvenience or anxiety for certain health care providers.

I reserve the balance of my time at this time, Mr. Speaker.

Mr. BURGESS. Mr. Speaker, at this time, I would like to yield 3 minutes to the gentlewoman from Kansas, Congresswoman JENKINS, the author of the bill.

Ms. JENKINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of H.R. 4067, a bill to provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014.

I was proud to introduce this legislation in February, and I am pleased that Chairman UPTON and the Energy and Commerce Committee reported it favorably and brought it to the House floor today.

The 83 critical access hospitals in Kansas are the lifeblood of our rural communities, and one of the many challenges these communities face is access to health care. The presence of a facility such as a critical access hospital in a community could be the deciding factor in whether or not the next generation of children decide to raise their family in their hometown, or perhaps whether or not a business decides to locate there.

The Centers for Medicare and Medicaid Services made a decision on January 1 of this year that will make it more difficult for these rural hospitals to serve their communities. CMS informed these hospitals that physicians are now required to directly supervise outpatient services, such as drawing blood and activity therapy. This is a change in policy that will put a strain on providers while providing no quality improvements for the patients they serve.

This bill will correct that problem by reinstating the moratorium on enforcement of these unnecessary regulations. It has broad bipartisan support in Congress and the support of key stakeholders.

Mr. Speaker, I insert in the RECORD letters of support for H.R. 4067 from the American Hospital Association, the National Rural Health Association, the Kansas Hospital Association, and Anderson County Hospital, which is a critical access hospital in Garnett, Kansas, one of 1,300 nationwide.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, May 19, 2014.

Hon. LYNN JENKINS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE JENKINS: On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association is pleased to support H.R. 4067 to provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014.

Approximately 46 million Americans live in rural areas and depend on these hospitals as an important, and often the only, source of care. Critical access and small rural hospitals face unique challenges because of their remote geographic location, scarce workforce, physician shortages and constrained financial resources with limited access to capital.

Your bill attempts to address one of these unique challenges—the issue of direct supervision for outpatient therapeutic services. In the 2009 outpatient prospective payment system (PPS) final rule, the Centers for Medicare & Medicaid Services (CMS) mandated a new policy for ''direct supervision'' of outpatient therapeutic services that hospitals and physicians recognized as a burdensome and unnecessary policy change. CMS's policy required that a supervising physician be physically present in the department at all times when Medicare beneficiaries receive outpatient therapeutic services. Hospital outpatient therapeutic services have always been provided by licensed, skilled professionals under the overall direction of a physician and with the assurance of rapid assistance from a team of caregivers, including a physician, should an unforeseen event occur. While hospitals recognize the need for direct supervision for certain outpatient services that pose high risk or are very complex, CMS's policy generally applies to even the lowest risk services. Your bill would provide a needed delay in enforcement of the direct supervision policy through 2014 for critical access and small rural hospitals with fewer than 100 beds.

Again, we are pleased to support this bill and applaud your commitment to America's rural hospitals and health care providers.

Sincerely,

RICK POLLACK,
Executive Vice President.

NATIONAL RURAL HEALTH ASSOCIATION,
Washington, DC, July 28, 2014.

Hon. LYNN JENKINS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE JENKINS: The National Rural Health Association applauds your leadership in introducing H.R. 4067. This bill will provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014.

NRHA is a national nonprofit membership organization with more than 21,000 members. Our mission is to provide leadership on rural health issues. NRHA membership is made up of a diverse collection of individuals and organizations, all of whom share the common bond of ensuring all rural communities have access to quality, affordable health care.

NRHA supports your efforts to put a moratorium on the physician supervision of outpatient services requirement at CAHs and small rural hospitals until the end of 2014. If you have further questions, please do not hesitate to call Erin Mahn on my government affairs staff at 202–639–0550 or by e–mail emahn@nrharural.org.

We thank you for sponsoring this important legislation. You are truly a stalwart champion for rural America.

Sincerely,

ALAN MORGAN, CEO,
National Rural Health Association.

KANSAS HOSPITAL ASSOCIATION,
July 30, 2014.

Hon. LYNN JENKINS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE JENKINS: On behalf of our 128 member hospitals, the Kansas Hospital Association is pleased to support H.R. 4067. This important legislation provides a one-year extension on the non-enforcement of the direct supervision policy for therapeutic services provided in critical access hospitals and rural hospitals with 100 or few beds.

Effective January 1, 2014, the Centers for Medicare and Medicaid Services' decided to not extend its policy to not enforce the direct supervision policy for therapeutic services provided in CAHs and rural hospitals with less than 100 beds. This new policy of enforcement on CAHs and small rural hospitals may limit the hospital's ability to provide their outpatients with basic therapeutic services. These are services that have been provided safely in rural communities throughout the years. H.R. 4067 would provide a much needed delay in enforcement of the direct supervision policy for therapeutic services through 2014.

We are pleased to support your legislation and appreciate your commitment to Kansas hospitals.

Sincerely,

TOM BELL,
President and CEO.

ANDERSON COUNTY HOSPITAL,
Garnett, KS, May 18, 2014.

Hon. LYNN JENKINS,
Longworth HOB,
Washington, DC.

DEAR REPRESENTATIVE JENKINS: As you know, I have communicated with you in the past about the consequences of the physician supervision requirements that were included in the Outpatient Prospective Payment Final Rule (OPPS) for 2014, as published in the Federal Register on December 10, 2013. These rules will have an unintended impact on the provision of outpatient therapeutic services in Critical Access Hospitals and to patient care in rural settings.

Anderson County Hospital (ACH) is a Critical Access Hospital (CAH) located in Anderson County, Kansas. Since 1994, we have operated a hospital-based rural health clinical staff by employed physicians and mid-levels, the only primary care clinic currently operating in our county. Additionally, our emergency room is staffed with physicians and mid-level practitioners 24/7. For the past two years, ACH has continued to struggle with how to meet the supervision requirements. Initially, it was that we would use a combination of ER and primary care providers to provide the direct supervision; if one of them was not immediately available, we would provide the service and not bill for it. Please keep in mind that while direct supervision does not require the provider to be in the room with the patient, they do need to be immediately available. The location of both our clinic and ER providers meet this requirement.

In a clarification received from CMS in January, they further instructed us that hospital employed practitioners in hospital-based rural health clinics, even those that are located on the same campus and adjacent to the hospital, cannot meet the direct supervision requirement for outpatient therapeutic services. This makes it nearly impossible for us to meet the supervision requirements. Although we have a full complement of staff that could provide direct supervision, the ability to use them to provide services is not in question.

These requirements present a significant hardship and expense to rural hospitals and is in direct conflict to the Conditions of Participation for CAHs. It will limit the ability to provide our outpatients with basic therapeutic services such as IV infusions, initial antibiotic therapy, emergency cardiac drugs and blood transfusions. These are services that have been provided in rural communities safely throughout the years, and will ultimately impact access to important services for the patients and communities we serve.

For those CAHs who have emergency room coverage provided by their own employed physicians, the requirements are even more difficult to meet. Since CAH conditions of participation say that the physician does not need to be in the ER, must respond to the emergency room within 30 minutes, most hospitals have protocols that allow a registered nurse to begin life saving IV therapy on a verbal order from the provider. The physician supervision requirements seem to contradict this.

The strangest part of the interpretation of these rules is that they only impact payment, not the actual provision of the services, so this is not really an issue of quality or patient safety. We are told that we are able to provide the services when needed, but unless there is documented direct supervision, we are not able to bill or be paid for the services provided.

Because of the implications of these rules and their interpretation on the provision of outpatient therapeutic services at our hospital and many others in rural settings, I ask for your support of H.R. 4067, which would put a hold on enforcement of the supervision requirements through 2014. This additional time would hopefully allow the opportunity to re-visit the many issues raised by these rules and would go a long way in alleviating the consequences of the policy that I've outlined in this letter. We must keep in mind that the intent of the CAH program was to provide access to quality patient care in rural communities. A delay in enforcement would help us refocus on that goal.

Sincerely,

DENNIS A. HACHENBERG, FACHE,
Chief Executive Officer,
Anderson County Hospital.

Ms. JENKINS. Mr. Speaker, I was born and raised in a small town in Kansas, and I feel strongly that folks in rural communities deserve access to quality health care.

I urge my colleagues to support this legislation, and I am hopeful that the Senate will soon act on it so that it may become law.

Mr. PALLONE. Mr. Speaker, I have no other speakers at this time, and so I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I urge my colleagues to support the bill, and yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, H.R. 4067, reinstates a four month delay in the enforcement of the current Medicare rules relating to physician supervision of staff who administer certain therapeutic services in rural and critical access hospitals.

The Medicare physician supervision requirement protects patients by ensuring that Medicare beneficiaries have access to someone capable of dealing with unforeseen emergencies. While I understand that rural healthcare providers often have difficulty acquiring adequate staffing, we should not place greater value on their convenience than on the safety of Medicare beneficiaries.

Reinstating a delay of these requirements until the end of the year only potentially confuses healthcare providers and lowers the bar on patient safety that Medicare has put in place.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 4067.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUDDEN UNEXPECTED DEATH DATA ENHANCEMENT AND AWARENESS ACT

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 669) to amend the Public Health Service Act to improve the health of children and help better understand and enhance awareness about unexpected sudden death in early life, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sudden Unexpected Death Data Enhancement and Awareness Act''.

SEC. 2. STILLBIRTH AND SUDDEN DEATHS IN THE YOUNG.

The Public Health Service Act is amended by inserting after section 317L of such Act (42 U.S.C. 247b–13) the following:

''SEC. 317L–1. STILLBIRTH AND SUDDEN DEATHS IN THE YOUNG.

''(a) STILLBIRTH ACTIVITIES.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall continue to carry out activities of the Centers relating to stillbirth, including the following:

''(1) SURVEILLANCE.—

''(A) IN GENERAL.—The Secretary shall provide for surveillance efforts to collect thorough, complete, and high-quality epidemiologic information on stillbirths, including through the utilization of existing surveillance systems (including the National Vital Statistics System (NVSS) and other appropriately equipped birth defects surveillance programs).

''(B) STANDARD PROTOCOL FOR SURVEILLANCE.—The Secretary, in consultation with qualified individuals and organizations determined appropriate by the Secretary, to include representatives of health and advocacy organizations, State and local governments, public health officials, and health researchers, shall—

''(i) provide for the continued development and dissemination of a standard protocol for stillbirth data collection and surveillance; and

''(ii) not less than every 5 years, review and, as appropriate, update such protocol.

''(2) POSTMORTEM DATA COLLECTION AND EVALUATION.—The Secretary, in consultation with qualified individuals and organizations determined appropriate by the Secretary, to include representatives of health professional organizations, shall—

''(A) upon the enactment of this section, and not less than every 5 years thereafter, review existing guidelines for increasing and improving the quality and completeness of postmortem stillbirth evaluation and related data collection, including conducting and reimbursing autopsies, placental histopathology, and cytogenetic testing; and

''(B) develop strategies for implementing such guidelines and addressing any barriers to implementation of such guidelines.

''(b) SUDDEN UNEXPECTED INFANT DEATH ACTIVITIES.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall continue to carry out activities of the Centers relating to sudden unexpected infant death (SUID), including the following:

''(1) SURVEILLANCE.—

''(A) IN GENERAL.—The Secretary shall provide for surveillance efforts to gather sociodemographic, death scene investigation, clinical history, and autopsy information on SUID cases through the review of existing records on SUID, including through the utilization of existing surveillance systems (including the national child death review case reporting system and SUID case registries).

''(B) STANDARD PROTOCOL FOR SURVEILLANCE.—The Secretary, in consultation with

qualified individuals and organizations determined appropriate by the Secretary, to include representatives of health and advocacy organizations, State and local governments, and public health officials, shall—

''(i) provide for the continued development and dissemination of a standard protocol for SUID data reporting and surveillance; and

''(ii) not less than every 5 years, review and, as appropriate, update such protocol.

''(C) GOALS FOR ENHANCING SURVEILLANCE.—In carrying out activities under this subsection, the Secretary shall seek to accomplish the following goals:

''(i) Collecting thorough, complete, and high-quality death scene investigation data, clinical history, and autopsy findings.

''(ii) Collecting standardized information about the environmental and medical circumstances of death (including the sleep environment and quality of the death scene investigation).

''(iii) Supporting multidisciplinary infant death reviews, such as those performed by child death review committees, to collect and review the information and classify and characterize SUID using a standardized classification system.

''(iv) Facilitating the sharing of information to improve the public reporting of surveillance and vital statistics describing the epidemiology of SUID.

''(2) STANDARD PROTOCOL FOR DEATH SCENE INVESTIGATION.—

''(A) IN GENERAL.—The Secretary, in consultation with forensic pathologists, medical examiners, coroners, medicolegal death scene investigators, law enforcement personnel, emergency medical technicians and paramedics, public health agencies, and other individuals and organizations determined appropriate by the Secretary, shall—

''(i) provide for the continued dissemination of a standard death scene investigation protocol; and

''(ii) not less than every 5 years, review and, as appropriate, update such protocol.

''(B) CONTENT OF DEATH SCENE PROTOCOL.—The protocol disseminated under subparagraph (A) shall include information on—

''(i) the current and past medical history of the infant;

''(ii) family medical history;

''(iii) the circumstances surrounding the death, including any suspicious circumstances;

''(iv) the sleep position and sleep environment of the infant; and

''(v) any accidental or environmental factors associated with death.

''(3) GUIDELINES FOR A STANDARD AUTOPSY PROTOCOL.—The Secretary, in consultation with the Attorney General of the United States, forensic pathologists, medical examiners, coroners, pediatric pathologists, pediatric cardiologists, pediatric neuropathologists, geneticists, infectious disease specialists, and other individuals and organizations determined appropriate by the Secretary, shall—

''(A) develop guidelines for a standard autopsy protocol for SUID; and

''(C) not less than every 5 years, review and, as appropriate, update such guidelines.

''(4) TRAINING.—The Secretary, in consultation with the Attorney General of the United States, may—

''(A) conduct or support—

''(i) training activities for medical examiners, coroners, medicolegal death scene investigators, law enforcement personnel, and emergency medical technicians or paramedics concerning death scene investigations for SUID, including the use of standard death scene investigation protocols disseminated under paragraph (2); and

''(ii) training activities for medical examiners, coroners, and forensic pathologists concerning standard autopsy protocols for SUID developed under paragraph (3); and

''(B) make recommendations to health professional organizations regarding the integration of protocols disseminated or developed under this subsection, and training conducted or supported under this paragraph, into existing training and continuing education programs.

''(c) SUDDEN UNEXPLAINED DEATH IN CHILDHOOD ACTIVITIES.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall continue to carry out activities of the Centers relating to sudden unexpected death in childhood (SUDC), including the following:

''(1) SURVEILLANCE.—The Secretary, in consultation with the Director of the National Institutes of Health, shall provide for surveillance efforts to gather sociodemographic, death scene investigation, clinical history, and autopsy information on SUDC cases through the review of existing records on SUDC, including through the utilization of existing surveillance systems (including the Sudden Death in the Young Registry).

''(2) GUIDELINES FOR A STANDARD AUTOPSY PROTOCOL.—The Secretary, in consultation with the Attorney General of the United States, forensic pathologists, medical examiners, coroners, pediatric pathologists, pediatric cardiologists, pediatric neuropathologists, geneticists, infectious disease specialists, and other individuals and organizations determined appropriate by the Secretary, may—

''(A) develop guidelines for a standard autopsy protocol for SUDC; and

''(B) not less than every 5 years, review and, as appropriate, update such guidelines.

''(3) REVIEW OF APPLICABILITY OF PROGRAMS AND ACTIVITIES.—Not later than 18 months after the date of enactment of this section, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in consultation with the Director of the National Institutes of Health, shall complete an evaluation of the possibility of carrying out or intensifying, with respect to SUDC, the types of programs and activities that are authorized to be carried out under subsection (b) with respect to SUID.

''(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall submit to the Congress a report on the implementation of this section. Such report shall include—

''(1) the results of the evaluation under subsection (c)(3); and

''(2) a description of any activities that—

''(A) are being carried out by the Centers for Disease Control and Prevention in consultation with the National Institutes of Health relating to stillbirth, SUID, or SUDC; and

''(B) are in addition to the activities being carried out pursuant to this section.

''(e) DEFINITIONS.—In this section:

''(1) The term 'stillbirth' means a spontaneous fetal death that—

''(A) occurs at 20 or more weeks gestation; or

''(B) if the age of the fetus is not known, involves a fetus weighing 350 grams or more.

''(2) The terms 'sudden unexpected infant death' and 'SUID' mean the death of an infant less than 1 year of age—

''(A) which occurs suddenly and unexpectedly; and

''(B) whose cause—

''(i) is not immediately obvious prior to investigation; and

''(ii) is either explained upon investigation or remains unexplained.

''(3) The terms 'sudden unexplained death in childhood' and 'SUDC' mean the sudden death of a child 1 year of age or older which remains unexplained after a thorough case investigation that includes—

''(A) a review of the clinical history and circumstances of death; and

''(B) performance of a complete autopsy with appropriate ancillary testing.

''(f) FUNDING.—No additional funds are authorized to be appropriated for the purpose of carrying out this section, and this section shall be carried out using amounts otherwise available for such purpose.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

□ 1745

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material into the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 669, the Sudden Unexpected Death Data Enhancement and Awareness Act, introduced by my colleague, Mr. PALLONE of New Jersey.

Prevention of stillbirth, sudden unexpected infant death, and sudden unexplained death in children depends upon the collection of data related to the biological, social, and environmental factors associated with these outcomes.

The Centers for Disease Control and Prevention collects data through existing surveillance systems in order to identify the extent of the problem and risk factors.

Sudden unexpected infant death rates decreased in the 1990s during the Back to Sleep campaign, but have remained unchanged since then. It is time for us to address this problem.

H.R. 669 authorizes activities at the Centers for Disease Control to help improve the understanding of stillbirth, sudden unexpected infant death, and sudden unexplained death in children by improving data collection, increasing surveillance strategies, and setting guidelines and protocols for death scene investigations.

I ask my colleagues to support this important piece of legislation, and I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

I rise with great pride to be speaking in support of H.R. 669, the Sudden Unexpected Death Data Enhancement and Awareness Act.

This has been an issue that I have worked on for many years in Congress. In particular, it is one of the many bills that I partnered with my late

friend, Senator Frank Lautenberg. I also want to thank Congressman PETER KING as well, since he worked with me on this.

Stillbirth and unexpected infant death affect tens of thousands of families every year, according to data from CDC, and sudden infant death syndrome is the leading cause of death for infants up to 12 months old. Unfortunately, too many families in this country suffer these tragic events, but what makes matters even worse is their struggle with the process to help find answers.

Currently, there is a lack of comprehensive, high-quality data to best understand why these events occur in the first place. The intent of the bill has always been to better utilize the Federal Government's activities in this area.

Specifically, it would expand and standardize surveillance and data collection for stillbirth and sudden unexpected infant death and sudden unexplained death in childhood at the Centers for Disease Control and Prevention.

In addition, it would improve the development of standard protocols for use in death scene investigations and autopsies surrounding these deaths and also allow the Secretary of HHS to conduct training activities regarding these protocols.

The bill also requires CDC, in consultation with NIH, to submit a report to Congress on current activities related to stillbirth, SUID, and SUDC and evaluate the possibility of expanding programs related to SUDC specifically.

Let me close, Mr. Speaker, by personally thanking Laura Crandall, cofounder and codirector of the CJ Foundation's SUDC program. This issue hits close to home for Laura, but in the face of tragedy, she decided to work to help others who also suffered.

She has been a great advocate for this bill and has spread awareness of SUDC in communities all across the country. I thank her for her strength, determination, and dedication.

Mr. Speaker, this bill isn't everything I think the CDC can be doing to address the needs of families across the country, but it represents a critical step on a very tragic issue that deserves our attention.

I urge my colleagues to support its passage, and I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I urge my colleagues to support the bill, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I rise in support of H.R. 669, the Sudden Unexpected Death Data Enhancement and Awareness Act.

Stillbirths—the loss of a pregnancy after 20 weeks of gestation—occur for approximately 26,000 women in the United States each year. The Centers for Disease Control and Prevention (CDC) estimate there are 4,000 sudden unexplained infant deaths (SUID) in children under age one each year as well. Sudden Unexplained Deaths in Childhood (SUDC) occur in children over the age of 12 months, with an estimated incidence of 1.2 deaths per 100,000 children.

CDC currently oversees a number of initiatives to collect data on these tragic deaths. H.R. 669 would help to improve surveillance on SUID, SUDC, and stillbirths. Improving data on the number and root causes of these unexplained deaths will be a critical step in advancing our efforts to reduce them.

I want to commend the sponsors of this legislation, Ranking Member PALLONE and Congressman KING, for their leadership on this issue. I would also like to thank Chairman UPTON, Chairman PITTS, and all of our staff for helping to bring this bill through the Energy and Commerce Committee and to the floor today.

I support this legislation and urge my colleagues to do the same.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 669, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WAKEFIELD ACT OF 2014

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4290) to amend the Public Health Service Act to reauthorize the Emergency Medical Services for Children Program, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wakefield Act of 2014''.

SEC. 2. REAUTHORIZATION OF EMERGENCY MEDICAL SERVICES FOR CHILDREN PROGRAM.

Section 1910(d) of the Public Health Service Act (42 U.S.C. 300w–9(d)) is amended by striking ''fiscal year 2014'' and inserting ''each of fiscal years 2015 through 2019''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials into the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4290, the Wakefield Act of 2014, introduced by Mr. MATHESON of Utah and Mr. KING of New York.

Children have special health needs, especially in the field of emergency medical services. The emergency and trauma care system has been slow to develop an adequate response to these unique needs.

Some problems are endemic in emergency services, such as fragmentation and poor coordination among pre-hospital services, hospitals, and public health. The problem is worse for children when hospitals lack the appropriate medical personnel, pediatric supplies, or transfer agreements that lead to better care within the golden hour, when chances of survival of an accident are higher.

In 1984, Congress passed the Emergency Medical Services for Children as part of the Preventive Health Amendments of 1984. Last reauthorized in 2010, the program aims to reduce child and youth mortality and morbidity caused by severe illness and trauma.

H.R. 4290 reauthorizes the Emergency Medical Services for Children program through 2019. The program supports education and training of EMS providers and identifies models that can increase pediatric care in rural and tribal communities.

The bill also supports the Pediatric Emergency Care Applied Research Network that facilitates collaborative research on pediatric emergency services.

I ask my colleagues to support emergency medical services for children by voting for this important piece of legislation, and I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4290, the Wakefield Act of 2014, a bill to reauthorize the Emergency Medical Services for Children program.

The Emergency Medical Services for Children program was established 30 years ago. The program includes a number of grant programs to help States to assess and improve pediatric emergency care; improve emergency services for children in rural, tribal, and other communities; and support research in pediatric emergency medicine.

The legislation before us today will reauthorize the Emergency Medical Services for Children program for another 5 years, so that this critical program can continue its lifesaving work.

I want to offer my thanks to Congressman MATHESON and Congressman KING for sponsoring the bill and to Chairman UPTON, Chairman PITTS, Ranking Member WAXMAN, and our staffs for working on this bill in the Energy and Commerce Committee.

I urge Members to support this legislation, and I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield as much time as he may consume to

the gentleman from Utah (Mr. MATHESON), the sponsor of the bill.

Mr. MATHESON. Mr. Speaker, I thank my colleague, Mr. PALLONE, for yielding me the time.

H.R. 4290, the Wakefield Act, will reauthorize the Emergency Medical Services for Children program. For the past 30 years, the Emergency Medical Services for Children program has been the only Federal program focused solely on improving emergency medical care for children and adolescents.

In that time, emergency care has gone from treating critically injured children simply as ''little adults,'' to providing more appropriate and specialized care as children.

The program is focused on ensuring that proper emergency medical care is given to sick or injured children no matter where they live, attend school, or travel.

All States and the territories receive grant funding to educate and train medical professionals in trauma care for children. This funding and training has dramatically increased the quality of care at our Nation's emergency rooms and the quality that first providers provide, and in doing so, it has saved lives.

Allied to this, the program supports the coordination, collaboration, and data analysis of pediatric researchers across the country for the continued advancement of emergency pediatric care, a critical component of the program.

The Emergency Medical Services for Children program has long held bipartisan support in Congress throughout its 30-year history and is certainly worthy of being reauthorized because this is a Federal program that truly works, and it has data to back that up. It has dramatically helped improve the quality of emergency medical care for our children, and this bill will ensure that it continues to do so.

In closing, I want to thank both the minority and majority staffs on the Energy and Commerce Committee for working with my office on this legislation. I particularly want to thank my friend and colleague, Congressman PETER KING, for introducing the bill with me.

I urge my colleagues to support this critical program by voting ''yes'' on H.R. 4290.

Mr. BURGESS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I have no additional speakers at this time.

I urge passage of the bill, and I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I urge my colleagues to support the bill, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I rise in support of H.R. 4290, the Wakefield Act of 2014.

The Emergency Medical Services for Children (EMSC) program aims to reduce the number of deaths of children and adolescents due to severe illness or trauma. This program has funded grants to all fifty states, as well as to institutions of higher learning, to advance pediatric emergency care. It is the only federal program that specifically focuses on improving emergency care for children and adolescents.

The EMSC program was first established in 1984 and last reauthorized in 2010. Today's legislation will once again reauthorize the EMSC program through 2019.

I want to commend the sponsors of this legislation, Congressman MATHESON and Congressman KING, for their leadership on this issue. I would also like to thank Chairman UPTON, Chairman PITTS, Ranking Member PALLONE, and all of our staff for their work in advancing this bill through the Energy and Commerce Committee and bringing it to the floor today.

I support H.R. 4290 and urge my colleagues to do the same.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 4290, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TICK-BORNE DISEASE RESEARCH ACCOUNTABILITY AND TRANSPARENCY ACT OF 2014

Mr. BURGESS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4701) to provide for scientific frameworks with respect to vector-borne diseases, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tick-Borne Disease Research Accountability and Transparency Act of 2014''.

SEC. 2. LYME DISEASE AND OTHER TICK-BORNE DISEASES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

''PART W—LYME DISEASE AND OTHER TICK-BORNE DISEASES

''SEC. 399OO. RESEARCH.

''(a) IN GENERAL.—The Secretary shall conduct or support epidemiological, basic, translational, and clinical research regarding Lyme disease and other tick-borne diseases.

''(b) BIENNIAL REPORTS.—The Secretary shall ensure that each biennial report under section 403 includes information on actions undertaken by the National Institutes of Health to carry out subsection (a) with respect to Lyme disease and other tick-borne diseases, including an assessment of the progress made in improving the outcomes of Lyme disease and such other tick-borne diseases.

''SEC. 399OO–1. WORKING GROUP.

''(a) ESTABLISHMENT.—The Secretary shall establish a permanent working group, to be known as the Interagency Lyme and Tick-Borne Disease Working Group (in this section and section 399OO–2 referred to as the 'Working Group'), to review all efforts within the Department of Health and Human Services concerning Lyme disease and other tick-borne diseases to ensure interagency coordination, minimize overlap, and examine research priorities.

''(b) RESPONSIBILITIES.—The Working Group shall—

''(1) not later than 24 months after the date of enactment of this part, and every 24 months thereafter, develop or update a summary of—

''(A) ongoing Lyme disease and other tick-borne disease research related to causes, prevention, treatment, surveillance, diagnosis, diagnostics, duration of illness, intervention, and access to services and supports for individuals with Lyme disease or other tick-borne diseases;

''(B) advances made pursuant to such research;

''(C) the engagement of the Department of Health and Human Services with persons that participate at the public meetings required by paragraph (5); and

''(D) the comments received by the Working Group at such public meetings and the Secretary's response to such comments;

''(2) ensure that a broad spectrum of scientific viewpoints is represented in each such summary;

''(3) monitor Federal activities with respect to Lyme disease and other tick-borne diseases;

''(4) make recommendations to the Secretary regarding any appropriate changes to such activities; and

''(5) ensure public input by holding annual public meetings that address scientific advances, research questions, surveillance activities, and emerging strains in species of pathogenic organisms.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Working Group shall be composed of a total of 14 members as follows:

''(A) FEDERAL MEMBERS.—Seven Federal members, consisting of one or more representatives of each of—

''(i) the Office of the Assistant Secretary for Health;

''(ii) the Food and Drug Administration;

''(iii) the Centers for Disease Control and Prevention;

''(iv) the National Institutes of Health; and

''(v) such other agencies and offices of the Department of Health and Human Services as the Secretary determines appropriate.

''(B) NON-FEDERAL PUBLIC MEMBERS.—Seven non-Federal public members, consisting of representatives of the following categories:

''(i) Physicians and other medical providers with experience in diagnosing and treating Lyme disease and other tick-borne diseases.

''(ii) Scientists or researchers with expertise.

''(iii) Patients and their family members.

''(iv) Nonprofit organizations that advocate for patients with respect to Lyme disease and other tick-borne diseases.

''(v) Other individuals whose expertise is determined by the Secretary to be beneficial to the functioning of the Working Group.

''(2) APPOINTMENT.—The members of the Working Group shall be appointed by the Secretary, except that of the non-Federal public members under paragraph (1)(B)—

''(A) one shall be appointed by the Speaker of the House of Representatives; and

''(B) one shall be appointed by the Majority Leader of the Senate.

''(3) DIVERSITY OF SCIENTIFIC PERSPECTIVES.—In making appointments under paragraph (2), the Secretary, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall ensure that the non-Federal public members of the Working

Group represent a diversity of scientific perspectives.

''(4) TERMS.—The non-Federal public members of the Working Group shall each be appointed to serve a 4-year term and may be reappointed at the end of such term.

''(d) MEETINGS.—The Working Group shall meet as often as necessary, as determined by the Secretary, but not less than twice each year.

''(e) APPLICABILITY OF FACA.—The Working Group shall be treated as an advisory committee subject to the Federal Advisory Committee Act.

''(f) REPORTING.—Not later than 24 months after the date of enactment of this part, and every 24 months thereafter, the Working Group—

''(1) shall submit a report on its activities, including an up-to-date summary under subsection (b)(1) and any recommendations under subsection (b)(4), to the Secretary, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor and Pensions of the Senate;

''(2) shall make each such report publicly available on the website of the Department of Health and Human Services; and

''(3) shall allow any member of the Working Group to include in any such report minority views.

''SEC. 399OO–2. STRATEGIC PLAN.

''Not later than 3 years after the date of enactment of this section, and every 5 years thereafter, the Secretary shall submit to the Congress a strategic plan, informed by the most recent summary under section 399OO–1(b)(1), for the conduct and support of Lyme disease and tick-borne disease research, including—

''(1) proposed budgetary requirements;

''(2) a plan for improving outcomes of Lyme disease and other tick-borne diseases, including progress related to chronic or persistent symptoms and chronic or persistent infection and co-infections;

''(3) a plan for improving diagnosis, treatment, and prevention;

''(4) appropriate benchmarks to measure progress on achieving the improvements described in paragraphs (2) and (3); and

''(5) a plan to disseminate each summary under section 399OO–1(b)(1) and other relevant information developed by the Working Group to the public, including health care providers, public health departments, and other relevant medical groups.''.

SEC. 3. NO ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

No additional funds are authorized to be appropriated to carry out this Act and the amendment made by this Act, and this Act and such amendment shall be carried out using amounts otherwise available for such purpose.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BURGESS) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BURGESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials into the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4701, the Tick-Borne Disease Research Accountability and Transparency Act of 2014, introduced by CHRIS GIBSON of New York.

Lyme disease is the most commonly reported vector-borne illness in the United States. Prior to 2012, the Centers for Disease Control and Prevention reported about 30,000 new cases each year in the United States, with 95 percent of those cases in 13 States concentrated in the Northeast and upper Midwest.

The Centers for Disease Control now estimates that around 300,000 people in the United States are diagnosed each year with Lyme disease, making it a substantial public health problem.

H.R. 4701 is an important bill that addresses the growing threat of Lyme disease in the United States, it prioritizes Federal research online, and related diseases, and gives patients a seat at the table. The bill would establish a working group at the Department of Health and Human Services that would prepare a report summarizing Federal activities related to Lyme disease, identifying the latest scientific advances and making recommendations to the Secretary and to Congress.

It also ensures that the Federal Government consults with patients and physicians in their work on the disease.

I would like to thank Mr. GIBSON for his hard work and dedication on this issue.

I urge my colleagues to support H.R. 4701, and I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we can all agree that Lyme disease is a concerning public health issue. The CDC estimates there are approximately 300,000 Lyme disease cases each year in the United States.

H.R. 4701, the Tick-Borne Disease Research Accountability and Transparency Act of 2014, creates a new working group to develop a summary of research in advances related to Lyme disease and other tick-borne diseases, monitor Federal activities, and make recommendations to the Secretary of HHS and hold annual public meetings.

I support ensuring that research in the area of Lyme disease is productive and significant. However, there are still a number of other changes that need to be made to this bill, particularly regarding appointments to and responsibilities of the working group.

□ 1800

Additionally, we do not want the resources needed to maintain this working group to take away from the already strained budgets of current Federal research and surveillance efforts related to Lyme disease.

At the full committee markup of H.R. 4701 in July, Chairman UPTON committed to continue to work with myself and other Members to address these concerns before bringing the bill to the floor, and I am disappointed to say that that commitment wasn't honored. While I have reservations about H.R. 4701 in its current form, I would not object to considering it on suspension and advancing the bill here today, but I will continue to advocate for resolving these issues in the bill as it moves forward.

I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. GIBSON).

Mr. GIBSON. Mr. Speaker, I rise today on behalf of thousands of Americans who have been impacted by Lyme disease and tick-borne illnesses each year, including in my district in upstate New York, where this is a public health scourge.

This legislation is truly constituent-driven and represents a significant step forward in what has been an extensive process. For the past few years, I have worked with physicians, patient advocates, professional researchers, and patients and their families throughout New York and the United States on a bill that focuses on solutions.

I am proud to be joined by two of my colleagues who have been national leaders on this issue: CHRIS SMITH of New Jersey is our leader, who has, for several decades, been a tireless advocate for our sufferers, and FRANK WOLF of Virginia, who has added his significant voice to this issue and has also made incredibly meaningful contributions to this bill and the cause. I thank them both.

Likewise, I thank Dr. Richard Horowitz, Pat Smith, David Roth, Jill and Ira Auerbach, Holly Ahern, Chris Fiske, and other Lyme advocate leaders from Pennsylvania and from across the Nation for their significant and persuasive engagement and unyielding commitment to change the direction of U.S. policy to bring solutions and relief for our chronic Lyme sufferers.

Mr. Speaker, I would also like to thank Chairman UPTON, Chairman PITTS, their ranking members, and their dedicated committee staffs. Thank you all for your great work.

In August of 2013, the Centers for Disease Control and Prevention estimated that the number of Americans diagnosed with Lyme disease each year is now over 300,000, while other researchers, such as Holly Ahern, have shown that we are significantly underestimating the cases in the U.S. It is clear that the increase of Lyme disease and other tick-borne diseases is rapidly becoming a public health crisis in the United States. While the CDC, NIH, and other Federal agencies have recognized this threat to public health, regrettably, we have made far too little progress in improving prevention, diagnosis, and treatment.

This legislation before us seeks to make a positive difference, prioritizing and coordinating Federal tick-borne

disease research through an interagency working group made up of relevant Federal agencies as well as non-Federal partners, such as experienced physicians, researchers, patient advocates, and chronic Lyme disease patients themselves.

The working group is tasked with ensuring interagency coordination, accountability, and transparency, minimizing overlap, examining research priorities, and ultimately making policy recommendations. The working group is required to reflect a broad spectrum of scientific viewpoints and ensure patients and their advocates have a seat at the table.

The bill increases oversight and accountability over tick-borne research throughout the relevant Federal agencies, ensuring all stakeholders are situationally aware of all existing research before making policy recommendations.

Importantly, this bill also requires the Secretary of Health and Human Services, informed by the working group report, to submit a strategic plan to Congress to improve patient outcomes to cure our chronic Lyme sufferers. This plan will include benchmarks to measure progress, ultimately ensuring we spend the taxpayer dollars wisely and find solutions and cures that are long overdue.

Finally, this bill is dedicated to those chronic Lyme sufferers out there who have been ill for years, at times seemingly without hope, wondering if anyone in Washington was listening or cared. We hear you. We do care. Today we pass this legislation to help you get better.

I urge my colleagues to support the bill.

Mr. PALLONE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SEAN PATRICK MALONEY), one of the sponsors of the bill.

Mr. SEAN PATRICK MALONEY of New York. Mr. Speaker, I am proud to be one of the sponsors of this bill. I thank the gentleman from New Jersey.

I want to thank my colleague, CHRIS GIBSON from New York. Here we are again. Just a month ago, my colleague Mr. GIBSON and I were working across the aisle to lower energy prices in the Hudson Valley, and here we are working again on an issue of tremendous importance to our region. I support the Tick-Borne Disease Research Accountability and Transparency Act, along with so many others, and I want to acknowledge Mr. GIBSON's leadership on this issue.

I am proud we are working across the aisle, because Lyme disease is an epidemic in the Hudson Valley, and it is hurting our kids, our friends, and our families. It is happening everywhere—on our playgrounds, in our backyards, at parks, picnics, and on trails in the woods. It is the invisible, silent disease that so many find themselves developing—and far too many find out too late. It is now one of the most common and fastest growing infectious diseases in our country. Every year, there are hundreds of thousands of cases nationwide, with 96 percent of those cases in only 13 States.

In New York, thousands of my neighbors in the Hudson Valley are suffering from Lyme disease every day. Four counties in the Hudson Valley, including Dutchess and Putnam Counties, have reported the highest rates of Lyme disease in the entire country. I hear about it everywhere I go.

A man named Alex from Washingtonville told me he has been suffering from Lyme disease for over 35 years. I spoke with a man who has a tree-cutting business in Garrison, New York. He said he has got about 12 guys working for him. I said, How many have got Lyme disease? He said, Every single one. All of my guys have Lyme disease, he said.

A member of my own staff spent a month this summer injecting himself with heavy-duty antibiotics through a catheter that was put into his heart. A member of my own staff had to sit on a couch every day and inject antibiotics into his heart because of this disease. Thank God he caught it in time and will make a full recovery.

I met a woman at an event in Poughkeepsie who came up to me with a cane. She couldn't be more than 30 years old. She was with her husband. She said:

> Our whole lives have been ruined by this disease. My husband and I were just starting our life together. We were going to have a family. We had big plans, and now all we do is deal with this chronic Lyme disease that I have, and I can't get better.

There is a woman named Valerie from Westchester County who wrote to me and says:

> No one listens. I hope you will listen.

Well, we are listening today, Valerie, and I urge my colleagues to listen and pass this critical bill.

This bipartisan legislation makes a landmark investment in Lyme disease and other tick-borne illnesses so that our friends and families in the Hudson Valley no longer have to suffer in silence. When folks are suffering, I guarantee you they aren't thinking, Mr. Speaker, about partisan politics.

There is no Republican or Democratic Lyme disease, and Americans expect us to work together. That is why I am proud we are doing so today. We can stand up. We can stand shoulder-to-shoulder and say the health of our communities is too important to wait. For neighbors like Alex, Valerie, the others I mentioned, and for so many others I have never met, I want you to know we are listening.

I urge my colleagues to support H.R. 4701 because our constituents deserve a government that is working for them and that steps up to the plate when they need it most.

Mr. PALLONE. Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, at this time, I yield the balance of my time to the gentleman from New Jersey (Mr. SMITH), who will provide our closing.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend from Texas, the distinguished subcommittee leader, chair, and doctor.

Mr. Speaker, I rise in very strong support today of the Tick-Borne Disease Research Accountability and Transparency Act of 2014, an historic bill offered by my good friend and distinguished colleague, CHRIS GIBSON.

From all those who suffer from this hideous disease, thank you, CHRIS.

I would also like to extend my very special thanks to Chairmen FRED UPTON and JOE PITTS, as well as their staff, for their tireless efforts to ensure the final bill brought before the floor today establishes a means to address huge gaps that exist and the great unmet need in the Lyme community.

Mr. Speaker, in 1992 I met with the two top medical officials at the National Institutes of Health and the Centers for Disease Control working on Lyme and an extraordinary woman named Pat Smith. We laid out a case. She did most of the talking. They listened. They were responsive. However, 22 years later, far too little has been accomplished.

I raised, as did she, the apparent ineffectiveness of a month-long antibiotic treatment for a sizable percentage of people. The CDC says between 15 to 20 percent of the people suffering from this disease don't seem to get better. We call it chronic Lyme.

