rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust.''.

The title amendment was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE ON THE LIBRARY

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 86) electing members of the Joint Committee on Printing and the Joint Committee on the Library, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, I yield to the gentleman from California [Mr. THOMAS] for the purpose of explaining the resolution.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, House Resolution 86 provides for election of the following House Members to the Joint Committee on Printing under the rules: Mr. ROBERTS, Mr. NEY, Mr. HOYER, and Mr. JEFFERSON.

It also provides for election of the following Members to serve on the Joint Committee of the Library: Mr. ROBERTS, Mr. NEY, Mr. FAZIO, and Mr. PASTOR.

Mr. Speaker, as the chairman of the Committee on House Oversight, I serve on both joint committees, and as chairman of the Joint Committee on Printing.

I expect the Committee on House Oversight to hold hearings on ways to reform Government printing and to improve ways of dissemination of Government information, and to make up legislation shortly thereafter.

As a result, it is our hope that in the 104th Congress, these joint committees should become obsolete, and therefore, unnecessary.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California, the chairman of the Committee on House Oversight, for his explanation of the resolution and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from California.

There was no objection.

The clerk read the resolution, as follows:

H. RES. 86

Resolved, That the following named Members be, and they are hereby, elected to the following joint committees of Congress, to serve with the chairman of the Committee on House Oversight:

JOINT COMMITTEE ON PRINTING: Mr. Roberts, Mr. Ney, Mr. Hoyer, and Mr. Jefferson.

JOINT COMMITTEE ON THE LIBRARY: Mr. Roberts, Mr. Ney, Mr. Fazio of California, and Mr. Pastor.

☐ 1230

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, during yesterday's rollcall votes 156 and 157 on H.R. 830, I was unavoidably detained. Had I been present, I would have voted ''aye.''

ORDER OF AMENDMENTS DURING CONSIDERATION OF H.R. 450, REGULATORY TRANSITION ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 450 in the Committee of the Whole, subject to the limit of 10 hours of consideration limit, that the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed: Mr. CONDIT or Mr. COMBEST No. 18, 40 minutes; Mr. KANJORSKI No. 21 and 22, 30 minutes; Ms. SLAUGHTER No. 28, 30 minutes; Mr. BURTON either No. 5 or 6, 20 minutes; Mr. SPRATT No. 30, 30 minutes; Mr. WAXMAN either No. 36 or 37, 30 minutes; Mrs. COLLINS of Illinois No. 7, 30 minutes; Ms. NORTON either No. 25 or 26, 20 minutes; Mr. TATE, 20 minutes; Mr. HAYES, 20 minutes.

Further, the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed, and that the Chairman of the Committee of the Whole be authorized to postpone requests for recorded votes on any of the following amendments until the conclusion of debate on all these amendments, and the Chair may reduce to a minimum of 5 minutes within which a recorded vote, if ordered, may be taken on these amendments following the first vote in the series: Mr. WISE No. 38, 30 minutes; Mr. GENE GREEN of Texas No. 20, 20 minutes; Mr. WAXMAN No. 35, 20 minutes; Mr. FATTAH either No. 3 or 4, 10 minutes; Mr. VOLKMER No. 34, 10 minutes.

Following disposition of these 14 amendments, further amendments would be in order, subject to the consideration limit of 10 hours.

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

There was no objection.

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 and rule XXIII, 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. 450.

☐ 1232

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. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes, and the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee.

Mr. CLINGER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, today we will begin to set the stage for major and much needed regulatory reforms beginning with H.R. 450, the Regulatory Transition Act of 1995.

H.R. 450 provides a very necessary time out on the promulgation and implementation of regulations while Congress is in the process of deliberating long overdue regulatory reforms. During testimony provided at numerous hearings, both in our committee as well as other committees, we have heard endless tales of regulatory overkill. We are hearing the cries from small business owners that have shut down because they are overburdened by regulations—many of which are unnecessary or not cost-beneficial. We cannot afford as a society to continue along this path. According to the National Performance Review, the administration has conservatively estimated that Federal regulations cost the private sector alone at least $430 billion per year—which is about 9 percent of our gross national product.

Mr. Chairman, H.R. 450, introduced by Congressman TOM DELAY and Congressman DAVID MCINTOSH, provides for a regulatory moratorium to begin on November 20, 1994 and ending either on December 31, 1995 or when substantive regulatory reform—risk assessment and cost benefit analysis—is enacted, whichever is earlier. Although it is a broad moratorium on regulations, there are some very commonsense exclusions included in the legislation including exclusions for regulations to address imminent health or safety concerns or other emergencies, military or foreign affairs functions, internal revenue and financial issues, routine administrative functions, and also regulations that will streamline or reduce the regulatory burden. It is up to the head of the Office of Information and Regulatory Affairs or IRA at OMB to

certify that the regulation qualifies for an exclusion and publish a certification to that effect in the Federal Register.

Mr. Chairman, we are going to hear a lot of rhetoric today about how this bill will turn back the clock and undo Federal regulations which have been in place for 25 years. Or other tales of woe that this bill will not provide us with safe drinking water or allow us to have meat inspections. This is absolutely not the case, palpably untrue. This bill does not impact regulations issued before this temporary moratorium period. In addition, the health and safety exemption in the bill allows a great deal of flexibility and discretion to address these concerns. It will be up to those in the executive branch to make decisions as to what specific regulations will be exempt under this broad category.

This is a way flexible piece of legislation.

The legislation provides a number of benefits. First, it will give authorizing committees a chance to review regulations that are already in the pipeline and see whether they meet some of the criteria discussed here in Congress regarding cost-beneficial regulations. Second, it will also give some breathing space from the flood of regulations while Congress considers and passes major regulatory reforms.

Third, it will give the administration the opportunity to review their own administrative processes. I was pleased to see that the President the other day indicated that they were going to undertake a very massive review of existing regulation. I think that complements what we are trying to do here with a moratorium.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I am reminded of something that I read as a child:

Double, double, toil and trouble;
Fire burn and caldron bubble.
Fillet of a fenny snake,
In the caldron boil and bake;
Eye of Newt and toe of frog,
Wool of bat and tongue of dog . . .

Mr. Chairman, like the witches' brew in Macbeth, the bill before us is a dangerous concoction that places the special interests of business ahead of the interest of the ordinary working family.

H.R. 450 is not part of the Contract With America, and I doubt there are few Americans who went to the polls and thought they were voting to weaken food inspection procedures or to put a halt to testing for clean water.

Regulatory moratoria are not new. Presidents Reagan and Bush each had a moratorium on regulations when they took office and President Clinton already has a regulatory review process in place.

The problem with this bill, however, is that it goes far beyond those moratoria. On the one side, it does not ensure that regulations necessary to protect the health and safety of the American people are allowed to proceed. On the other, its broad sweep will kill dozens of regulations that no one would want to kill, including those that help our businesses remain competitive.

In order to explain the nature of the debate that will follow, let me start by making one thing clear. We have all heard horror stories about regulations. Some are cited in the committee's report on the bill.

We agree that foolish regulations should be halted until they receive a proper review. There is not a single amendment that we on this side of the aisle plan to offer that would allow those regulations to go forward. In fact, we have just two kinds of amendments.

One group makes sure that commonsense rules that the vast majority of us on both sides of the aisle would agree should go forward, can go forward. The other group makes sure that the American people are not harmed as a result of the moratorium. Even a strong supporter of a moratorium should take a good look at these amendments, because they make sense.

Let me briefly discuss some of our amendments to explain why they are so important to transforming this broad, sweeping, ambiguous bill into a moratorium that makes more sense.

One of our first amendments will eliminate the retroactive aspect of the moratorium. To my colleagues who are normally concerned about retroactivity of legislation, and to those who have expressed a concern about passing laws that constitute a taking, you should be concerned about this bill's retroactive aspects. Businesses have made millions of dollars of investments based upon the rules they had in front of them. Changing the rules in midstream is totally unfair and unprofitable.

We also have an amendment to clean up the judicial review language, so that clever lawyers cannot tie up regulations in court, even if they are exempted under the bill. Another amendment will clarify the language in the bill that attempts to define what constitutes an ''imminent threat to health and safety'' in order to give the same protection to the American people that the bill gives to private property.

We also have several amendments to legislatively clarify that we do not want certain regulations to be covered by the moratorium. Some are just commonsense rules that carry out laws that enjoyed wide support, or revise procedures that we would agree are necessary. For example, we think Members do not want to block the Federal Elections Commission from enforcing its new regulations prohibiting the private use of campaign funds. Similarly, we do not want to block sensible rules to enforce our trade laws, such as sanctions on China for copyright infringement.

Other rules that we wish to protect are essential to the health and safety of the American people. One amendment, for example, would allow the Agriculture Department to continue its work on improving meat inspection to detect salmonella and E coli bacteria, which you may recall was responsible for the death of several children in the past 2 years. Another gives the Federal Aviation Authority clear authority to regulate aircraft safety.

Throughout our debate in committee, the sponsors of the bill would often reject our efforts to exempt particular regulations by citing some provision of the bill which might provide an exclusion. The committee report is filled with their opinions on how the exclusions should be interpreted.

I would hope that if the proponents of the bill honestly and completely believe that certain regulations are exempted, they would just accept the amendment so we could proceed. We are offering these amendments to ensure that the regulations will be legislatively exempted and to send a strong message to the Senate that we do not want them to pass a moratorium that fails to exempt these regulations. We do not want to enable some clever lawyer to tie these regulations up in court.

So please don't tell us that a certain regulation might be covered by an exemption. If you have no problem with the regulations in the amendment, just accept it, so that we can save everyone the time. We adopted an amendment in committee to exempt tax interpretations; we have done it for bank regulations. We ought to do the same with rules protecting the American people.

In closing, let me note that at our markup, the room was filled with high priced lobbyists all watching to ensure their special interests were taken care of. Today there is a larger audience of people watching. They are the ones we are privileged to serve. Let us not forsake our responsibility to them—the American people—during this debate. Our mission here is to represent them, to ensure that they enjoy good health, breathe clean air, drink germ free water, and work in a safe place in pursuit of their happiness.