Dr. Richard Horowitz notes in his bestselling book, ''Why Can't I Get Better?'':

> A patient's journey typically begins with a primary care physician or a family doctor. A maximum of 30 days of antibiotics is the accepted standard of care for Lyme disease. If patients report back that they are not getting better, they are likely diagnosed as having ''post-Lyme syndrome,'' chronic fatigue syndrome, or fibromyalgia.

He then described how children are treated for other diseases or disorders, and continues:

> This may help some of the symptoms yet fail to address the root problem.

Unfortunately, without better information on chronic Lyme and how to treat it, we will continue to ''fail to address the root of the problem'' and, in so doing, fail to assist patients in need.

Mr. Speaker, I fully understand that there are concerns about the prolonged use of antibiotics. I chair the Global Health Committee and have chaired numerous hearings on multidrug-resistant tuberculosis and many other diseases that increasingly are being treated with antibiotics with less effectiveness. Yet the ISDA, in their final report of the Lyme Disease Review Panel, found:

> There has yet to be a study that demonstrates comparable benefits to prolonged antibiotic therapy beyond 1 month.

There have been far too few studies. There is an engraved invitation. I say to my colleagues, there needs to be those studies. You can fit on half a

page the number of studies that have been done over these many years.

However, in that same report, they went on to say:

This conclusion was reached despite the large volumes of case reports, case series, anecdotes, and patient testimonials reviewed that attest to perceived clinical improvement during antibiotic therapy.

Large volumes are just dismissed and laid aside as if they were trivial. It was dismissed and didn't make it into the final report, except for that sentence.

Dr. Horowitz has said that:

In fact, increasing the dose of antibiotics and/or extending the length of treatment clearly did help a certain percentage of my patients. Their fatigue, headaches, joint and muscle pain, and cognitive symptoms improved.

Among clinicians—and I have met with dozens of them—Dr. Horowitz is not alone at all in those findings.

So, Mr. Speaker, we need scientifically-based answers and a comprehensive probe that goes wherever the data suggests. And this is especially important for my own constituents. In New Jersey, over the last 15 years, about 55,000 people have had cases of Lyme.

This bill before us accelerates the process of helping Lyme patients by establishing an interagency working group on Lyme disease with diverse opinions—which is very important—in a transparent and open manner and creates a strategic plan to guide existing Federal Lyme disease research and treatment programs.

Of particular significance, the House bill that we will vote on today for the first time identifies and seeks to address chronic Lyme disease.

Mr. Speaker, the CDC says:

Approximately 10 to 20 percent of patients treated for Lyme disease with a recommended 2–4 week course of antibiotics will have lingering symptoms of fatigue, pain, or join and muscle aches.

I would respectfully submit that they are symptoms of something that has a root cause.

The CDC refers to chronic Lyme as ''Post-treatment Lyme Disease Syndrome,'' and many people have been dismissed and told, Oh, you are a hypochondriac. And yet there are so many cases, it can't be dismissed.

This bill is a great step forward for chronic Lyme patients, especially those who have suffered for decades with this debilitating disease, again, only to be told that their illness does not exist.

Again, I want to thank my good friend, CHRIS GIBSON, for his leadership and for the leadership of our House Republicans and our friends on the other side of the aisle. This is a bipartisan bill, and I do hope Members will support it robustly.

Mr. BURGESS. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I would like to offer my thoughts on H.R. 4701, the Tick-Borne Disease Research Accountability and Transparency Act of 2014.

H.R. 4701 would create a new working group to review efforts on Lyme disease and other tick-borne diseases within the Department of Health and Human Services. I support efforts to advance research and public input in this area, but I remain concerned that today's legislation is not the best way to advance these goals. Specifically, I have concerns that H.R. 4701 could unnecessarily politicize federal activities on Lyme disease and potentially result in recommendations that are not supported by a strong, scientific evidence base.

I hope that my colleagues in the Senate will take a careful look at H.R. 4701 and make changes to address these concerns before considering it further.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BURGESS) that the House suspend the rules and pass the bill, H.R. 4701, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to provide for research with respect to Lyme disease and other tick-borne diseases, and for other purposes.''

A motion to reconsider was laid on the table.

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ANTI-SPOOFING ACT OF 2014

Mr. BARTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3670) to amend the Communications Act of 1934 to expand and clarify the prohibition on provision of inaccurate caller identification information, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anti-Spoofing Act of 2014''.

SEC. 2. EXPANDING AND CLARIFYING PROHIBITION ON INACCURATE CALLER ID INFORMATION.

(a) COMMUNICATIONS FROM OUTSIDE UNITED STATES.—Section 227(e)(1) of the Communications Act of 1934 (47 U.S.C. 227(e)(1)) is amended by inserting ''or any person outside the United States if the recipient is within the United States,'' after ''United States,''.

(b) TEXT MESSAGING SERVICE.—Section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)) is amended—

(1) in subparagraph (A), by inserting ''(including a text message sent using a text messaging service)'' before the period at the end;

(2) in the first sentence of subparagraph (B), by inserting ''(including a text message sent using a text messaging service)'' before the period at the end; and

(3) by adding at the end the following:

''(D) TEXT MESSAGE.—The term 'text message' means a real-time or near real-time message consisting of text, images, sounds, or other information that is transmitted from or received by a device that is identified as the transmitting or receiving device by means of a telephone number. Such term—

''(i) includes a short message service (SMS) message, an enhanced message service (EMS) message, and a multimedia message service (MMS) message; and

''(ii) does not include a real-time, two-way voice or video communication.

''(E) TEXT MESSAGING SERVICE.—The term 'text messaging service' means a service that permits the transmission or receipt of a text message, including a service provided as part of or in connection with a telecommunications service or an IP-enabled voice service.''.

(c) COVERAGE OF OUTGOING-CALL-ONLY IP-ENABLED VOICE SERVICE.—Section 227(e)(8)(C) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)(C)) is amended by striking ''has the meaning'' and all that follows and inserting ''means the provision of real-time voice communications offered to the public, or such class of users as to be effectively available to the public, transmitted using Internet protocol, or a successor protocol, (whether part of a bundle of services or separately) with interconnection capability such that the service can originate traffic to, or terminate traffic from, the public switched telephone network, or a successor network.''.

(d) REGULATIONS.—

(1) IN GENERAL.—Section 227(e)(3)(A) of the Communications Act of 1934 (47 U.S.C. 227(e)(3)(A)) is amended by striking ''Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission'' and inserting ''The Commission''.

(2) DEADLINE.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 18 months after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 6 months after the date on which the Federal Communications Commission prescribes regulations to implement the amendments made by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Utah (Mr. MATHESON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BARTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous materials in the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. LANCE).

Mr. LANCE. Mr. Speaker, my thanks to Chairman Emeritus BARTON for his leadership on this issue.

Caller ID spoofing is growing at an alarming rate in this country. This new technology allows criminals to falsify deliberately the telephone number and the name relayed on caller ID information to make it appear as though those criminals are calling from our bank or our credit card company, or even from a governmental agency.

Imagine that. I get a telephone call on my cell telephone, and under caller ID, I think it comes from my bank or my credit card company, or even worse, I suppose, from a local governmental agency.

A recent case in New Jersey resulted in a resident's reportedly being scammed out of more than $5,500 by a caller, a criminal, falsely claiming to be a Federal tax agent attempting to collect back taxes.

What a frightening experience for the innocent receiver of that telephone call. According to investigators, the victim's caller ID showed the number of the local police department. This has got to stop.

Today's bipartisan legislation will strengthen and improve the Truth in Caller ID law to help protect consumers in a greater way from scammers, spammers, and unscrupulous telemarketers.

I commend Chairman Emeritus BARTON, of Ennis, Texas, Republican, and Congresswoman GRACE MENG, Democrat, of Queens, New York, for their hard work and leadership on this issue.

I want the American people to know that on the Energy and Commerce Committee, where Chairman BARTON and I serve, more bipartisan legislation is passed out of that committee and reaches the floor of the House, and then goes over to the United States Senate and is passed in the United States Senate and goes to the President of the United States for his signature, than legislation from any other committee of Congress.

Now, much of what we do on the Energy and Commerce Committee does not make the headlines because much of what we do is eminently bipartisan in nature. And that is the history of the committee, the oldest standing committee in the House of Representatives, having first been established in 1795.

That is the tradition of bipartisanship, when the chairman, Mr. BARTON was the chairman of that committee. It continues under the chairmanship of Mr. UPTON of Michigan, and this includes the ranking member, Mr. WAXMAN, and the ranking member of the subcommittee. On both sides of the aisle we have a tradition on Energy and Commerce to make sure that our legislation is bipartisan in nature.

I came to this issue as the result of the nefarious situation in New Jersey. I also came to this issue at the request of Congresswoman MENG of New York City, and I want to thank the Congresswoman for coming to me.

I certainly believe that this legislation is in the interest of the American people. I urge all of my colleagues to vote for this consumer protection legislation.

Mr. MATHESON. Mr. Speaker, I yield myself as much time as I may consume.

I rise today in support of H.R. 3670, the Anti-Spoofing Act. This is a bipartisan, pro-consumer bill that addresses the increasing problem of scam artists faking caller ID information to defraud consumers.

These bad actors scramble or spoof caller identification information for the purpose of impersonating legitimate individuals or institutions such as law enforcement officials or a bank. They then use these fraudulent identities to obtain sensitive personal information from unsuspecting consumers.

Vulnerable populations such as seniors, veterans, and recent immigrants have been especially targeted by these attacks.

The bill makes three important changes to strengthen existing law and protect consumers. First, it broadens current law to address spoofing in the context of international calls.

Second, it changes the definition of Internet Protocol-enabled voice services to cover new forms of technology criminals have employed making Internet-based calls.

Finally, the bill broadens the scope of the existing law to cover text message spoofing.

These changes will make the 2009 enacted Truth in Caller ID Act a more effective tool to combat caller ID spoofing and protect consumers.

Before reserving my time, I do want to commend Congresswoman MENG for her work on this issue. I want to commend Mr. LANCE, and I want to also congratulate Congressman BARTON for working together on this commonsense bill.

Not only does the legislation enjoy bipartisan support in the House, but the sponsors have also worked very closely with Federal agencies and industry stakeholders and consumer groups to develop true consensus around this proposed legislation. This is the way this institution ought to work.

I urge my colleagues to join me and support H.R. 3670, and I reserve the balance of my time.

Mr. BARTON. Mr. Speaker, I am the only other speaker left on my side, and I reserve the right to close. So I would yield to the gentleman from Utah or the gentlelady from New York if they wish to speak.

Mr. MATHESON. Mr. Speaker, I have one more speaker, and I yield as much time as she may consume to the gentlewoman from New York (Ms. MENG).

Ms. MENG. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 3670, the Anti-Spoofing Act, which I authored along with Congressman BARTON and Congressman LANCE.

The bill addresses the problem of caller ID spoofing, which is the scrambling of caller identification numbers. It is a tool often used to defraud unwitting recipients of phone calls and text messages.

It is often stated that a measure of a society is how it treats its most vulnerable. Almost every day, I receive new reports of caller ID spoofing that harms the most vulnerable in our society. Immigrants, seniors, veterans, and those in need of help from law enforcement are all primary victims here. That is why this bill is endorsed by senior citizen groups, law enforcement groups, and consumer protection groups.

Shortly after entering Congress, I pursued this issue because of complaints from a local civic organization and seniors in my district. But I quickly realized it is affecting Americans in all corners of our country, in all of our districts.

I think the fact that this is plaguing so many of our communities is a big reason why we have so much bipartisan support here for this bill.

H.R. 3670 is an update to the Truth in Caller ID Act of 2009. That legislation first criminalized malicious caller ID spoofing. But since the passage of that law, scammers have used legal loopholes and new technologies to circumvent it, thus, malicious caller ID spoofing is on the rapid rise again.

So it is time to strengthen and tighten existing law and shut down the routes by which it is being circumvented, and that is what our bill does. H.R. 3670 sets forth three important changes to current law.

Number one, the bill broadens current law to prohibit caller ID spoofing from foreigners. This is crucial because U.S.-based companies now spoof calls to U.S. residents with intent to do harm, but originate such calls from outside of the United States.

Number two, the bill broadens current law to include new Internet-based Voice Over IP services that enable callers to make outgoing only calls from computers and tablets to mobile and landline phones. This is a technology that was undeveloped in 2009 when the Truth in Caller ID Act was adopted and, therefore, unaccounted for in the law. But it has now grown and has contributed significantly to the caller ID spoofing problem.

Number three, finally, our bill broadens current law to include text messaging.

In closing, I would like to thank Mr. BARTON and Mr. LANCE for working with me to write this bill, Chairmen UPTON and WALDEN and Ranking Members WAXMAN and ESHOO for all their guidance and leadership, the Communications and Technology Subcommittee members, most of whom gave this bill great time and support, and all the other cosponsors.

I would also like to thank the committee and personal staffs for all of their hard work.

I urge a ''yes'' vote for H.R. 3670.

Mr. MATHESON. Mr. Speaker, I yield back the balance of my time.

Mr. BARTON. Mr. Speaker, the Congress is not spoofing when we say we are going to do something about those individuals that do try to spoof the American public.

As has been pointed out, we passed a law back in, actually, it was the 2009 act, but we passed it in 2010, the Truth in Caller ID Act, to mitigate the effects of caller spoofing.

As you well know, you look on your caller ID and you see that an innocent or innocuous individual or company is calling you, as has been pointed out. It could be the police department, could

be the Pizza Hut, could be almost anything, so you take the call and that is not what it is. In many cases they are trying to defraud our elderly in some scam or something like this. So we passed a law that we thought would handle it. But it needs to be updated, and that is what this bill does.

As has been pointed out, it makes it illegal to initiate these calls from outside the United States. It makes it illegal to do it over the Internet with a Voice Over Internet Protocol-based system. And it also broadens the jurisdiction to include text messaging.

As we well know, Mr. Speaker, text messaging is ubiquitous now on our Blackberrys and our iPads and iPhones and all of our personal telecommunication devices.

This bill has bipartisan support. The subcommittee chairman, Mr. WALDEN, is an original cosponsor. The subcommittee ranking member, Ms. ESHOO of California, is a cosponsor. Chairman Emeritus on the Democratic side JOHN DINGELL is a cosponsor. I am an original sponsor.

So this is one of these instances, Mr. Speaker, that Republicans and Democrats are united. Chairman UPTON, the full committee chairman, and Mr. WAXMAN, the full committee ranking member, are totally supportive.

□ 1830

There is every indication that, if this body passes this bill this evening, it will go to the other body, the United States Senate, and we fully expect it to pass it. This is one of those rare birds in this Congress that might actually be signed by the President of the United States.

There is no known opposition to the bill. Our stakeholders, as Mr. MATHESON has pointed out, support it. Google supports it. The FCC supports it. AT&T, CTIA, Microsoft, USTelecom, Vonage, Verizon, and AARP are just some of the more popularly known stakeholders that support the bill.

So I rise in strong support, Mr. Speaker, that we unanimously pass H.R. 3670, the Anti-Spoofing Act of 2013, and send it to the Senate for its consideration.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3670, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ENHANCE LABELING, ACCESSING, AND BRANDING OF ELECTRONIC LICENSES ACT OF 2014

Mr. LATTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5161) to promote the non-exclusive use of electronic labeling for devices licensed by the Federal Communications Commission.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014'' or the ''E-LABEL Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal Communications Commission (referred to in this section as the ''Commission'') first standardized physical labels for licensed products such as computers, phones, and other electronic devices in 1973, and the Commission has continually refined physical label requirements over time.

(2) As devices become smaller, compliance with physical label requirements can become more difficult and costly.

(3) Many manufacturers and consumers of licensed devices in the United States would prefer to have the option to provide or receive important Commission labeling information digitally on the screen of the device, at the discretion of the user.

(4) An electronic labeling option would give flexibility to manufacturers in meeting labeling requirements.

SEC. 3. AUTHORIZATION FOR FEDERAL COMMUNICATIONS COMMISSION TO ALLOW ELECTRONIC LABELING.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following:

''SEC. 720. OPTIONAL ELECTRONIC LABELING OF COMMUNICATIONS EQUIPMENT.

''(a) DEFINITIONS.—In this section—

''(1) the term 'electronic labeling' means displaying required labeling and regulatory information electronically; and

''(2) the term 'radiofrequency device with display' means any equipment or device that—

''(A) is required under regulations of the Commission to be authorized by the Commission before the equipment or device may be marketed or sold within the United States; and

''(B) has the capability to digitally display required labeling and regulatory information.

''(b) REQUIREMENT TO PROMULGATE REGULATIONS FOR ELECTRONIC LABELING.—Not later than 9 months after the date of enactment of the Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014, the Commission shall promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling for the equipment in place of affixing physical labels to the equipment.''.

SEC. 4. SAVINGS CLAUSE.

The amendment made by section 3 shall not be construed to affect the authority of the Federal Communications Commission under section 302 of the Communications Act of 1934 (47 U.S.C. 302a) to provide for electronic labeling of devices.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATTA) and the gentleman from Utah (Mr. MATHESON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. LATTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to insert extraneous material in the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5161, the E-LABEL Act. This legislation that I introduced is a bipartisan and bicameral measure that marks an important step forward in modernizing our laws to reflects today's information and communications technology marketplace.

Over the past 20 years, there has been tremendous growth and innovation in both the communications and manufacturing industries. Smartphones, tablets, and other revolutionary devices come equipped with functionalities we could only imagine just a short time ago. In the midst of this innovation era, it is critical that our laws recognize these advancements and are updated to foster continued investment and opportunities for future development. The E-LABEL Act will facilitate this effort.

The E-LABEL Act establishes a timeline for the FCC to move forward with a rulemaking to permit the use of electronic labels instead of physical labels to certify that devices with screens have been approved for commercial use. Not only will this give manufacturers greater flexibility to design innovative products that consumers demand, but by some estimates, e-labeling will save manufacturers over $80 million a year. Consumers will also benefit from efficiencies created by e-labeling. E-labeling can expand consumer access to relevant device information and enhance the overall quality and availability of equipment identification records through supporting software. The E-LABEL Act represents good policy for both manufacturers and consumers and should be advanced without delay.

I thank Ranking Member ESHOO, Congressman WELCH, and Congresswoman BLACKBURN for their support on this measure. I also thank Chairmen UPTON and WALDEN for their continued support and leadership in modernizing our communication laws for the digital age. I urge my colleagues to support this bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MATHESON. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5161, the E-LABEL Act.

This bipartisan bill will modernize the Federal Communications Commission's device certification rules by eliminating the requirement for device manufacturers to include etched labels on the outside body of each electronic

device. Instead, device manufacturers will have the flexibility to display FCC certification information through software on device screens.

There are numerous potential benefits to e-labeling. For example, e-labels can provide more information to consumers than is conveyed today, such as details regarding the device warranties, recycling, and trade-in opportunities. E-labeling will also lower production costs for device manufacturers since affixing labels to a device can require significant design time and expensive equipment.

I would also note that we should commend FCC Chairman Wheeler and his staff in the Office of Engineering and Technology for recently taking steps to update the Commission's e-labeling policies.

By working together with the FCC, we can provide innovators with more flexibility and speed the delivery of new devices in the marketplace.

I want to thank my colleague, Mr. LATTA, for his leadership on this issue, and I urge my colleagues to join me in the support of H.R. 5161, the E-LABEL Act.

Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I would urge the House to support this legislation.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARTON). The question is on the motion offered by the gentleman from Ohio (Mr. LATTA) that the House suspend the rules and pass the bill, H.R. 5161.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

ISLAMIC JIHAD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2013, the gentlewoman from Minnesota (Mrs. BACHMANN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BACHMANN. Mr. Speaker, I am so profoundly grateful to be able to stand in the well of the United States House of Representatives. There is no greater bastion for free speech than here in this House. What a wonderful gift this is, not only just for people here in the United States, but also for people around the world.

There is one thing that we have learned from Tiananmen Square, and I had the privilege in August of being able to travel to China and visit and stand in the midst of Tiananmen Square, where people from around China had come to take a stand for speech. If we remember from that infamous photo that was taken, one very brave student held up a copy of a little pamphlet in front of a tank when a tank was going to run this student over. The document that the student held up was a copy of the United States Declaration of Independence, as he spoke about freedom and what freedom meant to him.

You see, Mr. Speaker, we have always been in this country—this is a standard-bearer for liberty, a standard-bearer for freedom and a standard-bearer for the expression of free speech rights. That is why we take this opportunity so seriously to be able to keep safe this ability, to be able to speak out on the issues of the day.

If there is anything that has captured America's attention with horror, I believe, especially over these summer months as the United States Congress had taken a recess—the Members of the House of Representatives and of the United States Senate had gone back into their districts, and they had met with people on the ground who allowed them to come and serve here in this Congress—it is, when they went home, they also saw on their televisions at night a fairly horrific sight, something that we thank God with everything within our beings that we don't see frequently here in the United States. It was terrorism—and terrorism on a level that we were unfamiliar with and hadn't seen before.

We heard of a group named ISIS, and we saw they had continued to make wild gains both in Iraq and in Syria, so much so that they were robbing banks to fill their own pockets. Then they began to steal oilfields and take those oilfields over. Then they took over oil refineries. Then they began to take over electric grids. Then, with just seemingly very few men, they took over entire cities. In fact, we were shocked when the city of Mosul, which is the ancient city of Nineveh—the prophet Jonah was sent to the city of Nineveh, where he preached to the city, and the Holy Bible records that the entire city repented and turned to God. That ancient city is the modern day city of Mosul in northern Iraq. That was the city that the leader of the Islamic State—the jihadists that we have seen every night on our national news programs—chose to come against. That particular city had a population of well over a million people, and some estimate there were 1.7 million people.

Mr. Speaker, at this time, I would be more than delighted to yield to the wonderful gentlewoman from the great State of North Carolina, Ms. VIRGINIA FOXX.

RECOGNIZING CHILDRESS INSTITUTE FOR PEDIATRIC TRAUMA

Ms. FOXX. I want to thank the gentlewoman from Minnesota for yielding. I know she has an important message to bring tonight, and I appreciate her sharing a little of her time with me.

Mr. Speaker, at a recent event, I had the privilege of learning more about a remarkable organization in Winston-Salem, North Carolina—the Childress Institute for Pediatric Trauma at Wake Forest Baptist Medical Center. The institute was established due to the leadership and generous financial support of Richard and Judy Childress, who saw that, while trauma was taking the lives of thousands of children every year, pediatric trauma was not a focus of medical research.

In 2010, according to the Centers for Disease Control, pediatric trauma took the lives of 9,523 children, making it the largest cause of childhood death by a significant margin. As a comparison, cancer, heart disease, and birth defects combined take the lives of about 3,300 children every year. Tragically, 3,300 is a very similar number of children who were killed in 2010 due to traumatic injury from child abuse. An additional 6,190 children died that year from unintentional traumatic injuries. A full 52 percent of those injuries were caused by vehicle accidents, followed by drowning, poisoning, fire, guns, and falls. In addition to the nearly 10,000 fatalities, another 175,000 children were hospitalized due to injuries.

Dr. C. Everett Koop, who served as U.S. Surgeon General under President Reagan, once said: "If a disease were killing our children in the proportions that injuries are, people would be outraged and demand that this killer be stopped."

Despite trauma being the overwhelming cause of childhood death, the Federal Government spends only about 1 cent on pediatric trauma research for every dollar spent to study pediatric cancer.

The Childress Institute has been working to pick up where Federal dollars have dropped off. The institute uses its resources for research, education, and awareness about pediatric trauma and to improve the treatment for critically injured children in the U.S.

Mr. Speaker, Richard Childress is a lifelong resident of the Winston-Salem area, and is a NASCAR pioneer. Richard and his wife, Judy, are civic and philanthropic leaders in the community. Through their determination to fight the number one cause of pediatric death, children worldwide are benefiting from the generosity that those of us in North Carolina have long witnessed.

□ 1845

The remarkable people of the Childress Institute for Pediatric Trauma work tirelessly to discover and share the best ways to prevent injuries and treat severely injured children, with the ultimate goal of ensuring that all "injured kids get the best care when they need it the most."

Today, I thank Richard and Judy Childress for their foresight and generosity, and I thank the Wake Forest Baptist Medical Center in Winston-Salem for its expertise and dedication to this mission.

Finally, I want to recognize the dedicated men and women of the Childress

Institute for Pediatric Trauma for working every day to keep our children safe and to help them recover when they get hurt.

Again, Mr. Speaker, I want to thank the gentlewoman from Minnesota for so graciously yielding to me this evening.

Mrs. BACHMANN. Mr. Speaker, I also want to give words of praise for the gentlewoman from North Carolina, Ms. VIRGINIA FOXX. She is a stalwart on almost every topic and every subject that there is in this Chamber.

She is one of the few women that you will regularly see here almost on a daily basis, taking the debate to the American people, so that they can understand that our society can be in conformity with what the creators of this society wanted, a place that was, first of all, peaceful, a place that would be welcoming, and a nation that would allow everyone who comes here to realize their dreams in a way that would even stretch their own imaginations. She has been a stalwart, and that is Ms. VIRGINIA FOXX, and I am grateful that she was able to come and speak here this evening.

I would like to be able to continue, Mr. Speaker, with this important topic because, again, these are extraordinary times and extraordinary days that we live in. As we all know from the news reports, the President of the United States, tomorrow night, will be addressing the Nation on the topic of Islamic jihad, particularly the Islamic State, as they call themselves today.

Some people may know them as ISIS or ISIL. They call themselves the Islamic State. The President will be talking about this threat, and I think that the country is anxious to hear what the President of the United States will say.

I serve on the Intelligence Committee. It is a privilege to serve on the Intelligence Committee. It is a fairly small committee. We deal with the classified secrets of our Nation. We also deal primarily with terrorism and how to keep the Nation safe, and as a member of that committee, we have watched this group called the Islamic State form.

We have watched it for well over 2 years because what we are seeing, Mr. Speaker, is nothing new. It is a continuation of the concept known as Islamic jihad.

While maybe this is a new name and this is a new format, the Islamic State, it is merely a continuation of a phenomenon that began in 700 A.D. under the prophet Muhammad who took the sword and violently attempted to convert people to his religion to various villages, whether it was Mecca or Medina, he used the sword to violently force individuals to convert to Islam.

That attempted conversion has continued from 700 A.D. forward, and so what we are seeing today is the Islamic jihad, the continuation, and it is also at its root a religious war.

While sitting on the Intelligence Committee, watching the rise of the Islamic jihad, we learned and studied about who this leader of the Islamic jihad is. His name is Baghdadi. He is about 43 years old. He is very well-educated. He has a doctorate degree.

He has been involved in al Qaeda as a senior member for decades. So, again, this is not a new individual. This is not a brandnew thought or a brandnew concept. This is an individual who has dedicated his life to jihad. His name, again, is Baghdadi.

As we watched Baghdadi and his rise, something stunned me, and I hope that everyone in the United States understands this one concept: we, in the United States, had intercepted Baghdadi, the current head of the Islamic State. We had Baghdadi in United States custody. We had him in custody in Iraq, the country where he was born, and he was in a United States detention center.

The reason why he was in detention is because he was a terrorist committing terrorist acts, and he was committed to pursuing terrorist goals. We had him in detention, and President Obama chose in 2009 to release Baghdadi from detention in Iraq. He was set free.

Now, was Baghdadi rehabilitated? Had we confirmed that he had renounced Islamic jihad, that he had renounced acts of terror, that he was no longer going to pick up the sword and force people at the threat of their life or beheadings to convert to Islam?

That wasn't it at all. As a matter of fact, at the moment when the United States released Baghdadi from the United States prison, Camp Bucca in Iraq, at that moment, Baghdadi said to his jailer, ''I will see you in New York.''

That should have been a tipoff right there and then that we should have nabbed him and held him and retained him in detention. This was not a good candidate for release.

Today, Baghdadi is the head of the Islamic State in Iraq and Syria and the self-appointed caliph of the new caliphate. He reconstituted al Qaeda in Iraq. As a matter of fact, the very first franchise or affiliate of al Qaeda was located in Iraq. Baghdadi himself was the number three in the organization.

We in the United States took out and killed the number one and the number two in al Qaeda of Iraq. Baghdadi was number three. He was ready to move up, obviously, to be the number one of al Qaeda in Iraq, but he didn't have the opportunity.

He didn't have the opportunity when he was in detention in 2009. He had to look for his opportunity and reconstitute himself and his organization and build an organization, which he did. He began in 2009, and he began with what he called ''break the walls''—that was his name, a ''break the walls'' strategy.

It was a campaign whereby he opened prison doors all across northern Iraq, and he released terrorists from prisons, so these are prisoners that we captured—the United States—or that the Iraqi forces working with the United States had captured.

So terrorists who are behind bars in jail in Iraq in pursuit of the Islamic jihad were behind bars, and the one man that President Obama released from jail in Iraq went to the other prisons and opened the prison doors and began forming his army, and his army was formed with convicted Islamic jihadist terrorists.

He broke open so many jails, and he again then recruited other terrorists from the region that today Baghdadi has an army—a brutal, savage, animalistic army of 12,000 individuals who are so brutal.

We heard the reports that they literally buried alive innocent women and children in northern Iraq. They chased families up a mountain, Mount Sinjar, the Yazidis. The Yazidis were a peace-loving people, but they were considered devil worshippers by Baghdadi and his band of the Islamic State. They couldn't have that, so they chased these people.

One and two and then 10 and then 100 and then thousands of Yazidis were killed by these barbarians and the Islamic State. They died of thirst. They died of hunger. They died of beheadings.

Men were separated from women. Women were raped. Women were carried away and kidnapped. They were forced into sexual slavery to serve the animals who had beheaded their husbands and their sons. Literally, hundreds of men were taken away and beheaded by the Islamic State, led by Baghdadi, the man who had been released from prison by President Obama.

I wonder if President Obama will have something to say about his decision to release Baghdadi when he addresses the Nation tomorrow night. Clearly, this was a mistake that never should have happened.

Well, once Baghdadi had his terrorists released from prison, they began a wave of car bombings across Iraq. As Baghdadi reconstituted his Army in 2010 and 2011, he began his strategy. His outward strategy was a series of nationwide car bombings in 2011 and 2013 all across Iraq.

He destabilized Iraq and destabilized the Government of Iraq and destabilized the Army of Iraq to the point where they were more and more fearful of the Islamic State and what they were intending to do.

So bold did Baghdadi become that his aim was not simply on Iraq and on Syria or just on Gaza or just on Israel or on Jordan or on Turkey or on Lebanon. He gave a speech in January of this year, 2014.

In this speech, Baghdadi spoke to America. This is what he had to say to America—the leader of ISIS—''Soon we'll be in direct confrontation, so watch out for us, for we are with you, watching.''

I repeat, ''Soon we'll be in direct confrontation, so watch out for us, for we are with you, watching.''

They posted a picture of the al Qaeda flag—the black flag—flying over the White House. They have intentions, all right. Their intentions are not just in the Middle East. Their intentions are terrorist activity also in Western Europe and also in the United States of America.

Why? They tell us what their goal is. Their goal is to force the peoples of Western Europe and to force the peoples of the United States of America to convert to Islam at the tip of a sword, whatever it takes.

You see, we are in the shadow of the 13th anniversary of the horrific tragedy of 9/11, when we saw what 19 committed Islamic jihadists can achieve with an airline ticket in one hand and a box cutter in another.

They drove the planes on that morning of September 11 directly into tower number one and tower number two in New York City. They felled the towers, and 3,000 innocents died.

They also took off in a jet here in this city, from the airport in this city. That airplane went directly into the Pentagon, and more hundreds of innocents died, and that wasn't alone. Another jet took off.

No one knows if that jet was intended to come into this building, if they were targeting this very well, 13 years ago. Were they targeting this well, this rotunda, the Capitol? Were they targeting the White House?

We will never know. We will never know because the brave Americans on Flight 93 infamously said, ''Let's roll.'' They were the first resistance that day, the first American resistance to push back and say, ''Not in my Nation, you don't.''

We owe a tremendous debt of gratitude to those Americans who said, who realized through phone calls with their loved ones, when they tragically picked up the phone and found out the horrifying news of what had happened in New York City to the World Trade towers, of what had happened to the Pentagon, and they knew very likely that the plane that they were on could be carrying them also on a nefarious mission, and to the point of losing their own lives, they stood up and said, ''This is our last chance, but we're not going to sit here, we're going to fight back,'' and they did. They fought back. They lost their lives that day.

□ 1900

They lost their lives that day, but they saved that jet from being used as a missile on another target.

You see, Americans and America didn't wait. We didn't wait to be defeated by this evil philosophy and this evil enemy. Brave Americans stood up that day and said, ''No more.'' And the question we have is: Do we hear their voices? Do we still hear their voices? Is there bravery yet among us today to heed their call? Because, you see, the Islamic jihadists haven't changed. They haven't deviated in their intent. They haven't deviated in their ultimate goal, which is to spread their caliphate across the entire world, not just in Iraq, not just in Syria, but across the entire world, including the United States of America.

We saw what they did in Benghazi 2 years ago, almost to the day, again on September 11, when Islamic jihadists targeted the American consulate. They not only burned it down, but they also took the life—for the first time in 30 years, we lost an American Ambassador, Chris Stevens. What is so shameful is that 2 years later Libya is in absolute chaos today. Just in the last month, we saw Islamic jihadists take over the airfield in Tripoli.

I was in Tripoli earlier this year. I had visited the American Embassy earlier this year. I went outside and observed a moment of silence in front of the memorial recognizing our Ambassador, Chris Stevens. It is right outside, between the Embassy and the swimming pool at the Embassy. And shamefully, about a week, 2 weeks ago, we saw Islamic jihadists had so pressurized our Embassy that the people in our Embassy wisely abandoned the Embassy and took off for Tunisia and escaped out of Libya with their lives, thank God.

The Islamic jihadists, the terrorists, came into the United States Embassy and took over and had a party in our Embassy and made a video that they posted on YouTube that had them standing on the second-floor balcony at the Embassy, jumping joyfully into the swimming pool, splashing in the swimming pool, mere yards from the memorial to our killed Ambassador, Chris Stevens.

You see, we are not winning the war against Islamic jihad. Our President infamously told us in the runup to his reelection in 2012 that al Qaeda was defeated. Core al Qaeda was nearly gone; it was defeated. Al Qaeda was on the run, our President assured us. I only wish our President would have been right.

Sitting on the Intelligence Committee, I knew without a shadow of a doubt what our President was saying in 2012 was absolutely wrong. It wasn't true. I knew al Qaeda wasn't defeated. I knew that al Qaeda across the world was continuing to gain traction. We knew that. And yet we were told that, with the death of bin Laden, all had been solved. Thank you very much. Tragically, nothing could be further from the truth.

Tragically, James Foley, the United States photojournalist who was beheaded by ISIS, knew that that wasn't true, as well as Steven Sotloff, the other United States journalist who also was beheaded by the Islamic State.

You see, actions have consequences; ideas have consequences. And when the decision was made by President Obama of releasing Baghdadi from the United States detention center for whatever reason, that has had profound consequences. Ask the thousands of Iraqis who are now dead. Ask the thousands of Yazidis who are dead and displaced. Ask the hundreds and maybe thousands of women who have been raped and violated, and young girls, those in Syria who have had to deal with the same. The tragic consequences are being felt even here in the United States.

Then we watched, with startling speed, the bank robberies that occurred when Baghdadi had to find a source of income and revenue to run the Islamic State. He did that by robbing banks. There are various reports. Some reports say that he stole over $400 million, some say over $100 million, others say various amounts. The fact is now we had an Islamic jihadist who could support himself through bank robberies. But he didn't stop there. He knew that that wouldn't be enough to accomplish the dreams that he had to establish a global Islamic State.

And so, besides robbing banks, besides reconstituting an army, he decided that he would also take over oilfields in the Kurdistan area of northern Iraq. He took over the oilfield. Some reports say that he sells on the black market oil that comes in at potentially $1 million a day; other open-source documents say other amounts. But the fact is we have the Islamic State supporting itself by selling oil on the black market, and that oil goes to fund terrorism.

He also didn't stop there. Baghdadi also was strategic and he took over an oil refinery, the oil refinery which supplies the energy to the Islamic State to run their vehicles, their airplanes, whatever it is that they need energy for.

They also took over an electric grid so that they could have electricity. They didn't take over every village; they didn't need to. They could cause them to fall through intimidation, just as they did in Mosul, and that is what was stunning.

Imagine you have got an army estimated to be somewhere in the neighborhood of 10,000 to 12,000, and you can take over a city of 1.7 million, just one. You see, that is what terrorism does. It so intimidates people that live in the community that they decide, We can't win; we aren't even going to try.

That is why the United States can't stay silent. That is why we must stand and act and recognize. We are at war. We are at war because the Islamic State has declared war against the United States, Western Europe. They declared war on anyone who isn't them. But they have been very clear about declaring war against the United States.

The Islamic State also made another strategic capture. They captured air bases, Iraqi air bases. And when they did that, they captured United States equipment. So the Islamic jihad is fighting with the latest United States equipment.

They reportedly have United States helicopters, United States planes. They reportedly have United States weaponry and United States ammunition.

They also have uniforms that they captured from the Iraqi forces. They captured Humvees, armaments, the oilfields. They also captured natural gasfields in central Syria.

Well, this spring as I was watching this occur, I am from the State of Minnesota, and unfortunately Minnesota has a very long connection to terrorism. I went to the FBI earlier this summer, and I asked the FBI for a private classified meeting. I asked the FBI if there were any Minnesotans that had joined the Islamic State and had traveled to the Middle East to fight on their behalf. They told me at that time the information was classified. It no longer is. The FBI told me that there were two Minnesotans who had traveled and joined the Islamic State.

So I had asked the obvious question, which was: If they are not killed in that battle, and if they choose to come back to the United States—we know who they are; we know what they have done—will they be allowed to come back into the United States? And I was told, Yes, they will. They are American citizens. They have passports. We can't stop them from coming into the United States.

I was floored. Here we are trying to track down and murder terrorists in Afghanistan. We have American citizens who have left the United States and who have joined with the Islamic State—and, by the way, the creed of the Islamic State says, when you join the Islamic State, you have renounced every other form of government and you are now submitting to the government of the Islamic State. How is it that that individual then would be able to come in?

The FBI said, Well, we put those individuals on a watch list and we give them further screening at the airport. I asked, What you do mean, further screening? They said, Well, we ask them questions.

And then they are allowed to get on a plane and then they are allowed to come into the United States and travel freely?

Yes, they are.

That floored me. I thought that couldn't possibly be. And then we saw the events transpire this summer. And tragically, we saw the very first American who was killed fighting for the Islamists, the Islamic State, was a Minnesotan. His name was Doug McCain, from Minnesota, from the Twin Cities suburban area. He was an African American youth from Chicago. He had come with his family to Minnesota, where had he been converted to Islam and radicalized in the Twin Cities and became a fighter for the Islamic State. He was the first American.

Very shortly thereafter, a second American was reported to have been killed fighting for the Islamic State—in the same battle. That was also a Minnesotan, another young man, who was a Somali American. Minnesota has the largest Somali population in the world outside of Somalia. And that Somali man traveled over as well.

And so had these two individuals, had they been in the war with the Islamic State and, rather than getting killed decided to come back, they would not have been impeded by the United States Government from coming back.

Now, think of this. Here you have individuals who have given their allegiance to the Islamic State—oh, and by the way, one of their friends from high school was killed in 2009. He also was fighting in the Middle East in Islamic jihad. His name was Troy Kastigar. And Troy Kastigar was featured in a video, a recruitment video, inviting more Americans to come and join Islamic jihad.

Troy Kastigar said that he was glad—I am paraphrasing—he was glad to be a traitor to America. And yet, under our current law, Troy Kastigar can be a killer and fight against the interests of the United States and travel to the Middle East, be a terrorist, and then freely come back to the United States with battlefield experience, maybe a plan for terrorism in the United States, and he can roam freely in this country?

There is something seriously wrong here, Mr. Speaker, something very seriously wrong. Have we completely lost our minds that we wouldn't even prevent a terrorist, a known, avowed terrorist from returning to the United States where he could carry out terrorist activity here in the United States?

You see, we think that things have been fairly peaceful, but at a minimum, there have been 53 different terrorist plots that our government has stopped. We have foiled 53 plots, at minimum, since 2001, since the terrorist activity.

We didn't foil all of them. We didn't foil the Islamic jihadists in Arkansas who killed a United States soldier. And this individual also had been converted to Islam and killed the soldier who was at a recruiting station, I believe an Army recruiting station. We didn't stop the two refugees who were in Boston, the Tsarnaev brothers, at the Boston Marathon bombing.