☐ 1240

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Alaska [Mr. YOUNG] for the purposes of engaging in a colloquy.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me this time for this colloquy.

Mr. Chairman, I appreciate the fact that the Committee Chairman has been willing to work with me to clarify the intent of House Resolution 450.

While this legislation does place a moratorium on regulations issued after

November 20, 1994, isn't it true that the bill also contains a provision exempting regulations dealing with routine administrative actions?

Mr. CLINGER. Mr. Chairman, if the gentleman will yield, the gentleman from Alaska is correct. In fact, section 6 stipulates that there is an exclusion for routine administrative functions of an agency.

Mr. YOUNG of Alaska. Furthermore, is it correct that you have clarified in your committee report that the bill does not apply to the expansion, contraction, or limitation of authority to harvest Federal fishery resources recommended by our Regional Fishery Management Councils or the Atlantic States Marine Fisheries Commission?

Mr. CLINGER. The gentleman is correct, and we were pleased to incorporate his suggested language within our committee report.

Mr. YOUNG of Alaska. Finally, Mr. Chairman, is it not true that H.R. 450 does not cover normal, annual, and routine housekeeping regulations like those establishing the opening and closing of various fisheries?

Mr. CLINGER. The gentleman from Alaska is once again correct and I compliment him for his leadership in clarifying this important matter.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the chairman for this colloquy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], chairman of the subcommittee and coauthor of this important piece of legislation.

Mr. MCINTOSH. Mr. Chairman, this bill would say let us take a time-out on Federal regulations. Let us say to the American people we are going to change the way we do business here in Washington, no more day after day, more and more regulations. We are going to stop and redo the way the regulatory system works, so that we do not have burdensome regulations that cost us jobs, cost consumers more every time they go to the grocery store and ultimately put America at a competitive disadvantage.

The burdens of Federal regulations are enormous. One estimate is that they cost us $600 billion each year. That is the equivalent of $6,000 for every household in America. That is why I refer to regulations as a hidden tax on the middle class. This moratorium will say enough is enough, we are going to put a stop to this daily entourage of new regulations.

The cost of regulations to workers was documented in our subcommittee. Several small business men came in and talked about how they were no longer able to increase their work force, some of them indicated that they had to let workers go because of the cost of Federal regulations. One indicated he had increased investments over a series of years only to have the regulations changed, and that suddenly he had to face the choice of closing down his small business and letting tens of workers leave, or reinvest all of his life savings once again.

A good friend of my mine, Gary Bartlett from Muncie, IN, came up to me and said, you know, I can compete in the world market. I have a small business that I started in my garage. We now make auto parts and sell to Europeans and Japanese auto companies, but my biggest enemy is Uncle Sam and all of the needless and unnecessary red tape and regulations that I have to go through day in and day out.

If we look at the consumer, we have to spend 10 percent of our grocery bill; that means if you go to the grocery store and buy 50 dollars' worth of groceries, $5 of that goes to pay for Federal regulations. We need to stop that hidden tax on the consumer.

One of the regulations that will be stopped in our moratorium is a regulation that would force consumers in the New England States to spend $600 to $1,500 more every time they buy a new car. This regulation is unnecessary. There are ways we can receive the same benefits to the environment without asking the American people to pay $600 to $1,500 more every time they buy a new car.

This hidden tax on the middle class has got to be cut back. We tried to work hard with the administration to identify regulations to cut, to have a bill that would work with them to move forward so we could signal to the American people we have put an end to the entourage of regulations, but no, this administration wants to side with the Federal bureaucrats and continue to issue Federal regulations.

I urge a ''yes'' vote on this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. PETERSON], ranking member of the Subcommittee on Economic Growth, Natural Resources and Regulatory Affairs.

Mr. PETERSON of Minnesota. Mr. Chairman, last year, the Federal Government issued over 64,000 pages of regulations in the Federal Register compared to 44,000 pages 10 years ago. Estimates are that our Government employs nearly 130,000 bureaucrats to write, interpret, and enforce those regulations. The bureaucrats responsible for issuing regulations to solve our Nation's problems, have sometimes become the problems themselves. The American public is fed up with silly rules and regulations that cost us time and money and don't accomplish anything. Something needs to be done to change the process.

When I first read H.R. 450 my reaction was that this bill was unworkable and frankly unnecessary. But the more I read and heard about the bill and the regulatory process, the more convinced I am that H.R. 450 is a good idea.

I speak today, Mr. Chairman, for a number of Democrats that support this bill. Do we think that everything in it is perfect? No. If we had dictatorial power we would do things differently, but basically it is workable. And I commend the chairman, the ranking member of the subcommittee, and the minority and all of the staff for working with us on this bill.

One of my main concerns about the original bill was the retroactive provisions. That was until I obtained a copy of the 615 regulations issued between November 9 and December 31 of last year and read them. The more I read, the more I believed that this bill was necessary. If every Member of Congress were required to read every Federal regulation, I am convinced that all of you would have a different view of the Federal regulatory process. The longer I worked on this bill, the more convinced I was that a wholesale attitude change was necessary in the regulatory process. I became convinced that what was needed was a 2 by 4 between the eyes of the Federal regulatory bureaucracy. H.R. 450 is just that, a 2 by 4 which serves as a wake up call, putting the bureaucracy on notice that business as usual is over.

This bill was crafted taking into account the failures of the Bush-imposed moratorium. It is meant to be wide in scope and to avoid narrow exclusions. H.R. 450 exempts routine regulations, it exempts regulations which reduce or streamline the regulatory process, it gives the administration the full authority to exempt regulations that are a threat to health and human safety, and is limited to those regulations that need to be looked at and reassessed. H.R. 450 places a temporary hold on regulations until common sense risk assessment and cost-benefit analysis is passed and signed into law. Furthermore, H.R. 450 gives the committees of jurisdiction time to look at regulations and lets them ask the question: Do these regulations really make sense?

The bottom line is that business as usual will be over with the passage of H.R. 450. It is a message that needs to be sent to the bureaucracy. The American people want a change in our inflexible and over-burdensome regulatory rulemaking process. I'm tired of going home and hearing yet another regulatory horror story. For example, Moorhead, MN, in my district, is being forced to pay $10 million to change their municipal water system when the engineering experts and health officials admit it is a waste of money. The regulations mandating this are not sensible, but typical of well-meaning but over-intrusive Federal bureaucrats.

I want to thank committee chairman CLINGER and subcommittee chairman MCINTOSH for their hard work and willingness to make this a bipartisan effort. While this bill is not perfect, it is workable and serves as a wake up call to the bureaucracy telling them things have changed. This bill puts us on course for a regulatory change in attitude which involves risk assessment and cost-benefit analysis, and hopefully keeps the Federal Government out of the people's lives except when it is absolutely necessary.

□ 1250

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the majority whip, the gentleman from Texas [Mr. DELAY], another coauthor of this very important piece of legislation.

Mr. DELAY. I thank the chairman of the committee for yielding this time to me.

Mr. Chairman, I have been waiting for today for 16 years. Ever since I opened up my small business and started to have to deal with bureaucrats constantly knocking at my door and piling on the paperwork, I have wanted to do something about the problem of Federal overregulation. With H.R. 450, the Regulatory Transition Act of 1995, we begin the process of reforming the regulatory system.

Regulations are out of control, and are only going more so under this administration. Measured by the number of pages in the Federal Register, in which all new regulations are published, each of Mr. Clinton's 2 years in office have seen the most regulatory activity since President Carter's last. The number of ''actual pages'', not counting corrections and blank pages in 1994, was 64,914 pages, the third highest total of all time, and an increase from 1993's count of 61,166 actual pages. Despite rhetoric to the contrary, regulatory activity under the Clinton administration is increasing, not decreasing.

In fact, the average American had to work full time until July 10 last year to pay the costs associated with government taxation, mandates, and regulations. This means that 52 cents of every dollar earned went to the government directly or indirectly.

On November 8, 1994, the American people sent a message to Washington. They voted for a smaller, less intrusive government. An important step toward reaching this goal is curtailing these excesses of Federal regulation and red tape that are now estimated to cost the economy over $500 billion annually.

Although regulations are often well-intended, in their implementation too many are oppressive, unreasonable, and irrational. For example:

An environmental engineer was criminally convicted of contaminating wetlands for moving two truckloads of dirt.

Another man faced a grand jury because he stabbed a protected falcon with a pitchfork as it killed a chicken in his front yard.

Mr. Chairman, one company paid $600,000 for failing to fill out a Federal form even though it had complied with an identical State law.

A drycleaner was fined for not posting a piece of paper listing the number of employee injuries in the last 12 months, when in fact there were no injuries during that time.

What do you think are the effects of such regulations? Besides the fact that Americans tend to lose respect for their Government, there is also the issue of cost. Regulatory costs that are imposed on businesses—both big and small—have to be paid, but you can be sure they are not paid by the business. Instead, these costs are passed directly on to the consumer, increasing the prices for the goods and services they buy and lowering our standard of living. Every American needs to realize that excessive regulation affects their family and their personal lives directly.

The last thing the Government should be doing is making it harder for Americans to pursue their dreams of entrepreneurship. Rather, we should be facilitating it, so that Americans can provide for their families free of regulatory roadblocks, which will result in a continued high standard of living for the whole country.

H.R. 450 is such a facilitator. This bill establishes the moratorium on Federal regulations President Clinton refused to order himself last December. It gives Congress—Republicans and Democrats alike—some breathing room to pursue the process reforms that are embodied in the Contract With America, such as cost-benefit analysis and risk assessment. Those reforms will then apply to those regulations that were suspended during the moratorium period, so that no new regulations since the election will have been promulgated without having gone through the tests of sound science and proper cost and risk analysis.

Make no mistake. A Federal regulation is a law that can affect life, liberty, and property of Americans. Fairness, justice, and equity must be reflected in the laws of the land, including Federal regulations.

The 104th Congress should undertake a thorough review of Federal regulations, starting with the way they are made and enforced, and make such adjustments to the statutes of this land as are necessary to reflect the mandate of the American people. No such thorough review has been possible for some 40 years. It is a daunting but welcome task. It cannot be achieved overnight, nor even in the first 100 days of this Congress, but we can make a start. That start will be impeded if legions of new regulations go into effect before even the initial consideration for regulatory reform and relief can be given.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

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

Mr. SPRATT. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 450, the Regulatory Transition Act of 1995, as it is now written.