Despite the fact that our FBI was given a cable from the Russian FSB—that is their intelligence service. They gave a cable to our FBI that it appeared that the Tsarnaev brothers had—there was a question of terrorist involvement and terrorist activity. The Tsarnaev brothers weren't stopped, and people, tragically, were hurt during the Boston Marathon bombing.

So we have seen those attempts, as we also saw another attempt of the infamous Christmas Day underwear bomber, who had left London, headed to Minneapolis, Minnesota, with the express intention of blowing himself up as a suicide bomber with a concoction that someone had put together for him, and he attempted to blow up the plane. At that time, it was Northwest Airlines, the precursor to today's Delta Air Lines. He tried to blow himself up over the city of Detroit, but thank God he was unsuccessful. Again, it was yet one more plot here in the United States.

And there were more. There were attempts on one of our former President's life, George W. Bush, at his home. There have been other plots as well. Thank God we have foiled so many of them. But what that should speak to us, Mr. Speaker, is that the problem isn't just in the Middle East.

□ 1915

The problem is here in the United States, and that is why we have to act now. We have to act forward thinking so we don't allow them to reach their goals. Well, I went to the FBI, and I asked them this question. Again, I was shocked at the answer.

Earlier this week, Mr. Speaker, I introduced a bill in the United States Congress. It is gaining a fair amount of traction with both Democrats and Republicans. It essentially says this: If you are an American citizen, and if you have gone to join ISIS, a foreign terrorist organization, and you want to return to the United States, your passport will be taken from you, and you will begin the process of denaturalization. In other words, we will do everything within our power to prevent you from coming back into this United States. You can try to come in—and, unfortunately, too many try to come in through our southern border—but we are going to try and make sure that you are not successful. My bill is called the Terrorist Denaturalization and Passport Revocation Act to amend section 349(a) of the United States Code.

Well, not only that, from Minnesota, the FBI estimates we have at least 20 Somali Americans from Minnesota that have left our State and have traveled to the Middle East to join the Islamic jihad. Just last week, a 19-year-old Somali American woman left St. Paul to join the Islamic jihad. What I am told is that all three of the women that have gone to join from the United States are from the State of Minnesota. They are continuing to recruit.

Our southern border remains, for all practical purposes, wide open so foreign nationals can cross into the United States. Again, it is not the fault of the Border Patrol. I actually naively thought on my visit about 6 weeks ago to our southern border that the Border Patrol actually stops foreign nationals from coming in. I thought they did. I was shocked to find out that the Border Patrol doesn't stop anyone. Nearly 100 percent of foreign nationals who want to come into the United States through our southern border come in. They come in. The Border Patrol is a people processing pipeline. So they come in. They may not all get to stay, but they certainly all do come in. Again, that is not the fault of the Border Patrol. That is the fault of politicians who haven't made the decision to actually secure America's southern

border and to set up the police, to set up the law enforcement to make that happen, and also to instantaneously deport foreign nationals back across the border. I was told, as a matter of fact, if I didn't mention it before, that foreign nationals from over 140 countries have already made their way into the United States just so far this year.

We have a lot on our plate right now, Mr. Speaker, a lot that we have to pay attention to. The United States could have stopped them in the cradle, and they weren't. They could have been stopped before they were reconstituted. The President could have retained Baghdadi in the United States detention system. We wouldn't have had the beheadings that we saw of James Foley or of Steve Sotloff, and hundreds of thousands of innocent people wouldn't be dead today had the President made that decision, but he didn't.

It is also important for us to realize Iraq pled with the United States to do drone strikes against the Islamic State dating back to August of 2013. Wouldn't it have been important to listen to Iraq? They were the ones dealing with the Islamic State in 2013. They begged us to do drone strikes and take out the leadership in Iraq. What was the answer of President Obama? No. He took a pass. He didn't listen to the calls of Iraq, and we didn't take out the leadership when we had the chance.

The Iraq foreign minister came to the United States, and he begged for the United States to help against the Islamic State. He also went home empty-handed. There were multiple knocks on the President's door to do something about the Islamic State even back in 2013 by our partners who we were trying to help be successful in Iraq. Unfortunately, our President did not answer that call.

On May 11, the President of Iraq, al-Maliki, asked CENTCOM to strike the Islamic State with drones. That was on May 11, this spring. I was on the Intelligence Committee. I was seeing the up tempo, and all of us were seeing the up tempo of the Islamic State and the rise of the Islamic jihad. Again, the president of Iraq asked our CENTCOM to do drone strikes and take out the Islamic State. Al Maliki said, ''I will approve the airstrikes. I will get behind you.'' He was told ''no.''

The problem, you see, wasn't al-Maliki in the spring. The problem is that the President and his team decided not to help when we had ample opportunities. A meeting was held very early on on how to defeat al Qaeda both in Pakistan and Afghanistan. It was written about by a weekly news magazine author who had the ability to be in that meeting. And in that early meeting of the Obama administration, a meeting both with Pakistan and Afghanistan on how to defeat al Qaeda, they didn't discuss in that meeting—and it was very telling—they didn't discuss a strategy to actually defeat al Qaeda. What they did is take along our agriculture secretary, Tom Vilsack, and the conversation rather than being about actually defeating al Qaeda was about planting seeds in Pakistan and planting seeds for the agriculture community and growing the agriculture community in both countries. Now, I am not saying that that is not a worthwhile meeting, but if your point in having the meeting is to defeat al Qaeda, that is the subject that you should be covering, and you should come up with a plan. That was, again, at this point, over 4 years ago, and we are here tomorrow night about to hear from the President. Does he finally have a plan? Once the crisis got to the point of American citizens being beheaded on TV before our eyes in the most cruel, barbaric way possible, now we are only starting to reengage.

The Islamic State crisis, unfortunately, is one that will be very difficult because we have seen United States forces prematurely moved out of that region. So were we forewarned? We absolutely were forewarned. And it isn't just the administration. We also knew during George W. Bush's tenure as President of the United States that the foreign policy establishment, the military establishment, also knew. There is a clip that has gone on YouTube recently of President George W. Bush in 2007, and I will read exactly verbatim what the President said July 12, 2007. George W. Bush warned the Nation then:

> It would mean surrendering the future of Iraq to al Qaeda if the United States completely removed ourselves from Iraq. It would mean that we would be risking mass killings on a horrific scale.
>
> It would mean that we would allow the terrorists to establish a safe haven in Iraq to replace the one they lost in Afghanistan.
>
> It would mean increasing the probability that American troops would have to return at some later date to confront an enemy that is even more dangerous.

It is beyond belief the statement that was made by George W. Bush back in July 12 of 2007. It is as though the President has most accurately described exactly what President Obama will address tomorrow night by his ill-made decision in 2011 not to leave American residual forces to maintain the peace.

I want to give credit tonight, Mr. Speaker, to the American heroes, the American soldiers who won the peace and defeated the enemy in Iraq—yes, they did—and in Afghanistan. In order to maintain the peace, we needed to maintain a strong American presence, just like today we have in South Korea. I was in South Korea in August. We maintain an American presence. Why? Because there is an aggressor in North Korea. We have our force on location so that we can let the aggressor know, if you try something, we are here, and you won't succeed. And that has worked very well in South Korea. That has worked very well in Western Europe.

Unfortunately, President Obama didn't learn the lessons of history, and he made the ill-timed decision to pull American residual forces out of Iraq. That decision has led to the consequences that we have today, and it is why, again, I would plead with the President of the United States to not pull American forces out of Afghanistan, either. Because I heard over and over and over when I was in Kabul, Afghanistan, over the Memorial Day weekend, May 30, that if the United States leaves Afghanistan, everyone on the ground knows the Taliban will be back. It will be bloody, and it won't be pretty, and it will be back to square one after $1 trillion worth of treasure. But, more importantly, after the sacrifice of thousands of brave American lives. That is not how we should honor their memory nor their sacrifice. And the same with the brave American men and women in our Armed Forces, and contractors, et cetera, who lost their life also to win the peace in Iraq. Again, President George Bush had it right in July of 2007. We needed those residual forces.

Yes, this is a continuation of Islamic jihad. Yes, this is, at its basis, a religious war—not America saying it. That is the terrorists themselves telling us that they are at war with us because they intend to force conversions to their religion of Islam.

Well, what is very unusual about the Islamic State is this: they have a land, and they have a territory. We have a philosophy, we have been fighting, now we have a land and a territory, a new caliphate. It is at least half of Syria and at least half of Iraq. It has a head, Baghdadi, who has declared himself the caliph of this new caliphate. He has a committed army of 12,000 terrorist soldiers, many of whom he released from terrorist prisons. They have a form of government, Islamic sharia law, and they follow that to the tee.

They have money from banks that they have robbed, from oilfields, and from the revenue that they take from gasfields. They also have a self-sustaining infrastructure with their energy production. They are seeking to obtain weapons of mass destruction. They obtained 90 pounds of low-enriched uranium. There is now a fear that materials that could be used to form a nuclear bomb are items on the wish list and the shopping list of the Islamic State. We need to do everything that we can to prevent them from achieving their goal of putting together the elements for a nuclear weapon.

We also need to be aware that Pakistan is also in a vulnerable position. There are reports that Pakistan may have upwards of 200 nuclear weapons. Pakistan is a Sunni state. The Islamic State led by Baghdadi is also a Sunni Islamic jihadist enterprise. If they choose to make a deal with Pakistan for nuclear material or a nuclear weapon, that would change the dynamic overnight. And that is why it is imperative that another Islamic state, Iran, a Shia Islamic state, never, ever, ever obtain a nuclear weapon. Because if

Iran obtains a nuclear weapon, they have stated unequivocally they will use that nuclear weapon to wipe Israel off the map. They will also use that weapon, they have stated, against the United States to defeat the United States of America.

You see, nuclear weapons matter, Mr. Speaker, and they must never, ever go into the hands in any way of committed Islamic jihadist terrorists. Iran is a terror State. It is a United States-designated terror state. There are only four in the world. Iran is one of them.

Now we have the Islamic State. The Islamic State headed by Baghdadi also seeks destruction, and they mean it. We have seen it, and we have to take it seriously. That is why we must engage them and not allow them to succeed because the Islamic State now has weapons from the United States equal to weapons that we have in our Army. They have weapons from the Russian Government, and they also have Iranian weapons, as well—sophisticated weapons and individuals with the knowledge and ability to be able to use those weapons.

They also control borders that weren't in the control of jihadists before. Just recently, they gained control of a border at the Golan Heights on Israel's border. This is approximately 200 yards from Israel in a demilitarization area. Nonetheless, they took United Nations workers hostage just as the Islamic State took 49 Turks hostage out of the Turkish Embassy in northern Iraq.

□ 1930

They have taken checkpoints on the Jordan border with Iraq. The Islamic State has taken over. They have virtually erased the border with Syria. They have taken over checkpoints in Lebanon, also in Turkey and also in the Kurdistan region, so they control territory in a way that they never have before.

They have some of the most sophisticated recruitment materials in the world today through Facebook, through Twitter. They know exactly what the message is and who they need to target to join them in the Islamic jihad.

Unfortunately, in my home State of Minnesota, we know all too well how successful the Islamic State has been in drawing in literally thousands from Western Europe to join them in jihad, but also Americans as well. They are the cool kid on the block, if you will. That is where young people want to go, and that is who they are attracted to.

As I said earlier, the leader of the Islamic State is a man named Baghdadi, a man who was released from American detention by President Obama in 2009, who went on to reconstitute this horrific Islamic jihad called the Islamic State. He is in his early forties. He is in the prime of life. He believes this is his moment. He has declared himself the head, the caliph, of the new state, the caliphate.

He was involved in al Qaeda leadership for decades. He was literally number three in al Qaeda of Iraq, the first franchise. He was an associate of Bin Laden. He has a doctorate degree. He was born in Samarra, Iraq. He understands Iraq. He understands that it is his destiny, from his opinion, to fulfill the reestablishment of the caliphate, and he has no interest in waiting. He is on the march.

He made a statement in January of this year that I read previously, but it is one that bears repeating, and he said this to the United States. He said, ''Soon we will be in direct confrontation with you, United States, so watch out for us, for we are with you, watching.''

That is why we need to understand that we very likely have Islamic jihad terrorists here in the United States today. We know that there are those who went to join ISIS who have returned to the United States. They are terrorists.

We need to call them for who they are. They aren't engaged in workplace violence, as our former head of Homeland Security erroneously said. They are terrorists. They are murderers. They live to kill innocent human beings.

They do it because they believe that they are pleasing their God when they do. According to their belief, not mine, not what I am saying, what they say, they believe that if they are a martyr, if they die in the way of jihad, that is their only one sure way to go to heaven. That is what they say in their belief.

We need to understand who the enemy is. We need to understand the enemy's motivation, not what we wish the enemy thinks, not what we hope the enemy thinks. We need to understand what the enemy—the terrorists—actually say about themselves and say about their beliefs and say about what their goals are because, you see, Sun Tzu wrote in his book ''The Art of War,'' there are two rules to win in a conflict.

One is you need to know yourself, you need to know who you are, you need to know what your attributes are, what your strengths, what your weaknesses are as an army, as a nation, as an individual, but you also need to know who your enemy is.

That is why it was so concerning when the FBI decided—not only the FBI, but other agencies of our government, the CIA included, but in particular, I am familiar with the FBI—when the FBI agreed that they would purge the training manuals of FBI agents, and they purged the manuals of materials on Islam, and the materials that they purged were quotes from the Koran—why did they do that? Why in the world would our FBI not want its agents to understand the motivation of terrorists?

This isn't about being mean to Muslims, this isn't about being mean to anybody's religion or being insensitive to anyone's religion—because in the United States you have freedom of religion, you can believe what you want to believe, but you can't take, as your basis and your justification, religious belief to go and kill other people or hurt other people—that, you can't do.

It is important again that our FBI, our law enforcement mechanism, understands the motivation of who the enemies are and why they are doing what they are doing. That is why it is so dangerous for the FBI not to train our agents in what the motivation is of Islamic jihad.

Well, you see, we witnessed the Islamic jihad, we witnessed them also taking hostages. I mentioned 49 Turkish hostages have been taken. They have taken hostages of the British, the French, Germans, United States hostages, including the two journalists that we had mentioned that they tragically took.

This is age-old. This has been a part of what has happened in Islamic jihad through the millennia with ransoms and piracy and taking hostages for money.

The demand was made of the United States that we would pay $132 million for the release of James Foley. It is curious that that demand was made almost immediately after President Obama illegally and unfortunately negotiated with terrorists to release the alleged deserter Bergdahl in exchange for five Taliban.

The five top leaders of the Taliban, the five top strategists, the five top leaders of the Taliban, the enemy that we are fighting in Afghanistan, the President of the United States negotiated with terrorists so that we would release from detention in Guantanamo Bay the five top strategists of the terrorists that we are fighting in Afghanistan. He released those five top terrorists in exchange for the alleged deserter Bergdahl.

Now, that was a first. The United States hadn't done that before. We have had a policy of we don't negotiate for hostages, and that has served us very well because the world understood—the thugs and the animals and the savages and barbarians of the world understood you are not going to get anywhere with the United States, they are not going to pay for hostages, they are not going to give up prisoners in exchange. It is not going to happen.

It is a way of life with other countries, not with the United States of America, not until May of 2014 when President Obama, in my opinion, tragically made the decision that he would negotiate with terrorists in order to regain the alleged deserter Bowe Bergdahl.

Almost immediately, we saw the demand by the terrorists for money for James Foley. We did not comply, and he was beheaded. Then the demand came for the United States to release Lady al Qaeda in exchange for Steve Sotloff, and we didn't comply. That is why we are looking forward to what

the President of the United States has to say tomorrow. We have to defeat this enemy, the Islamic State.

I yield back the balance of my time.

REDUCING THE RISK OF FIRES IN OUR NATIONAL FORESTS

The SPEAKER pro tempore (Mr. MULLIN). Under the Speaker's announced policy of January 3, 2013, the gentleman from California (Mr. GARAMENDI) is recognized for 60 minutes as the designee of the minority leader.

Mr. GARAMENDI. Mr. Speaker, I think we just heard a 1-hour audition for FOX News, but we did not hear a solution to what is a very real problem. We didn't hear a call for a vote, which we are going to have to take if we are to carry out our constitutional obligations, and that is going to be before us.

I don't want to carry on the discussion about the very serious problem of ISIL or ISIS. We have heard a lot of that already. We will have to come to grips with that by October 6 or 7, when the 60-day clock on the War Powers Act runs out and our constitutional obligation takes place.

There are many, many problems facing this Nation, and certainly, the international scene is one of them, but there is also a problem in our communities. I represent a large portion of California, the national forests on the Sierra side and the national forests on the coastal side of the Sacramento Valley. A lot of that is in the U.S. Forest Service, as well as in the Bureau of Land Management.

Over the last several years, those two agencies have been struggling to put out the fires that have raged in the Western United States and, indeed, in the Southeast of the United States. The way in which we have set up the budgeting and the appropriation for fighting fires has created an ongoing cycle of increasing the likelihood of new fires.

We need to change that. We need to get ahead of the century of fire repression and put in place policies and programs that will reduce the risks of fires. We need to manage our forests in such a way that the fire risk is reduced, the forests are thinned, trees appropriately harvested, the undergrowth reduced and eliminated, firebreaks put in place, and protect our communities by the proper management of the forest, reducing the fuel, reducing the load of fuel that these forests have.

We have been unable to do that, principally because we have seen an enormous increase in the number of fires, and the Federal budget to fight these fires is a 10-year rolling average that has not been able to keep up with the increase each year in the megafires, California most recently facing the rim fire in the Yosemite area.

That fire gobbled up not only the forest, but gobbled up the money that was set aside to prevent fires to manage the forest. Instead of having that fund available to do that kind of work, the money was transferred from those programs into the firefighting.

Now, this is an ongoing problem. My colleague from California, SCOTT PETERS, has addressed this problem with a motion to bring to the floor legislation that would set up a new mechanism for appropriating funds for fighting fires. I will let him discuss that and why he has this before us.

Mr. PETERS, if you would join us.

Mr. PETERS of California. Thank you, Congressman GARAMENDI, for helping to raise awareness about the pressing need to change the way the Federal Government deals with funding wildfire response and prevention.

As you well know, the devastating effect of wildfires in 2003 and 2007—we had massive, massive loss of property and dislocations in Scripps Ranch, Tierrasanta, Rancho Bernardo, and Poway.

Right now, as I am speaking—and you mentioned this as well—firefighters in Yosemite National Park continue to battle a wildfire that has burned more than 2,600 acres and required 120 firefighters and 11 aircraft to combat.

It is no secret, in addition, that California is facing a prolonged drought that places us at increased risk for wildfires. So we are in the midst of what is expected to be one of the longest and hardest wildfire seasons in recent memory, certainly in any of our memories.

Wildfires are extremely expensive for States and localities to fight. There is an urgent need for Congress to pass a solution that funds firefighting without stealing from prevention, which is a crazy thing to do. I think we all acknowledge that.

Earlier this summer, as you mentioned, I led the discharge petition with 196 signers to demand a vote on the Wildfire Disaster Funding Act of 2014. That bill has real bipartisan support in both the House and the Senate—71 Democrats and 60 Republicans have cosponsored in the House—and that is very unusual around here. It was also included by the President in his budget request.

So you have both parties in the House and the President of the United States all on the same page on this issue. It seems like an area where we ought be able to make some progress, and we ought to have a vote.

The bill allows firefighting agencies to access funds from the natural disaster contingency fund while fighting catastrophic fires, not take money from prevention because, of course, what that does is it makes the following year's fires even more severe and even more costly and dangerous.

□ 1945

So it is fiscally responsible to treat wildfires like the natural disasters that they are, like an earthquake, flood, or hurricane. Instead of stealing funds from prevention efforts to pay for immediate responses, we should be adequately funding both.

I join my colleagues here tonight to call on the Speaker to bring this truly bipartisan bill to a vote immediately so that fire-prone regions like the two we are dealing with in California—mine in San Diego—don't suffer from Washington's dysfunction.

Ladies and gentlemen, we started this fire season this year in May. We are used to having fire seasons. It is natural to have fire seasons in September or October, but the fact that we started in May just underscores what we are up against. We do not want to leave for our October election activities without having dealt with that and exposing these communities to risk.

I thank my colleague, Mr. GARAMENDI, for helping to raise awareness about this. Thank you for your continued commitment and leadership on the issue. We look forward to bringing it home.

Mr. GARAMENDI. Thank you, Mr. PETERS, for your leadership in bringing to the attention of the entire Nation, and certainly to the 435 Members of this House, that there is a way to manage our forests and to deal with the fires that have plagued us so extensively over these many years.

I think all of us have seen this before. It is Smokey the Bear. ''Only you can prevent forest fires.'' We need to add to it, ''But Congress can help.'' And Smokey turns to us and says: How can you help? Well, we can help by changing the way in which we budget for the fighting of fires. Instead of a rolling 10-year average and putting that money up every year and in 9 of the last 12 years blowing through that budget and then reaching back and taking the forest management funds that would allow us to reduce the risk of fires in our forests and in your public lands, instead of doing that, we would have a different system, as Mr. PETERS just described. It is H.R. 3992.

H.R. 3992 is a bipartisan bill, Democrats and Republicans. Democrat Mr. SCHRADER from Oregon and Republican Mr. SIMPSON from Idaho, the authors of the bill, say there is a better way of doing it. Set aside a special reserve, just like we do for tornadoes, earthquakes, hurricanes, floods; a special reserve that could be tapped when we exceed the average and blow through that 10-year average with a megafire or a series of fires.

We expect more than 38,000 fires this year in the United States. We are going to blow through that budget. Just this last month in August, the chief forester of the U.S. Forest Service sent a letter out to every part of the U.S. Forest Service saying: Hold on. No more contracts. Save the money. We are going to need to transfer some of your maintenance money. Your fire prevention money, the money that you are using to thin the forests to reduce the fuel load, the money that you are using to carry out logging practices, hold that. We are going to need to hold that

because we anticipate once again blowing through that fire budget and having to reach back for the prevention budget.

So Smokey is right. We can prevent forest fires if Congress acts on H.R. 3992. A discharge petition that Mr. PETERS has brought to the floor is before us. It has 196 Members of Congress that have signed on. When we get to 218, that bill will automatically be brought to the floor for a vote.

Democrats and Republicans already support it, so bring it to the floor for a vote. Let us put in place a sensible, commonsense way of appropriating money to fight fires and to manage our forests. Let's get ahead of next year's fire. Let's get to prevention not just by not throwing out cigarettes and leaving campfires unattended, but by making sure that our forests are healthy so that they are able to sustain small fires that burn slowly along the floor of the forest, which is the natural ecological way in which forests have for a millennium been able to deal with fire. We are in a different situation now. We have allowed the forests to grow and to be in a position where a fire becomes huge. It is no longer along the floor but gets up into the crown of the trees and destroys the forests.

So we can get back to where we were by properly managing the forests, but we can't do it without money. The Forest Service needs to have that money. The Bureau of Land Management and the National Parks all need to have a different way of appropriating and budgeting. And that is what this bill does.

By the way, it doesn't cost any more. It simply rearranges how that money is going to be spent. That reserve fund would only be available when you have the megafires and you blow through the 10-year rolling average of how much we spend on fighting fires.

It is sensible. It makes a lot of sense. The administration wants it, and, therefore, I suppose my Republican colleagues are opposed to it simply because the administration has proposed a better way of dealing with this budgeting for fires.

So our plea tonight is simple. Just for a few moments, like 12½ minutes thus far, it is to allow us to take up H.R. 3992 and help Smokey prevent forest fires. We only need a few more Members of this House to sign on. More than 50 members of the Republican Party are already coauthors, but none have yet signed the discharge petition. So let's do it. Let's get on with it.

Mr. Speaker, I yield back the balance of my time.

PUBLICATION OF BUDGETARY MATERIAL

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2014, FY 2015, AND THE 10-YEAR PERIOD FY 2015 THROUGH FY 2024

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, September 9, 2014.

Hon. JOHN A. BOEHNER,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal years 2014, 2015, and for the 10-year period of fiscal year 2015 through fiscal year 2024. The report is current through September 8, 2014. The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

Table 1 in the report compares the current levels of total budget authority, outlays, and revenues for fiscal years 2014, 2015, and the 10-year period of fiscal year 2015 through 2024 to the overall limits filed in the Congressional Record on January 27, 2014 for fiscal year 2014 and on April 29, 2014 for fiscal years 2015 and 2015–2024 as required by the Bipartisan Budget Act of 2013. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2015 because appropriations for those years have not yet been considered.

Table 2 compares the current levels of budget authority and outlays for action completed by each authorizing committee with the ''section 302(a)'' allocations filed on January 27, 2014 for fiscal year 2014 and the allocations filed on April 29, 2014 for fiscal years 2015 and the 10-year period 2015 through 2024 as required by the Bipartisan Budget Act of 2013. For fiscal year 2014, ''action'' refers to legislation enacted after the adoption of the levels set forth on January 27, 2014. For fiscal years 2015 and the 10-year period 2015–2024, ''action'' refers to legislation enacted after the adoption of the levels set forth on April 29, 2014.

This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

Tables 3 and 4 compare the current status of discretionary appropriations for fiscal year 2014 and 2015 with the ''section 302(b)'' sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) sub-allocation. The table also provides supplementary information on spending in excess of the base discretionary spending caps allowed under section 251(b) of the Budget Control Act.

Tables 5 and 6 give the current level for fiscal year 2015 and 2016, respectively, of accounts identified for advance appropriations under section 601 of H. Con. Res. 25. This list is needed to enforce section 601 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that are: (i) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

In addition, letters from the Congressional Budget Office are attached that summarize and compare the budget impact of enacted legislation that occurred after adoption of the budget resolution against the budget resolution aggregates in force.

If you have any questions, please contact Paul Restuccia at (202) 226–7270.

Sincerely,

PAUL RYAN,
Chairman.

TABLE 1—REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET, STATUS OF THE FISCAL YEAR 2014 AND 2015 CONGRESSIONAL BUDGET AS PROVIDED FOR BY THE BIPARTISAN BUDGET ACT OF 2013, REFLECTING ACTION COMPLETED AS OF SEPT. 8, 2014

[On-budget amounts, in millions of dollars]

	Fiscal Year 2014 [1]	Fiscal Year 2015 [2]	Fiscal Years 2015–2024
Appropriate Level:			
Budget Authority	2,924,837	3,031,744	n.a.
Outlays	2,937,044	3,026,384	n.a.
Revenues	2,311,026	2,533,388	31,202,135
Current Level:			
Budget Authority	2,943,953	2,014,209	n.a.
Outlays	2,955,423	2,430,133	n.a.
Revenues	2,311,761	2,535,984	31,206,435
Current Level over (+) / under (−)			
Appropriate Level:			
Budget Authority	+19,116	−1,017,535	*n.a.
Outlays	+18,379	−596,251	n.a.
Revenues	+735	+2,596	+4,300

n.a. = Not applicable because annual appropriations Acts for fiscal years 2016 through 2024 will not be considered until future sessions of Congress.

[1] Section 111(b) of the Bipartisan Budget Act of 2013 required the Chairman of the Committee on the Budget in the House of Representatives to file aggregate budgetary levels for fiscal year 2014 for purposes of enforcing section 311 of the Congressional Budget Act of 1974. The spending and revenue aggregates for fiscal year 2014 were subsequently filed on January 27, 2014. The current level for this report begins with the budgetary levels filed on January 27, 2014 and makes adjustments to those levels for enacted legislation.

[2] Section 115(b) of the Bipartisan Budget Act of 2013 required the Chairman of the Committee on the Budget in the House of Representatives to file aggregate budgetary levels for fiscal year 2015 and for fiscal years 2015–2024 for purposes of enforcing section 311 of the Congressional Budget Act of 1974. The spending and revenue aggregates for fiscal year 2015 were subsequently filed on April 29, 2014. The current level for this report begins with the budgetary levels filed on April 28, 2014 and makes adjustments to those levels for enacted legislation.

TABLE 2—DIRECT SPENDING LEGISLATION COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES, REFLECTING ACTION COMPLETED AS OF SEPT. 8, 2014

[Fiscal Years, in millions of dollars]

House Committee	2014		2015		2015–2024	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	0	0	0	0	0	0
Current Level	+3,243	+2,124	+1	+1	+11	+11
Difference	+3,243	+2,124	+1	+1	+11	+11
Armed Services:						
Allocation	0	0	0	0	0	0
Current Level	+4	+4	0	0	0	0
Difference	+4	+4	0	0	0	0
Education and the Workforce:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Energy and Commerce:						
Allocation	0	0	0	0	0	0
Current Level	+6,159	+6,157	+2	+2	+24	+24
Difference	+6,159	+6,157	+2	+2	+24	+24
Financial Services:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Homeland Security:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current Level	−34	0	0	0	0	0
Difference	−34	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current Level	−1	−1	0	−2	0	0
Difference	−1	−1	0	−2	0	0
Oversight and Government Reform:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Science, Space and Technology:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Transportation and infrastructure:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Ways and Means						
Allocation	0	0	0	0	0	0
Current Level	+9,745	+9,745	+2	−13	−3,511	−4,746
Difference	+9.745	+9,745	+2	−13	−3,511	−4,746

TABLE 3—DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2014—COMPARISON OF CURRENT STATUS WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUB ALLOCATIONS AS OF SEPT 8, 2014

[Figures in Millions] [1]

	302(b) Allocations [1]		302(b) for GWOT [1]		Current Status General Purpose		Current Status GWOT		General Purpose less 302(b)		GWOT less 302(b)	
	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	n.a.	n.a.	20,880	22,092	0	0	n.a.	n.a.	n.a.	n.a.
Commerce, Justice, Science	n.a.	n.a.	n.a.	n.a.	51,600	60,756	0	0	n.a.	n.a.	n.a.	n.a.
Defense	n.a.	n.a.	n.a.	n.a.	486,851	528,707	85,191	43,140	n.a.	n.a.	n.a.	n.a.
Energy and Water Development	n.a.	n.a.	n.a.	n.a.	34,060	39,652	0	0	n.a.	n.a.	n.a.	n.a.
Financial Services and General Government	n.a.	n.a.	n.a.	n.a.	21,851	23,054	0	0	n.a.	n.a.	n.a.	n.a.
Homeland Security	n.a.	n.a.	n.a.	n.a.	39,270	46,045	227	182	n.a.	n.a.	n.a.	n.a.
Interior, Environment	n.a.	n.a.	n.a.	n.a.	30,058	32,154	0	0	n.a.	n.a.	n.a.	n.a.
Labor, Health and Human Services, Education	n.a.	n.a.	n.a.	n.a.	156,773	159,953	0	0	n.a.	n.a.	n.a.	n.a.
Legislative Branch	n.a.	n.a.	n.a.	n.a.	4,258	4,192	0	0	n.a.	n.a.	n.a.	n.a.
Military Construction and Veterans Affairs	n.a.	n.a.	n.a.	n.a.	73,299	76,278	0	0	n.a.	n.a.	n.a.	n.a.
State, Foreign Operations	n.a.	n.a.	n.a.	n.a.	42,481	45,818	6,520	1,885	n.a.	n.a.	n.a.	n.a.
Transportation, HUD	n.a.	n.a.	n.a.	n.a.	50,856	116,465	0	0	n.a.	n.a.	n.a.	n.a.
Full Committee Allowance	n.a.	n.a.	n.a.	n.a.	0	0	0	0	n.a.	n.a.	n.a.	n.a.
Total	n.a.	n.a.	n.a.	n.a.	1,012,237	1,155,166	91,938	45,207	n.a.	n.a.	n.a.	n.a.

Comparison of Total Appropriations and 302(a) allocation [2]	General Purpose		GWOT	
	BA	OT	BA	OT
302(a) Allocation	1,012,237	1,154,816	91,938	45,207
Total Appropriations	1,012,237	1,155,166	91,938	45,207
Total Appropriations vs. 302(a) Allocation	0	+350	0	0

Memorandum	Amounts Assumed in 302(b) [1]		Emergency Requirements		Disaster Funding		Program Integrity	
Spending in Excess of Base Budget Control Act Caps for Sec. 251(b) Designated Categories	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	0	0	0	0	0	0

Memorandum	Amounts Assumed in 302(b) [1]		Emergency Requirements		Disaster Funding		Program Integrity	
Spending in Excess of Base Budget Control Act Caps for Sec. 251(b) Designated Categories	BA	OT	BA	OT	BA	OT	BA	OT
Commerce, Justice, Science	n.a.	n.a.	0	0	0	0	0	0
Defense	n.a.	n.a.	225	150	0	0	0	0
Energy and Water Development	n.a.	n.a.	0	0	0	0	0	0
Financial Services and General Government	n.a.	n.a.	0	0	0	0	0	0
Homeland Security	n.a.	n.a.	0	0	5,626	281	0	0
Interior, Environment	n.a.	n.a.	0	0	0	0	0	0
Labor, Health and Human Services, Education	n.a.	n.a.	0	0	0	0	924	832
Legislative Branch	n.a.	n.a.	0	0	0	0	0	0
Military Construction and Veterans Affairs	n.a.	n.a.	0	0	0	0	0	0
State, Foreign Operations	n.a.	n.a.	0	0	0	0	0	0
Transportation, HUD	n.a.	n.a.	0	0	0	0	0	0
Totals	n.a.	n.a.	225	150	5,626	281	924	832

[1] The original 302(a) allocation to the Committee on Appropriations contained In H.Rpt. 113–17 for the Concurrent Resolution on the Budget-Fiscal Year 2014 (H.Con.Res. 25) was revised on January 14, 2014, consistent with section 101 of the Bipartisan Budget Act of 2013. The House Committee on Appropriations did not file revised 302(b) allocations after the final 302(a) allocation was provided—hence there are no valid 302(b)'s in force for fiscal year 2014.

[2] Spending designated as emergency is not included in the current status of appropriations shown above.

TABLE 4—DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2015—COMPARISON OF CURRENT STATUS WITH APPROPRIATIONS COMMITTEE 302(A) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(B) SUB ALLOCATIONS AS OF SEPT. 8, 2014

[Figures In Millions] [1]

	302(b) Allocations		302(b) for GWOT		Current Status General Purpose [1]		Current Status GWOT		General Purpose less 302(b)		GWOT less 302(b)	
	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	20,880	21,716	0	0	20,880	21,716	0	0	0	0	0	0
Commerce, Justice, Science	51,200	61,518	0	0	51,200	61,518	0	0	0	0	0	0
Defense	490,944	522,774	79,445	36,839	490,908	522,751	79,445	36,839	−36	−23	0	0
Energy and Water Development	34,010	37,831	0	0	33,991	37,811	0	0	−19	−20	0	0
Financial Services and General Government	21,285	22,750	0	0	20,133	21,593	0	0	−1,152	−1,157	0	0
Homeland Security	45,658	44,712	0	0	45,658	44,712	0	0	0	0	0	0
Interior, Environment	30,220	30,191	0	0	30,220	32,740	0	0	0	−F2549	0	0
Labor, Health and Human Services, Education	155,702	159,922	0	0	24,691	115,210	0	0	−131,011	−44,712	0	0
Legislative Branch	4,258	4,219	0	0	3,323	3,491	0	0	−935	−728	0	0
Military Construction and Veterans Affairs	71,499	76,100	0	0	71,499	76,100	0	0	0	0	0	0
State, Foreign Operations	42,381	42,319	5,912	3,142	42,381	43,897	5,912	1,275	0	+1,578	0	−1,867
Transportation, HUD	52,029	118,732	0	0	52,029	118,678	0	0	0	−54	0	0
Full Committee Allowance	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Total	1,020,066	1,142,784	85,357	39,981	886,913	1,100,217	85,357	38,114	−133,153	−42,567	0	−1,867

Comparison of Total Appropriations and 302(a) allocation	General Purpose		GWOT	
	BA	OT	BA	OT
302(a) Allocation	1,020,066	1,142,784	85,357	39,981
Total Appropriations	886,913	1,100,217	85,357	38,114
Total Appropriations vs. 302(a) Allocation	−133,153	−42,567	0	−1,867

Memorandum	Amounts Assumed in 302(b)		Emergency Requirements		Disaster Funding		Program Integrity	
Spending in Excess of Base Budget Control Act Caps for Sec. 251(b) Designated Categories	BA	OT	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	0	0	0	0	0	0	0	0
Commerce, Justice, Science	0	0	0	0	0	0	0	0
Defense	0	0	0	75	0	0	0	0
Energy and Water Development	0	0	0	0	0	0	0	0
Financial Services and General Government	0	0	0	0	0	0	0	0
Homeland Security	6,438	322	0	0	6,438	322	0	0
Interior, Environment	0	0	0	0	0	0	0	0
Labor, Health and Human Services, Education	0	0	0	0	0	0	0	0
Legislative Branch	0	0	0	0	0	0	0	0
Military Construction and Veterans Affairs	0	0	0	0	0	0	0	0
State, Foreign Operations	0	0	0	0	0	0	0	0
Transportation, HUD	0	0	0	0	0	0	0	0
Totals	6,438	322	0	75	6,438	322	0	0

[1] Spending designated as emergency is not included in the current status of appropriations shown in this table.

TABLE 5—CURRENT LEVEL OF 2015 ADVANCE APPROPRIATIONS PURSUANT TO H. CON. RES. 25 AS OF SEPTEMBER 8, 2014

[Budget Authority in Millions]

Section 601(d)(1) Limits	2,015
Appropriate Level	55,634
Enacted Advances:	
Accounts Identified for Advances:	
Department of Veterans Affairs:	
Medical Services	45,016
Medical Support and Compliance	5,880
Medical Facilities	4,739
Subtotal, enacted advances [1]	55,635
Enacted Advances vs. Section 601(d)(1) Limit	+1
Section 601(d)(2) Limits	**2015**
Appropriate Level	28,852
Enacted Advances:	
Accounts Identified for Advances:	
Payment to Postal Service	71
Employment and Training Administration	1,772
Education for the Disadvantaged	10,841
School Improvement Programs	1,681
Special Education	9,283
Career, Technical and Adult Education	791
Tenant-based Rental Assistance	4,000
Project-based Rental Assistance	400
Subtotal, enacted advances [1]	28,839
Enacted Advances vs. Section 601(d)(2) Limit	−13
Previously Enacted Advance Appropriations [2]	2,015
Corporation for Public Broadcasting	445
Total, enacted advances [1]	84,919

[1] Line items may not add to total due to rounding.
[2] Funds were appropriated in Public Law 113–6.

TABLE 6—CURRENT LEVEL OF 2016 ADVANCE APPROPRIATIONS PURSUANT TO SECTION 115(c) OF THE BIPARTISAN BUDGET ACT OF 2013 AS OF SEPTEMBER 8, 2014

[Budget Authority]

Section 601(d)(1) Limits	2,016
Appropriate Level	58,662,202,000
Enacted Advances:	
Accounts Identified for Advances:	
Department of Veterans Affairs	
Medical Services	0
Medical Support and Compliance	0
Medical Facilities	0
Subtotal, enacted advances [1]	0
Enacted Advances vs. Section 601(d)(1) Limit	−58,662,202,000
Section 601(d)(2) Limits	**2016**
Appropriate Level	28,781,000,000
Enacted Advances:	
Accounts Identified for Advances:	
Employment and Training Administration	0
Education for the Disadvantaged	0
School Improvement Programs	0
Special Education	0
Career, Technical and Adult Education	0
Tenant-based Rental Assistance	0
Project-based Rental Assistance	0
Subtotal, enacted advances [1]	0
Enacted Advances vs. Section 601(d)(2) Limit	−28,781,000,000
Previously Enacted Advance Appropriations [2]	2,016
Corporation for Public Broadcasting	445,000,000
Total, enacted advances [1]	445,000,000

[1] Line items may not add to total due to rounding.
[2] Funds were appropriated in Public Law 113–76.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 9, 2014.

Hon. PAUL RYAN,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2014 budget and is current through September 8, 2014. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 25, the Concurrent Resolution on the Budget for Fiscal Year 2014, as approved by the House of Representatives and subsequently revised.

Since my last letter dated June 17, 2014, the Congress has cleared and the President has signed the following acts that affect budget authority, outlays, or revenues for fiscal year 2014:

An act to amend certain definitions contained in the Provo River Project Transfer Act for purposes of clarifying certain property descriptions, and for other purposes. (Public Law 113–129);

Emergency Supplemental Appropriations Resolution, 2014 (Public Law 113–145);

Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014 (Public Law 113–146); and

Highway and Transportation Funding Act of 2014 (Public Law 113–159).