I share the concerns of this bill about the burdens of regulation. I believe the regulatory maze needs to be cleared out. But this bill is not the way to go. This is the all-time case of throwing out the baby with the bathwater.

H.R. 450 freezes action on almost all Federal regulations issued between November 20, 1994, and December 31, 1995. Its reach is so broad that even its sponsors can't tell us exactly what it embraces. For one thing, they did not try to inventory all the regulations issued or about to be issued before they filed this bill; and they cannot foresee all of the regs that may be needed over the next 10 months.

This bill reaches from health and safety rules to trade rules to rules for auctioning the radio frequencies. It includes rules I would gladly vote to suspend and rules I have worked to see implemented. It makes no distinction between regs we need and those we don't, and that's the problem with it. By reaching so far, it runs the risk of creating as much confusion as it seeks to prevent.

Let me give you just a sample of the regulations this bill may block:

On February 3, the USDA issued a rule to reduce illnesses caused by contaminated meat and poultry, due to E coli and salmonella. Now, you may think this rule falls under the exception in the bill for emergency regulations that deal with imminent threats to health. After all, the Centers for Disease Control estimates that 9,000 people a year die from food-borne diseases. But we debated that question in committee and came to no clear conclusion, because no one can say definitively whether the USDA rule deals with an imminent threat to health. The sponsors of the bill refused to delete the word imminent, and wouldn't accept an amendment that would settle the issue by specifying that the USDA reg is excluded, so the bill comes to the floor with a fundamental issue like this unsettled.

On December 21, HUD issued rules to prevent alcoholics and drug addicts from being admitted to HUD-assisted elderly housing. That's something most of us would support. Current regulations have been construed by the courts to treat disabled persons, as elderly, and the disabled include alcohol and drug addicts. Some may think that this rule falls under the exclusion for routine administrative functions, but that too is far from clear; and so unless we make this exclusion clear, the elderly may just have to wait to get the addicts out of their housing projects.

On December 2, 1994, Customs issued a rule to stiffen the penalties against illegal textile and apparel imports. Next month, Customs will issue draft rules of origin for textile and apparel imports. These rules of trade will stop Hong Kong from shipping to us under their quota goods that are actually made in China. Why suspend regs that stop fraudulent trade?

On January 4, 1995, an INS rule on asylum reform became final. This rule would defer the granting of employment for persons seeking asylum. Under the prior rule, asylum seekers were granted employment authorization simply upon filing for asylum. Everyone knows that asylum processing needs reform; why pass a bill that will stop it?

On January 24, 1995, the FAA issued airworthiness directives aimed at potential safety problems in aircraft. These are real safety concerns, but they may not fall within the emergency exclusion a an imminent threat,

and also may not fall under the exception for routine administrative functions.

This is merely a sample. There are at least a hundred regulations of some significance that have been issued that I could cite; and these are the regulations already issued. What health or safety rules will be issued or needed over the next 10 months that we can't foresee now? Often during markup, when we raised a question about prospective regulations, the sponsors assured us that they probably fell under one of the exceptions of the bill. But they could not be sure, so the issue is left hanging on words like imminent and routine, which will be litigated at length over the next year if this bill is ever enacted.

In committee, we did carve out a few explicit exemptions for tax and banking regulations. But why have specific exemptions only for banking and income taxes?

During consideration of the bill, amendments will be offered that exclude certain regs in clusters, under a particular heading. Our object in offering these amendments is to clear up a path through the enormous gray zone created because the boundaries of this bill are so ambiguous. For example, there will be amendments that make it clear that this bill does not block the Customs Modernization Act from being implemented, that make it clear that this bill does not stop sanctions against China or against other countries that engage in certain kinds of fraudulent trade, that settle any question about food safety regulation, that deal with airline safety, mine safety, that make it clear that this bill will not stop long-awaited rules for transuranic nuclear waste disposal, so that the Waste Isolation Pilot Project can go forward, that upgrade with mammography quality standards, that deal with personal use of campaign funds, that broaden veterans benefits for Persian Gulf syndrome, and that even deal with hunting season for ducks and waterfowl.

There will also be amendments that make the bill prospective only and remove one of its most problematical features—judicial review. This bill is not without merit. But it needs a lot of work before it deserves to be passed, or else we will create far more confusion than we prevent by passing it.

□ 1300

In committee we did carve out a few explicit exceptions for tax and banking regulations. But why have specific exemptions that clarify the bill just for taxes and just for bikers? During consideration of this bill amendments will be offered that include certain regs and clusters under a particular heading. Our object in offering these amendments was a clear path through this fuzzy gray zone that is created by this bill because of boundaries of it are so ambiguous. I urge every Member to carefully consider and to vote for these clarifying amendments that will create sensible exceptions and exclusions to this piece of legislation.

Mr. CLINGER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, we are literally drowning in regulations. Let me say to my colleagues that something is dramatically wrong when the tooth fairy can be charged with mishandling biohazardous waste. Tens of thousands of pages of regulations have been passed, millions and millions of complex rules for average Americans to deal with. I guarantee the average American cannot get up in the morning and live 1 day without violating one of these rules. We have tied up business, we have tied up industry, we have tied up local government. This is what the November 8 election was all about. The other side just does not get it.

This bill does not stop regulations. This only says, ''Stop, look and listen.'' This bill does not affect public health, safety, and welfare where there is an emergency.

I say to my colleagues, ''If all else fails, read the bill.''

President Reagan's measure in 1981 did some good; I am sorry, his executive order only stopped some of the onslaught. If we do not have the leadership from this administration to do the same thing, this Congress will impose this moratorium, and this is not a permanent moratorium.

If all else fails, read the bill. It is only temporary. It is only this year.

I submit that we have to stop killing jobs, we have to stop killing productivity, and we have got to allow this country to compete in the international arena. If we pass this measure, we can begin to do just that.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CONDIT].

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

Mr. CONDIT. Mr. Chairman, I rise in support of H.R. 450, and I would like to associate myself with the remarks of the gentleman from Minnesota [Mr. PETERSON] who I think has done an outstanding job on this. I want to commend him for that.

Mr. Chairman, I thank the gentlewoman for allowing me this time to speak on this important issue.

Speaking with people back home, time and time again, the problem of unnecessary and overly burdensome regulations is brought to my attention. So I am pleased that this House is now considering H.R. 450, the Regulatory Transition Act of 1995.

Mr. Chairman, just so there is no misunderstanding, many existing Government regulations are necessary, and provide significant benefits to our country. My concern is that in recent years, at a time when the number of regulations are increasing, we are failing to ensure that these regulations address real risks at a cost that is comparable to the benefits provided. As you may know, improving the Federal Government's ability to conduct risk assessment and cost-benefit analysis has been an interest of mine and I look forward to continuing these efforts.

I must agree that a moratorium on regulations is a controversial first step. But it is one that I support because we must begin now, if we are to reform the flawed processes which have resulted in so many regulations and simply do not work in the real world. I am pleased that the Congress will soon be considering important changes in our rulemaking process, such as requiring risk assessments on all major regulations. However, these changes will take time. That is why I believe that a moratorium on new regulations is a necessary first step toward reforming the regulatory process.

No one can anticipate the future, and I believe that it is important that H.R. 450 grants the President broad authority to grant exemptions from the moratorium for emergencies. I am also pleased that the bill excludes regulations that repeal or streamline current regulatory burdens.

Regulatory reform should be a priority for the 104th Congress, and I am encouraged that we are now moving forward with H.R. 450 to begin the effort on regulatory reform. I urge Members to support this legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, the Republican Party would like to have the American public believe that all government regulation is evil and burdensome. The proposal before us today will stop all government regulations issued since November 20, 1994. I believe this is another master gimmick being promoted by the headline hungry Republican Party that is willing to pursue destructive policy in order to gain favor with a disenchanted public. This is one more initiative by the Republican Party to close debate and rule by decree. This proposal paralyzes Government in order to fix it. This is not the way to do things around here. We do not need to hurt our fellow American citizens in order to help them.

Let me give my colleagues two examples in agriculture alone. The first relates to the fresh cut flower and fresh cut greens promotion information program which was implemented when the rule passed in December 1994. If House Report 450 is passed today, the program cannot be implemented and will result in widespread losses to producers and to shippers. We are talking here about jobs.

A second example is rules establishing comprehensive regulations governing the introduction of nonindigenous organisms that may be plant pests. It is estimated that harmful introductions have cost the American taxpayer $97 billion. We need these regulations to protect the American public.

Mr. Chairman, my own district, where we have a base closure example, we required local hiring preferences. Those regulations were put into law just recently, the Federal Register, so that one could hire local businesses affected most by the base closure. Those base closures would be thrown out.

Lastly, let me just read a part of the bill here that says the enactment of new law or laws require that the Federal rule-making process include cost-benefit analysis. I say to my colleagues, ''You cannot, you cannot, do cost-benefit analysis. You can't do it for military music, the salute to the flag or to the kinds of provisions that are included in this bill.''

I urge a rejection of House Report 450.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. BASS], another new member of the committee.

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

Mr. BASS. Mr. Chairman, I rise in support of House Resolution 450.

Sixty-five thousand pages—actually 64,914 pages—in 1994 alone. Who reads all these pages? Who is affected by all these pages? Who is writing all this staff? The answer is there are a lot of people writing a lot of regulations. Nobody has the opportunity really to understand what is going on. We need a rest.

Mr. Chairman, that is what House Resolution 450 does. It gives us a rest for a little while. We have got to get on the stick here and reduce the size and influence of the Federal Government.

Who is going to be affected by all these regulations and the moratorium that we will have over the next year? My colleagues, it will be families, small business people, people who are affected day in and day out by these regulations.

I do not know what all these people are going to do who write all these regulations. They will probably be listening to classical music for the rest of the year, but it is time we pass this bill, House Resolution 450.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLER].