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

FISCAL YEAR 2014 HOUSE CURRENT LEVEL REPORT THROUGH SEPTEMBER 8, 2014

[In millions of dollars]

	Budget authority	Outlays	Revenues
Previously Enacted: [a]			
Revenues	n.a.	n.a.	2,310,972
Permanents and other spending legislation [b]	1,849,079	1,778,854	n.a.
Appropriation legislation	0	504,662	n.a.
Offsetting receipts	−707,692	−707,792	n.a.
Total, Previously enacted	1,141,387	1,575,724	2,310,972
Enacted Legislation: [c]			
Authorizing Legislation:			
Bipartisan Student Loan Certainty Act of 2013 (P.L. 113–28)	14,400	12,670	0
Department of Veterans Affairs Expiring Authorities Act of 2013 (P.L. 113–37)	−1	−1	0
Helium Stewardship Act of 2013 (P.L. 113–40)	−16	−58	0
An act to extend the period during which Iraqis who were employed by the United States Government in Iraq may be granted special immigrant status and to temporarily increase the fee or surcharge for processing machine-readable nonimmigrant visas (P.L. 113–42)	2	2	5
National Defense Authorization Act for Fiscal Year 2014 (P.L. 113–66)	66	68	0
Bipartisan Budget Act of 2013/Pathway for SGR Reform Act of 2013 (P.L. 113–67)	−3,207	985	49
Agricultural Act of 2014 (P.L. 113–79)	3,243	2,124	5
Protecting Access to Medicare Act of 2014 (P.L. 113–93)	6,143	6,141	0
Gabriella Miller Kids First Research Act (P.L. 113–94)	−34	0	0
Cooperative and Small Employer Charity Pension Flexibility Act (P.L. 113–97)	0	0	5
An act to amend . . . the Provo River Project Transfer Act... and for other purposes (P.L. 113–129)	−1	−1	0
Highway and Transportation Funding Act of 2014 (P.L. 113–159)	9,765	9,765	725
Total, Authorizing Legislation	30,360	31,695	789
Appropriations Legislation:			
Continuing Appropriations Act, 2014 (P.L. 113–46) [d]	635	635	0
Consolidated Appropriations Act, 2014 (P.L. 113–76)	1,869,637	1,421,565	0
Support for Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (P.L. 113–95)	0	350	0
Total, Appropriations Legislation	1,870,272	1,422,550	0
Total, Enacted Legislation	1,900,632	1,454,245	789
Entitlements and Mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	−98,066	−74,546	0

FISCAL YEAR 2014 HOUSE CURRENT LEVEL REPORT THROUGH SEPTEMBER 8, 2014—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total Current Level [e]	2,943,953	2,955,423	2,311,761
Total House Resolution [f]	2,924,837	2,937,044	2,311,026
Current Level Over House Resolution	19,116	18,379	735
Current Level Under House Resolution	n.a.	n.a.	n.a.
Memorandum:			
Revenues, 2014–2023:			
House Current Level	n.a.	n.a.	31,104,656
House Resolution [g]	n a	n.a.	31,095,742
Current Level Over House Resolution	n.a.	n.a.	8,914
Current Level Under House Resolution	n.a.	n.a.	n.a.

Source: Congressional Budget Office.

Note: n.a. = not applicable; P.L. = Public Law.

[a] Includes the following acts that affect budget authority, outlays, or revenues, and were cleared by the Congress during last session, but before adoption of the Concurrent Resolution on the Budget for Fiscal Year 2014 (H. Con. Res. 25): an act to temporarily increase the borrowing authority of the FEMA for carrying out the National Flood Insurance Program (P.L. 113–1), the Disaster Relief Appropriations Act, 2013 (P.L. 113–2), the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (P.L. 113–5), the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113–6), and the Reducing Flight Delays Act of 2013 (P.L. 113–9).

[b] Relative to the House Current Level Report dated October 24, 2013, House Current Level has increased by $361 million in 2014 because of assumptions related to the interest on the public debt that were revised pursuant to the Bipartisan Budget Act of 2013 (P.L. 113–67).

[c] Pursuant to section 3l4(d) of the Congressional Budget Act of 1974, amounts designated as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not count for purposes of Title III and Title IV of the Congressional Budget Act. The amounts so designated for 2014, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
Continuing Appropriations Act, 2014 (Sec. 155)	0	50	0
Emergency Supplemental Appropriations Resolution, 2014 (P.L. 113–145)	225	150	0
Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014 (P.L. 113–146)	15,000	450	0
Total, amounts designated as emergency requirements	15,225	650	0

[d] Sections 135 and 136 of the Continuing Appropriations Act, 2014 (P.L. 113–46) provide $636 million for fire suppression activities, available until expended. Section 146 of the Act freezes the pay of Members of Congress, which is estimated to result in a reduction in spending of $1 million in 2014.

[e] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the resolution, as approved by the House of Representatives, does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level does not include these items.

[f] Periodically, the House Committee on the Budget revises the totals in H. Con. Res. 25, pursuant to various provisions of the resolution:

	Budget authority	Outlays	Revenues
Original House Resolution	2,769,406	2,815,079	2,270,932
Revisions:			
Pursuant to section 603 of H. Con. Res. 25	−14,089	−4,100	40,040
Adjustment for Disaster Designated Spending	6,079	230	0
Adjustment for Technical Correction to the Budget Control Act Spending Caps	549	308	0
Pursuant to section III of the Bipartisan Budget Act	162,892	125,527	54
Revised House Resolution	2,924,837	2,937,044	2,311,026

[g] Periodically, the House Committee on the Budget revises the 2014–2023 revenue totals in H. Con. Res. 25, pursuant to various provisions of the resolution. The total shown in the table reflects those revisions.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 9, 2014.

Hon. PAUL RYAN,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2015 budget and is current through September 8, 2014. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the allocations, aggregates, and other budgetary levels printed in the Congressional Record on April 29, 2014, pursuant to section 115 of the Bipartisan Budget Act (Public Law 113–67).

Since my last letter dated June 17, 2014, the Congress has cleared and the President has signed the following acts that affect budget authority, outlays, or revenues for fiscal year 2015:

Lake Hill Administrative Site Affordable Housing Act (Public Law 113–141);

Emergency Supplemental Appropriations Resolution, 2014 (Public Law 113–145);

Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014 (Public Law 113–146);

Highway and Transportation Funding Act of 2014 (Public Law 113–159); and

Emergency Afghan Allies Extension Act of 2014 (Public Law 113–160).

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

FISCAL YEAR 2015 HOUSE CURRENT LEVEL REPORT THROUGH SEPTEMBER 8, 2014

[In millions of dollars]

	Budget authority	Outlays	Revenues
Previously Enacted: [a]			
Revenues	n.a.	n.a.	2,533,388
Permanents and other spending legislation	1,882,631	1,805,294	n.a.
Appropriation legislation	0	508,261	n.a.
Offsetting receipts	−735,195	−734,481	n.a.
Total, Previously enacted	1,147,436	1,579,074	2,533,388
Enacted Legislation: [b]			
Lake Hill Administrative Site Affordable Housing Act (P.L. 113–141)	0	−2	0
Highway and Transportation Funding Act of 2014 (P.L. 113–159)	0	−15	2,590
Emergency Afghan Allies Extension Act of 2014 (P.L. 113–160)	5	5	6
Total, Enacted Legislation	5	−12	2,596
Entitlements and Mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	866,768	851,071	0
Total Current Level [c]	2,014,209	2,430,133	2,535,984
Total House Resolution	3,031,744	3,026,384	2,533,388
Current Level Over House Resolution	n.a.	n.a.	2,596
Current Level Under House Resolution	1,017,535	596,251	n.a.
Memorandum:			
Revenues, 2015–2024:			
House Current Level	n.a.	n.a.	31,206,465
House Resolution	n.a.	n.a	31,202,135
Current Level Over House Resolution	n.a.	n.a.	4,330
Current Level Under House Resolution	n.a.	n.a.	n.a.

Source: Congressional Budget Office.

Note: n.a. = not applicable; P.L. = Public Law.

[a] Includes the following acts that affect budget authority, outlays, or revenues, and were cleared by the Congress during this session, but before publication in the Congressional Record of the statement of the allocations and aggregates pursuant to section 115 of the Bipartisan Budget Act of 2013 (P.L. 113–67): the Agricultural Act of 2014 (P.L. 113–79), the Homeowner Flood Insurance Affordability Act of 2014 (P.L. 113–89), the Gabriella Miller Kids First Research Act (P.L. 113–94), the Cooperative and Small Employer Charity Pension Flexibility Act (P.L. 113–97), and the Emergency Supplemental Appropriations Resolution, 2014 (FL. 113–145).

[b] Pursuant to section 3l4(d) of the Congressional Budget Act of 1974, amounts designated as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not count for purposes of Title III and Title IV of the Congressional Budget Act. The amounts so designated for 2014, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
Emergency Supplemental Appropriations Resolution, 2014	0	75	0
Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014 (P.L. 113–146)	1,331	6,619	−42
Total, amounts designated as emergency requirements	−1,331	6,694	−42

[c] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the resolution, as approved by the House of Representatives, does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level does not include these items.

[d] Periodically, the House Committee on the Budget revises the budgetary levels printed in the Congressional Record on April, 29, 2014 pursuant to section 115 of the Bipartisan Budget Act (Public Law 113–67):

	Budget authority	Outlays	Revenues
Original House Resolution	3,025,306	3,025,032	2,533,388
Revisions:			
Adjustment for Disaster Designated Spending	6,438	322	0
Pursuant to section 115(e) of the Bipartisan Budget Act of 2013	0	1,030	0
Revised House Resolution	3,031,744	3,026,384	2,533,388

ADJOURNMENT

Mr. GARAMENDI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 10, 2014, at 10 a.m. for morning-hour debate.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, September 9, 2014.

Hon. JOHN A. BOEHNER,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Section 210(e) of the Congressional Accountability Act (''CAA''), 2 U.S.C. 1331(e), requires the Board of Directors of the Office of Compliance (''the Board'') to issue regulations implementing Section 210 of the CAA relating to provisions of Titles II and III of the Americans with Disabilities Act (''ADA''), 42 U.S.C. §§12131–12150, 12182, 12183 and 12198, made applicable to the legislative branch by the CAA. 2 U.S.C. §§1331(b)(1).

Section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), requires that the Board issue a general notice of proposed rulemaking by transmitting ''such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.''

On behalf of the Board, I am hereby transmitting the attached notice of proposed rulemaking to the Speaker of the House of Representatives. I request that this notice be published in the House section of the Congressional Record on the first day on which both Houses are in session following receipt of this transmittal. In compliance with Section 304(b)(2) of the CAA, a comment period of 30 days after the publication of this notice of proposed rulemaking is being provided before adoption of the rules.

All inquiries regarding this notice should be addressed to Barbara J. Sapin, Executive Director of the Office of Compliance, Room LA–200, 110 2nd Street, S.E., Washington, DC 20540; (202) 724–9250.

Sincerely,

BARBARA L. CAMENS,
Chair of the Board of Directors,
Office of Compliance.

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE: NOTICE OF PROPOSED RULEMAKING (''NPRM''), AND REQUEST FOR COMMENTS FROM INTERESTED PARTIES.

REGULATIONS EXTENDING RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT (''ADA'') RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS, NOTICE OF PROPOSED RULEMAKING, AS REQUIRED BY 2 U.S.C. §1331, THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995, AS AMENDED (''CAA'').

Background:

The purpose of this Notice is to propose substantive regulations that will implement Section 210 of the CAA, which provides that the rights and protections against discrimination in the provision of public services and accommodation under Titles II and III of the ADA shall apply to entities covered by the CAA.

What is the authority under the CAA for these proposed substantive regulations?

Section 210(b) of the CAA provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182, 12183, and 12189 (''ADA'') shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Office of Congressional Accessibility Services;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance.

2 U.S.C. 1331(b).

Title II of the ADA generally prohibits discrimination on the basis of disability in the provision of services, programs, or activities by any ''public entity''. Section 210(b)(2) of the CAA defines the term ''public entity'' for Title II purposes as any entity listed above that provides public services, programs, or activities. 2 U.S.C. §1331(b)(2).

Title III of the ADA generally prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act.'' 2 U.S.C. §1361(f)(1).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

Section 210(e) of the CAA requires the Board of Directors of the Office of Compliance (''the Board'') established under the CAA to issue regulations implementing the section. 2 U.S.C. §1331(e). Section 210(e) further states that such regulations ''shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' *Id.* Section 210(e) further provides that the regulations shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (b), the entity responsible for correction of a particular violation. 2 U.S.C. §1331(e).

Additional authority for proposing these regulations is found in CAA Section 304, which sets forth the procedure to be followed for the rulemaking process in general, including notice and comment; Board consideration of comments and adoption of regulations; transmittal to the Speaker and President Pro Tempore for publication in the Congressional Record; and approval by the Congress.

Are there ADA public access regulations already in force under the CAA?

Yes. The CAA was enacted on January 23, 1995. It applied to the legislative branch of the federal government the protections of 12 (now 13) statutes that previously had applied to the executive branch and/or the private sector, including laws providing for family and medical leave, prohibiting discrimination against eligible veterans, and affording labor-management rights and responsibilities, among others. The CAA established the Office of Compliance as an independent agency to administer and enforce the CAA. The OOC administers an administrative dispute resolution system to resolve certain disputes arising under the Act. The General Counsel of the OOC has independent investigatory and enforcement authority for other violations of the Act, including certain portions of the ADA, 42 U.S.C. §§12131–12150, 12182, 12183, & 12189.

As set forth in the previous answer, the CAA requires the Board to issue regulations implementing the statutory protections provided by the CAA. *See, e.g.*, CAA Sections 202(d) (Family and Medical Leave Act of 1993), 206(c) (Veterans' Employment and Reemployment), 212 (d) (Federal Service Labor Management Relations Act). 2 U.S.C. sections 1312(d), 1316(c), 1351(d). The Board's regulations ''shall be the same as substantive regulations promulgated by the Attorney General and Secretary of Transportation . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for

the implementation of the rights and protections under this section.'' 2 U.S.C. §1331(e)(2).

The CAA does not simply apply to the legislative branch the substantive protections of these laws, and direct that the implementing regulations essentially mirror those of the executive branch. The statute further provides that, while the CAA rulemaking procedure is underway, the corresponding executive branch regulations are to be applied. Section 411 of the Act provides:

''Effect of failure to issue regulations.

In any proceeding under section 1405, 1406, 1407, or 1408 of this title . . . if the Board has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.''

This statutory scheme makes plain that ADA public access regulations are presently in force. First, regulations virtually identical to these were adopted by the Board, presented to the House of Representatives and the Senate on September 19, 1996, and published on January 7, 1997. 142 Cong. Rec. S10984–11018 and 143 Cong. Rec. S30–66. No action was taken and thus the regulations were not issued. As set forth above, in these circumstances the CAA applies ''the most relevant substantive executive agency regulations,'' i.e., the Departments of Justice (''DOJ'') and Department of Transportation (''DOT'') ADA public access regulations. 2 U.S.C §1411.

A contrary interpretation would render meaningless several sections of the CAA. For example, Congress directed the AOC and other employing offices to conduct an initial study of legislative branch facilities from January 23, 1995 through December 31, 1996, ''to identify any violations of subsection (b) of [section 210], to determine the costs of compliance, and to take any necessary corrective action to abate any violations.'' 2 U.S.C. section 1331(f)(3). Congress instructed the OOC to assist the employing offices by ''arranging for inspections and other technical assistance at their request.'' *Id*. The CAA was enacted on January 23, 1995. No implementing regulations could have taken effect as of that date. Plainly, Congress intended the employing offices and the OOC to look to the DOJ and DOT ADA public access regulations, with which the CAA explicitly required employing offices to comply, when conducting the initial study and abatement actions.

Other sections of the CAA support this reading. For example, the CAA requires the Board to exclude from labor relations regulations employees of Member offices, Senate and House Legislative Counsel, the Congressional Budget Office and several other employing offices if the Board finds a conflict of interest or appearance thereof. 2 U.S.C. §1351(e)(1)(B). Where, as here, a statute explicitly provides for certain regulatory exemptions, it would be illogical to interpret language that expressly provides for regulatory compliance to mean anything else. When Congress intended to exempt employing offices from regulations, the CAA did so explicitly.

Why are these regulations being proposed at this time?

As set forth in the previous answer, the CAA requires employing offices to comply with ADA public access regulations issued by the DOJ and DOT pursuant to the ADA. The CAA also requires the Board to issue its own regulations implementing the ADA public access provisions of the CAA. The statute obligates the Board's regulations to be the same as the DOJ and DOT regulations except to the extent that the Board may determine that a modification would be more effective in implementing ADA public access protections. CAA section 210(e)(2). These proposed regulations will clarify that covered entities must comply with the ADA public access provisions applied to public entities and accommodations to implement Titles II and III of the ADA. Congressional approval and Board issuance of ADA public access under the CAA will also eliminate any question as to the ADA public access protections that are applicable in the legislative branch.

The Board adopted proposed regulations and presented them to the House of Representatives and the Senate in 1996. The regulations were published on January 7, 1997, during the 105th Congress. 142 Cong. Rec. S10984–11018 and 143 Cong. Rec. S30–66. No Congressional action was taken and therefore the regulations were not issued. The Board adopted the present proposal, with updated proposed regulations, to facilitate Congressional consideration of the ADA regulations.

Which ADA public access regulations are applied to covered entities in 2 U.S.C. §1331(e)?

Section 210(e) of the CAA requires the Board to issue regulations that are ''the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions . . . except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' 2 U.S.C. §1331(e).

Consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated after a notice and comment by the DOJ and/or the DOT to implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA are ''substantive regulations'' within the meaning of section 210(e). See, e.g., 142 Cong. Rec. S5070, S5071–72 (daily ed. May 15, 1996) (NPRM implementing section 220(d) regulations); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations).

See also *Reves v. Ernst & Young*, 494 U.S. 56, 64 (1993) (where same phrase or term is used in two different places in the same statute, it is reasonable for court to give each use a similar construction); *Sorenson v. Secretary of the Treasury*, 475 U.S. 851, 860 (1986) (normal rule of statutory construction assumes that identical words in different parts of the same act are intended to have the same meaning).

In this regard, the Board has reviewed the provisions of section 210 of the CAA, the sections of the ADA applied by that section, and the regulations of the DOJ and DOT, to determine whether and to what extent those regulations are substantive regulations which implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA. As explained more fully below, the Board proposes to adopt the following otherwise applicable regulations of the DOJ published at Parts 35 and 36 of Title 28 of the Code of Federal Regulations (''CFR'') and those of the DOT published at Parts 37 and 38 of Title 49 of the CFR:

1. DOJ's regulations at Part 35 of Title 28 of the CFR: The DOJ's regulations at Part 35 implement subtitle A of Title II of the ADA (sections 201 through 205), the rights and protections of which are applied to covered entities under section 210(b) of the CAA. See 28 CFR §35.101 (Purpose). Therefore, the Board determines that these regulations will be adopted in the proposed regulations under section 210(e).

2. DOJ's regulations at Part 36 of Title 28 of the CFR: The DOJ's regulations at Part 36 implement Title III of the ADA (sections 301 through 309). See 28 CFR §36.101 (Purpose). Section 210(b) only applies the rights and protections of three sections of Title III with respect to public accommodations: prohibitions against discrimination (section 302), provisions regarding new construction and alterations (section 303), and provisions regarding examinations and courses (section 309). Therefore, only those regulations in Part 36 that are reasonably necessary to implement the statutory provisions of sections 302, 303, and 309 will be adopted by the Board under section 210(e) of the CAA.

3. DOT's regulations at Parts 37 and 38 of Title 49 of the CFR: The DOT's regulations at Parts 37 and 38 implement the transportation provisions of Title II and Title III of the ADA. See 49 CFR §§37.101 (Purpose) and 38.1 (Purpose). The provisions of Title II and Title III of the ADA relating to transportation and applied to covered entities by section 210(b) of the CAA are subtitle B of Title II (sections 221 through 230) and certain portions of section 302 of Title III. Thus, those regulations of the Secretary that are reasonably necessary to implement the statutory provisions of sections 221 through 230, 302, and 303 of the ADA will be adopted by the Board under section 210(e) of the CAA.

The Board proposes not to adopt those regulatory provisions of the regulations of the DOJ or DOT that have no conceivable applicability to operations of entities within the Legislative Branch or are unlikely to be invoked. See 141 Cong. Rec. at S17604 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). Unless public comments demonstrate otherwise, the Board intends to include in the adopted regulations a provision stating that the Board has issued substantive regulations on all matters for which section 210(e) requires a regulation. See section 411 of the CAA, 2 U.S.C. §1411.

In addition, the Board has proposed to make technical changes in definitions and nomenclature so that the regulations comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the CAA's ''good cause'' requirement. With the exception of these technical and nomenclature changes and additional proposed regulations relating to the investigation and inspection authority granted to the General Counsel under the CAA, the Board does not propose substantial departure from otherwise applicable regulations.

The Board notes that the General Counsel applied the above-referenced standards of Parts 35 and 36 of the DOJ's regulations and Parts 37 and 38 of the DOT's regulations during the past inspections of Legislative Branch facilities pursuant to section 210(f) of the CAA. In contrast to other sections of the CAA, which generally give the Office of Compliance only adjudicatory and regulatory responsibilities, the General Counsel has the authority to investigate and prosecute alleged violations of disability standards under section 210, as well as the responsibility for inspecting covered facilities to ensure compliance. According to the General Counsel's final inspection reports, the Title II and Title III regulations encompass the following requirements:

1. Program accessibility: This standard is applied to ensure physical access to public programs, services, or activities. Under this standard, covered entities must modify policies, practices, and procedures to ensure an equal opportunity for individuals with disabilities. If policy and procedural modifications are ineffective, then structural modifications may be required.

2. Effective communication: This standard requires covered entities to make sure that their communications with individuals with

disabilities (such as in the context of constituent meetings and committee hearings) are as effective as their communications with others. Covered entities are required to make information available in alternate formats such as large print, Braille, or audio tape, or use methods that provide individuals with disabilities the opportunity to effectively communicate, such as sign language interpreters or the use of pen and paper. Primary consideration must be given to the method preferred by the individual.

3. ADA Standards for Accessible Design: These standards are applied to architectural barriers, including structural barriers to communication, such as telephone booths, to ensure that existing facilities, new construction, and new alterations, are accessible to individuals with disabilities.

The Board recognizes that, as with other obligations under the CAA, covered entities will need information and guidance regarding compliance with these ADA standards as adopted in these proposed regulations, which the Office will provide as part of its education and information activities.

How do these regulations differ from those proposed by the Board on January 7, 1997?

These regulations are very similar to those proposed by the Board in 1997; however, there are three significant differences:

1. These regulations have been updated to incorporate the changes made in the DOJ and DOT regulations since 1997. One of the most significant changes made by the DOJ occurred on September 15, 2010 when the DOJ published regulations adopting the 2010 Standards for Accessible Design (''2010 Standards''). The 2010 Standards became fully effective on March 15, 2012 and replaced the 1991 Standards for Accessible Design (''1991 Standards'') that were referenced in the regulations proposed by the Board in 1997. These regulations incorporate by reference the pertinent DOJ and DOT regulations that are in effect as of the date of the publication of this notice, which means that the 2010 Standards will be applied. The Board has also changed the format of the incorporated regulations. Rather than reprinting each of the regulations with minor changes to reflect different nomenclature used in the CAA (i.e., changing references to ''Assistant Attorney General,'' ''Department of Justice,'' ''FTA Administrator,'' ''FTA regional office,'' ''Administrator,'' and ''Secretary'' to ''General Counsel''), these regulations contain a definitional section in §1.105(a) which make these changes and incorporates the DOJ and DOT regulations by reference.

2. Unlike the Board in 1997, the current Board has decided not to propose adoption of the DOJ Title II regulation relating to employment discrimination, 28 C.F.R. §35.140. The Board notes that since 1997 most courts considering this issue have decided that employees of public entities must use the procedures in Title I of the ADA to pursue employment discrimination claims and that these claims cannot be pursued under Title II. *See, e.g., Brumfield v. City of Chicago,* 735 F.3d 619 (7th Cir. 2013); *Elwell v. Okla. ex rel. Bd. of Regents of the Univ. of Okla.*, 693 F.3d 1303 (10th Cir. 2012); *Zimmerman v. Or. Dep't of Justice,* 170 F.3d 1169 (9th Cir. 1999). The prohibition against employment discrimination because of disability in Title I of the ADA is incorporated into section 201(a)(3) of the CAA. 2 U.S.C. §1311(a)(3). Under section 210(c) of the CAA, ''with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.'' 2 U.S.C. §1331(c). Similarly, under section 225(e) of the CAA, ''[o]nly a covered entity who has undertaken and completed the procedures in sections 1402 and 1403 of this title may be granted a remedy under part A of this subchapter.'' 2 U.S.C. §1361(e). When taken together, these sections of the CAA make it clear that the exclusive method for obtaining relief for employment discrimination because of disability is under section 201, which involves using the counseling and mediation procedures contained in sections 402 and 403 of the CAA. For these reasons, the Board has found good cause not to incorporate the DOJ Title II regulation relating to employment discrimination, 28 C.F.R. §35.140, into these regulations.

3. In Parts 2 and 3 of these regulations, the Board has proposed regulations relating to the two unique statutory duties imposed by the CAA upon the General Counsel of the Office of Compliance that are not imposed upon the DOJ and DOT: (1) the investigation and prosecution of charges of discrimination using the Office's mediation and hearing processes (section 210(d) of the CAA) and (2) the biennial inspection and reporting obligations (section 210(f) of the CAA). Parts 2 and 3 of these regulations were not contained in the regulations proposed in 1997; however, the Board has determined that there is good cause to propose these regulations to fully implement section 210 of the CAA. *See,* 2 U.S.C. §1331(e)(1). In formulating the substance of these regulations, the Board has directed the Office's statutory employees to consult with stakeholders and has considered their comments and suggestions.

The Board has also reviewed the biennial ADA reports from the General Counsel and considered what the General Counsel has learned since 1995 while investigating charges of discrimination and conducting and reporting upon ADA inspections. Of particular note is the regulation proposed as §3.103(d) which addresses concerns raised by oversight and appropriations staff over finding a cost-efficient process that would allow better identification and elimination of potential ADA compliance issues during the pre-construction phases of new construction and alteration projects.

Procedural Summary:

How are substantive regulations proposed and approved under the CAA?

Pursuant to Section 304 of the CAA, 2 U.S.C. §1384, the procedure for proposing and approving such substantive regulations provides that:

(1) the Board of Directors propose substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record;

(2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking;

(3) after consideration of comments by the Board of Directors, the Board adopt regulations and transmit notice of such action (together with the regulations and a recommendation regarding the method for Congressional approval of the regulations) to the Speaker of the House and President [P]ro [T]empore of the Senate for publication in the Congressional Record;

(4) there be committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and

(5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication.

For more detail, please reference the text of 2 U.S.C. §1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the Senate, and the Deputy Executive Director for the House of Representatives?

As required by Section 304(b)(1) of the CAA, 2 U.S.C. §1384(b)(1), the substance of these regulations is also recommended by the Executive Director, the Deputy Executive Director for the Senate and the Deputy Executive Director for the House of Representatives.

Has the Board of Directors previously proposed substantive regulations implementing the ADA public access provisions pursuant to 2 U.S.C. §1331?

Yes. Proposed regulations were previously adopted by the Board and presented to the House of Representatives and the Senate on September 19, 1996. The regulations were published on January 7, 1997. 142 Cong. Rec. S10984–11018 and 143 Cong. Rec. S30–66. No Congressional action was taken on these regulations.

What is the approach taken by these proposed substantive regulations?

The Board will follow the procedure as enumerated above and as required by statute. The Board will review any comments received under step (2) of the outline above, and respond to the comments and make any changes necessary to ensure that the regulations fully implement section 210 of the CAA and reflect the practices and policies particular to the legislative branch.

What responsibilities would covered entities have in effectively implementing these regulations?

The CAA charges covered entities with the responsibility to comply with these regulations. CAA §210, 2 U.S.C. §1331.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices?

No. The Board of Directors has identified no ''good cause'' for proposing different regulations for these entities and accordingly has not done so. 2 U.S.C. §1331(e)(2).

Are these proposed substantive regulations available to persons with disabilities in an alternate format?

This Notice of Proposed Regulations is available on the OOC's web site, www.compliance.gov, which is compliant with Section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Annie Leftwood, Executive Assistant, Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540; 202–724–9250; TDD: 202–426–1912; FAX: 202–426–1913.

30 Day Comment Period Regarding the Proposed Regulations

How long do I have to submit comments regarding the proposed regulations?

Comments regarding the proposed regulations of the OOC set forth in this Notice are invited for **a period of thirty (30) days** following the date of the appearance of this Notice in the *Congressional Record.*

How do I submit comments?

Comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission. It is requested, but not required, that an electronic version of any comments be provided either on an accompanying computer disk or e-mailed to the OOC via its web site. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non-toll-free number).

Am I allowed to view copies of comments submitted by others?

Yes. Copies of submitted comments will be available for review on the Office's web site

at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Summary:

The Congressional Accountability Act of 1995, PL 104–1, was enacted into law on January 23, 1995. The CAA, as amended, applies the rights and protections of thirteen federal labor and employment statutes to covered employees and employing offices within the legislative branch of the federal government. Section 210 of the CAA applies that the rights and protections against discrimination in the provision of public services and accommodations established by of Titles II and III (sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §12131–12150, 12182, 12183, and 12189 (''ADA'') shall apply to Legislative Branch entities covered by the CAA. The above provisions of section 210 became effective on January 1, 1997. 2 U.S.C. §1331(h).

The Board of Directors of the Office of Compliance is now publishing proposed regulations to implement Section 210 of the Congressional Accountability Act of 1995 (''CAA''), 2 U.S.C. §1301–1438, as applied to covered entities of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

In addition to inviting comment in this Notice, the Board, through the statutory appointees of the Office, sought consultation with the stakeholders regarding the development of these regulations. The Board also notes that the General Counsel of the Office of Compliance has completed inspections of covered facilities for compliance with disability access standards under section 210 of the CAA during each Congress since the CAA was enacted and has submitted reports to Congress after each of these inspections. Based on information gleaned from these consultations and the experience gained from the General Counsel's inspections, the Board is publishing these proposed regulations, pursuant to section 210(e) of the CAA, 2 §1331(e).

The purpose of these regulations is to implement section 210 of the CAA. In this Notice of Proposed Rulemaking (''NPRM'' or ''Notice'') the Board proposes that virtually identical regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities. Accordingly:

(1) Senate. It is proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the Senate, and this proposal regarding the Senate entities is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) House of Representatives. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to entities within the House of Representatives, and this proposal regarding the House of Representatives entities is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) Certain Congressional instrumentalities. It is further proposed that regulations as described in this Notice be included in the body of regulations that shall apply to the Office of Congressional Accessibility Services, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol (including the Botanic Garden), the Office of the Attending Physician, and the Office of Compliance; and this proposal regarding these six Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due within 30 days after the date of publication of this Notice in the Congressional Record.

Supplementary Information:

The regulations set forth below (Parts 1, 2, and 3) are the substantive regulations that the Board of Directors of the Office of Compliance are proposing pursuant to section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under section 210, the method of identifying entities responsible for correcting a violation of section 210, and the list of executive branch regulations incorporated by reference which define and clarify the prohibition against discrimination on the basis of disability in the provision of public services and accommodations. Part 2 contains the provisions pertaining to investigation and prosecution of charges of discrimination. Part 3 contains the provisions regarding the periodic inspections and reports to Congress on compliance with the disability access standards. These three parts correspond to the three general duties imposed upon the Office of Compliance by section 210 which are as follows:

1. Under section 210(e) of the CAA, the Board of Directors of the Office of Compliance must promulgate substantive regulations which implement the rights and protections provided by section 210. 2 U.S.C. §1331(e)(1).

2. Under Section 210(d) of the CAA, the General Counsel of the Office of Compliance must receive and investigate charges of discrimination alleging violations of the rights and protections provided by Titles II and III of the ADA, may request mediation of such charges upon believing that a violation may have occurred, and, if mediation has not succeeded in resolving the dispute, may file a complaint and prosecute the complaint through the Office of Compliance's hearing and review process 2 U.S.C. §1331(d).

3. Under section 210(f) of the CAA, the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, must conduct periodic inspections of all covered facilities and report to Congress on compliance with disability access standards under section 210. 2 U.S.C. §1331(f).

Regulations proposed in Part 1.

§1.101 Purpose and scope. This section references and cites the sections of Title II and III of the ADA incorporated by reference into the CAA, follows the statutory language of the CAA to identify the covered entities and the statutory duties of the General Counsel of the Office of Compliance and describes how the regulations are organized.

§1.102 Definitions. This section describes the abbreviations that are used throughout the regulations.

§1.103 Authority of the Board. This section describes the authority of the Board of Directors of the Office of Compliance to issue regulations under section 210 of the CAA and the intended effect of the technical and nomenclature changes made to the regulations promulgated by the Attorney General and Secretary of Transportation.

§1.104 Method for identifying the entity responsible for correcting violations of section 210. The regulation in this section is required by section 210(e)(3) of the CAA. This regulation hues very closely to the DOJ Title III regulation set forth in 28 C.F.R. §36.201 which in turn is based on the statutory language in 42 U.S.C. §12182(a) (one of the ADA statutory sections incorporated by reference in section 210(b) of the CAA). Under section 302 of the ADA, owners, operators, lessors and lessees are all jointly and severally liable for ADA violations. *See, e.g., Botosan v. McNally Realty*, 216 F.3d 827, 832 (9th Cir. 2000). The proposed regulation allows consideration of relevant statutes, contracts, orders, and other enforceable arrangements or relationships to allocate responsibility. The term ''enforceable arrangement'' is used intentionally since certain indemnification and contribution contracts allocating liability under the ADA have been found to be unenforceable. *See, e.g., Equal Rights Center v. Archstone-Smith Trust*, 602 F.3d 597 (4th Cir. 2010, *cert denied*, 131 S. Ct. 504 (2010). Although the concepts of ''ownership'' or ''leasing'' do not appear to apply to Legislative Branch facilities on Capitol Hill, the Architect of the Capitol does have statutory superintendence responsibility for certain legislative branch buildings and facilities, including the Capitol Building, which includes duties and responsibilities analogous to those of a ''landlord''. See 40 U.S.C. §§163–166 (Capitol Building), 167–175 and 185a (House and Senate office buildings), 193a (Capitol grounds), 216b (Botanical Garden) and 2 U.S.C. §141(a)(1) (Library of Congress buildings). The Board believes that, where two or more entities may have compliance obligations under section 210(b) as ''responsible entities'' under the proposed regulations, those entities should have the ability to allocate responsibility by agreement similar to the case of landlords and tenants with respect to public accommodations under Title III of the ADA. Thus, the proposed regulations adopt such provisions modeled after section 36.201(b) of the DOJ regulations. However, by promulgating this provision, the Board does not intend any substantive change in the statutory responsibility of entities under section 210(b) or the applicable substantive rights and protections of the ADA applied thereunder. See 142 Cong. Rec. at S270 (final rule under section 205 of the CAA substitutes the term ''privatization'' for ''sale of business'' in the Secretary of Labor's regulations under the Worker Adjustment Retraining and Notification Act).

§1.105 Regulations incorporated by reference. As explained above, consistent with its prior decisions on this issue, the Board has determined that all regulations promulgated after a notice and comment by the DOJ and/or the DOT to implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA are ''substantive regulations'' within the meaning of section 210(e). *See, e.g.*, 142 Cong. Rec. S5070, S5071–72 (daily ed. May 15, 1996) (NPRM implementing section 220(d) regulations); 141 Cong. Rec. S17605 (daily ed. Nov. 28, 1995) (NPRM implementing section 203 regulations). In this regard, the Board has reviewed the provisions of section 210 of the CAA, the sections of the ADA applied by that section, and the regulations of the DOJ and DOT, to determine whether and to what extent those regulations are substantive regulations which implement the provisions of Title II and Title III of the ADA applied by section 210(b) of the CAA.

In **section 1.105(a)(1),** the Board has modified the nomenclature used in the incorporated regulations to comport with the CAA and the organizational structure of the Office of Compliance. In the Board's judgment, making such changes satisfies the CAA's ''good cause'' requirement. With the exception of these technical and nomenclature changes and additional proposed regulations relating to the investigation and inspection authority granted to the General Counsel under the CAA, the Board does not propose substantial departure from otherwise applicable regulations. The dates referenced in section 1.105(a)(2) reflect that the ADA public access provisions of the CAA became effective on January 1, 1997 rather than effective date of the ADA which was January 26, 1992. 2 U.S.C. §1331(h). The three year provision in section 1.105(a)(3) was developed

after consultation with the Office of the Architect of the Capitol regarding what would be a reasonable time frame for implementing these provisions of the regulations. In several portions of DOJ and DOT regulations, references are made to dates such as the effective date of the regulations or effective dates derived from the statutory provisions of the ADA. The Board proposes to substitute dates which correspond to analogous periods for the purposes of the CAA. In this way covered entities under section 210 may have the same time to come into compliance relative to the effective date of section 210 of the CAA afforded public entities subject to Title II of the ADA. In the Board's judgment, such changes satisfy the CAA's ''good cause'' requirement. In section 1.105(a)(4), which was also developed based upon consultations with the Office of the Architect of the Capitol (''AOC''), the Board modified the exception for ''historic'' property to include properties, buildings, or facilities designated as an historic or heritage assets by the AOC. This was necessary because the DOJ regulations limit the definition of historic properties to those ''listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law'' 28 C.F.R. §35.104. While there are certainly properties on Capitol Hill which have historically significant features that are worthy of preservation, these properties are not eligible for listing on the National Register of Historic Places or considered historic under State of local law. *See, Historic Preservation Act of 1966*, 16 U.S.C. 470g (exempting the White House and its grounds, the Supreme Court building and its grounds, and the United States Capitol and its related buildings and grounds from the provisions of the Historic Preservation Act).

In section **1.105(b),** the Board has adopted a rule of interpretation to cover the few instances where there are differences between regulations implementing Title II and Title III of the ADA. The CAA is unique in that it applies both Title II and Title III provisions to covered public entities. The public accommodation provisions of Title III of the ADA are otherwise only applicable to private entities. *See*, 42 U.S.C. §12181(7). This section of the regulation reflects the Board's determination that Congress applied provisions of both Title II and Title III of the ADA to legislative branch entities to ensure that individuals with disabilities are provided the most access to public services, programs, activities and accommodations provided by law.

In section **1.105(c),** the Board has listed the specific DOJ regulations incorporated into the regulations being issued under section 210 of the CAA. As noted earlier, the Board has adopted all of the DOJ regulations implementing Titles II and III of the ADA with the following exceptions:

1. The Board is not incorporating the DOJ regulations regarding retaliation or coercion (28 C.F.R. §§35.134 & 36.206). Sections 35.134 and 36.206 of the DOJ's regulations implement section 503 of the ADA, which prohibits retaliation against any individual who exercises his or her rights under the ADA. 28 CFR pt. 35, App. A at 464 & pt. 36, App. B at 598 (section-by-section analysis). Sections 35.134 and 36.206 are not provisions which implement a right or protection applied to covered entities under section 210(b) of the CAA and, therefore, they will not be included within the adopted regulations. The Board notes, however, that section 207 of the CAA provides a comprehensive retaliation protection for employees (including applicants and former employees) who may invoke their rights under section 210, although section 207 does not apply to nonemployees who may enjoy rights and protections against discrimination under section 210.

2. As noted above, unlike the Board in 1997, the current Board has decided not to propose adoption of the DOJ Title II regulation relating to employment discrimination, 28 C.F.R. §35.140. The Board notes that since 1997 most courts considering this issue have decided that employees of public entities must use the procedures in Title I of the ADA to pursue employment discrimination claims and that these claims cannot be pursued under Title II. *See, e.g., Brumfield v. City of Chicago*, 735 F.3d 619 (7th Cir. 2013); *Elwell v. Okla. ex rel. Bd. of Regents of the Univ. of Okla.*, 693 F.3d 1303 (10th Cir. 2012); *Zimmerman v. Or. Dep't of Justice*, 170 F.3d 1169 (9th Cir. 1999). The prohibition against employment discrimination because of disability in Title I of the ADA is incorporated into section 201(a)(3) of the CAA. 2 U.S.C. §1311(a)(3). Under section 210(c) of the CAA, ''with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.'' 2 U.S.C. §1331(c). Similarly, under section 225(e) of the CAA, ''[o]nly a covered entity who has undertaken and completed the procedures in sections 1402 and 1403 of this title may be granted a remedy under part A of this subchapter.'' 2 U.S.C. §1361(e). When taken together, these sections of the CAA make it clear that the exclusive method for obtaining relief for employment discrimination because of disability is under section 201, which involves using the counseling and mediation procedures contained in sections 402 and 403 of the CAA. For these reasons, the Board has found good cause not to incorporate the DOJ Title II regulation relating to employment discrimination, 28 C.F.R. §35.140, into these regulations.