Mr. BAESLER. Mr. Chairman, I would like to associate myself with the remarks of Mr. PETERSON. I support this bill very strongly because I think it will go a long way in preventing some irreparable damage to major industries in Kentucky, namely tobacco and the soft drink industry, and I fully support it, and I vigorously resist many of the amendments that will try to undo what this bill tries to do.

Mr. CLINGER. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas [Mr. ROBERTS], the chairman of the still powerful Committee on Agriculture.

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

Mr. ROBERTS. Mr. Chairman, first I want to thank the gentleman from Pennsylvania [Mr. CLINGER] and the subcommittee chairman, the gentleman from Indiana [Mr. MCINTOSH], for their work to make sure that this legislation will not in any way impede the routine regulatory decisions and actions vital to commerce in a very workmanlike fashion, which my colleagues have done. They have addressed the concerns of the Committee on Agriculture; I appreciate that; with report language that clearly states this legislation is not intended to apply to the marketing orders and our ability to distribute the vital commodities that we have to do.

This legislation is good for agriculture, it is good for rural and small town America, and it is long overdue.

Now some of my colleagues across the aisle, I understand their concern, but they have expressed very reasonable concerns about the law of unintended effects, that this moratorium will endanger essential regulations. That is not the case. This bill exempts routine administrative action and most of the warnings that have been raised by the majority.

Now I realize virtually every Federal agency is under marching orders by this administration to warn of impending doom and that the regulatory sky will fall. That is not going to happen now. I am also sure that agency lawyers can interpret legislation to provoke all sorts of legal problems, if they so choose.

□ 1310

That does not have to be that way. We should not have a problem.

The other side of the story in reality is that regulatory overkill pouring out of this town has endangered the economic well-being and the essential services of virtually every community, every county, every State, every business up and down Main Street; every hospital, every school, everybody in America. The total cost, $600 billion nationwide, and it is breaking the back of our local government.

What is at stake is the very confidence of the people of the United States and their faith in our Government. We are regulating our citizens out of business with a shotgun, You-are-guilty-until-proven-innocent approach. The gentleman from South Carolina [Mr. SPRATT] said we should not throw the baby out with the bath water. Right now the bath water would not meet the clean water standards, the soap would not be labeled right, the tub would be judged unsafe, and parents could not bathe the baby without proper instruction, certification and schooling. It is time for moratorium.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

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

Mr. RICHARDSON. Mr. Speaker, I oppose this legislation, but let me say at the same time I have great respect for my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is producing rapidly a lot of legislation.

I do think that we have to be careful. When we look at what moratoriums mean, basically any moratorium in my judgment is not good. It is basically creating temporary bottleneck and gridlock. This is something that the other side has abhorred for years. But when you have a moratorium, it means nothing can happen. You delay a decision.

So what we are doing is creating regulations, in my judgment, that do not create jobs. What we are doing is preventing regulations that create jobs, that protect children, that keep planes and trains from crashing, and keep hunters from hunting. That is in essence what we are doing. What we are doing is basically trying to use Band-Aids after open heart surgery.

The administration has worked hard and with success to streamline agency rule making. Let that continue. The Congress can use its oversight authority to curb overzealous agency action. The Vice President has taken the lead in this direction, not just with reforming government, by cutting Federal workers, over 280,000, to finance the crime bill, and there are task forces in every single department of government designed to curb regulation. This is ongoing. Why do we have to interfere with this process?

This moratorium is so strict that agency employees would be prohibited from almost doing anything by risk assessment. In other words, a paralysis would virtually take place. Any agency decision to exclude a rule except for emergencies could be challenged in court, tying things up further and keeping lawyers further employed.

The committee made sure that exclusions exist for tax and banking regulations, but they would not add exclusions for meat and poultry inspection, safe drinking water regulations, mine safety regulations, programs that help the working class. Assurances that exclusions protect health and safety regulations are not worth anything. They are going to be tied up in court with lawsuits. We are employing a lot of lawyers with this legislation.

The committee language makes it easier to exclude regulations on the basis of damage to property, rather than damage to individuals and human beings. So what we have is piecemeal legislation, a piecemeal amendment process, exempting certain statutes and programs from the moratorium. It is more evidence of the fact that this is a bad idea. How do we pick and choose in a day what should be exempt and what should not be exempt?

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 1 minute to the gentleman from Texas [Mr. COMBEST], the chairman of the Permanent Select Committee on Intelligence.

Mr. COMBEST. Mr. Chairman, this bill goes right at the heart of what the frustration in this country is, and I would challenge Members of this Congress to walk down the streets of your community, stop anyone, and ask them what their concerns are, and I bet you more than not you will hear that the

concerns are over-government regulations. For 10 years that is what I have heard in my district. It is ironic that people in the district look at the concerns and then recognize the fact that this administration is trying to govern by regulation.

Most people in my district do not understand that regulation that seems to be so stupid can many times be put into law. What we are doing by this act, Mr. Chairman, is we are going to put the stupid test to regulations. If it is stupid, it is not going to become one.

There is nothing that is creating more of a problem economically to the American people than over-government regulation. The average American family today is expending $6,000 a year to comply with Federal Government regulation. That is $6,000 they ought to be able to keep in their pocket.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, whether the regulation is smart or stupid will make no difference under this legislation before us today because this legislation will stop all regulations, without giving consideration to whether it is very much needed by the middle class in this country.