3. The Board has not incorporated Subpart F of the DOJ's regulations (28 C.F.R. §§35.170–35.189), which set forth administrative enforcement procedures under Title II. Subpart F implements the provisions of section 203 of the ADA, which is applied to covered entities under section 210 of the CAA. Although procedural in nature, such provisions address the remedies, procedures, and rights under section 203 of the ADA, and thus the otherwise applicable provisions of these regulations are ''substantive regulations'' for section 210(e) purposes. See 142 Cong. Rec. at S5071–72 (similar analysis under section 220(d) of the CAA). However, since section 303 of the CAA reserves to the Executive Director the authority to promulgate regulations that ''govern the procedures of the Office,'' and since the Board believes that the benefit of having one set of procedural rules provides the ''good cause'' for modifying the DOJ's regulations, the Board proposes to incorporate the provisions of Subpart F into the Office's procedural rules, to omit provisions that set forth procedures which conflict with express provisions of section 210 of the CAA or are already provided for under comparable provisions of the Office s rules, and to omit rules with no applicability to the Legislative Branch (such as provisions covering entities subject to section 504 of the Rehabilitation Act, provisions regarding State immunity, and provisions regarding referral of complaints to the Justice Department). See 142 Cong. Rec. at S5071–72 (similar analysis and conclusion under section 220(d) of the CAA).

4. The Board has not incorporated Subpart G of the DOJ's regulations, which designates the Federal agencies responsible for investigating complaints under Title II of the ADA. Given the structure of the CAA, such provisions are not applicable to covered Legislative Branch entities and, therefore, will not be adopted under section 210(e).

5. The Board has not incorporated the insurance provisions contained in 28 C.F.R. §36.212. Section 36.212 of the DOJ's regulations restates section 501(c) of the ADA, which provides that the ADA shall not be construed to restrict certain insurance practices on the part of insurance companies and employers, so long as such practices are not used to evade the purposes of the ADA. Section 501(c) of the ADA is not incorporated by reference into section 210 of the CAA. Because section 36.212 implements a section of the ADA which is not incorporated into the CAA and appears intended primarily to cover insurance companies which are not covered entities under the CAA, the Board finds good cause not to incorporate this regulation.

6. The Board has not incorporated Subpart E of the DOJ's regulations (sections 36.501 through 36.599) setting forth the enforcement procedures under Title III of the ADA. As the Justice Department noted in its NPRM regarding subpart E, the Department of Justice does not have the authority to establish procedures for judicial review and enforcement and, therefore, ''Subpart E generally restates the statutory procedures for enforcement''. 28 CFR pt. 36, App. B at 638 (section-by-section analysis). Additionally, the regulations derive from the provisions of section 308 of the ADA, which is not applied to covered entities under section 210(b) of the CAA. Thus, the regulations in subpart E are not promulgated by the Attorney General as substantive regulations to implement the statutory provisions of the ADA referred to in section 210(b), within the meaning of section 210(e).

7. The Board has not incorporated Subpart F of the DOJ's regulations which establishes procedures to implement section 308(b)(1)(A)(ii) of the ADA regarding compliance with State laws or building codes as evidence of compliance with accessibility standards under the ADA. 28 CFR pt. 36, App. B at 640 (section-by-section analysis). Section 308 is not one of the laws applied to covered entities under section 210(b) of the CAA and, therefore, these regulations will not be adopted under section 210(e).

In section **1.105(d),** the Board has listed the specific DOT regulations incorporated into the regulations being issued under section 210 of the CAA. As noted earlier, the Board has adopted all of the DOT regulations implementing Titles II and III of the ADA with the following exceptions:

1. Although the Board has adopted the definitions in section 37.3 of the DOT's regulations, relating to implementation of Part II of Title II of the ADA (sections 241 through 246), those definitions dealing with public transportation by intercity and commuter rail are not adopted because sections 241 through 246 of the ADA were not within the rights and protections applied to covered entities under section 210(b) and, therefore, the regulations implementing such sections are not substantive regulations of the DOT required to be adopted by the Board within the meaning of section 210(e). Accordingly, the Board will give no effect to the definitions of terms such as ''commerce,'' ''commuter authority,'' ''commuter rail car,'' ''commuter rail transportation,'' ''intercity rail passenger car,'' and ''intercity rail transportation,'' which relate to sections 241 through 246 of the ADA.

2. Although the Board has adopted the Nondiscrimination regulation set forth in section 37.5 of the DOT's regulations, subsection (f) of section 37.5 of the this regulation relates to private entities primarily engaged in the business of transporting people and whose operations affect commerce. This subsection implements section 304 of the ADA, which is not a right or protection applied to covered entities under section 210(b) of the CAA. See 56 Fed. Reg. 13856, 13858 (April 4, 1991) (preamble to NPRM regarding Part 37). Therefore, it is not a regulation of

the DOT included within the scope of rulemaking under section 210(e) of the CAA and will not be considered by the Board to be included in these regulations.

3. Several portions of the DOT's regulations refer to obligations of entities regulated by state agencies administering federal transportation funds. See, e.g., sections 37.77(d) (requires filing of equivalent service certificates with state administering agency), 37.135(f) (submission of paratransit development plan to state administering agency) and 37.145 (State comments on paratransit plans). Any references to obligations not imposed on covered entities, such as state law requirements and laws regulating entities that receive Federal financial assistance, will be considered excluded from these proposed regulations.

4. The Board has not adopted section 37.11 of the DOT's regulations relating to administrative enforcement because it does not implement any provision of the ADA applied to covered entities under section 210 of the CAA. Moreover, the enforcement procedures of section 210 are explicitly provided for in section 210(d) (''Available Procedures''). Accordingly, this section will not be included within the incorporated regulations. The subject matter of enforcement procedures is addressed in the Office's procedural rules and in Part 2 of these regulations.

5. Certain sections of Subparts B (Applicability) and C (Transportation Facilities) of the Secretary's regulations were promulgated to implement sections 242 and 304 of the ADA, provisions that are not applied to covered entities under section 210(b) of the CAA or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.21(a)(2) and (b) (relating to private entities under section 304 of the ADA and private entities receiving Federal assistance from the Transportation Department), 37.25 (university transportation systems), 37.29 (private taxi services), 37.33 (airport transportation systems), 37.37(a) and 37.37(e)–(g) (relating to coverage of private entities and other entities under section 304 of the ADA), and 37.49–37.57 (relating to intercity and commuter rail systems). Similarly, the Board proposes modifying sections 37.21(c), 37.37(d), and 37.37(h) and other sections where references are made to requirements or circumstances strictly encompassed by the provisions of section 304 of the ADA and, therefore, not applicable to covered entities under the CAA. See, e.g., sections 37.25–37.27 (transportation for elementary and secondary education systems).

6. Subpart D (sections 37.71 through 37.95) of the DOT's regulations relate to acquisition of accessible vehicles by public entities. Certain sections of subpart D were promulgated to implement sections 242 and 304 of the ADA, which were not applied to covered entities under section 210(b) of the CAA, or are otherwise inapplicable to Legislative Branch entities. Therefore, the Board will exclude the following sections from its substantive regulations on that basis: 37.87–37.91 and 37.93(b) (relating to intercity and commuter rail service).

7. Subpart E (sections 37.101 through 37.109) of the DOT's regulations relates to acquisition of accessible vehicles by private entities. Section 37.101, relating to acquisition of vehicles by private entities not primarily engaged in the business of transporting people, implements section 302 of the ADA, which is applied to covered entities under section 210(b). Therefore, the Board will adopt section 37.101 as part of its section 210(e) regulations. Sections 37.103, 37.107, and 37.109 of the regulations implement section 304 of the ADA, which is inapplicable to covered entities under the ADA. Therefore, the Board proposes not to include them within its substantive regulations under section 210(e) of the CAA.

8. Part 37 of the DOT's regulations includes several appendices, only two of which the Board proposes to adopt as part of these regulations. The Board proposes to adopt as an appendix to these regulations Appendix A (Modifications to Standards for Accessible Transportation Facilities, ADA Accessibility Guidelines for Buildings and Facilities), which provides guidance regarding the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA. 49 CFR pt. 37, App. A. Such guidelines, where not inconsistent with express provisions of the CAA or of the regulations adopted by the Board, may be relied upon by covered entities and other in proceedings under section 210 of the CAA to the same extent as similarly situated persons may rely upon them in actions brought under Title II and Title III of the ADA. See 142 Cong. Rec. at S222 and 141 Cong. Rec. at S17606 (similar resolution regarding Secretary of Labor's interpretative bulletins under the Fair Labor Standards Act for section 203 purposes). The Board proposes not to adopt Appendix B, which gives the addresses of FTA regional offices. Such information is not relevant to covered entities under the CAA. The Board also proposes not to adopt Appendix C, which contain forms for certification of equivalent service. These forms appears to be irrelevant to entities covered by the CAA and therefore will not be adopted by the Board. Finally, the Board will adopt Appendix D to Part 37, the section-by-section analysis of Part 37. The Board notes that the section-by-section analysis may have some relevance in interpreting the sections of Part 37 that the Board has adopted.

9. The Board proposes to adopt, with minimal technical and nomenclature changes, the regulations contained in Part 38 and accompanying appendix, with the exception of the following subparts which the Board has determined implement portions of the ADA not applied to covered entities under section 210(b) of the CAA and/or the Board believe have no conceivable applicability to legislative branch operations: Subpart E, Commuter Rail Cars and Systems; and Subpart F, Intercity Rail Cars and Systems.

In **section 1.105(d),** the Board has proposed the adoption of one regulation promulgated by the Access Board, 36 C.F.R. §1190.34, relating to the accessibility of leased buildings and facilities. While the DOJ does not have a regulation pertaining to leased buildings and facilities, the Access Board has promulgated this regulation that sets minimal accessible standards whenever the federal government leases a building or facility (or a portion thereof). Generally, this regulation requires that fully accessible space be leased when available, but also sets some minimal accessibility requirements when fully accessible spaces are not available. These minimum requirements include at least one accessible entrance, an accessible route to major function areas, an accessible toilet, and accessible parking (if that is included in the rent). If there is no space available that meets even these minimal requirements, the regulation does contain an exception that would permit the short term leasing of spaces that do not even meet these minimal standards. The most common ADA public access complaint received by the General Counsel from members of the public relates to the lack of ADA access to spaces being leased by legislative branch offices. The Board therefore finds good cause to clarify the ADA access obligations regarding leased spaces by adopting 36 C.F.R. §1190.34.

Regulations proposed in Part 2.

§2.101 Purpose and scope. This section references and notes that Part 2 of these regulations implements section 210(d) of the CAA which requires that the General Counsel accept and investigate charges of discrimination filed by qualified individuals with disabilities who allege a violation of Title II or Title III of the ADA by a covered entity. It also notes that by procedural rule or policy, the General Counsel or the Office may further describe how the General Counsel will exercise the statutory authority provided by section 210(d) of the CAA. The Board notes that the Executive Director is proposing amendments to the Office's Procedural Rules that do include provisions relating to section 210(d) of the CAA.

§2.102 Definitions. This section provides definitions for the undefined terms used in section 210(d) of the CAA. In §2.102(a), the term ''charge'' is defined in a manner consistent with the Supreme Court's decision in *Fed. Express Corp. v. Holowecki*, 552 U.S. 389, 402 (2008). In §2.102(b), the definition of the term ''file a charge'' clarifies how charges can be presented to the General Counsel by listing the methods by which the General Counsel has accepted charges in the past. In §2.102(c), the term ''occurrence of the alleged violation'' is defined in a manner that includes both isolated acts of discrimination and continuing violations. *See, e.g., Havens Realty Corp. v. Coleman*, 455 U.S. 363, 380 (1982). In §2.102(d), the term ''the rights and protections against discrimination in the provision of public services and accommodations'' is defined by referencing the specific sections of Titles II and III that are incorporated into the CAA in section 210(b)(1). 2 U.S.C. §1331(b)(1).

§2.103 Investigatory Authority. This section explains the investigatory methods that the General Counsel will use when investigating charges of discrimination and clarifies the duty of cooperation owed by all parties. The language used to describe the investigatory methods listed in §2.103(a) is derived from the Supreme Court's decision in *Dow Chemical Co. v. United States*, 476 U.S. 227, 233 (1986) which describes what is intended when an agency is granted investigatory authority that is not otherwise defined in the statute. The duty to cooperate with investigations described in §2.103(b) is implicit in the CAA. By empowering the General Counsel to investigate potential violations of the the ADA, Congress expressed its expectation that legislative branch employees and offices would cooperate fully with investigations conducted by the General Counsel pursuant to this authority. This regulation is consistent with prior policy guidance the General Counsel has provided to covered entities.

§2.104 Mediation. This section explains when the General Counsel will request mediation of a charge of discrimination. The language in §2.104(a) is derived from section 210(d)(2) of the CAA. 2 U.S.C. §1331(d)(2). The explanation of what happens when mediation results in a settlement is contained in §2.104(b) and is consistent with the language in section 210(d)(3) and with the General Counsel's past practice of closing cases that are resolved during mediation. The language in §2.104(c) is derived from section 210(d)(3) of the CAA. 2 U.S.C. §1331(d)(3).

§2.105 Complaint. The language in this section is is derived from section 210(d)(3) of the CAA. 2 U.S.C. §1331(d)(3).

§2.106 Intervention by charging individual. The language in this section is is derived from section 210(d)(3) of the CAA. 2 U.S.C. §1331(d)(3).

§2.107 Remedies and Compliance. This section describes the remedies available and the compliance dates when a violation of section 210 is found. The remedy language in

§2.107(a) is based upon the statutory language in section 210(c) of the CAA. 2 U.S.C. §1331(d)(3). The allowance of attorney's fees and costs described in §2.107(a)(1) is based upon the language in 28 C.F.R. §35.175 & 36.505 which recognize that attorney's fees may be awarded under both Titles II and III of the ADA. The availability of compensatory damages described in §2.107(a)(2) derives from sections 210(c) and of the CAA which incorporates by reference the remedies contained sections 203 and 308(a) of the ADA. Section 203 of the ADA provides that the remedies set forth in the Rehabilitation Act (at 29 U.S.C. §794a) shall be the remedies for violations of Title II of the ADA. The Supreme Court has made clear that the remedies available under Title II of the ADA and the Rehabilitation Act are ''coextensive with the remedies available in a private cause of action brought under Title VI of the Civil Rights Act of 1964'' which includes compensatory, but not punitive, damages. *Barnes v. Gorman*, 536 U.S. 181, 185 (2002). The language in §2.107(a)(1) & (a)(2) requiring that payment be made by the covered entity responsible for correcting the violation is from section 415(c) of the CAA which requires that funds to correct ADA violations ''may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations.'' 2 U.S.C. §1415(c). The compliance date set forth in §2.107(b) is from section 210(d)(5) of the CAA. 2 U.S.C. §1331(d)(5).

§2.108 Judicial Review. This section is from section 210(d)(4) of the CAA. 2 U.S.C. §1331(d)(4).

Regulations proposed in Part 3.

§3.101 Purpose and scope. This section references and notes that Part 3 of these regulations implements section 210(f) of the CAA which requires that the General Counsel, on a regular basis, at least once each Congress, inspect the facilities of covered entities to ensure compliance with the Titles II and III of the ADA and to prepare and submit a report to Congress containing the results of the periodic inspections, describing any violations, assessing any limitations in accessibility, and providing the estimated cost and time needed for abatement. It also notes that by procedural rule or policy, the General Counsel or the Office may further describe how the General Counsel will exercise the statutory authority provided by section 210(d) of the CAA. The Board notes that the Executive Director is proposing amendments to the Office's Procedural Rules that do include provisions relating to section 210(f) of the CAA.

§3.102 Definitions. This section defines terms used in section 210(f) of the CAA which are not defined in the statute. In §3.102(a), the term ''facilities of covered entities'' is defined. The term ''facility'' is defined in 28 C.F.R. §35.104, which is incorporated by reference into these regulations. See §1.105(c). ''Facilities of covered entities'' is defined to include all facilities where covered entities provide public programs, activities, services or accommodations, including those facilities designed, maintained, altered or constructed by a covered entity. Because the General Counsel's inspections under section 210(f) of the CAA are focused upon finding barriers to access in facilities, the term ''violation'' is defined in §3.102(b) as any barrier to access caused by noncompliance with the applicable standards. The definition of ''estimated cost and time needed for abatement'' was developed in consultation with Office of the Architect of the Capitol which proposed that reporting regarding estimated abatement cost and time be provided using a range of dollar amounts and dates due to the difficulty in precisely estimating such costs and dates.

§3.103 Inspection authority. This section describes the general scope of the General Counsel's inspection authority [§3.103(a)] and recognizes that the General Counsel has the right to review information and documents [§3.103(b)], receive cooperation from covered entities [§3.103(c)], and become involved in pre-construction review of alteration and construction projects [§3.103(d)].

The general scope of authority in §3.103(a) is derived from the language in section 210(f)(1) of the CAA. 2 U.S.C. §1331(f)(1). This subsection also describes the discretion that the General Counsel has exercised when conducting these inspections since the enactment of the CAA.

The document and information review described in §3.103(b) recognizes that a thorough inspection of facilities can require the review of documents and other information to ascertain whether a covered entity is in compliance with the ADA. The language in this subsection is based upon prior policy guidance the General Counsel has provided to covered entities.

The duty to cooperate with inspections described in §3.103(c), like the duty to cooperate with investigations described in §2.103(b), is implicit in the CAA. By empowering the General Counsel to inspect all facilities for potential violations of the the ADA, Congress expressed its expectation that legislative branch employees and offices would cooperate fully with such inspections conducted by the General Counsel pursuant to this authority. This regulation is consistent with prior policy guidance the General Counsel has provided to covered entities.

The pre-construction review of alteration and construction projects described in §3.103(d) was developed after consultation with the Office of the Architect of the Capitol and addresses concerns raised by oversight and appropriations staff over finding a cost efficient process that would allow better identification and elimination of potential ADA compliance issues during the pre-construction phases of new construction and alteration projects.

§3.104 Reporting, estimating cost & time and compliance date. This section describes the reporting obligations of the General Counsel set forth in section 210(f)(2) of the CAA. 2 U.S.C. §1331(f)(2). The language in §3.104(a) is directly from section 210(f)(2) of the CAA. Subsection 3.104(b) merely recognizes that the General Counsel needs the cooperation of covered entities to provide the cost and time estimates for abatement required by section 210(f)(2). The compliance date set forth in §3.104(c) is from section 210(d)(5) of the CAA. 2 U.S.C. §1331(d)(5).

Proposed Regulations:

PART 1—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 210 OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

§1.101 PURPOSE AND SCOPE
§1.102 DEFINITIONS
§1.103 AUTHORITY OF THE BOARD
§1.104 METHOD FOR IDENTIFYING THE ENTITY RESPONSIBLE FOR CORRECTING VIOLATIONS OF SECTION 210
§1.105 REGULATIONS INCORPORATED BY REFERENCE

§1.101 Purpose and scope.

(a) **CAA.** Enacted into law on January 23, 1995, the Congressional Accountability Act (''CAA'') in Section 210(b) provides that the rights and protections against discrimination in the provision of public services and accommodations established by the provisions of Title II and III (Sections 201 through 230, 302, 303, and 309) of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12131–12150, 12182, 12183, and 12189 (''ADA'') shall apply to the following entities:

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Office of Congressional Accessibility Services;

(5) the United States Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Botanic Garden);

(8) the Office of the Attending Physician; and

(9) the Office of Compliance;

Title II of the ADA prohibits discrimination on the basis of disability in the provision of public services, programs, activities by any ''public entity.'' Section 210(b)(2) of the CAA provides that for the purpose of applying Title II of the ADA the term ''public entity'' means any entity listed above that provides public services, programs, or activities. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with accessibility standards. Section 225(f) of the CAA provides that, ''[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [ADA] shall apply under this Act.'' 2 U.S.C. §1361(f)(1).

Section 210(d) of the CAA requires that the General Counsel of the Office of Compliance accept and investigate charges of discrimination filed by qualified individuals with disabilities who allege a violation of Title II or Title III of the ADA by a covered entity. If the General Counsel believes that a violation may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. 2 U.S.C. §1361(d).

Section 210(f) of the CAA requires that the General Counsel of the Office of Compliance on a regular basis, and at least once each Congress, conduct periodic inspections of all covered facilities and to report to Congress on compliance with disability access standards under Section 210. 2 U.S.C. §1331(f).

(b) **Purpose and scope of regulations.** The regulations set forth herein (Parts 1, 2, and 3) are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to Section 210(e) of the CAA. Part 1 contains the general provisions applicable to all regulations under Section 210, the method of identifying entities responsible for correcting a violation of Section 210, and the list of executive branch regulations incorporated by reference which define and clarify the prohibition against discrimination on the basis of disability in the provision of public services and accommodations. Part 2 contains the provisions pertaining to investigation and prosecution of charges of discrimination. Part 3 contains the provisions regarding the periodic inspections and reports to Congress on compliance with the disability access standards.

§1.102 Definitions.

Except as otherwise specifically provided in these regulations, as used in these regulations:

(a) ***Act*** or ***CAA*** means the Congressional Accountability Act of 1995 (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(b) ***ADA*** means the Americans With Disabilities Act of 1990 (42 U.S.C. §§12131–12150, 12182, 12183, and 12189) as applied to covered entities by Section 210 of the CAA.

(c) ***Covered entity and public entity*** include any of the entities listed in §1.101(a) that provide public services, programs, or activities, or operates a place of public accommodation within the meaning of Section 210 of the CAA. In the regulations implementing Title III, ***private entity*** includes ***covered entities***.

(d) ***Board*** means the Board of Directors of the Office of Compliance.

(e) ***Office*** means the Office of Compliance.

(f) ***General Counsel*** means the General Counsel of the Office of Compliance.

§1.103 Authority of the Board.

Pursuant to Sections 210 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections against discrimination on the basis of disability in the provision of public services and accommodations under the ADA. Section 210(e) of the CAA directs the Board to promulgate regulations implementing Section 210 that are ''the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.'' 2 U.S.C. §1331(e). Specifically, it is the Board's considered judgment, based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other ''substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) [of Section 210 of the CAA]'' that need be adopted.

In promulgating these regulations, the Board has made certain technical and nomenclature changes to the regulations as promulgated by the Attorney General and the Secretary of Transportation. Such changes are intended to make the provisions adopted accord more naturally to situations in the Legislative Branch. However, by making these changes, the Board does not intend a substantive difference between these regulations and those of the Attorney General and/or the Secretary from which they are derived. Moreover, such changes, in and of themselves, are not intended to constitute an interpretation of the regulations or of the statutory provisions of the CAA upon which they are based.

§1.104 Method for identifying the entity responsible for correction of violations of section 210.

(a) **Purpose and scope.** Section 210(e)(3) of the CAA provides that regulations under Section 210(e) include a method of identifying, for purposes of this section and for categories of violations of Section 210(b), the entity responsible for correcting a particular violation. This section sets forth the method for identifying responsible entities for the purpose of allocating responsibility for correcting violations of Section 210(b).

(b) **Violations.** A covered entity may violate Section 210(b) if it discriminates against a qualified individual with a disability within the meaning of Title II or Title III of the ADA.

(c) **Entities Responsible for Correcting Violations.** Correction of a violation of the rights and protections against discrimination is the responsibility of the entities listed in subsection (a) of Section 210 of the CAA that provide the specific public service, program, activity, or accommodation that forms the basis for the particular violation of Title II or Title III rights and protections and, when the violation involves a physical access barrier, the entities responsible for designing, maintaining, managing, altering or constructing the facility in which the specific public service program, activity or accommodation is conducted or provided.

(d) **Allocation of Responsibility for Correction of Title II and/or Title III Violations.** Where more than one entity is found to be an entity responsible for correction of a violation of Title II and/or Title III rights and protections under the method set forth in this section, as between those parties, allocation of responsibility for correcting the violations of Title II or Title III of the ADA may be determined by statute, contract, order, or other enforceable arrangement or relationship.

§1.105 Regulations incorporated by reference.

(a) **Technical and Nomenclature Changes to Regulations Incorporated by Reference.** The definitions in the regulations incorporated by reference (''incorporated regulations'') shall be used to interpret these regulations except when they differ from the definitions in §1.102 or the modifications listed below, in which case the definition in §1.102 or the modification listed below shall be used. The incorporated regulations are hereby modified as follows:

(1) When the incorporated regulations refer to **"Assistant Attorney General," "Department of Justice," "FTA Administrator," "FTA regional office," "Administrator," "Secretary,"** or any other executive branch office or officer, **"General Counsel"** is hereby substituted.

(2) When the incorporated regulations refer to the date **"January 26, 1992,"** the date **"January 1, 1997"** is hereby substituted.

(3) When the incorporated regulations otherwise specify a date by which some action must be completed, the date that is three years from the effective date of these regulations is hereby substituted.

(4) When the incorporated regulations contain an exception for an **"historic"** property, building, or facility that exception shall apply to properties, buildings, or facilities designated as an **historic** or **heritage asset** by the Office of the Architect of the Capitol in accordance with its preservation policy and standards and where, in accordance with its preservation policy and standards, the Office of the Architect of the Capitol determines that compliance with the requirements for accessible routes, entrances, or toilet facilities would threaten or destroy the historic significance of the building or facility, the exceptions for alterations to qualified historic buildings or facilities for that element shall be permitted to apply.

(b) **Rule of Interpretation.** When a covered entity is subject to conflicting regulations implementing both Title II and Title III of the ADA, the regulation providing the most access shall apply.

(c) **Incorporated Regulations from 28 C.F.R. Parts 35 and 36.** The following regulations from 28 C.F.R. Parts 35 and 36 that are published in the Code of Federal Regulations on the effective date of these regulations are hereby incorporated by reference as though stated in detail herein:

§35.101 Purpose.
§35.102 Application.
§35.103 Relationship to other laws.
§35.104 Definitions.
§35.105 Self-evaluation
§35.106 Notice.
§35.107 Designation of responsible employee and adoption of grievance procedures.
§35.130 General prohibitions against discrimination.
§35.131 Illegal use of drugs.
§35.132 Smoking.
§35.133 Maintenance of accessible features.
§35.135 Personal devices and services.
§35.136 Service animals
§35.137 Mobility devices.
§35.138 Ticketing
§35.139 Direct threat.
§35.149 Discrimination prohibited.
§35.150 Existing facilities.
§35.151 New Construction and alterations.
§35.152 Jails, detention and correctional facilities.
§35.160 General.
§35.161 Telecommunications.
§35.162 Telephone emergency services.
§35.163 Information and signage.
§35.164 Duties.
§36.101 Purpose.
§36.102 Application.
§36.103 Relationship to other laws.
§36.104 Definitions.
§36.201 General.
§36.202 Activities.
§36.203 Integrated settings.
§36.204 Administrative methods.
§36.205 Association.
§36.207 Places of public accommodations located in private residences.
§36.208 Direct threat.
§36.209 Illegal use of drugs.
§36.210 Smoking.
§36.211 Maintenance of accessible features.
§36.213 Relationship of subpart B to subparts C and D of this part.
§36.301 Eligibility criteria.
§36.302 Modifications in policies, practices, or procedures.
§36.303 Auxiliary aids and services.
§36.304 Removal of barriers.
§36.305 Alternatives to barrier removal.
§36.306 Personal devices and services.
§36.307 Accessible or special goods.
§36.308 Seating in assembly areas.
§36.309 Examinations and courses.
§36.310 Transportation provided by public accommodations.
§36.402 Alterations.
§36.403 Alterations: Path of travel.
§36.404 Alterations: Elevator exemption.
§36.405 Alterations: Historic preservation.
§36.406 Standards for new construction and alterations.
Appendix A to Part 36—Standards for Accessible Design.
Appendix B to Part 36—Preamble to Regulation on Nondiscrimination on the Basis of Disability by Public Accommodations (Published July 26, 1991).

(d) **Incorporated Regulations from 49 C.F.R. Parts 37 and 38.** The following regulations from 49 C.F.R. Parts 37 and 38 that are published in the Code of Federal Regulations on the effective date of these regulations are hereby incorporated by reference as though stated in detail herein:

§37.1 Purpose.
§37.3 Definitions.
§37.5 Nondiscrimination.
§37.7 Standards for accessible vehicles.
§37.9 Standards for accessible transportation facilities.
§37.13 Effective date for certain vehicle specifications.
§37.21 Applicability: General.
§37.23 Service under contract.
§37.27 Transportation for elementary and secondary education systems.
§37.31 Vanpools.
§37.37 Other applications.
§37.41 Construction of transportation facilities by public entities.
§37.43 Alteration of transportation facilities by public entities.
§37.45 Construction and alteration of transportation facilities by private entities.
§37.47 Key stations in light and rapid rail systems.
§37.61 Public transportation programs and activities in existing facilities.

§ 37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.
§ 37.73 Purchase or lease of used non-rail vehicles by public entities operating fixed route systems.
§ 37.75 Remanufacture of non-rail vehicles and purchase or lease of remanufactured non-rail vehicles by public entities operating fixed route systems.
§ 37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.
§ 37.79 Purchase or lease of new rail vehicles by public entities operating rapid or light rail systems.
§ 37.81 Purchase or lease of used rail vehicles by public entities operating rapid or light rail systems.
§ 37.83 Remanufacture of rail vehicles and purchase or lease of remanufactured rail vehicles by public entities operating rapid or light rail systems.
§ 37.101 Purchase or lease of vehicles by private entities not primarily engaged in the business of transporting people.
§ 37.105 Equivalent service standard.
§ 37.121 Requirement for comparable complementary paratransit service.
§ 37.123 ADA paratransit eligibility: Standards.
§ 37.125 ADA paratransit eligibility: Process.
§ 37.127 Complementary paratransit service for visitors.
§ 37.129 Types of service.
§ 37.131 Service criteria for complementary paratransit.
§ 37.133 Subscription service.
§ 37.135 Submission of paratransit plan.
§ 37.137 Paratransit plan development.
§ 37.139 Plan contents.
§ 37.141 Requirements for a joint paratransit plan.
§ 37.143 Paratransit plan implementation.
§ 37.147 Considerations during FTA review.
§ 37.149 Disapproved plans.
§ 37.151 Waiver for undue financial burden.
§ 37.153 FTA waiver determination.
§ 37.155 Factors in decision to grant an undue financial burden waiver.
§ 37.161 Maintenance of accessible features: General.
§ 37.163 Keeping vehicle lifts in operative condition: Public entities.
§ 37.165 Lift and securement use.
§ 37.167 Other service requirements.
§ 37.171 Equivalency requirement for demand responsive service operated by private entities not primarily engaged in the business of transporting people.
§ 37.173 Training requirements.
Appendix A to Part 37—Modifications to Standards for Accessible Transportation Facilities.
Appendix D to Part 37—Construction and Interpretation of Provisions of 49 CFR Part 37.
§ 38.1 Purpose.
§ 38.2 Equivalent facilitation.
§ 38.3 Definitions.
§ 38.4 Miscellaneous instructions.
§ 38.21 General.
§ 38.23 Mobility aid accessibility.
§ 38.25 Doors, steps and thresholds.
§ 38.27 Priority seating signs.
§ 38.29 Interior circulation, handrails and stanchions.
§ 38.31 Lighting.
§ 38.33 Fare box.
§ 38.35 Public information system.
§ 38.37 Stop request.
§ 38.39 Destination and route signs.
§ 38.51 General.
§ 38.53 Doorways.
§ 38.55 Priority seating signs.
§ 38.57 Interior circulation, handrails and stanchions.
§ 38.59 Floor surfaces.
§ 38.61 Public information system.
§ 38.63 Between-car barriers.
§ 38.71 General.
§ 38.73 Doorways.
§ 38.75 Priority seating signs.
§ 38.77 Interior circulation, handrails and stanchions.
§ 38.79 Floors, steps and thresholds.
§ 38.81 Lighting.
§ 38.83 Mobility aid accessibility.
§ 38.85 Between-car barriers.
§ 38.87 Public information system.
§ 38.171 General.
§ 38.173 Automated guideway transit vehicles and systems.
§ 38.179 Trams, and similar vehicles, and systems.
Figures to Part 38.
Appendix to Part 38—Guidance Material.

(e) **Incorporated Regulation from 36 C.F.R. Part 1190**. The following regulation from 36 C.F.R. Part 1190 that is published in the Code of Federal Regulations on the effective date of these regulations is hereby incorporated by reference as though detail herein:

§ 1190.3—Accessible buildings and facilities: Leased.

PART 2—MATTERS PERTAINING TO INVESTIGATION AND PROSECUTION OF CHARGES OF DISCRIMINATION.

§ 2.101 PURPOSE AND SCOPE
§ 2.102 DEFINITIONS
§ 2.103 INVESTIGATORY AUTHORITY
§ 2.104 MEDIATION
§ 2.105 COMPLAINT
§ 2.106 INTERVENTION BY CHARGING INDIVIDUAL
§ 2.107 REMEDIES AND COMPLIANCE
§ 2.108 JUDICIAL REVIEW

§ 2.101 Purpose and Scope.

Section 210(d) of the CAA requires that the General Counsel accept and investigate charges of discrimination filed by qualified individuals with disabilities who allege a violation of Title II or Title III of the ADA by a covered entity. Part 2 of these regulations contains the provisions pertaining to investigation and prosecution of charges of discrimination. By procedural rule or policy, the General Counsel or the Office may further describe how the General Counsel will exercise the statutory authority provided by Section 210.

§ 2.102 Definitions.

(a) ***Charge*** means any written document from a qualified individual with a disability or that individual's designated representative which suggests or alleges that a covered entity denied that individual the rights and protections against discrimination in the provision of public services and accommodations provided in Section 210(b)(1) of the CAA.

(b) ***File a charge*** means providing a charge to the General Counsel in person, by mail, by electronic transmission, or by any other means used by the General Counsel to receive documents. Charges shall be filed within 180 days of the occurrence of the alleged violation.

(c) ***The occurrence of the alleged violation*** means the later of (1) the date on which the charging individual was allegedly discriminated against; or (2) the last date on which the service, activity, program or public accommodation described by the charging party was operated in a way that denied access in the manner alleged by the charging party.

(d) ***The rights and protections against discrimination in the provision of public services and accommodations*** means all of the rights and protections provided by Section 210(b)(1) of the CAA through incorporation of Sections 201 through 230, 203, 303, and 309 of the ADA and by the regulations issued by the Board to implement Section 210 of the CAA.

§ 2.103 Investigatory Authority.

(a) **Investigatory Methods.** When investigating charges of discrimination and conducting inspections, the General Counsel is authorized to use all the modes of inquiry and investigation traditionally employed or useful to execute this investigatory authority. The authorized methods of investigation include, but are not limited to, the following: (1) requiring the parties to provide or produce ready access to: all physical areas subject to an inspection or investigation, individuals with relevant knowledge concerning the inspection or investigation who can be interviewed or questioned, and documents pertinent to the investigation; and (2) requiring the parties to provide written answers to questions, statements of position, and any other information relating to a potential violation or demonstrating compliance.

(b) **Duty to Cooperate with Investigations.** Charging individuals and covered entities shall cooperate with investigations conducted by the General Counsel. Cooperation includes providing timely responses to reasonable requests for information and documents (including the making and retention of copies of records and documents), allowing the General Counsel to review documents and interview relevant witnesses confidentially and without managerial interference or influence, and granting the General Counsel ready access to all facilities where covered services, programs and activities are being provided and all places of public accommodation.

§ 2.104 Mediation.

(a) **Belief that violation may have occurred.** If, after investigation, the General Counsel believes that a violation of the ADA may have occurred and that mediation may be helpful in resolving the dispute, prior to filing a complaint, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of Section 403 of the CAA between the charging individual and any entity responsible for correcting the alleged violation.

(b) **Settlement.** If, prior to the filing of a complaint, the charging individual and the entity responsible for correcting the violation reach a settlement agreement that fully resolves the dispute, the General Counsel shall close the investigation of the charge without taking further action.

(c) **Mediation Unsuccessful.** If mediation under (a) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of the ADA may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation.

§ 2.105 Complaint.

The complaint filed by the General Counsel shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of Section 405 of the CAA. The decision of the hearing officer shall be subject to review by the Board pursuant to Section 406 of the CAA.

§ 2.106 Intervention by Charging Individual.

Any person who has filed a charge may intervene as of right, with the full rights of a party, whenever a complaint is filed by the General Counsel.

§ 2.107 Remedies and Compliance.

(a) **Remedy.** The remedy for a violation of Section 210 of the CAA shall be such remedy as would be appropriate if awarded under Section 203 or 308(a) of the ADA.

(1) **Attorney Fees and Costs.** In any action commenced pursuant to Section 210 of the CAA by the General Counsel, when a charging individual has intervened, the hearing officer and the Board, in their discretion, may allow the prevailing charging individual a reasonable attorney's fee, including litigation expenses, and costs, and the covered entity responsible for correcting the violation shall pay such fees, expenses and costs from its appropriated funds as part of the funds to correct violations of Section 210 under Section 415(c) of the CAA.

(2) **Compensatory Damages.** In any action commenced pursuant to Section 210 of the CAA by the General Counsel, when a charging individual has intervened, the hearing officer and the Board, in their discretion, may award compensatory damages to the prevailing charging individual, and the covered entity responsible for correcting the violation shall pay such compensatory damages from its appropriated funds as part of the funds to correct violations of Section 210 under Section 415(c) of the CAA.

(b) **Compliance Date.** Compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

§ 2.108 Judicial Review.

A charging individual who has intervened or any respondent to the complaint, if aggrieved by a final decision of the Board, may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to Section 407 of the CAA.

PART 3—MATTERS PERTAINING TO PERIODIC INSPECTIONS AND REPORTING.

§ 3.101 PURPOSE AND SCOPE
§ 3.102 DEFINITIONS
§ 3.103 INSPECTION AUTHORITY
§ 3.104 REPORTING, ESTIMATED COST & TIME AND COMPLIANCE

§ 3.101 Purpose and scope.

Section 210(f) of the CAA requires that the General Counsel, on a regular basis, at least once each Congress, inspect the facilities of covered entities to ensure compliance with the Titles II and III of the ADA and to prepare and submit a report to Congress containing the results of the periodic inspections, describing any violations, assessing any limitations in accessibility, and providing the estimated cost and time needed for abatement. Part 3 of these regulations contains the provisions pertaining to these inspection and reporting duties. By procedural rule or policy, the General Counsel or the Office may further describe how the General Counsel will exercise this statutory authority provided by Section 210.

§ 3.102 Definitions.

(a) ***The facilities of covered entities*** means all facilities used to provide public programs, activities, services or accommodations that are designed, maintained, altered or constructed by a covered entity and all facilities where covered entities provide public programs, activities, services or accommodations.

(b) ***Violation*** means any barrier to access caused by noncompliance with the applicable standards.

(c) ***Estimated cost and time needed for abatement*** means cost and time estimates that can be reported as falling within a range of dollar amounts and dates.

§ 3.103 Inspection authority.

(a) **General scope of authority.** On a regular basis, at least once each Congress, the General Counsel shall inspect the facilities of covered entities to ensure compliance with the Titles II and III of the ADA. When conducting these inspections, the General Counsel has the discretion to decide which facilities will be inspected and how inspections will be conducted. The General Counsel may receive requests for ADA inspections, including anonymous requests, and conduct inspections for compliance with Titles II and III of the ADA in the same manner that the General Counsel receives and investigates requests for inspections under Section 215(c)(1) of the CAA.

(b) **Review of information and documents.** When conducting inspections under Section 210(f) of the CAA, the General Counsel may request, obtain, and review any and all information or documents deemed by the General Counsel to be relevant to a determination of whether the covered entity is in compliance with Section 210 of the CAA.

(c) **Duty to cooperate.** Covered entities shall cooperate with any inspection conducted by the General Counsel in the manner provided by § 2.103(b).

(d) **Pre-construction review of alteration and construction projects.** Any project involving alteration or new construction of facilities of covered entities are subject to inspection by the General Counsel for compliance with Titles II and III of the ADA during the design, pre-construction, construction, and post construction phases of the project. The Office of the Architect of the Capitol shall, within one year from the effective date of these regulations, develop a process with the General Counsel to identify potential barriers to access prior to the completion of alteration and construction projects that may include the following provisions:

(1) Design review or approval;

(2) Inspections of ongoing alteration and construction projects;

(3) Training on the applicable ADA standards;

(4) Final inspections of completed projects for compliance; and

(5) Any other provision that would likely reduce the number of ADA barriers in alterations and new construction and the costs associated with correcting them.

§ 3.104 Reporting, estimating cost & time and compliance date.

(a) **Reporting duty.** On a regular basis, at least once each Congress, the General Counsel shall prepare and submit a report to Congress containing the results of the periodic inspections conducted under § 3.103(a), describing any violations, assessing any limitations in accessibility, and providing the estimated cost and time needed for abatement.

(b) **Estimated cost & time.** Covered entities shall cooperate with the General Counsel by providing information needed to provide the estimated cost and time needed for abatement in the manner provided by § 2.103(b).

(c) **Compliance date.** All barriers to access identified by the General Counsel in its periodic reports shall be removed or otherwise corrected as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the report describing the barrier to access was issued by the General Counsel.

Recommended Method of Approval:

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and entities and facilities of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and entities and facilities of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered entities and facilities be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 9th day of September, 2014.

BARBARA L. CAMENS,
Chair of the Board, Office of Compliance.

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC.

Hon. JOHN A. BOEHNER,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Section 303(a) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1383(a), requires that, with regard to the proposal of procedural rules under the CAA, the Executive Director ''shall, subject to the approval of the Board [of Directors], adopt rules governing the procedures of the Office . . . publish a general notice of proposed rulemaking'' and ''shall transmit such notice to the Speaker of the House of Representatives and the President Pro Tempore of the Senate for publication in the Congressional Record on the first day of which both Houses are in session following such transmittal.''

Having obtained the approval of the Board as required by Section 303(b) of the CAA, 2 U.S.C. 1383(b), I am transmitting the attached notice of proposed procedural rulemaking to the Speaker of the House of Representatives. I request that this notice be published in the House section of the Congressional Record on the first day on which both Houses are in session following the receipt of this transmittal. In compliance with Section 303(b) of the CAA, a comment period of 30 days after the publication of this notice of proposed rulemaking is being provided before adoption of the rules.

Any inquiries regarding this notice should be addressed to Barbara J. Sapin, Executive Director of the Office of Compliance, Room LA–200, 110 2nd Street, S.E., Washington, DC 20540; 202–724–9250.

Sincerely,

BARBARA J. SAPIN,
Executive Director,
Office of Compliance.

Attachment.

FROM THE EXECUTIVE DIRECTOR OF THE OFFICE OF COMPLIANCE: NOTICE OF PROPOSED RULEMAKING (''NPRM''), AND REQUEST FOR COMMENTS FROM INTERESTED PARTIES.

PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE, NOTICE OF PROPOSED RULEMAKING, AS REQUIRED BY 2 U.S.C. § 1383, THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995, AS AMENDED (''CAA'').

INTRODUCTORY STATEMENT

Shortly after the creation of the Office of Compliance (Office) in 1995, Procedural Rules were adopted to govern the processing of cases and controversies under the administrative procedures established in subchapter IV of the Congressional Accountability Act of 1995 (CAA) 2 U.S.C. 1401–1407. The Rules of Procedure were amended in 1998 and again in 2004. The existing Rules of Procedure are available in their entirety on the Office of Compliance's web site: *www.compliance.gov*. The web site is fully compliant with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

Pursuant to section 303(a) of the CAA (2 U.S.C. 1383(a)), the Executive Director of the Office has obtained approval of the Board of Directors of the Office of Compliance regarding certain amendments to the Rules of Procedure.

After obtaining the Board's approval, the Executive Director must then ''publish a general notice of proposed rulemaking . . . for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.'' (Section 303(b) of the CAA, 2 U.S.C. 1383(b)).

NOTICE

Comments regarding the proposed amendments to the Rules of Procedure of the Office

of Compliance set forth in this NOTICE are invited for **a period of thirty (30) days** following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.gov), this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to Annie Leftwood, Office of Compliance, at 202/724–9272 (voice). Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. It is requested, but not required, that an electronic version of any comments be provided via e-mail to: Annie Leftwood: annie.leftwood@compliance.gov. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non toll-free number). Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission. Copies of submitted comments will be available for review at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 13 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office.

The rules of procedure establish the process by which alleged violations of the 13 laws made applicable to the Legislative Branch under the CAA will be considered and resolved. Subpart A covers general provisions pertaining to scope and policy, definitions, and information on various filings and computation of time. Proposed Amendments to Subpart A provide for electronic filing and clarify requirements and procedures concerning confidentiality. Subpart B provides procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. A new Subpart C of the Procedural Rules sets forth the proposed rules and procedures for enforcement of the inspection, investigation and complaint sections 210(d) and (f) of the CAA relating to Public Services and Accommodations under Titles II and III of the Americans with Disabilities Act (ADA). Subpart C has been reserved for these rules since 1995. Because the Office of the General Counsel conducts ADA inspections and investigates ADA charges using procedures that are similar to what are used in its Occupational, Safety and Health (OSH) inspections and investigations conducted under section 215 of the CAA, the procedural rules are similar to what are contained in Subpart D of the Procedural Rules relating to OSH inspections and investigations. The proposed Amendments to Subpart D clarify potential ambiguities in the rules and procedures and make modifications in terminology to better comport with the statutory language used in Section 215 of the CAA. Subparts E, F, and G include the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint. Subpart H sets forth the procedures for appeals of decisions by hearing officers to the Board of Directors of the Office of Compliance and for appeals of decisions by the Board of Directors to the United States Court of Appeals for the Federal Circuit. Proposed Amendments to Subpart H also reference procedures for other proceedings before the Board. Subpart I of the Rules contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance, including proposed Amendments concerning attorney's fees and violations of formal settlement agreements.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA since the original adoption of these Rules in 1995. The proposed Amendments to Subpart D of the Procedural Rules reflect the experience of the Office of General Counsel in conducting OSH inspections and investigations since 1995.

EXPLANATION REGARDING THE TEXT OF THE PROPOSED AMENDMENTS

Material from the 2004 version of the Rules is printed in roman type. The text of the proposed amendments shows ***[deletions in italicized type within bold italics brackets]*** and **added text in bold.** Only subsections of the Rules that include proposed amendments are reproduced in this NOTICE. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of asterisks (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.

PROPOSED AMENDMENTS

Subpart A—General Provisions

§ 1.01 Scope and Policy
§ 1.02 Definitions
§ 1.03 Filing and Computation of Time
§ 1.04 Availability of Official Information
§ 1.05 Designation of Representative
§ 1.06 Maintenance of Confidentiality
§ 1.07 Breach of Confidentiality Provisions

§ 1.01 Scope and Policy.

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Parts A, B, C, and D of title II of the Congressional Accountability Act of 1995. The rules include **definitions,** procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States **under Part A of title II.** The rules also address the procedures for **compliance, investigation and enforcement under Part B of title II, [***variances***]** and for compliance, investigation, **[***and***]** enforcement**, and variance** under Part C of title II**. The rules include [***and***]** procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§ 1.02 Definitions.

Except as otherwise specifically provided in these rules, for purposes of this Part:

. . . . .

(b) *Covered Employee*. The term ''covered employee'' means any employee of

. . . . .

(3) the **[***Capitol Guide Service***] Office of Congressional Accessibility Services;**

(4) the **United States** Capitol Police;

. . . . .

(9) for the purposes stated in paragraph (q) of this section, the **[***General Accounting***] Government Accountability** Office or the Library of Congress.

. . . . .

(d) *Employee of the Office of the Architect of the Capitol*. The term ''employee of the Office of the Architect of the Capitol'' includes any employee of the Office of the Architect of the Capitol, **or** the Botanic Garden **[***or the Senate Restaurants***]**.

(e) *Employee of the Capitol Police*. The term ''employee of the Capitol Police'' includes civilian employees and any member or officer of the Capitol Police.

(f) *Employee of the House of Representatives*. The term ''employee of the House of Representatives'' includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives, but not any such individual employed by any entity listed in subparagraphs **(3)** through (9) of paragraph (b) above.

(g) *Employee of the Senate*. The term ''employee of the Senate'' includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(h) *Employing Office*. The term ''employing office'' means:

. . . . .

(4) the **[***Capitol Guide Service***] Office of Congressional Accessibility Services,** the **United States** Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance; or

(5) for the purposes stated in paragraph **[***(q)***] (r)** of this section, the **[***General Accounting***] Government Accountability** Office and the Library of Congress

(j) *Designated Representative.* The term ''designated representative'' means an individual, firm, or other entity designated in writing by a party to represent the interests of that party in a matter filed with the Office.

. . . . .

—Re-letter subsequent paragraphs—

[*(o)***](p)** *General Counsel*. The term ''General Counsel'' means the General Counsel of the Office of Compliance **and any authorized representative or designee of the General Counsel.**

[*(p)***](q)** *Hearing Officer*. The term ''Hearing Officer'' means any individual **[***designated***] appointed** by the Executive Director to preside over a hearing conducted on matters within the Office's jurisdiction.

[*(q)***](r)** *Coverage of the* **[***General Accounting***] Government Accountability** *Office and the Library of Congress and their Employees*. The term ''employing office'' shall include the **[***General Accounting***] Government Accountability** Office and the Library of Congress, and the term ''covered employee'' shall include employees of the **[**General Accounting**]** Government Accountability Office and the Library of Congress, for purposes of the proceedings and rulemakings described in subparagraphs (1) and (2):

. . . . .

§ 1.03 Filing and Computation of Time

(a) *Method of Filing. Documents may be filed in person,* **electronically, by facsimile (FAX),** or by mail, including express, overnight and other expedited delivery. [*When specifically requested by the Executive Director, or by a Hearing Officer in the case of a matter pending before the Hearing Officer, or by the Board of Directors in the case of an appeal to the Board, any document may also be filed by electronic transmittal in a designated format, with receipt confirmed by electronic transmittal in the same format. Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. In addition, the Board or a Hearing Officer may order other documents to be filed by FAX. The original copies of documents filed by FAX must also be mailed to the Office no later than the day following FAX transmission.*] The filing of all documents is subject to the limitations set forth below. **The Board, Hearing Officer, the Executive Director, or the General Counsel may, in their discretion, determine the method by which documents may be filed in a particular proceeding, including ordering one or more parties to use mail, FAX, electronic filing, or personal delivery. Parties and their representatives are responsible for ensuring that the Office always has their current postal mailing and e-mail addresses and FAX numbers.**

. . . . .

(2) [*Mailing*] ***By Mail.***

(i) **Requests for Mediation.** If mailed, including express, overnight and other expedited delivery, a request for mediation [*or a complaint*] is deemed filed on the date of its receipt in the Office.

(ii) **Other Documents.** [*A document,*] **Documents,** other than a request for mediation, [*or a complaint, is*] **are** deemed filed on the date of [*its*] **their** postmark or proof of mailing to the Office. Parties, including those using franked mail, are responsible for ensuring that any mailed document bears a postmark date or other proof of the actual date of mailing. In the absence of a legible postmark a document will be deemed timely **filed** if it is received by the Office at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999, by mail within five (5) days of the expiration of the applicable filing period.

(3) [*Faxing Documents*] ***By FAX.*** Documents transmitted by FAX machine will be deemed filed on the date received at the Office at 202–426–1913, or [*, in the case of any document to be filed or submitted to the General Counsel,*] on the date received at the Office of the General Counsel at 202–426–1663 **if received by 11:59 p.m. Eastern Time. Faxed documents received after 11:59 p.m. Eastern Time will be deemed filed the following business day.** A FAX filing will be timely only if the document is *received* no later than [*5:00 PM*] **11:59 p.m.** Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. [*The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.*] **The time displayed as received by the Office on its FAX status report will be used to show the time that the document was filed. When the Office serves a document by FAX, the time displayed as sent by the Office on its FAX status report will be used to show the time that the document was served. A FAX filing cannot exceed 75 pages, inclusive of table of contents, table of authorities, and attachments. Attachments exceeding 75 pages must be submitted to the Office in person or by electronic delivery. The date of filing will be determined by the date the brief, motion, response, or supporting memorandum is received in the Office, rather than the date the attachments, were received in the Office.**

(4) *By Electronic Mail.* Documents transmitted electronically will be deemed filed on the date received at the Office at oocefile@compliance.gov, or on the date received at the Office of the General Counsel at OSH@compliance.gov if received by 11:59 p.m. Eastern Time. Documents received electronically after 11:59 p.m. Eastern Time will be deemed filed the following business day. An electronic filing will be timely only if the document is received no later than 11:59 p.m. Eastern Time on the last day of the applicable filing period. Any party filing a document electronically bears the responsibility for ensuring both that the document is timely and accurately transmitted and for confirming that the Office has received the document. The time displayed as received by the Office will be used to show the time that the document has been filed. When the Office serves a document electronically, the time displayed as sent by the Office will be used to show the time that the document was served.

(b) Service by the Office. **At its discretion, the Office may serve documents by mail, FAX, electronic transmission, or personal or commercial delivery.**

[*(b)*]**(c)** *Computation of Time.* All time periods in these rules that are stated in terms of days are calendar days unless otherwise noted. However, when the period of time prescribed is five (5) days or less, intermediate Saturdays, Sundays**,** federal government holidays, **and other full days that the Office is officially closed for business** shall be excluded in the computation. To compute the number of days for taking any action required or permitted under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing or service shall be included in the computation. When the last day falls on a Saturday, Sunday**,** [*or*] federal government holiday, **or a day the Office is officially closed,** the last day for taking the action shall be the next regular federal government workday.

[*(c)*]**(d)** *Time Allowances for Mailing,* ***Fax, or Electronic Delivery*** *of Official Notices.* Whenever a person or party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by [regular, first-class] mail, five (5) days shall be added to the prescribed period. [*Only two (2) days shall be added if a document is served by express mail or other form of expedited delivery.*] When documents are served by certified mail, return receipt requested, the prescribed period shall be calculated from the date of receipt as evidenced by the return receipt. **When documents are served electronically or by FAX, the prescribed period shall be calculated from the date of transmission by the Office.**

[*(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of date of receipt by the addressee is provided.*]

[*§ 9.01*] **§ 1.04 Filing, Service, and Size Limitations of Motions, Briefs, Responses and Other Documents.**

(a) *Filing with the Office; Number* ***and Format.*** **One copy of requests for counseling and mediation, requests for inspection under OSH, unfair labor practice charges, charges under titles II and III of the ADA,** [*one original and three copies of*] all motions, briefs, responses, and other documents must be filed [*,whenever required,*] with the Office [*or Hearing Officer*]. [*However, when a party aggrieved by the decision of a Hearing Officer or a party to any other matter or determination reviewable by the Board files an appeal or other submission with the Board, one original and seven copies of any submission and any responses must be filed with the Office. The Office, Hearing Officer, or Board may also request a*]**A** party [*to submit*] **may file** an electronic version of any submission in a [*designated*] format **designated by the Executive Director, General Counsel, Hearing Officer, or Board,** with receipt confirmed by electronic transmittal in the same format.

(b) *Service.* The parties shall serve on each other one copy of all motions, briefs, responses and other documents filed with the Office, other than the request for counseling, the request for mediation and complaint. Service shall be made by mailing, **by fax or e-mailing,** or by hand delivering a copy of the motion, brief, response or other document to each party, or if represented, the party's representative, on the service list previously provided by the Office. Each of these documents must be accompanied by a certificate of service specifying how, when and on whom service was made. It shall be the duty of each party to notify the Office and all other parties in writing of any changes in the names or addresses on the service list.

. . . . .

(d) *Size Limitations.* Except as otherwise specified [*by the Hearing Officer, or these rules,*] no brief, motion, response, or supporting memorandum filed with the Office shall exceed 35 **double-spaced** pages, [*or 8,750 words,*] exclusive of the table of contents, table of authorities and attachments. The Board, the **Executive Director,** or Hearing Officer may [*waive, raise or reduce*] **modify** this limitation **upon motion and** for good cause shown**;** or on [*its*] **their** own initiative. Briefs, motions, responses, and supporting memoranda shall be on standard letter-size paper (8–1/2″ x 11″). **To the extent that such a filing exceeds 35 double-spaced pages, the Hearing Officer, Board, or Executive Director may, in their discretion, reject the filing in whole or in part, and may provide the parties an opportunity to refile.**

[*§ 9.02*] **§ 1.05 Signing of Pleadings, Motions and Other Filings; Violation of Rules; Sanctions.**

(a) *Signing.* Every pleading, motion, and other filing of a party represented by an attorney or other designated representative shall be signed by the attorney or representative. A party who is not represented shall sign the pleading, motion or other filing. **In the case of an electronic filing, an electronic signature is acceptable.** The signature of a representative or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(b) *Sanctions.* If a pleading, motion, or other filing is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the person who is required to sign. If a pleading, motion, or other filing is signed in violation of this rule, a Hearing Officer or the Board, as

appropriate, upon motion or upon [*its*] **their** own initiative,[*shall*] **may** impose [*upon the person who signed it, a represented party, or both,*] an appropriate sanction, which may include [*an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other filing, including a reasonable attorney's fee. A Hearing Officer or the Board, as appropriate, upon motion or its own initiative may also impose an appropriate sanction, which may include*] the sanctions specified in section 7.02 [*, for any other violation of these rules that does not result from reasonable error*].

[*§ 1.04*] § 1.06 Availability of Official Information.

(a) *Policy*. It is the policy of the Board, the [*Office*] **Executive Director,** and the General Counsel, except as otherwise ordered by the Board, to make available for public inspection and copying final decisions and orders of the Board and the Office, as specified and described in paragraph (d) below.

. . . . .

(c) *Copies of Forms*. Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office **or on line at www.compliance.gov.**

. . . . .

(f) *Access by Committees of Congress*. [*At the discretion of the Executive Director, the*] **The** Executive Director**, at his or her discretion,** may provide to the Committee on Standards of Official Conduct of the House of Representatives **(House Committee on Ethics)** and the Select Committee on Ethics of the Senate **(Senate Select Committee on Ethics)** access to the records of the hearings and decisions of the Hearing Officers and the Board, including all written and oral testimony in the possession of the Office. The identifying information in these records may be redacted at the discretion of the Executive Director. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 405(g) or 406(e) of the Act.

[*§ 1.05*]§ 1.07 Designation of Representative.

(a) [*An employee, other charging individual or*] **A** party [*a witness, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation*] wishing to be represented [*by another individual,*] must file with the Office a written notice of designation of representative. **No more than one representative,** [*or*] **firm, or other entity may be designated as representative for a party, unless approved in writing by the Hearing Officer or Executive Director.** The representative may be, but is not required to be, an attorney. **If the representative is an attorney, he or she may sign the designation of representative on behalf of the party.**

(b) *Service Where There is a Representative*. [*All service*] **Service** of documents shall be [*directed to*] **on** the representative unless **and until such time** as the represented [*individual, labor organization, or employing office*] **party or representative, with notice to the party,** [*specifies otherwise and until such time as that individual, labor organization, or employing office*] notifies the Executive Director, **in writing,** of [*an amendment*] **a modification** or revocation of the designation of representative. Where a designation of representative is in effect, all time limitations for receipt of materials [*by the represented individual or entity*] shall be computed in the same manner as for **those who are** unrepresented [*individuals or entities*]**,** with service of the documents, however, directed to the representative[*, as provided*].

(c) *Revocation of a Designation of Representative.* A revocation of a designation of representative, whether made by the party or by the representative with notice to the party, must be made in writing and filed with the Office. The revocation will be deemed effective the date of receipt by the Office. At the discretion of the Executive Director, General Counsel, mediator, hearing officer, or Board, additional time may be provided to allow the party to designate a new representative as consistent with the Act.

[*§ 1.06*] § 1.08 [Maintenance of] Confidentiality.

(a) *Policy*.[*In accord with section 416 of the Act, it is the policy of*] **Except as provided in sections 416(d), (e), and (f) of the Act,** the Office [*to*] **shall** maintain [*, to the fullest extent possible, the*] confidentiality in counseling, mediation, **and** [*of*] the proceedings and deliberations **of hearing officers and the Board in accordance with sections 416(a),(b), and (c) of the Act.** [*of the participants in proceedings conducted under sections 402, 403, 405 and 406 of the Act and these rules.*]

(b)[*At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under section 402, mediation under section 403, the complaint and hearing process under section 405, or an appeal to the Board under section 406 of the Act, or any related proceeding, the Office will advise the participant of the confidentiality requirements of section 416 of the Act and these rules and that sanctions may be imposed for a violation of those requirements.*] ***Participant.* For the purposes of this rule, participant means an individual or entity who takes part as either a party, witness, or designated representative in counseling under Section 402 of the Act, mediation under section 403, the complaint and hearing process under section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.**

(c) *Prohibition.* Unless specifically authorized by the provisions of the Act or by these rules, no participant in counseling, mediation or other proceedings made confidential under Section 416 of the Act ("confidential proceedings") may disclose a written or oral communication that is prepared for the purpose of or that occurs during counseling, mediation, and the proceedings and deliberations of hearing officers and the Board.

(d) *Exceptions.* Nothing in these rules prohibits a party or its representative from disclosing information obtained in confidential proceedings when reasonably necessary to investigate claims, ensure compliance with the Act or prepare its prosecution or defense. However, the party making the disclosure shall take all reasonably appropriate steps to ensure that persons to whom the information is disclosed maintain the confidentiality of such information. These rules do not preclude a mediator from consulting with the Office, except that when the covered employee is an employee of the Office a mediator shall not consult with any individual within the Office who might be a party or witness. These rules do not preclude the Office from reporting statistical information to the Senate and House of Representatives.

(e) *Waiver.* Participants may agree to waive confidentiality. Such a waiver must be in writing and provided to the Office.

(f) *Sanctions.* The Office will advise the participants of the confidentiality requirements of Section 416 of the Act and that sanctions may be imposed by the Hearing Officer for a violation of those requirements. No sanctions may be imposed except for good cause and the particulars of which must be stated in the sanction order.

[*§ 1.07* Breach of Confidentiality Provisions.

(a) In General. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of Hearing Officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and, in accordance with section 416(f), publication of certain final decisions. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. See also sections 1.06, 5.04, and 7.12 of these rules.

(b) Prohibition. Unless specifically authorized by the provisions of the CAA or by order of the Board, the Hearing Officer or a court, or by the procedural rules of the Office, no participant in counseling, mediation or other proceedings made confidential under section 416 of the CAA (''confidential proceedings'') may disclose the contents or records of those proceedings to any person or entity, Nothing in these rules prohibits a bona fide representative of a party under section 1.05 from engaging in communications with that party for the purpose of participation in the proceedings, provided that such disclosure is not made in the presence of individuals not reasonably necessary to the representative's representation of that party. Moreover, nothing in these rules prohibits a party or its representative from disclosing information obtained in confidential proceedings for the limited purposes of investigating claims, ensuring compliance with the Act or preparing its prosecution or defense, to the extent that such disclosure is reasonably necessary to accomplish the aforementioned purposes and provided that the party making the disclosure takes all reasonably appropriate steps to ensure that persons to whom the information is disclosed maintain the confidentiality of such information.

(c) Participant. For the purposes of this rule, participant means any individual or party, including a designated representative, that becomes a participant in counseling under section 402, mediation under section 403, the complaint and hearing process under section 405, or an appeal to the Board under section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.

(d) Contents or Records of Confidential Proceedings. For the purpose of this rule, the contents or records of counseling, mediation or other proceeding includes information disclosed by participants to the proceedings, and records disclosed by either the opposing party, witnesses or the Office. A participant is free to disclose facts and other information obtained from any source outside of the confidential proceedings. For example, an employing office or its representatives may disclose information about its employment practices and personnel actions, provided that the information was not obtained in a confidential proceeding. However, an employee who obtains that information in mediation or other confidential proceeding may not disclose such information. Similarly, information forming the basis for the allegation of a complaining employee may be disclosed by that employee, provided that the information contained in those allegations was not obtained in a confidential proceeding. However, the employing office or its representatives may not disclose that information if it was obtained a confidential proceeding.

(e) Violation of Confidentiality. Any complaint regarding a violation of the confidentiality provisions must be made to the Executive Director no later than 30 days after the date of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer. The Hearing Officer is also authorized to initiate proceedings on his or her own initiative, or at the direction of the Board, if the alleged violation occurred in the context of Board

proceedings. Upon a finding of a violation of the confidentiality provisions, the Hearing Officer, after notice and hearing, may impose an appropriate sanction, which may include any of the sanctions listed in section 7.02 of these rules, as well as any of the following:

(1) an order that the matters regarding which the violation occurred or any other designated facts shall be taken to be established against the violating party for the purposes of the action in accordance with the claim of the other party;

(2) an order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(3) an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing with or without prejudice the action or proceedings or any part thereof, or rendering a judgment by default against the violating party;

(4) in lieu of any of the foregoing orders or in addition thereto, the Hearing Officer shall require the party violating the confidentiality provisions or the representative advising him, or both, to pay, at such time as ordered by the Hearing Officer, the reasonable expenses, including attorney fees, caused by the violation, unless the Hearing Officer finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. Such an order shall be subject to review on appeal of the final decision of the Hearing Officer under section 406 of the Act. No sanctions may be imposed under this section except for good cause and the particulars of which must be stated in the sanction order.]

Subpart B—Pre-Complaint Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1995

§ 2.01 Matters Covered by Subpart B
§ 2.02 Requests for Advice and Information
§ 2.03 Counseling
§ 2.04 Mediation
§ 2.05 Election of Proceedings
§ 2.06 Filing of Civil Action

§ 2.01 Matters Covered by Subpart B.

(a) These rules govern the processing of any allegation that sections 201 through 206 of the Act have been violated and any allegation of intimidation or reprisal prohibited under section 207 of the Act. Sections 201 through 206 of the Act apply to covered employees and employing offices certain rights and protections of the following laws:

. . . . .

(10) Chapter 35 (relating to veteran's preference) of title 5, United States Code

(11) Genetic Information Nondiscrimination Act of 2008.

(b) This subpart applies to the covered employees and employing offices as defined in section 1.02(b) and (h) of these rules and any activities within the coverage of sections 201 through 206**(a)** and 207 of the Act and referenced above in section 2.01(a) of these rules.

* * * * *

§ 2.03 Counseling.

(a) *Initiating a Proceeding; Formal Request for Counseling.* *[In order]* **T**o initiate a proceeding under these rules **regarding an alleged violation of the Act, as referred to in section 2.01(a), above**, an employee shall file a written request for counseling with the Office*[]*. *[regarding an alleged violation of the Act, as referred to in section 2.01(a), above.]* **The written formal request for counseling should be on an official form provided by the Office and can be found on the Office's website at www.compliance.gov.** *[All requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.]*

(b) *Who May Request Counseling.* A covered employee **who, in good faith**, believes that he or she has been or is the subject of a violation of the Act as referred to in section 2.01(a) may formally request counseling.

. . . . .

(d) *[Purpose]* ***Overview*** *of* ***the*** *Counseling Period.* **The Office will maintain strict confidentiality throughout the counseling period.** The *[purpose of the]* counseling period *[shall]* **should** be **used**: to discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

(e) *Confidentiality and Waiver.*

(1) Absent a waiver under paragraph 2, below, all counseling shall be **kept** strictly confidential **and shall not be subject to discovery. All participants in counseling shall be advised of the requirement for confidentiality and that disclosure of information deemed confidential could result in sanctions later in the proceedings**. Nothing in these rules shall prevent a counselor from consulting with personnel within the Office concerning a matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the Office who might be a party or witness without the consent of the person requesting counseling. Nothing contained in these rules shall prevent the Executive Director from **compiling and publishing statistical information such as that required by Section 301(h)(3) of the Act**. *[so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a request for counseling.]*

(2) The employee and the Office may agree to waive confidentiality *[of]* **during** the counseling process for the limited purpose of **allowing the Office** *[contacting the employing office]* to *[obtain information]* **notify the employing office of the allegations**.*[to be used in counseling the employee or to attempt a resolution of any disputed matter(s).]* Such a limited waiver must be written on the form supplied by the Office and signed by both the counselor and the employee.

. . . . .

(g) *Role of Counselor [in Defining Concerns]*. The counselor *[may]* **shall:**

(1) obtain the name, home and office mailing **and e-mail** addresses, and home and office telephone numbers of the person being counseled;

(2) obtain the name and title of the person(s) whom the employee claims has engaged in a violation of the Act**, e-mail address, if known**, and the employing office in which this person(s) works;

. . . . .

(5) obtain the name, **business and e-mail** address**es**, and telephone number of the employee's representative, if any, and whether the representative is an attorney.

*[(i)]***(h)***Counselor Not a Representative.* The counselor shall inform the person being counseled that the counselor does not represent either the employing office or the employee. The counselor provides information **regarding the Act and the Office** and may act as a third-party intermediary with the goals of increasing the individual's understanding of his or her rights and responsibilities under the Act and of promoting the early resolution of the matter.

[(j)] **(i)** *Duration of Counseling Period.* The period for counseling shall be 30 days, beginning on the date that the request for counseling is *[received by the Office]* **filed by the employee in accordance with section 1.03(a) of these rules**, unless the employee **requests in writing on a form provided by the Office to reduce the period** and the *[Office]* **Executive Director** agrees *[to reduce the period]*.

[(h)] **(j)** *Role of Counselor in Attempting Informal Resolution.* In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a waiver of confidentiality pursuant to section 2.03(e)(2) of these rules. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and, pursuant to section 414 of the Act and section 9.05 of these rules, seek the approval of the Executive Director. Nothing in this subsection, however, precludes the employee, the employing office or their representatives from reducing to writing any formal settlement.

(k) *Duty to Proceed.* An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether he or she has designated a representative, **and shall notify the Office in writing of any change in pertinent contact information, such as address, e-mail, fax number, etc.** An employee, however, may withdraw from counseling once without prejudice to the employee's right to reinstate counseling regarding the same matter, provided that the request to reinstate counseling **must be in writing and** is *[received in]* **filed with** the Office not later than 180 days after the date of the alleged violation of the Act and that counseling on a single matter will not last longer than a total of 30 days.

(l) *Conclusion of the Counseling Period and Notice.* The Executive Director shall notify the employee in writing of the end of the counseling period*[,]* by *[certified mail, return receipt requested,]* **first class mail**, *[or by]* personal delivery evidenced by a written receipt, **or electronic transmission**. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) *Employees of the Office of the Architect of the Capitol and Capitol Police.*

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director, **in his or her sole discretion**, may recommend that the employee use the *[grievance]* **internal** procedures of the Architect of the Capitol or the Capitol Police **pursuant to a Memorandum of Understanding (MOU) between the Architect of the Capitol and the Office or the Capitol Police and the Office addressing certain procedural and notification requirements**. The term ''*[grievance]* **internal** procedure(s)'' refers to **any** internal procedure of the Architect of the Capitol and the Capitol Police, **including grievance procedures referred to in section 401 of the Act**, that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act when the Executive Director makes such a recommendation, the following procedures shall apply:

(i) The Executive Director shall recommend **in writing** to the employee that the

employee use **an** *[grievance]* **internal** procedure of the Architect of the Capitol or of the Capitol Police, as appropriate, for a period generally up to 90 days, unless the Executive Director determines, **in writing, that** a longer period is appropriate *[for resolution of the employee's complaint through the grievance procedures of the Architect of the Capitol or the Capitol Police]*. **Once the employee notifies the Office that he or she is using the internal procedure, the employee shall provide a waiver of confidentiality to allow the Executive Director to notify the Architect of the Capitol or the Capitol Police that the employee will be using the internal procedure.**

(ii) The period during which the matter is pending in the internal procedure shall not count against the time available for counseling or mediation under the Act.

(iii) If the dispute is resolved to the employee's satisfaction, the employee shall so notify the Office within 20 days after the employee has been served with a final decision.

[(ii)] **(iv)** After *[having contacted the Office and having utilized]* **using** the *[grievance]* **internal** procedures *[of the Architect of the Capitol or of the Capitol Police]*, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within 60 days after the expiration of the period recommended by the Executive Director, **or longer if the Executive Director has extended the time period,** if the matter has not resulted in a final decision **or a decision not to proceed;** or

(B) within 20 days after service of a final decision **or a decision not to proceed,** resulting from the *[grievance]* **internal** procedures *[of the Architect of the Capitol or of the Capitol Police Board.]*

[(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure. If no request to return to the procedures under these rules is received within 60 days after the expiration of the period recommended by the Executive Director the Office will issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.]

(v) If a request to return to counseling is not made by the employee within the time periods outlined above, the Office will issue a Notice of the End of Counseling.

(2) Notice to Employees who Have Not Initiated Counseling with the Office. When an employee of the Architect of the Capitol or the Capitol Police raises in the internal procedures of the Architect of the Capitol or of the Capitol Police *[Board]* an allegation which may also be raised under the procedures set forth in this subpart, the Architect of the Capitol or the Capitol Police *[Board should]* **shall, in accordance with the MOU with the Office,** advise the employee in writing that a request for counseling about the allegation must be initiated with the Office within 180 days after the alleged violation of law occurred if the employee intends to use the procedures of the Office.

(3) Notice in Final Decisions when Employees Have Not Initiated Counseling with the Office. When an employee raises in the internal procedures of the Architect of the Capitol or of the Capitol Police *[Board]* an allegation which may also be raised under the procedures set forth in this subpart, any *[final]* decision **issued** *[pursuant to the procedures of the Architect of the Capitol or of the Capitol Police Board should]* **under such procedure, shall, pursuant to the MOU with the Office,** include notice to the employee of his or her right to initiate the procedures under these rules within 180 days after the alleged violation occurred.

(4) Notice in Final Decisions when There Has Been a Recommendation by the Executive Director. When the Executive Director has made a recommendation under paragraph 1 above, the Architect of the Capitol or the Capitol Police *[Board should]* **shall, pursuant to the MOU with the Office,** include with the final decision notice to the employee of his or her right to resume the procedures under these rules within 20 days after service on the employee of the final decision and shall transmit a copy of the final decision, settlement agreement, or other final disposition of the case to the Executive Director.

§ 2.04 Mediation.

(a) **[Explanation] Overview.** Mediation is a process in which employees, employing offices and their representatives, if any, meet separately and/or jointly with a *[neutral]* **mediator** trained to assist them in resolving disputes. As *[parties to]* **participants in** the mediation, employees, employing offices, and their representatives discuss alternatives to continuing their dispute, including the possibility of reaching a voluntary, mutually satisfactory resolution. The *[neutral]* **mediator** has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to section 416 of the Act.

(b) *Initiation.* Not more than 15 days after receipt by the employee of the notice of the conclusion of the counseling period under section 2.03(1), the employee may file with the Office a written request for mediation**. Except to provide for the services of a mediator and notice to the employing office, the invocation of mediation shall be kept confidential by the Office.** The request for mediation shall contain the employee's name, **home and e-mail** address**es**, *[and]* telephone number, and the name of the employing office that is the subject of the request. Failure to request mediation within the prescribed period *[will]* **may** preclude the employee's further pursuit of his or her claim. **If a request for mediation is not filed within 15 days of receipt of a Notice of the End of Counseling, without good cause shown, the case will be closed and the employee will be so notified.**

. . . . .

(d) *Selection of [Neutrals] Mediators; Disqualification.* Upon receipt of the request for mediation, the Executive Director shall assign one or more *[neutrals]* **mediators** to commence the mediation process. In the event that a *[neutral]* **mediator** considers him or herself unable to perform in a neutral role in a given situation, he or she shall withdraw from the matter and immediately shall notify the Office of the withdrawal. Any party may ask the Office to disqualify a *[neutral]* **mediator** by filing a written request, including the reasons for such request, with the Executive Director. This request shall be filed as soon as the party has reason to believe there is a basis for disqualification. The Executive Director's decision on this request shall be final and unreviewable.

(e) *Duration and Extension.*

. . . . .

(2) The *[Office]* **Executive Director** may extend the mediation period upon the joint written request of the parties, or of the appointed mediator on behalf of the parties*[, to the attention of the Executive Director]*. The request shall be written and filed with the *[Office]* **Executive Director** no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefore, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the *[Office]* **Executive Director.**

(f) *Procedures.*

(1) The *[Neutral's]* **Mediator's** Role. After assignment of the case, the *[neutral]* **mediator** will promptly contact the parties. The *[neutral]* **mediator** has the responsibility to conduct the mediation, including deciding how many meetings are necessary and who may participate in each meeting. The *[neutral]* **mediator** may accept and may ask the parties to provide written submissions.

(2) The Agreement to Mediate. At the commencement of the mediation, the *[neutral]* **mediator** will ask the *[parties]* **participants and/or their representatives** to sign an agreement prepared by the Office (''the Agreement to Mediate''). The Agreement to Mediate will **define what is to be kept confidential during mediation and** set out the conditions under which mediation will occur, including the requirement that the participants adhere to the confidentiality of the process **and a notice that a breach of the mediation agreement could result in sanctions later in the proceedings.** The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the *[neutral]* **mediator** participate, testify or otherwise present evidence in **any subsequent administrative action under section 405 or** any civil action under section 408 of the Act or any other proceeding.

(g) Who May Participate. The covered employee*[,]* **and** the employing office *[, their respective representatives, and the Office may meet, jointly or separately, with the neutral. A representative of the employee and a representative of the employing who has actual authority to agree to a settlement agreement on behalf of the employee or the employing office, as the case may be, must be present at the mediation or must be immediately accessible by telephone during the mediation .]* **may elect to participate in mediation proceedings through a designated representative, provided, that the representative has actual authority to agree to a settlement agreement or has immediate access by telephone to someone with actual settlement authority, and provided further, that should the mediator deem it appropriate at any time, the physical presence in mediation of any party may be required. The Office may participate in the mediation process through a representative and/or observer. The mediator will determine, as best serves the interests of mediation, whether the participants may meet jointly or separately with the mediator.**

(h) *Informal Resolutions and Settlement Agreements.* At any time during mediation the parties may resolve or settle a dispute in accordance with section *[9.05]* **9.03** of these rules.

(i) *Conclusion of the Mediation Period and Notice.* If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice *[to the employee]* will be *[sent by certified mail, return receipt requested, or will be]* personally delivered evidenced by a written receipt, **or sent by first class mail, e-mail, or fax.** *[, and it]* **The notice will specify the mode of delivery** and also *[notify]* **provide information about** the employee**'s** *[of his or her]* right to elect to file a complaint with the Office in accordance with section 405 of the Act and section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section *[2.06]* **2.07** of these rules.

(j) *Independence of the Mediation Process and the [Neutral] Mediator.* The Office will

maintain the independence of the mediation process and the *[neutral]* **mediator.** No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

[(k) Confidentiality. Except as necessary to consult with the parties, the parties' their counsel or other designated representatives, the parties to, the mediation, the neutral and the Office shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process. This rule shall not preclude a neutral from consulting with the Office, except that when the covered employee is an employee of the Office a neutral shall not consult with any individual within the Office who might be a party or witness. This rule shall also not preclude the Office from reporting statistical information to the Senate and House of Representatives that does not reveal the identity of the employees or employing offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.]

(k) ***Violation of Confidentiality in Mediation.*** **An allegation regarding a violation of the confidentiality provisions may be made by a party in a mediation to the mediator during the mediation period and, if not resolved by agreement in mediation, to a Hearing Officer during proceedings brought under Section 405 of the Act.**

. . . . .

§ 2.05 Election of Proceeding.

(a) Pursuant to section 404 of the Act, not later than 90 days after a covered employee receives notice of the end of mediation under section 2.04(i) of these rules but no sooner than 30 days after that date, the covered employee may either:

. . . . .

(2) file a civil action in accordance with section 408 of the Act and section *2.06* **2.07**, below in the United States *[District Court]* **district court** for the district in which the employee is employed or for the District of Columbia.

(b) A covered employee who files a civil action pursuant to section *[2.06]* **408 of the Act and section 2.07 below**, may not thereafter file a complaint under section **405 of the Act and section 5.01 below** on the same matter.

§ 2.06 Certification of the Official Record

(a) Certification of the Official Record shall contain the date the Request for Counseling was made; the date and method of delivery the Notification of End of Counseling Period was sent to the complainant; the date the Notice was deemed by the Office to have been received by the complainant; the date the Request for Mediation was filed; the date and method of delivery the Notification of End of Mediation Period was sent to the complainant; and the date the Notice was deemed by the Office to have been received by the complainant.

(b) At any time after a complaint has been filed with the Office in accordance with section 405 of the Act and the procedure set out in section 5.01, below; or a civil action filed in accordance with section 408 of the Act and section 2.07 below in the United States district court, a party may request and receive from the Office Certification of the Official Record.

(c) Certification of the Official Record will not be provided until after a complaint has been filed with the Office or the Office has been notified that a civil action has been filed in district court.

§ *[2.06]* 2.07 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court. The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act shall provide a written notice to the Office that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number. **Failure to notify the Office that such action has been filed may result in delay in the preparation and receipt of the Certification of the Official Record.**

Subpart C—Compliance, Investigation, and Enforcement under Section 210 of the CAA (ADA Public Services)—Inspections and Complaints

§ 3.01 Purpose and Scope
§ 3.02 Authority for Inspection
§ 3.03 Request for Inspections by Members of the Public
§ 3.04 Objection to Inspection
§ 3.05 Entry Not a Waiver
§ 3.06 Advance Notice of Inspection
§ 3.07 Conduct of Inspections
§ 3.08 Representatives of Covered Entities
§ 3.09 Consultation with Individuals with Disabilities
§ 3.10 Inspection Not Warranted; Informal Review
§ 3.11 Charge filed with the General Counsel
§ 3.12 Service of charge or notice of charge
§ 3.13 Investigations by the General Counsel
§ 3.14 Mediation
§ 3.15 Dismissal of charge
§ 3.16 Complaint by the General Counsel
§ 3.17 Settlement
§ 3.18 Compliance date

§ 3.01 Purpose and Scope.

The purpose of sections 3.01 through 3.18 of this subpart is to prescribe rules and procedures for enforcement of the inspection and complaint provisions of sections 210(d) and (f) of the CAA. For the purpose of sections 3.01 through 3.18, references to the "General Counsel" include any authorized representative of the General Counsel. In situations where sections 3.01 through 3.18 set forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the General Counsel or the General Counsel's designee determines that an alternative course of action would better serve the objectives of section 210 of the CAA.

§ 3.02 Authority for Inspection.

(a) Under section 210(f)(1) of the CAA, the General Counsel is authorized to enter without delay and at reasonable times any facility of any entity listed in section 210(a) ("covered entities"), to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any facility, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any covered entity, employee, operator, or agent; and to review records maintained by or under the control of the covered entity.

(b) Prior to inspecting areas containing information which is classified by an agency of the United States Government (and/or by any congressional committee or other authorized entity within the Legislative Branch) in the interest of national security, and for which security clearance is required as a condition for access to the area(s) to be inspected, the individual(s) conducting the inspection shall have obtained the appropriate security clearance.

§ 3.03 Requests for Inspections by Members of the Public and Covered Entities.

(a) ***By Members of the Public.***

(1) Any person who believes that a violation of section 210 of the CAA exists in any facility of a covered entity may request an inspection of such facility by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing on a form available from the Office, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the person or the representative of the person. A copy shall be provided to the covered entity or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel. If the person making the request is a qualified individual with a disability, as defined by section 201(2) of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12131(2)), the request for inspection shall be considered a charge of discrimination within the meaning of section 210(d)(1) of the CAA.

(2) If upon receipt of such notification the General Counsel's designee determines that the notice meets the requirements set forth in subparagraph (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists, he or she shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists. Inspections under this section shall not be limited to matters referred to in the notice.

(3) Prior to or during any inspection of a facility, any person may notify the General Counsel's designee, in writing, of any violation of section 210 of the CAA which he or she has reason to believe exists in such facility. Any such notice shall comply with the requirements of subparagraph (1) of this section.

(b) ***By Covered Entities.*** **Upon written request of any covered entity, the General Counsel or the General Counsel's designee shall inspect and investigate facilities of covered entities under section 210(d) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.**

§ 3.04 Objection to Inspection.

Upon a refusal to permit the General Counsel's designee, in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any covered entity, operator, agent, or employee, in accordance with section 3.02 or to permit a representative of employees to accompany the General Counsel's designee during the physical inspection of any facility in accordance with section 3.07, the General Counsel's designee shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The General Counsel's designee shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the General Counsel, who shall take appropriate action.

§ 3.05 Entry Not a Waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply or be conditioned upon a waiver of any cause of action under section 210 of the CAA.

§ 3.06 Advance Notice of Inspections.

(a) Advance notice of inspections may not be given, except in the following situations:

(1) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

(2) where necessary to assure the presence of representatives of the covered entity and employees or the appropriate personnel needed to aid in the inspection; and

(3) in other circumstances where the General Counsel determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections may be given only if authorized by the General Counsel or by the General Counsel's designee.

§ 3.07 Conduct of Inspections.

(a) Subject to the provisions of section 3.02, inspections shall take place at such times and in such places of employment as the General Counsel may direct. At the beginning of an inspection, the General Counsel's designee shall present his or her credentials to the operator of the facility or the management employee in charge at the facility to be inspected; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in section 3.02 which he or she wishes to review. However, such designation of records shall not preclude access to additional records specified in section 3.02.

(b) The General Counsel's designee shall have authority to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately, any covered entity, operator, agent or employee of a covered facility. As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of measuring devices, testing equipment, or other equipment used to assess accessibility or compliance with the ADA Standards.

(c) In taking photographs and samples, the General Counsel's designees shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. The General Counsel's designees shall comply with all employing office safety and health rules and practices at the workplace or location being inspected, and they shall wear and use appropriate protective clothing and equipment.

(d) The conduct of inspections shall be such as to preclude unreasonable disruption of the operations of the covered entity.

(e) At the conclusion of an inspection, the General Counsel's designee shall confer with the covered entity or its representative and informally advise it of any apparent ADA violations disclosed by the inspection. During such conference, the employing office shall be afforded an opportunity to bring to the attention of the General Counsel's designee any pertinent information regarding accessibility in the facility.

(f) Inspections shall be conducted in accordance with the requirements of this subpart.

§ 3.08 Representatives of Covered Entities.

(a) The General Counsel's designee shall be in charge of inspections and questioning of persons. A representative of the covered entity shall be given an opportunity to accompany the General Counsel's designee during the physical inspection of any facility for the purpose of aiding such inspection. The General Counsel's designee may permit additional representatives from the covered entity to accompany the designee where he or she determines that such additional representatives will further aid the inspection. A different covered entity representative may accompany the General Counsel's designee during each different phase of an inspection if this will not interfere with the conduct of the inspection.

(b) The General Counsel's designee shall have authority to resolve all disputes as to whom is the representative authorized by the covered entity for the purpose of this section.

(c) If in the judgment of the General Counsel's designee, good cause has been shown why accompaniment by a third party who is not the requestor or an employee of the covered entity (such as a sign language interpreter, braille reader, architect or accessibility expert) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the General Counsel's designee during the inspection.

(d) The General Counsel's designee may deny the right of accompaniment under this section to any person whose conduct interferes with a fair and orderly inspection. With regard to information classified by an agency of the U.S. Government (and/or by any congressional committee or other authorized entity within the Legislative Branch) in the interest of national security, only persons authorized to have access to such information may accompany the General Counsel's designee in areas containing such information.

§ 3.09 Consultation with Individuals with Disabilities

The General Counsel's designee may consult with individuals with disabilities concerning matters of accessibility to the extent he or she deems necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any person shall be afforded an opportunity to bring any violation of section 210 of the CAA which he or she has reason to believe exists in the facility to the attention of the General Counsel's designee.

§ 3.10 Inspection Not Warranted; Informal Review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists under section 210 of the CAA, he or she shall notify the party making the request of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the General Counsel and, at the same time, providing the covered entity with a copy of such statement. The covered entity may submit an opposing written statement of position with the General Counsel and, at the same time, provide the complaining party with a copy of such statement. Upon the request of the complaining party or the covered entity, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the covered entity may orally present their views. After considering all written and oral views presented, the General Counsel shall affirm, modify, or reverse the designee's determination and furnish the complaining party and the covered entity with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

(b) If the General Counsel's designee determines that an inspection is not warranted because the requirements of section 3.03(a)(1) have not been met, he or she shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new notice of alleged violation meeting the requirements of section 3.03(a)(1).

§ 3.11 Charge filed with the General Counsel.

(a) Who may file.

(1) Any qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), as applied by section 210 of the CAA, who believes that he or she has been subjected to discrimination on the basis of a disability in violation of section 210 of the CAA by a covered entity, may file a charge against any entity responsible for correcting the violation with the General Counsel. A charge may not be filed under section 210 of the CAA by a covered employee alleging employment discrimination on the basis of disability; the exclusive remedy for such discrimination are the procedures under section 201 of the CAA and subpart B of the Office's procedural rules.

(b) When to file. A charge under this section must be filed with the General Counsel not later than 180 days from the date of the alleged discrimination.

(c) Form and Contents. A charge shall be written or typed on a charge form available from the Office. All charges shall be signed and verified by the qualified individual with a disability (hereinafter referred to as the "charging party"), or his or her representative, and shall contain the following information:

(i) the full name, mail and e-mail addresses, and telephone number(s) of the charging party;

(ii) the name, mail and e-mail addresses, and telephone number of the covered entit(ies) against which the charge is brought, if known (hereinafter referred to as the " respondent");

(iii) the name(s) and title(s) of the individual(s), if known, involved in the conduct that the charging party claims is a violation of section 210 and/or the location and description of the places or conditions within covered facilities that the charging party claims is a violation of section 210;

(iv) a description of the conduct, locations, or conditions that form the basis of the charge, and a brief description of why the charging party believes the conduct, locations, or conditions is a violation of section 210; and (v) the name, mail and e-mail addresses, and telephone number of the representative, if any, who will act on behalf of the charging party.

§ 3.12 Service of charge or notice of charge.

Within ten (10) days after the filing of a charge with the General Counsel's Office (excluding weekends or holidays), the General Counsel shall serve the respondent with a copy of the charge, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the General Counsel. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten (10) days after the filing of the charge. The notice shall include the date, place and circumstances of the alleged violation of section 210. The notice may not include the identity of the person filing the charge if that person has requested anonymity.

§ 3.13 Investigations by the General Counsel.

The General Counsel or the General Counsel's designated representative shall promptly investigate each charge alleging violations of section 210 of the CAA. As part of the investigation, the General Counsel will accept any statement of position or evidence with respect to the charge which the charging party or the respondent wishes to submit. The General Counsel will use other methods to investigate the charge, as appropriate.

§ 3.14 Mediation.

If, upon investigation, the General Counsel believes that a violation of section 210 may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 of the CAA and the Office's procedural rules thereunder, between the charging party and any entity responsible for correcting the alleged violation.

§ 3.15 Dismissal of charge.

Where the General Counsel determines that a complaint will not be filed, the General Counsel shall dismiss the charge.

§ 3.16 Complaint by the General Counsel.

(a) After completing the investigation, and where mediation under section 3.14, if any, has not succeeded in resolving the dispute, and where the General Counsel has not settled or dismissed the charge, and if the General Counsel believes that a violation of section 210 may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation.

(b) The complaint filed by the General Counsel under subsection (a) shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 of the CAA. Any person who has filed a charge under section 3.11 of these rules may intervene as of right with the full rights of a party. The procedures of sections 405 through 407 of the CAA and the Office's procedural rules thereunder shall apply to hearings and related proceedings under this subpart.

§ 3.17 Settlement.

Any settlement entered into by the parties to any process described in section 210 of the CAA shall be in writing and not become effective unless it is approved by the Executive Director under section 414 of the CAA and the Office's procedural rules thereunder.

§ 3.18 Compliance Date.

In any proceedings under this section, compliance shall take place as soon as possible, but not later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

Subpart D—Compliance, Investigation, Enforcement and Variance Process under Section 215 of the CAA (Occupational Safety and Health Act of 1970)—Inspections, Citations, and Complaints

§ 4.01 Purpose and Scope
§ 4.02 Authority for Inspection
§ 4.03 Request for Inspections by Employees and Employing Offices
§ 4.04 Objection to Inspection
§ 4.05 Entry Not a Waiver
§ 4.06 Advance Notice of Inspection
§ 4.07 Conduct of Inspections
§ 4.08 Representatives of Employing Offices and Employees
§ 4.09 Consultation with Employees
§ 4.10 Inspection Not Warranted; Informal Review
§ 4.11 Citations
§ 4.12 Imminent Danger
§ 4.13 Posting of Citations
§ 4.14 Failure to Correct a Violation for Which a Citation Has Been Issued; Notice of Failure to Correct Violation; Complaint
§ 4.15 Informal Conferences

Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions

§ 4.20 Purpose and Scope
§ 4.21 Definitions
§ 4.22 Effect of Variances
§ 4.23 Public Notice of a Granted Variance, Limitation, Variation, Tolerance, or Exemption
§ 4.24 Form of Documents
§ 4.25 Applications for Temporary Variances and other Relief
§ 4.26 Applications for Permanent Variances and other Relief
§ 4.27 Modification or Revocation of Orders
§ 4.28 Action on Applications§ 4.29 Consolidation of Proceedings
§ 4.30 Consent Findings and Rules or Orders
§ 4.31 Order of Proceedings and Burden of Proof

Inspections, Citations and Complaints

* * * * *

§ 4.02 Authority for Inspection.

(a) Under section 215(c)(1) of the CAA, upon written request of any employing office or covered employee, the General Counsel is authorized to enter without delay and at reasonable times any place **where covered employees work ("place of employment")** *[of employment under the jurisdiction of an employing office]*; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employing office, operator, agent or employee; and to review records **maintained by or under the control of the covered entity.** *[required by the CAA and regulations promulgated thereunder, and other records which are directly related to the purpose of the inspection.]*

§ 4.03 Requests for Inspections by Employees and Covered Employing Offices.

(a) *By Covered Employees and Representatives.*

(1) Any covered employee or representative of covered employees who believes that a violation of section 215 of the CAA exists in any place of employment *[under the jurisdiction of employing offices]* may request an inspection of such place of employment by giving notice of the alleged violation to the General Counsel. Any such notice shall be reduced to writing on a form available from the Office, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or the representative of the employees. A copy shall be provided to the employing office or its agent by the General Counsel or the General Counsel's designee no later than at the time of inspection, except that, upon the written request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the General Counsel.

* * * * *

(b) *By Employing Offices.* Upon written request of any employing office, the General Counsel or the General Counsel's designee shall inspect and investigate places of employment *[under the jurisdiction of employing offices]* under section 215(c)(1) of the CAA. Any such requests shall be reduced to writing on a form available from the Office.

* * * * *

§ 4.10 Inspection Not Warranted; Informal Review.

(a) If the General Counsel's designee determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a notice of violation under section 4.03(a), he or she shall notify the party giving the notice *[in writing]* of such determination **in writing**. The complaining party may obtain review of such determination by submitting **and serving** a written statement of position with the General Counsel*[,]* and *[, at the same time, providing]* the employing office *[with a copy of such statement by certified mail]*. The employing office may submit **and serve** an opposing written statement of position with the General Counsel*[,]* *[*and *[, at the same time, provide]* the complaining party *[*with a copy of such statement by certified mail*]*.

Upon the request of the complaining party or the employing office, the General Counsel, at his or her discretion, may hold an informal conference in which the complaining party and the employing office may orally present their views. After considering all written and oral views presented, the General Counsel shall affirm, modify, or reverse the designee's determination and furnish the complaining party and the employing office with written notification of this decision and the reasons therefor. The decision of the General Counsel shall be final and not reviewable.

* * * * *

§ 4.11 Citations.

(a) If, on the basis of the inspection, the General Counsel believes that a violation of any requirement of section 215 of the CAA, *[or of]* **including** any **occupational safety or health standard promulgated by the Secretary of Labor under Title 29 of the U.S. Code, section 655, or of any other regulation** *[standard]*, rule or order promulgated pursuant to section 215 of the CAA, has occurred, he or she shall issue to the employing office responsible for correction of the violation *[, as determined under section 1.106 of the Board's regulations implementing section 215 of the CAA,]* either a citation or a notice of de minimis violations that *[*have*]* **has** no direct or immediate relationship to safety or health. An appropriate citation or notice of de minimis violations shall be issued even though, after being informed of an alleged violation by the General Counsel, the employing office immediately abates, or initiates steps to abate, such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued under this section after the expiration of 6 months following the occurrence of any alleged violation **unless the violation is continuing or the employing office has agreed to toll the deadline for filing the citation.**

* * * * *

§ 4.13 Posting of Citations.

(a) Upon receipt of any citation under section 215 of the CAA, the employing office shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employing office's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employing offices are engaged in activities which are physically dispersed, the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation may be posted at the location from which the employees operate to carry out their activities. **When a citation contains security information as defined in Title 2 of the U.S. Code, section 1979, the General Counsel may edit or redact the security information from the copy of the citation used for posting or may provide to the employing office a notice for posting that describes the alleged violation without referencing the security information.** The employing office shall take steps to ensure that the citation **or notice** is not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

(b) Each citation, **notice**, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The pendency of any proceedings regarding the citation shall not affect its posting responsibility under this section unless and until the Board issues a final order vacating the citation.

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§ 4.15 Informal Conferences.

At the request of an affected employing office, employee, or representative of employees, the General Counsel may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, or notice issued by the General Counsel. Any settlement entered into by the parties at such conference shall be subject to the approval of the Executive Director under section 414 of the CAA and section **[9.05] 9.03** of these rules. If the conference is requested by the employing office, an affected employee or the employee's representative shall be afforded an opportunity to participate, at the discretion of the General Counsel. If the conference is requested by an employee or representative of employees, the employing office shall be afforded an opportunity to participate, at the discretion of the General Counsel. Any party may be represented by counsel at such conference.

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Subpart E—Complaints

§ 5.01 Complaints
§ 5.02 Appointment of the Hearing Officer
§ 5.03 Dismissal, Summary Judgment, and Withdrawal of Complaint
§ 5.04 Confidentiality

§ 5.01 Complaints.

(a) *Who May File.*

(1) An employee who has completed **the** mediation **period** under section 2.04 may timely file a complaint with the Office alleging any violation of sections 201 through 207 of the Act*[.]*, **under the Genetic Information Nondiscrimination Act, or any other statute made applicable under the Act.**

(2) The General Counsel may **timely** file a complaint alleging a violation of section 210, 215 or 220 of the Act.

(b) *When to File.*

(1) A complaint may be filed by an employee no sooner than 30 days after the date of receipt of the notice under section 2.04(i), but no later than 90 days after receipt of that notice. **In cases where a complaint is filed with the Office sooner than 30 days after the date of receipt of the notice under section 2.04(i), the Executive Director, at his or her discretion, may return the complaint to the employee for filing during the prescribed period without prejudice and with an explanation of the prescribed period of filing.**

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(c) *Form and Contents.*

(1) *Complaints Filed by Covered Employees.* A complaint shall be **in writing and may be** written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(i) the name, mailing and **e-mail** addresses, and telephone number(s) of the complainant;

. . . . .

(v) a brief description of why the complainant believes the challenged conduct is a violation of **the Act or the relevant sections of the Genetic Information Nondiscrimination Act** and the section(s) of the Act involved;

. . . . .

(vii) the name, **mailing and e-mail** addresses, and telephone number of the representative, if any, who will act on behalf of the complainant.

(2) *Complaints Filed by the General Counsel.* A complaint filed by the General Counsel shall be in writing, signed by the General Counsel or his designee and shall contain the following information:

(i) the name, **mail and e-mail** addresses**, if available,** and telephone number of, as applicable, (A) each entity responsible for correction of an alleged violation of section 210(b), (B) each employing office alleged to have violated section 215, or (C) each employing office and/or labor organization alleged to have violated section 220, against which complaint is brought;

. . . . .

(e) *Service of Complaint.* Upon receipt of a complaint or an amended complaint, the Office shall serve the respondent, or its designated representative, by hand delivery *[or certified mail]* **or first class mail, e-mail, or facsimile** with a copy of the complaint or amended complaint and *[a copy of these rules]* **written notice of the availability of these rules at www.compliance.gov. A copy of these rules may also be provided if requested by either party.** The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) *Answer.* Within 15 days after receipt of a copy of a complaint or an amended complaint, the respondent shall file an answer with the Office and serve one copy on the complainant. *[The answer shall contain a statement of the position of the respondent on each of the issues raised in the complaint or amended complaint, including admissions, denials, or explanations of each allegation made in the complaint and any affirmative defenses or other defenses to the complaint.]* **In answering a complaint, a party must state in short and plain terms its defenses to each claim asserted against it and admit or deny the allegations asserted against it by an opposing party.** Failure to *[file an answer]* **deny an allegation, other than one relating to the amount of damages,** or to raise a claim or defense as to any allegation(s) shall constitute an admission of such allegation(s). Affirmative defenses not raised in an answer that could have reasonably been anticipated based on the facts alleged in the complaint shall be deemed waived. A respondent's motion for leave to amend an answer to interpose a denial or affirmative defense will ordinarily be granted unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

(g) ***Motion to Dismiss.*** **In addition to an answer, a respondent may file a motion to dismiss, or other responsive pleading with the Office and serve one copy on the complainant. Responses to any motions shall be in compliance with section 1.04(c) of these rules.**

(h) ***Confidentiality.*** **The fact that a complaint has been filed with the Office by a covered employee shall be kept confidential by the Office, except as allowed by these rules.**

§ 5.02 Appointment of the Hearing Officer.

Upon the filing of a complaint, the Executive Director will appoint an independent Hearing Officer, who shall have the authority specified in sections 5.03 and 7.01(b) below. The Hearing Officer shall not be the counselor involved in or the *[neutral]* **mediator** who mediated the matter under sections 2.03 and 2.04 of these rules.

§ 5.03 Dismissal, Summary Judgment and Withdrawal of Complaints.

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(f) *Withdrawal of Complaint by Complainant.* At any time a complainant may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Hearing Officer **and may be with or without prejudice to refile at the Hearing Officer's discretion.**

(g) *Withdrawal of Complaint by the General Counsel.* At any time prior to the opening of the hearing the General Counsel may withdraw his complaint by filing a notice with the Executive Director and the Hearing Officer and by serving a copy on the respondent. After opening of the hearing, any such withdrawal must be approved by the Hearing Officer **and may be with or without prejudice to refile at the Hearing Officer's discretion.**

(h) ***Withdrawal From a Case by a Representative.*** **A representative must provide sufficient notice to the Hearing Officer and the parties of record of his or her withdrawal. Until the party designates another representative in writing, the party will be regarded as *pro se.***

§ 5.04 Confidentiality.

Pursuant to section 416(c) of the Act, except as provided in sub-sections 416(d), (e) and (f), all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. Section 416(c) does not apply to proceedings under section 215 of the Act, but does apply to the deliberations of Hearing Officers and the Board under section 215. A violation of the confidentiality requirements of the Act and these rules *[could]* **may** result in the imposition of **procedural or evidentiary** sanctions. *[Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.]* See also sections *[1.06] [1.07]* **1.08** and 7.12 of these rules.

Subpart F—Discovery and Subpoenas

§ 6.01 Discovery
§ 6.02 Requests for Subpoenas
§ 6.03 Service
§ 6.04 Proof of Service
§ 6.05 Motion to Quash
§ 6.06 Enforcement

§ 6.01 Discovery.

(a) *[Explanation]* ***Description.*** Discovery is the process by which a party may obtain from another person, including a party, information, not privileged, reasonably calculated to lead to the discovery of admissible evidence, for the purpose of assisting that party in developing, preparing and presenting its case at the hearing. **No discovery, oral or written, by any party shall** *[This provision shall not be construed to permit any discovery, oral or written, to]* be taken **of, or** from**, an** employee of the Office **of Compliance,** *[or the]* counselor*[(s)]*, or **mediator** *[the neutral(s) involved in counseling and mediation.]***, including files, records, or notes produced during counseling and mediation and maintained by the Office.**

(b) ***Initial Disclosure.*** *[Office Policy Regarding Discovery. It is the policy of the Office to encourage the early and voluntary exchange of relevant and material nonprivileged information between the parties, including the names and addresses of witnesses and copies of relevant and material documents, and to encourage Hearing Officers to develop procedures which allow for the greatest exchange of relevant and material information and which minimizes the need for parties to formally request such information.]* **Within 14 days after the pre-hearing conference and except as otherwise stipulated or ordered by the Hearing Officer, a party must, without awaiting a discovery request, provide to the other parties: the name and, if known, mail and e-mail addresses and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses; and a copy or a description by category and location of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.**

(c) *Discovery Availability*. Pursuant to section 405(e) of the Act, ***[****the Hearing Officer in his or her discretion may permit****]*** **the parties may engage in** reasonable prehearing discovery. ***[****In exercising that discretion, the Hearing Officer may be guided by the Federal Rules of Civil Procedure.****]***

(1) The ***[****Hearing Officer may authorize****]*** **parties may take** discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection or other purposes; physical and mental examinations; and requests for admission.

(2) The Hearing Officer may **adopt standing orders** or make any order setting forth the forms and extent of discovery, including orders limiting the number of depositions, interrogatories, and requests for production of documents, and may also limit the length of depositions.

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(d) *Claims of Privilege*.

(1) Information Withheld. Whenever a party withholds information otherwise discoverable under these rules by claiming that it is privileged or confidential or subject to protection as hearing or trial preparation materials, the party shall make the claim expressly **in writing** and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection. **A party must make a claim for privilege no later than the due date for the production of the information.**

(2) Information Produced As Inadvertent Disclosure. If information produced in discovery is subject to a claim of privilege or of protection as hearing preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the Hearing Officer or the Board under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

§ 6.02 Request for Subpoena.

(a) *Authority to Issue Subpoenas*. At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of correspondence, books, papers, documents, or other records. The attendance of witnesses and the production of records may be required from any place within the United States. However, no subpoena by any party may be issued for the attendance or testimony of an employee ***[****with****]*** **of** the Office of Compliance, **a counselor, or a mediator, including files, records, or notes produced during counseling and mediation and maintained by the Office. Employing offices shall make their employees available for discovery and hearing without requiring a subpoena.**

(d) *Rulings*. The Hearing Officer shall promptly rule on the request **for the subpoena.**

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Subpart G—Hearings

§ 7.01 The Hearing Officer
§ 7.02 Sanctions
§ 7.03 Disqualification of the Hearing Officer
§ 7.04 Motions and Prehearing Conference
§ 7.05 Scheduling the Hearing
§ 7.06 Consolidation and Joinder of Cases
§ 7.07 Conduct of Hearing; Disqualification of Representatives
§ 7.08 Transcript
§ 7.09 Admissibility of Evidence
§ 7.10 Stipulations
§ 7.11 Official Notice
§ 7.12 Confidentiality
§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer
§ 7.14 Proposed Findings of Fact and Conclusions of Law; Posthearing Briefs
§ 7.15 Closing the record
§ 7.16 Hearing Officer Decisions; Entry in Records of the Office; Corrections to the Record; Motions to Alter, Amend or Vacate the Decision.

§ 7.01 The Hearing Officer.

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(b) *Authority*. Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

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(14) maintain **and enforce** the confidentiality of proceedings; and

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§ 7.02 Sanctions.

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(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

(1) *Failure to Comply with an Order*. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

[*(a)****]*****(A)** draw an inference in favor of the requesting party on the issue related to the information sought;

[*(b)****]*****(B)** stay further proceedings until the order is obeyed;

[*(c)****]*****(C)** prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, evidence relating to the information sought;

[*(d)****]*****(D)** permit the requesting party to introduce secondary evidence concerning the information sought;

[*(e)****]*****(E)** strike, **in whole or in part, [***any part of****]*** the complaint, briefs, answer, or other submissions of the party failing to comply with the order, **as appropriate;**

[*(f)****]*****(F)** direct judgment against the non-complying party in whole or in part; or

[*(g)****]*****(G)** order that the non-complying party, or the representative advising that party, pay all or part of the attorney's fees and reasonable expenses of the other party or parties or of the Office, caused by such non-compliance, unless the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney's fees and/or expenses unjust.

(2) *Failure to Prosecute or Defend*. If a party fails to prosecute or defend a position, the Hearing Officer may dismiss the action with prejudice or ***[****rule for the complainant****]*** **decide the matter, where appropriate.**

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(4) ***Filing of frivolous claims.*** **If a party files a frivolous claim, the Hearing Officer may dismiss the claim, in whole or in part, with prejudice or decide the matter for the party alleging the filing of the frivolous claim.**

(5) ***Failure to maintain confidentiality.*** **An allegation regarding a violation of the confidentiality provisions may be made to a Hearing Officer in proceedings under Section 405 of the CAA. If, after notice and hearing, the Hearing Officer determines that a party has violated the confidentiality provisions, the Hearing Officer may:**

(A) direct that the matters related to the breach of confidentiality or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(B) prohibit the party breaching confidentiality from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(C) strike the pleadings in whole or in part;

(D) stay further proceedings until the breach of confidentiality is resolved to the extent possible;

(E) dismiss the action or proceeding in whole or in part; or

(F) render a default judgment against the party breaching confidentiality.

(c) No sanctions may be imposed under this section except for good cause and the particulars of which must be stated in the sanction order.

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§ 7.04 Motions and Prehearing Conference.

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(b) *Scheduling of the Prehearing Conference*. Within 7 days after assignment, the Hearing Officer shall serve on the parties and their designated representatives written notice setting forth the time, date, and place of the prehearing conference, **except that the Executive Director may, for good cause, extend up to an additional 7 days the time for serving notice of the prehearing conference.**

(c) *Prehearing Conference Memoranda*. The Hearing Officer may order each party to prepare a prehearing conference memorandum. **At his or her discretion, the Hearing Officer may direct the filing of the memorandum after discovery by the parties has concluded.** ***[****That****]*** **The** memorandum may include:

. . . . .

(3) the specific relief**, including, where known, a calculation** of ***[****the amount of****]*** **any** monetary relief ***[****,****]*** **or damages** that is being or will be requested;

(4) the names of potential witnesses for the party's case, except for potential **impeachment or** rebuttal witnesses, and the purpose for which they will be called and a list of documents that the party is seeking from the opposing party, and, if discovery was permitted, the status of any pending request for discovery. (It is not necessary to list each document requested. Instead, the party may refer to the request for discovery.)**;** and

. . . . .

(d) At the prehearing conference, the Hearing Officer may discuss the subjects specified in paragraph (c) above and the manner in which the hearing will be conducted ***[****and proceed****]***. In addition, the Hearing Officer may explore settlement possibilities and consider how the factual and legal issues might be simplified and any other issues that might expedite the resolution of the dispute. The Hearing Officer shall issue an order, which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions, **stipulations,** or agreements of the parties. Such order, when entered, shall control the course of the proceeding, subject to later modification by the Hearing Officer by his or her own motion or upon proper request of a party for good cause shown.

§ 7.05 Scheduling the Hearing.

. . . . .

(b) *Motions for Postponement or a Continuance*. Motions for postponement or for a continuance by either party shall be made in

writing to the [*Office*] **Hearing Officer,** shall set forth the reasons for the request, and shall state whether the opposing party consents to such postponement. Such a motion may be granted **by the Hearing Officer** upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.

§ 7.06 Consolidation and Joinder of Cases.

. . . . .

(b) ***Authority.*** **The Executive Director prior to the assignment of a complaint to a Hearing Officer; a Hearing Officer during the hearing; or t**he Board [*, the Office, or a Hearing Officer*] **during an appeal** may consolidate or join cases on their own initiative or on the motion of a party if to do so would expedite processing of the cases and not adversely affect the interests of the parties, taking into account the confidentiality requirements of section 416 of the Act.

§ 7.07 Conduct of Hearing; Disqualification of Representatives.

. . . . .

(c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party typed lists of the hearing exhibits and the witnesses **expected to be called to testify,** excluding **impeachment or** rebuttal witnesses [*, expected to be called to testify*].

. . . . .

(f) Failure of either party to appear, present witnesses, or respond to an evidentiary order may result in an adverse finding or ruling by the Hearing Officer. At the discretion of the Hearing Officer, the hearing may also be held in absence of the complaining party if the representative for that party is present.

[*(f)*]**(g)** If the Hearing Officer concludes that a representative of an employee, a witness, a charging party, a labor organization, an employing office, or an entity alleged to be responsible for correcting a violation has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party shall be afforded reasonable time to retain other representation.

§ 7.08 Transcript.

. . . . .

(b) *Corrections.* Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of service of the transcript upon the [*party*] **parties.** Corrections of the official transcript will be permitted only upon approval of the Hearing Officer. The Hearing Officer may make corrections at any time with notice to the parties.

. . . . .

§ 7.12 Confidentiality.

(a) Pursuant to section 416 of the Act **and section 1.08 of these Rules,** all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in section**s** 416(d), (e), and (f) of the Act **and section 1.08(d) of these Rules.** All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it. This provision shall not apply to proceedings under section 215 of the Act, but shall apply to the deliberations of Hearing Officers and the Board under that section.

(b) ***Violation of Confidentiality.*** **An allegation regarding a violation of confidentiality occurring during a hearing may be resolved by a Hearing Officer in proceedings under Section 405 of the CAA. After providing notice and an opportunity to the parties to be heard, the Hearing Officer, in accordance with section 1.08(f) of these Rules, may make a finding of a violation of confidentiality and impose appropriate procedural or evidentiary sanctions, which may include any of the sanctions listed in section 7.02 of these Rules.**

§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer.

. . . . .

(b) *Time for Filing.* A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination requested to be made by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.

[*(b)*]**(c)** *Standards for Review.* In determining whether to **certify and** forward a request for interlocutory review to the Board, the Hearing Officer shall consider **all of** the following:

. . . . .

[*(c) Time for Filing. A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination requested to be made by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.*]

(d) *Hearing Officer Action.* If **all** the conditions set forth in paragraph [*(b)*]**(c)** above are met, the Hearing Officer shall **certify and** forward a request for interlocutory review to the Board for its immediate consideration. Any such submission shall explain the basis on which the Hearing Officer concluded that the standards in paragraph [*(b)*]**(c)** have been met. **The decision of the Hearing Office to forward or decline to forward a request for review is not appealable.**

(e) *Grant of Interlocutory Review Within Board's Sole Discretion.* **Upon the Hearing Officer's certification and decision to forward a request for review, [T]***the* Board, in its sole discretion, may grant interlocutory review. **The Board's decision to grant or deny interlocutory review is not appealable.**

. . . . .

[*(g) Denial of Motion not Appealable; Mandamus. The grant or denial of a motion for a request for interlocutory review shall not be appealable. The Hearing Officer shall promptly bring a denial of such a motion, and the reasons therefor, to the attention of the Board. If, upon consideration of the motion and the reason for denial, the Board believes that interlocutory review is warranted, it may grant the review sua sponte. In addition, the Board may in its discretion, in extraordinary circumstances, entertain directly from a party a writ of mandamus to review a ruling of a Hearing Officer.*]

[*(h)*]**(g)** *Procedures before Board.* Upon its *[acceptance of a ruling of the Hearing Officer for*] *decision to grant* interlocutory review, the Board shall issue an order setting forth the procedures that will be followed in the conduct of that review.

[*(i)*]**(h)** *Review of a Final Decision.* Denial of interlocutory review will not affect a party's right to challenge rulings, which are otherwise appealable, as part of an appeal to the Board under section 8.01 from the Hearing Officer's decision issued under section 7.16 of these rules.

§ 7.14 Proposed Findings of Fact and Conclusions of Law; Posthearing Briefs.

[*(a)*] *May be* [*Filed*] ***Required.*** The Hearing Officer may [*permit*] require the parties to file **proposed findings of fact and conclusions of law and/or** posthearing briefs on the factual and the legal issues presented in the case.

[*(b) Length. No principal brief shall exceed 50 pages, or 12,500 words, and no reply brief shall exceed 25 pages, or 6,250 words, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown; the Hearing Officer may in his or her discretion also reduce the page limits. Briefs in excess of 10 pages shall include an index and a table of authorities.*

(c) Format. Every brief must be easily readable. Briefs must have double spacing between each line of text, except for quoted texts and footnotes, which may be single-spaced.]

§ 7.15 Closing the Record of the Hearing.

(a) Except as provided in section 7.14, the record shall be closed at the conclusion of the hearing. However, when the Hearing Officer allows the parties to submit **argument, briefs, documents or** additional evidence previously identified for introduction, **the record will remain open for as much time as the judge grants for that purpose** [*additional evidence previously identified for introduction, the Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose*].

(b) Once the record is closed, no additional evidence or argument shall be accepted into the hearing record except upon a showing that new and material evidence has become available that was not available despite due diligence prior to the closing of the record **or it is in rebuttal to new evidence or argument submitted by the other party just before the record closed.** [*However, the*] **The Hearing Officer shall also** make part of the record any [motions for attorney fees, supporting documentation, and determinations thereon, and] approved correction to the transcript.

§ 7.16 Hearing Officer Decisions; Entry in Records of the Office; Corrections to the Record; Motions to Alter, Amend or Vacate the Decision.

. . . . .

(b) **The Hearing Officer's written decision shall:**

(1) state the issues raised in the complaint;

(2) describe the evidence in record;

(3) contain findings of fact and conclusions of law, and the reasons or basis therefore, on all the material issues of fact, law, or discretion presented on the record;

(4) contain a determination of whether a violation has occurred; and (5) order such remedies as are appropriate under the CAA.

[*(b)*]**(c)** Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

[*(c)*]**(d)** The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

[*(d)*]**(e)** If there is no appeal of a decision and order of a Hearing Officer, that decision becomes a final decision of the Office, which is subject to enforcement under section 8.03 of these rules.

(f) Corrections to the Record. After a decision of the Hearing Officer has been issued, but before an appeal is made to the Board, or in the absence of an appeal, before the decision becomes final, the Hearing Officer may issue an erratum notice to correct simple errors or easily correctible mistakes. The Hearing Officer may do so on motion of the parties or on his or her own motion with or without advance notice.

(g) After a decision of the Hearing Officer has been issued, but before an appeal is

made to the Board, or in the absence of an appeal, before the decision becomes final, a party to the proceeding before the Hearing Officer may move to alter, amend or vacate the decision. The moving party must establish that relief from the decision is warranted because: (1) of mistake, inadvertence, surprise, or excusable neglect; (2) there is newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new hearing; (3) there has been fraud (misrepresentation, or misconduct by an opposing party; (4) the decision is void; or (5) the decision has been satisfied, released, or discharged; it is based on an earlier decision that has been reversed or vacated; or applying it prospectively is no longer equitable. The motion shall be filed within 15 days after service of the Hearing Officer's decision. No response shall be filed unless the Hearing Officer so orders. The filing and pendency of a motion under this provision shall not relieve a party of the obligation to file a timely appeal or operate to stay the action of the Hearing Officer unless so ordered by the Hearing Officer.

Subpart H—Proceedings before the Board

§ 8.01 Appeal to the Board
§ 8.02 Reconsideration
§ 8.03 Compliance with Final Decisions, Requests for Enforcement
§ 8.04 Judicial Review
§ 8.05 Application for Review of an Executive Director Action
§ 8.06 Exceptions to Arbitration Awards
§ 8.07 Expedited Review of Negotiability
§ 8.08 Procedures of the Board in Impasse Proceedings

§ 8.01 Appeal to the Board.

(a) No later than 30 days after the entry of the **final** decision and order of the Hearing Officer in the records of the Office, an aggrieved party may seek review of that decision and order by the Board by filing with the Office a petition for review by the Board. The appeal must be served on the opposing party or its representative.

. . . . .

(3) *[Upon written delegation by the Board,]* **In any case in which the Board has not rendered a determination on the merits,** the Executive Director is authorized to: determine any request for extensions of time to file any post-petition for review document or submission with the Board *[in any case in which the Executive Director has not rendered a determination on the merits,]*; **determine any request for enlargement of page limitation of any post-petition for review document or submission with the Board; or require proof of service where there are questions of proper service.** *[Such delegation shall continue until revoked by the Board.]*

. . . . .

(d) Upon appeal, the Board shall issue a written decision setting forth the reasons for its decision. The Board may **dismiss the appeal or** affirm, reverse, modify or remand the decision and order of the Hearing Officer in whole or in part. Where there is no remand the decision of the Board shall be entered in the records of the Office as the final decision of the Board and shall be subject to judicial review.

(e) The Board may remand the matter to *[the]* **a** Hearing Officer for further action or proceedings, including the reopening of the record for the taking of additional evidence. **The decision by the Board to remand a case is not subject to judicial review under Section 407 of the Act. The procedures for a remanded hearing shall be governed by subparts F, G, and H of these Rules.** The Hearing Officer shall render a decision or report to the Board, as ordered, at the conclusion of proceedings on the remanded matters. *[Upon receipt of the decision or report, the Board shall determine whether the views of the parties on the content of the decision or report should be obtained in writing and, where necessary, shall fix by order the time for the submission of those views.]* A decision of the Board following completion of the remand shall be entered in the records of the Office as the final decision of the Board and shall be subject to judicial review **under Section 407 of the Act.**

. . . . .

(h) *Record*. The **docket sheet,** complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, any portions of depositions admitted into evidence, **docketed Memoranda for the Record, or correspondence between the Office and the parties,** and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together with the Hearing Officer's decision and the petition for review, any response thereto, any reply to the response and any other pleadings shall constitute the record in the case.

. . . . .

(j) An appellant may move to withdraw a petition for review at any time before the Board renders a decision. The motion must be in writing and submitted to the Board. The Board, at its discretion, may grant such a motion and take whatever action is required.

§ 8.02 Reconsideration.

After a final decision or order of the Board has been issued, a party to the proceeding before the Board, who can establish in its moving papers that reconsideration is necessary because the Board has overlooked or misapprehended points of law or fact, may move for reconsideration of such final decision or order. The motion shall be filed within 15 days after service of the Board's decision or order. No response shall be filed unless the Board so orders. The filing and pendency of a motion under this provision shall not relieve a party of the obligation to file a timely appeal or operate to stay the action of the Board unless so ordered by the Board. **The decision to grant or deny a motion for reconsideration is within the sole discretion of the Board and is not appealable.**

§ 8.03 Compliance with Final Decisions, Requests for Enforcement.

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to section 407 **of the Act**, and except as provided in sections 210(d)(5) and 215(c)(6) of the Act, a party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all other parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision or order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved. **A party may also file a petition for attorneys fees and/or damages unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of the appeal pursuant to Section 407 of the Act.**

. . . . .

(d) **To the extent provided in Section 407(a) of the Act and Section 8.04 of this section, the appropriate** *[Any]* party may petition the Board for enforcement of a final decision of the Office or the Board. The petition shall specifically set forth the reasons why the petitioner believes enforcement is necessary.

. . . . .

. . .

§ 8.05 Application for Review of an Executive Director Action.

For additional rules on the procedures pertaining to the Board's review of an Executive Director action in Representation proceedings, refer to Parts 2422.30—31 of the Substantive Regulations of the Board, available at www.compliance.gov.

§ 8.06 Expedited Review of Negotiability Issues.

For additional rules on the procedures pertaining to the Board's expedited review of negotiability issues, refer to Part 2424 of the Substantive Regulations of the Board, available at www.compliance.gov.

§ 8.07 Review of Arbitration Awards.

For additional rules on the procedures pertaining to the Board's review of arbitration awards, refer to Part 2425 of the Substantive Regulations of the Board, available at www.compliance.gov.

§ 8.08 Procedures of the Board in Impasse Proceedings.

For additional rules on the procedures of the Board in impasse proceedings, refer to Part 2471 of the Substantive Regulations of the Board, available at www.compliance.gov.

Subpart I—Other Matters of General Applicability

[§ 9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.
§ 9.02 Signing of Pleadings, Motions and Other Filings; Violations of Rules; Sanctions]
***[§ 9.03]* § 9.01 Attorney's Fees and Costs**
***[§ 9.04]* § 9.02 Ex parte Communications**
***[§ 9.05]* § 9.03 Settlement Agreements**
***[§ 9.06]* § 9.04 Revocation, Amendment or Waiver of Rules**

[§ 9.01 Filing, Service, and Size Limitations of Motions, Briefs, Responses and Other Documents.

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents, must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer or a party to any other matter or determination reviewable by the Board files an appeal or other submission with the Board, one original and seven copies of any submission and any responses must be filed with the Office. The Office, Hearing Officer, or Board may also request a party to submit an electronic version of any submission in a designated format, with receipt confirmed by electronic transmittal in the same format.

(b) Service. The parties shall serve on each other one copy of all motions, briefs, responses and other documents filed with the Office, other than the request for counseling, the request for mediation and complaint. Service shall be made by mailing or by hand delivering a copy of the motion, brief, response or other document to each party, or if represented, the party's representative, on the service list previously provided by the Office. Each of these documents, must be accompanied by a certificate of service specifying how, when and on whom service was made. It shall be the duty of each party to notify the Office and all other parties in writing of any changes in the names or addresses on the service list.

(c) Time Limitations for Response to Motions or Briefs and Reply. Unless otherwise specified by the Hearing Officer or these rules, a party shall file a response to a motion or brief within

15 days of the service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response. Only with the Hearing Officer's advance approval may either party file additional responses or replies.

(d) Size Limitations. Except as otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum filed with the Office shall exceed 35 pages, or 8,750 words, exclusive of the table of contents, table of authorities and attachments. The Board, the Office, Executive Director, or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative. Briefs, motions, responses, and supporting memoranda shall be on standard letter-size paper (8½" x 11").

§ 9.02 Signing of Pleadings, Motions and Other Filings; Violation of Rules; Sanctions.

Every pleading, motion, and other filing of a party represented by an attorney or other designated representative shall be signed by the attorney or representative. A party who is not represented shall sign the pleading, motion or other filing. The signature of a representative or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other filing is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the person who is required to sign. If a pleading, motion, or other filing is signed in violation of this rule, a Hearing Officer or the Board, as appropriate, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other filing, including a reasonable attorney's fee. A Hearing Officer, the Executive Director, or the Board, as appropriate, upon motion or its own initiative may also impose an appropriate sanction, which may include the sanctions specified in section 7.02, for any other violation of these rules that does not result from reasonable error.]

***[§ 9.03]* § 9.01 Attorney's Fees and Costs.**

(a) Request. No later than *[20]* **30** days after the entry of a **final** *[Hearing Officer's]* decision **of the Office,** *[under section 7.16, or after service of a Board decision by the Office the complainant, if he or she is a]* **the** prevailing party*[.]* may submit to the Hearing Officer **or Arbitrator** who *[heard]* **decided** the case *[initially]* a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. *[All motions for attorney's fees and costs shall be submitted to the Hearing Officer.]* The Hearing Officer **or Arbitrator**, after giving the respondent an opportunity to reply, shall rule on the motion. Decisions regarding attorney's fees and costs are collateral and do not affect the finality or appealability of a final decision issued by the *[Hearing Officer]* **Office.** *[A ruling on a motion for attorney's fees and costs may be appealed together with the final decision of the Hearing Officer. If the motion for attorney's fees is ruled on after the final decision has been issued by the Hearing Officer, the ruling may be appealed in the same manner as a final decision, pursuant to section 8.01 of these Rules.]*

(b) *Form of Motion.* In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a motion for an award of attorney's fees and/or costs shall be accompanied by:

. . . . .

(3) the attorney's customary billing rate for similar work **with evidence that the rate is consistent with the prevailing community rate for similar services in the community in which the attorney ordinarily practices;** *[and]*

(4) an itemization of costs related to the matter in question*[.]* **; and**

(5) evidence of an established attorney-client relationship.

***[§ 9.04]* § 9.02 Ex parte Communications.**

(a) *Definitions.*

. . . . .

(3) For purposes of section *[9.04]* **9.02**, the term *proceeding* means the complaint and hearing proceeding under section 405 of the CAA, an appeal to the Board under section 406 of the CAA, a pre-election investigatory hearing under section 220 of the CAA, and any other proceeding of the Office established pursuant to regulations issued by the Board under the CAA.

. . . . .

(b) Prohibited Ex Parte Communications and Exceptions.

(2) The Hearing Officer or the Office may initiate attempts to settle a matter informally at any time. The parties may agree to waive the prohibitions against *ex parte* communications during settlement discussions, and they may agree to any limits on the waiver.

—Renumber subsequent paragraphs in subsection—

***[§ 9.05]* § 9.03 Informal Resolutions and Settlement Agreements.**

(b) *Formal Settlement Agreement.* The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. **The settlement is not effective until it has been approved by the Executive Director.** If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.

(c) *Requirements for a Formal Settlement Agreement.* A formal settlement agreement requires the signature of all parties or their designated representatives on the agreement document before the agreement can be submitted to the Executive Director **for signature. A formal settlement agreement cannot be submitted to the Executive Director for signature until the appropriate revocation periods have expired.** A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise permitted by law.

(d) *Violation of a Formal Settlement Agreement.* If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. **Parties are encouraged to include in their settlements specific dispute resolution procedures.** If the *[particular]* formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation *[of the agreement]*, **the Office may provide assistance in resolving the dispute, including the services of a mediator as determined by the Executive Director.** *[the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act:]* **Where the settlement agreement does not have a stipulated method for resolving violation allegations,** *[Any complaint]* **an allegation** *[regarding]* **of** a violation *[of a formal settlement agreement may]* **must** be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such *[complaints may be referred by the Executive Director to a Hearing Officer for a final decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these Rule.]* **allegations will be reviewed, investigated or mediated, as appropriate, by the Executive Director or designee.**

***[§ 9.06]* § 9.04 Payments required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act.**

Whenever a **final** decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment. **No payment shall be made from such account until the time for appeal of a decision has expired.**

***[§ 9.07]* § 9.05 Revocation, Amendment or Waiver of Rules.**

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

6923. A letter from the Under Secretary, Department of Defense, transmitting a letter authorizing Rear Admiral (lower half) Kevin J. Kovacich, United States Navy, to wear the insignia of the grade of rear admiral; to the Committee on Armed Services.

6924. A letter from the Acting Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility (Rockingham County, VA, et al.) [Docket ID FEMA-2014-0002] [Internal Agency Docket No.: FEMA-8341] received August 8, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6925. A letter from the Acting Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility (Houston County, AL, et al.) [Docket ID: FEMA-8343] [Internal Agency Docket No.: FEMA-8343] received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6926. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Federal Housing Administration (FHA) Multifamily Mortgage Insurance; Capturing Excess Bond Proceeds [Docket No.: FR-5583-F-02] (RIN: 2502-AJ16) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6927. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Federal Housing Administration (FHA): Refinancing an Existing Cooperative Under Section 207 Pursuant to Section 223(f) of the National Housing Act [Docket No.: FR 5395-F-02] (RIN: 2502-AI92) received August 8, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6928. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule, Revisions to the Definition of Eligible Guarantee [Docket ID: OCC-2014-0012] (RIN: 1557-AD83) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6929. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Ethiopian Airlines SC (Ethiopian Airlines) of Ababa, Ethiopia, pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

6930. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Avianca Holdings S.A. (Avianca Holdings) of Panama City, Panama pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

6931. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Air China Limited (Air China), Beijing, China pursuant to Section 2(b)(3) of the Export-Import Bank of 1945, as amended; to the Committee on Financial Services.

6932. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

6933. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the United Kingdom pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

6934. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Transferred OTS Regulations and FDIC Regulations Regarding Disclosure and Reporting of CRA-Related Agreements (RIN: 3064-AE09) received August 8, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6935. A letter from the Chair, Securities and Exchange Commission, transmitting the Commission's 2013 Annual Report of the Securities Investor Protection Corporation; to the Committee on Financial Services.

6936. A letter from the Director, Office of Management and Budget, transmitting a report on discretionary appropriations legislation within seven calendar days of enactment; to the Committee on the Budget.

6937. A letter from the Assistant Secretary, Office of Electricity Delivery and Energy Reliability, Department of Energy, transmitting a report entitled ''2014 Smart Grid System Report''; to the Committee on Energy and Commerce.

6938. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Make Inoperative Exemptions; Vehicle Modifications To Accommodate People With Disabilities; Ejection Mitigation; Lamps, Reflective Devices, and Associated Equipment [Docket No.: NHTSA-2014-0069] (RIN: 2127-AL17) received August 11, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6939. A letter from the Program Analyst, Department of Transportation Program Analyst, transmitting the Department's final rule — Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards [Docket No.: NHTSA-2013-0041; Notice 2] (RIN: 2127-AL43) received August 11, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6940. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Regulation Number 1; Correction [EPA-R08-OAR-2009-0790; FRL-9914-08-Region 8] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6941. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri, Certain Coals to Be Washed [EPA-R075-OAR-20140-0582; FRL-9915-30-Region 7] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6942. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for Nitrogen Oxides and Volatile Organic Compounds [EPA-R01-OAR-2012-0848; A-1-FRL-9913-00-Region 1] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6943. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the implementation of the Formaldehyde Standards for Composite Wood Products Act; to the Committee on Energy and Commerce.

6944. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri: Infrastructure SIP Requirements for the 2008 Lead National Ambient Air Quality Standard [EPA-R07-OAR-2014-0290; FRL-9915-28-Region 7] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6945. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Washington: Kent, Seattle, and Tacoma Second 10-Year PM10 Limited Maintenance Plan [EPA-R10-OAR-2013-0713; FRL-9915-40-Region 10] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6946. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 2008 8-Hour Ozone and the 2010 Nitrogen Dioxide National Ambient Air Quality Standards [EPA-R09-OAR-2014-0317; FRL-9915-38-Region 9] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6947. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Placer County Air Pollution Control District, Negative Declarations [EPA-R09-OAR-2014-0439; FRL-9914-75-Region 9] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6948. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Sweet Orange Peel Tincture; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2013-0444; FRL-9909-83] received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6949. A letter from the Secretary, Department of the Treasury, transmitting As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act with respect to Cote d'Ivoire that was declared in Executive Order 13396 of February 7, 2006, pursuant to 50 U.S.C. 1641(c); to the Committee on Foreign Affairs.

6950. A letter from the Assistant Secretary, Department of Defense, transmitting a Report on Proposed Obligations for Cooperative Threat Reduction; to the Committee on Foreign Affairs.

6951. A letter from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-073, pursuant to the reporting requirements of Section 36(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6952. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-072, pursuant to the reporting requirements of Section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6953. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-065, pursuant to the reporting requirements of Section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6954. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-087, pursuant to the reporting requirements of Section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6955. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-086, pursuant to the reporting requirements of Section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6956. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Transmittal No. DDTC 14-055, pursuant to the reporting requirements of Section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

6957. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Designation of Countries of Particular Concern, Imposition of Presidential Actions, and Exercise of Waiver Authority Under the International Religious Freedom Act of 1998; to the Committee on Foreign Affairs.

6958. A letter from the Assistant Legal Adviser, Office of Treaty Affairs, Department of State, transmitting a report prepared by the Department of State concerning international agreements other than treaties entered into by the United States to be transmitted to the Congress within the sixty-day period specified in the Case-Zablocki Act; to the Committee on Foreign Affairs.

6959. A letter from the Chairman, National Transportation Safety Board, transmitting

in accordance with Pub. L. 105-270, the Federal Activities Inventory Reform Act of 1998 (FAIR Act), the Board's inventory of commercial activities for 2014; to the Committee on Oversight and Government Reform.

6960. A letter from the Acting Auditor, Office of the District of Columbia Auditor, transmitting a report entitled, ''Contractor Selection and Quality Assurance for Select DDOT Road Projects''; to the Committee on Oversight and Government Reform.

6961. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Gulf Intracoastal Waterway, St. Petersburg Beach, FL [Docket No.: USCG-2014-0437] (RIN: 1625-AA09) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6962. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, James River; Newport News, VA [Docket No.: USCG-2014-0376] (RIN: 1625-AA00) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6963. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Elizabeth River; Norfolk, VA [Docket No.: USCG-2014-0619] (RIN: 1625-AA00) received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6964. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone [Docket Number: USCG-2014-0446] (RIN: 1625-AA08; 1625-AA00) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6965. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Agency's final rule — Offshore Supply Vessels of at Least 6,000 GT ITC [Docket No.: USCG-2012-0208] (RIN: 1625-AB62) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6966. A letter from the Secretary, Department of Transportation, transmitting the Department's report on the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) for 2014; to the Committee on Transportation and Infrastructure.

6967. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting [EPA-HQ-OW-2009-1019; FRL-9915-18-OW] (RIN: 2040-AC84) received August 15, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6968. A letter from the Acting Secretary, Department of Veterans Affairs, transmitting a letter regarding the state of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

6969. A letter from the Federal Register Liaison Officer, Department of the Treasury, transmitting the Department's final rule — Establishment of the Manton Valley Viticultural Area [Docket No.: TTB-2014-0001; T.D. TTB-122; Ref: Notice No. 141] (RIN: 1513-AC03) received August 13, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6970. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates [Notice 2014-48] received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6971. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Clarification and Modification of Notice 2013-29 and Notice 2013-60 [Notice 2014-46] received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6972. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Awards for Information Relating to Detecting Underpayments of Tax or Violations of the Internal Revenue Laws [TD 9687] (RIN: 1545-BL08) received August 14, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6973. A letter from the Inspector General, Department of Health and Human Services, transmitting a report entitled ''Review of Medicare Contractor Information Security Program Evaluations for Fiscal Year 2012''; jointly to the Committees on Energy and Commerce and Ways and Means.

6974. A letter from the Executive Director, Office of Compliance, transmitting a notice of proposed rulemaking and request for comments from interested parties regarding proposed amendments to the rules of procedure, pursuant to 2 U.S.C. 1383; jointly to the Committees on House Administration and Education and the Workforce.

6975. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting a notice of proposed rule making and request for comments from interested parties regarding extending rights and protections under the Americans with Disabilities Act, pursuant to 2 U.S.C. 1331; jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UPTON: Committee on Energy and Commerce. H.R. 4067. A bill to provide for the extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2014 (Rept. 113–582, Pt. 1). Referred to the Committee of the Whole House on the state of the Union

Mr. KLINE: Committee on Education and the Workforce. H.R. 4321. A bill to amend the National Labor Relations Act to require that lists of employees eligible to vote in organizing elections be provided to the National Labor Relations Board; with an amendment (Rept. 113–583). Referred to the Committee of the Whole House on the state of the Union.

Mr. BURGESS: Committee on Rules. House Resolution 717. A resolution providing for consideration of the bill (H.R. 3522) to authorize health insurance issuers to continue to offer for sale current group health insurance coverage in satisfaction of the minimum essential health insurance coverage requirement, and for other purposes (Rept. 113–584). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. POE of Texas (for himself, Mrs. NOEM, and Mr. LAMALFA):

H.R. 5417. A bill to prohibit certain nutrition rules with respect to foods sold at schools as a fundraiser; to the Committee on Education and the Workforce.

By Mr. BOUSTANY:

H.R. 5418. A bill to prohibit officers and employees of the Internal Revenue Service from using personal email accounts to conduct official business; to the Committee on Ways and Means.

By Mr. BOUSTANY:

H.R. 5419. A bill to amend the Internal Revenue Code of 1986 to provide for a right to an administrative appeal relating to adverse determinations of tax-exempt status of certain organizations; to the Committee on Ways and Means.

By Mr. BOUSTANY:

H.R. 5420. A bill to amend the Internal Revenue Code of 1986 to permit the release of information regarding the status of certain investigations; to the Committee on Ways and Means.

By Mr. BACHUS (for himself, Mr. GOODLATTE, and Mr. CONYERS):

H.R. 5421. A bill to amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy; to the Committee on the Judiciary.

By Mr. WALBERG (for himself, Mr. ROKITA, and Mr. HUDSON):

H.R. 5422. A bill to amend title VII of the Civil Rights Act of 1964 to require the EEOC to approve commencing or intervening in certain litigation, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WALBERG (for himself, Mr. ROKITA, and Mr. HUDSON):

H.R. 5423. A bill to amend title VII of the Civil Rights Act of 1964 to exclude the application of such title to employment practices that are in compliance with Federal regulations, and State laws, in certain areas; to the Committee on Education and the Workforce.

By Mr. GRAYSON:

H.R. 5424. A bill to create the Made-in-America Bank; to the Committee on Financial Services.

By Mr. MCNERNEY (for himself, Mr. BERA of California, Mr. GARAMENDI, and Mr. THOMPSON of California):

H.R. 5425. A bill to prohibit the use of Federal funds for the Bay Delta Conservation Plan; to the Committee on Natural Resources.

By Mr. GRAYSON:

H.R. 5426. A bill to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes; to the Committee on Natural Resources, and in addition to the Committees on Armed Services, Veterans' Affairs, the Judiciary, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL (for himself and Mr. BISHOP of New York):

H.R. 5427. A bill to amend the Internal Revenue Code of 1986 to establish small business savings accounts; to the Committee on Ways and Means.

By Mr. PEARCE:

H.R. 5428. A bill to provide for the implementation of the negotiated property division regarding Former Fort Wingate Depot Activity in McKinley County, New Mexico, and for other purposes; to the Committee on Natural Resources.

By Mr. PETERS of California:

H.R. 5429. A bill to amend the Telecommunications Act of 1996 to restore the

authority of the Federal Communications Commission to adopt certain rules relating to preserving the open Internet and to direct the Commission to take all actions necessary to restore to effect vacated portions of such rules; to the Committee on Energy and Commerce.

By Mr. VARGAS (for himself and Mr. ROONEY):

H.R. 5430. A bill to direct the Secretary of State, in consultation with the Secretary of Homeland Security, to establish processes for certain aliens located in Iraq, Saudi Arabia, Lebanon, Jordan, Kuwait, Turkey, or Syria to apply for admission to the United States as refugees, and for other purposes; to the Committee on the Judiciary.

By Mr. ROGERS of Kentucky:

H.J. Res. 124. A joint resolution making continuing appropriations for fiscal year 2015, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHWEIKERT (for himself, Mr. ROHRABACHER, and Ms. GABBARD):

H. Res. 718. A resolution calling on the Department of Defense to expedite the delivery of all necessary military equipment, weapons, ammunition, and other needed materials to the Kurdish Peshmerga forces to successfully combat and defeat the Islamic State of Iraq and al-Sham (ISIS); to the Committee on Foreign Affairs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. POE of Texas:

H.R. 5417.

Congress has the power to enact this legislation pursuant to the following:

Article One of the United States Constitution, located at section 8, clause 18.

By Mr. BOUSTANY:

H.R. 5418.

Congress has the power to enact this legislation pursuant to the following:

Clauses 1 and 18 of Section 8 of Article I of the United States Constitution.

By Mr. BOUSTANY:

H.R. 5419.

Congress has the power to enact this legislation pursuant to the following:

Clauses 1 and 18 of Section 8 of Article I of the United States Constitution.

By Mr. BOUSTANY:

H.R. 5420.

Congress has the power to enact this legislation pursuant to the following:

Clauses 1 and 18 of Section 8 of Article I of the United States Constitution.

By Mr. BACHUS:

H.R. 5421.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, clause 3 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause ''to regulate Commerce with foreign Nations, and among the several States, and with Indian tribes;'' Article I, Section 8, clause 4 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause ''to establish ... uniform Laws on the subject of Bankruptcies throughout the United States;'' Article I, Section 8, clause 9 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause ''to constitute Tribunals inferior to the Supreme Court;'' Article I, Section 8, clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause ''to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof;'' and, Article III of the United States Constitution, in that the legislation defines or affects powers of the Judiciary that are subject to legislation by Congress.

By Mr. WALBERG:

H.R. 5422.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States

By Mr. WALBERG:

H.R. 5423. 1 Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the Constitution of the United States

By Mr. GRAYSON:

H.R. 5424.

Congress has the power to enact this legislation pursuant to the following:

Article I, Clause 8, of the Constitution of the United States.

By Mr. MCNERNEY:

H.R. 5425.

Congress has the power to enact this legislation pursuant to the following:

Article I, section 8 of the United States Constitution.

By Mr. GRAYSON:

H.R. 5426.

Congress has the power to enact this legislation pursuant to the following:

Article I, Clause 8 of the Constitution of the United States.

By Mr. ISRAEL:

H.R. 5427.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the powers granted to the Congress by Article I. Section 8, Clauses 1 of the United States Constitution.

By Mr. PEARCE:

H.R. 5428.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 3 of the Constitution of the United States grants Congress the power to enact this law.

By Mr. PETERS of California:

H.R. 5429.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. VARGAS:

H.R. 5430.

Congress has the power to enact this legislation pursuant to the following:

(1) To establish a uniform Rule of Naturalization, as enumerated in Article I, Section 8, Clause 4 of the U.S. Constitution.

By Mr. ROGERS of Kentucky:

H.J. Res. 124.

Congress has the power to enact this legislation pursuant to the following:

Pursuant to clause 7(c) of rule XII of the Rules of the House of Representatives, the following statement is submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . . .'' In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ''The Congress shall have the Power. . . to pay the Debts and provide for the common Defence and general Welfare of the United States . . . .'' Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 274: Ms. MATSUI.
H.R. 292: Mr. CUMMINGS.
H.R. 440: Mr. JOYCE.
H.R. 498: Mr. SMITH of Washington, Mr. HECK of Washington, Mr. NOLAN, and Mr. YOUNG of Alaska.
H.R. 508: Ms. DUCKWORTH.
H.R. 543: Ms. GRANGER.
H.R. 572: Mr. CARTWRIGHT.
H.R. 628: Ms. SPEIER.
H.R. 800: Mr. MCCAUL.
H.R. 831: Mrs. BUSTOS.
H.R. 855: Ms. DELAURO.
H.R. 920: Mr. RUIZ and Mr. SHUSTER.
H.R. 997: Mr. MEADOWS.
H.R. 1015: Ms. MENG, Mr. CROWLEY, Ms. DELAURO, Mr. PETERS of Michigan, Mr. BRALEY of Iowa, Mr. GRAYSON, and Mr. MCCAUL.
H.R. 1020: Mr. STUTZMAN.
H.R. 1027: Mr. SIRES.
H.R. 1070: Mr. AL GREEN of Texas and Mr. HARPER.
H.R. 1179: Mrs. BUSTOS.
H.R. 1213: Mr. BUTTERFIELD.
H.R. 1249: Mr. BRIDENSTINE.
H.R. 1252: Mr. TIBERI, Mr. RAHALL, and Ms. KAPTUR.
H.R. 1286: Mr. PASCRELL.
H.R. 1309: Mr. RENACCI and Mr. SMITH of Texas.
H.R. 1318: Mr. GUTIÉRREZ.
H.R. 1389: Mr. MICHAUD.
H.R. 1563: Ms. GRANGER.
H.R. 1573: Mr. CAPUANO.
H.R. 1652: Ms. KELLY of Illinois, Mr. RICHMOND, Mr. HANNA, and Mr. Pierluisi.
H.R. 1692: Mr. GENE GREEN of Texas and Mr. ELLISON.
H.R. 1695: Mr. ROONEY.
H.R. 1750: Mr. COBLE and Mr. WEBER of Texas.
H.R. 1761: Mr. LOBIONDO, Mrs. BEATTY, and Mr. GIBSON.
H.R. 1795: Mr. GRAYSON and Mr. TERRY.
H.R. 1801: Mr. SMITH of New Jersey.
H.R. 1941: Mrs. NAPOLITANO.
H.R. 1975: Mr. SCOTT of Virginia, Mr. YARMUTH, and Mr. VAN HOLLEN.
H.R. 2030: Mrs. NAPOLITANO.
H.R. 2194: Mr. OLSON.
H.R. 2224: Mr. RANGEL.
H.R. 2305: Mr. COTTON.
H.R. 2366: Mrs. CAROLYN B. MALONEY of New York and Mr. CAPUANO.
H.R. 2414: Mr. BENISHEK.
H.R. 2477: Ms. WASSERMAN SCHULTZ.
H.R. 2479: Mr. SEAN PATRICK MALONEY of New York.
H.R. 2529: Mr. LYNCH.
H.R. 2673: Mr. KLINE, Mr. GIBSON, and Mr. COOPER.
H.R. 2707: Mr. POE of Texas.

H.R. 2725: Mr. THOMPSON of California.
H.R. 2780: Mr. NADLER and Mr. LYNCH.
H.R. 2831: Ms. LOFGREN.
H.R. 2847: Mr. BEN RAY LUJÁN of New Mexico and Ms. CLARKE of New York.
H.R. 2856: Mr. ELLISON, Ms. WILSON of Florida, Ms. MOORE, Mr. CICILLINE, Mr. SHERMAN, Mrs. NAPOLITANO, Mrs. CAROLYN B. MALONEY of New York, and Mr. HUFFMAN.
H.R. 2869: Mr. MCCAUL.
H.R. 2917: Mr. LOEBSACK.
H.R. 2994: Ms. KUSTER, Mr. GINGREY of Georgia, Mr. KEATING, Mr. UPTON, Mr. HUDSON, Mr. O'ROURKE, Mr. LANCE, and Mr. WOMACK.
H.R. 2996: Mr. MCKINLEY.
H.R. 3040: Ms. DELBENE.
H.R. 3115: Mr. VARGAS.
H.R. 3116: Mrs. WAGNER, Mr. GARCIA, Mr. TERRY, Mr. HULTGREN, Mr. HOLDING, Mr. BUCHANAN, Mr. WALZ, and Mr. MATHESON.
H.R. 3279: Mr. COLLINS of Georgia.
H.R. 3330: Mr. PERLMUTTER.
H.R. 3367: Mr. MCCAUL.
H.R. 3403: Mr. BARLETTA.
H.R. 3426: Ms. SHEA-PORTER.
H.R. 3489: Mr. SMITH of Nebraska.
H.R. 3543: Mr. LANGEVIN and Mr. CUMMINGS.
H.R. 3680: Mr. HANNA.
H.R. 3708: Mr. AUSTIN SCOTT of Georgia, Mr. GARY G. MILLER of California, Mr. NUNNELEE.
H.R. 3712: Mr. QUIGLEY.
H.R. 3717: Mr. HOLT, Mr. BYRNE, and Ms. HERRERA BEUTLER.
H.R. 3742: Mr. DESJARLAIS.
H.R. 3749: Mr. HUFFMAN.
H.R. 3862: Mr. MCKINLEY.
H.R. 3902: Ms. MCCOLLUM, Mr. SCOTT of Virginia, Ms. KUSTER, Mr. CONYERS, Mr. CAPUANO, Mr. BYRNE, and Mr. GIBSON. Capuano,
H.R. 3991: Mrs. CAPITO and Mr. ROE of Tennessee.
H.R. 4042: Mr. KLINE and Mr. PAULSEN.
H.R. 4109: Mr. HUDSON.
H.R. 4148: Mr. KILMER.
H.R. 4158: Mr. FORTENBERRY.
H.R. 4172: Mr. UPTON.
H.R. 4188: Mr. ROSKAM and Mr. ROE of Tennessee.
H.R. 4190: Mr. JOYCE and Mrs. NOEM.
H.R. 4208: Mr. DENHAM.
H.R. 4260: Mr. MORAN and Mr. MEEKS.
H.R. 4319: Mrs. HARTZLER, Mr. LABRADOR, and Mr. TIPTON.
H.R. 4351: Mr. LATTA, Mr. POSEY, and Ms. DUCKWORTH.
H.R. 4399: Ms. KUSTER.
H.R. 4421: Mr. ROGERS of Michigan.
H.R. 4437: Mr. BARLETTA.
H.R. 4440: Ms. CLARKE of New York, Mr. CAPUANO, Mr. SERRANO, Mr. HOLT, and Mr. CICILLINE.
H.R. 4510: Mr. WEBER of Texas, Mr. HASTINGS of Florida, Mr. GRAVES of Missouri, Mr. ROONEY, Mr. PERRY, and Mr. RYAN of Ohio.
H.R. 4515: Ms. MATSUI.
H.R. 4525: Mrs. NAPOLITANO, Ms. GABBARD, Ms. SHEA-PORTER, Ms. LINDA T. SÁNCHEZ of California, Ms. LOFGREN, and Mr. LOWENTHAL.
H.R. 4574: Ms. LOFGREN.
H.R. 4577: Mr. NUNNELEE and Mr. RIBBLE.
H.R. 4578: Mr. HUFFMAN and Mr. MICHAUD.
H.R. 4592: Mr. ROYCE.
H.R. 4616: Mrs. KIRKPATRICK.
H.R. 4679: Ms. SHEA-PORTER, Mr. CARTWRIGHT, Mr. SARBANES, Mr. HOLT, Mr. WELCH, Mr. WAXMAN, Mr. DEUTCH, and Ms. MENG.
H.R. 4682: Mrs. BROOKS of Indiana.
H.R. 4717: Mrs. BEATTY.
H.R. 4740: Mr. ROE of Tennessee, Mr. THOMPSON of California, and Mr. MCKINLEY.
H.R. 4746: Mr. RANGEL.
H.R. 4785: Mr. KELLY of Pennsylvania, Mr. RANGEL and Mr. NUNES.
H.R. 4826: Mr. RANGEL, and Mr. ISRAEL.
H.R. 4833: Mr. MEEKS.
H.R. 4857: Mr. PASCRELL.
H.R. 4865: Mr. PERLMUTTER.
H.R. 4895: Mr. CONNOLLY.
H.R. 4906: Mrs. NAPOLITANO and Ms. MCCOLLUM.
H.R. 4920: Mr. AUSTIN SCOTT of Georgia and Mr. RYAN of Ohio.
H.R. 4930: Mr. LUETKEMEYER, Mr. FORTENBERRY, Mr. KING of New York, and Mr. ROSKAM.
H.R. 4957: Mr. NUNNELEE.
H.R. 4960: Mr. HANNA, Mr. OLSON, Mr. HASTINGS of Florida, Ms. HAHN, Mr. POSEY, Mrs. NAPOLITANO, Mr. GENE GREEN of Texas, Ms. KUSTER, Mr. RUPPERSBERGER, Ms. SINEMA, Mr. GARY G. MILLER of California, Mr. COBLE, Mrs. BLACKBURN, Mr. MCKEON, Ms. MATSUI, Mr. LOWENTHAL, Mr. FOSTER, Mr. MARINO, Mr. GUTIÉRREZ, Mr. NUGENT, Mr. WAXMAN, Ms. KAPTUR, Mr. SMITH of New Jersey, Mr. HECK of Nevada, Mr. RICHMOND, Mrs. NEGRETE MCLEOD, Ms. WASSERMAN SCHULTZ, Mr. WOMACK, Mr. HUFFMAN, and Mr. FORTENBERRY.
H.R. 4966: Mrs. CAROLYN B. MALONEY of New York.
H.R. 4969: Mr. LUETKEMEYER, Mrs. HARTZLER, Mr. PERLMUTTER, and Mr. FRELINGHUYSEN.
H.R. 4971: Ms. KUSTER.
H.R. 4986: Mr. ROSS.
H.R. 4988: Mr. ROSS.
H.R. 4989: Mr. FORTENBERRY.
H.R. 5012: Ms. DELAURO, Mr. TONKO, Mr. QUIGLEY, Ms. MOORE, Mr. COURTNEY, Ms. SCHAKOWSKY, Mr. WELCH, Mr. RUSH, Mr. TAKANO, Mr. MAFFEI, Ms. DUCKWORTH, Mrs. KIRKPATRICK, Mr. DEFAZIO, Mr. HOLT, Ms. KAPTUR, and Ms. NORTON.
H.R. 5020: Mr. CRAMER.
H.R. 5063: Ms. DELBENE and Mr. KENNEDY.
H.R. 5071: Mr. BYRNE, Mrs. NOEM and Ms. DELBENE.
H.R. 5082: Mr. KELLY of Pennsylvania, Mr. LOBIONDO, Mr. LEVIN, and Mrs. LOWEY.
H.R. 5083: Mr. LUETKEMEYER.
H.R. 5084: Mr. HUFFMAN.
H.R. 5085: Mr. COFFMAN.
H.R. 5098: Mr. FRANKS of Arizona.
H.R. 5159: Mr. KENNEDY.
H.R. 5169: Mr. CARTER.
H.R. 5179: Ms. BASS and Ms. SLAUGHTER.
H.R. 5185: Mr. TAKANO, Mr. BISHOP of New York, Mr. KING of New York, Ms. JACKSON LEE, Ms. CLARKE of New York, Ms. DELAURO, Mr. WAXMAN, Ms. LOFGREN, and Mr. GRIJALVA.
H.R. 5193: Mr. COFFMAN.
H.R. 5212: Mrs. LUMMIS, Mr. PEARCE, and Mr. RIBBLE.
H.R. 5213: Mr. HASTINGS of Washington, Mr. AMODEI, Mr. YOUNG of Indiana, Mr. GRIFFIN of Arkansas, Mr. LUETKEMEYER, Mr. COLLINS of New York, Mr. HANNA, and Mr. SCHOCK.
H.R. 5226: Mrs. WAGNER, Mr. STEWART, and Mr. CARTWRIGHT.
H.R. 5227: Mr. RIBBLE.
H.R. 5228: Mr. ELLISON, Mr. HASTINGS of Florida, Ms. LOFGREN, and Mr. MCDERMOTT.
H.R. 5231: Mr. WALZ, Mr. COURTNEY, Mr. JONES, Ms. BORDALLO, Mr. RUSH, and Mrs. KIRKPATRICK.
H.R. 5233: Mr. GUTHRIE.
H.R. 5242: Mr. HOLT, Mr. CONNOLLY, Mrs. NEGRETE MCLEOD, Mr. LANGEVIN, Ms. KAPTUR, Ms. NORTON, and Mr. POLIS.
H.R. 5260: Mr. ROSS.
H.R. 5277: Mrs. NAPOLITANO and Ms. KUSTER.
H.R. 5285: Mr. SMITH of Nebraska and Mr. RIBBLE.
H.R. 5294: Mr. LOWENTHAL and Mr. HOLT.
H.R. 5320: Mr. JONES, Mr. ELLISON, Mr. LUCAS, Mr. COTTON, and Mr. CAPUANO.
H.R. 5354: Ms. SLAUGHTER.
H.R. 5370: Mr. CÁRDENAS, Mrs. KIRKPATRICK, Mr. HASTINGS of Florida, and Mr. GRIJALVA.
H.R. 5392: Mr. JONES, Mr. MCCLINTOCK, Mr. TIPTON, and Mr. LONG.
H.R. 5402: Mr. GOODLATTE.
H.R. 5403: Mrs. BEATTY, Ms. HERRERA BEUTLER, Mr. SMITH of Texas, Mr. CUELLAR, and Mr. SENSENBRENNER.
H.R. 5408: Mr. WEBER of Texas, Mr. HARRIS, Mr. PEARCE, Mrs. LUMMIS, Mrs. BLACKBURN, Mr. POSEY, Mr. COTTON, and Mr. BYRNE.
H.R. 5415: Mr. PEARCE and Mr. DAVID SCOTT of Georgia.
H.J. Res. 47: Mr. BOUSTANY.
H.J. Res. 119: Mr. CARNEY.
H.J. Res. 123: Mr. LONG, Mr. BROUN of Georgia, Mrs. BLACKBURN, Mr. WALBERG, Mrs. BACHMANN, Mr. PEARCE, and Mr. ADERHOLT.
H. Con. Res. 27: Ms. PINGREE of Maine.
H. Res. 109: Ms. CLARK of Massachusetts and Ms. DUCKWORTH.
H. Res. 147: Mr. FITZPATRICK.
H. Res. 190: Ms. MICHELLE LUJAN GRISHAM of New Mexico.
H. Res. 231: Mr. YODER and Mr. CAPUANO.
H. Res. 281: Mr. FRANKS of Arizona and Mr. RIBBLE.
H. Res. 611: Mr. WAXMAN.
H. Res. 614: Mr. WOLF, Mr. MARINO, and Mr. WEBER of Texas.
H. Res. 620: Ms. GABBARD.
H. Res. 668: Ms. MCCOLLUM, Mr. JOHNSON of Georgia, Ms. NORTON, Ms. SHEA-PORTER, Mr. HONDA, Mrs. BUSTOS, Mr. KEATING, Mr. TONKO, Mr. DANNY K. DAVIS of Illinois, Ms. SINEMA, Mr. SCHIFF, Mr. CAPUANO, Mr. LYNCH, Mr. PERLMUTTER, and Mr. BLUMENAUER.
H. Res. 688: Mr. WAXMAN, Mr. CARSON of Indiana, Mr. LARSEN of Washington, Mr. MEADOWS, and Mr. HASTINGS of Florida.
H. Res. 690: Mr. KEATING.
H. Res. 707: Mr. DESANTIS, Mr. LATTA, Mr. ADERHOLT, Mr. BERA of California, Mr. SIRES, Mr. SCHIFF, Mr. SARBANES, Ms. CHU, Mr. FRANKS of Arizona, Ms. TITUS, Mr. LAMBORN, Mrs. CAPITO, Mr. CARTWRIGHT, Mr. RUNYAN, and Mr. RIBBLE.
H. Res. 711: Mr. PERLMUTTER, Ms. LORETTA SANCHEZ of California, Mr. HONDA, and Mr. SMITH of New Jersey.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. ROGERS OF KENTUCKY

H.J. Res. 124, making continuing appropriations for fiscal year 2015, and for other purposes, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.