People look to regulations to protect them from harm. Whether it is environmental threats or safety concerns, regulations are in place to be there to protect people. This legislation would put a moratorium on all those regulations.

The big winner will be the corporate special interests that will be relieved from the obligation to live up to standards that protect the public. The big loser will be the middle class, the people who are hard working and expect that someone is going to pay attention to them. And the people they are looking to are those of us in this Hall today.

The tobacco industry illustrates to me a good example of how H.R. 450 would work. There is probably no more protected special interest in America than the tobacco industry, yet the tobacco industry would probably be the Nation's biggest winner under H.R. 450.

The Food and Drug Administration is in the process of conducting an investigation as to whether the tobacco industry acted improperly in adding or manipulating the nicotine in cigarettes to keep people addicted, and particularly marketing it to kids. So FDA is trying to decide do they have jurisdiction over this matter. This moratorium legislation would keep FDA from even doing its investigation, let alone promulgating any regulations.

OSHA is looking at protecting people in the workplace from secondhand smoke. It is a serious environmental threat. It is a class A carcinogen. It can cause a nonsmoker who is forced to breathe in that smoke to get lung disease and heart problems. All of these concerns we think about when we associate cigarette smoking and the smoker, yet OSHA would be stopped from their investigation on this very issue because the scope of this proposal is so broad that they could not even get further comment on a proposal to deal with protecting people in the workplace.

This is not what the American public wants, regulatory relief that allows the tobacco industry to continue to promote and sell cigarettes to our children.

There are other examples of how this bill will hurt the middle class. It will delay efforts to improve the safety of meat, poultry, and seafood. It would remove dangerous chemicals from drinking water under a proposal, and those proposals would be stopped. There is a proposal to establish standards for mammography, and those standards would be stopped. Protect children from iron poisoning and reduce toxic emissions from incinerators, these are regulations that are about to be proposed, and they would be stopped by this moratorium.

I think it is a part of what is clearly not just in and of itself a transition to another bill, it is part of a salvo on attacking all of our Nation's regulatory safety net.

Other provisions we are going to get up before this Congress next week which are part of this so-called Contract with America would be even more extreme, because they would create a regulatory maze that would prevent the agencies from protecting our health and safety. They in fact would roll back 25 years of environmental progress.

There are good regulations, there are bad regulations. Let us figure out how to make regulations smart and effective, not simply to take all regulations and stop them from going into effect, either through a moratorium, which is part of what this legislation would do, or the regulatory, so-called, reform bill that we will get next week, which will cripple government from doing anything to protect people. The people we are trying to deal with are the middle class.

□ 1320

Mr. CLINGER. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 14 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 5 minutes remaining.

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute the gentleman from Minnesota [Mr. GUTKNECHT], another new and very valued member of our committee.

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

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

Mr. GUTKNECHT. Mr. Chairman, I do not know how many times we have watched NCAA basketball games or other basketball games on TV. We will see, when one team has a run and they have scored about 11 points in a row and the other team seems to be against the ropes. And we will hear the announcer oftentimes say, it is time to get a TO. They better take a TO. And we all know what that means. Let us take a time out.

Let us, if one is the coach or if one is a supporter of that team, they know what that means. The other team has a run going. You are against the ropes and you need some time to just think about it, to regroup, to go back to the huddle and see of you cannot restructure this thing.

I think what small business and even some big businesses around the country are saying, please, let us at least have a TO. Let us take time out so that we have time to recapture our thoughts and perhaps see if there is not some sensible way to deal with this.

What American business is not saying is, we want no regulations from the Federal Government. I think what they are saying is, we want reasonable regulations. That is what this is about. This is a time out.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I thank the ranking member, the gentlewoman from Illinois [Mrs. COLLINS], for yielding time to me.

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

Mr. FATTAH. Mr. Chairman, during the course of our deliberations on this bill, I am going to offer an amendment that would exempt from this moratorium the proposed regulations of the Federal Trade Commission to prevent telemarketing fraud. The Telemarketing Consumer Fraud and Abuse Prevention Act of 1994 was a law that was passed in the last session. That law had broad bipartisan support in the last Congress. It passed in the House by a vote of 411 to 3. It passed the Senate by a voice vote.

Numerous congressional hearings over a 7-year period have shown that telemarketing fraud was costing Americans about $40 billion a year and that the elderly and small businesses are the principal victims. The hearings also showed that new legal tools were needed to stop this rip-off. The law directs the FTC to issue its final regulations by August 16, 1995, and then the law, in a novel approach, authorizes State attorneys general as well as the FTC to enforce these Federal regulations.

H.R. 450 would bring to a halt this bipartisan effort to stop telemarketing fraud. H.R. 450 prohibits the FTC from issuing a final rule by the statutory deadline of August 16, and it even prohibits the FTC from going ahead with

analyzing public comments and holding a public hearing on the proposed rule.

Sections 6(3)(A) of H.R. 450 makes it clear that the moratorium applies both to the issuing of a rule and to any other action taken in the course of the process of rulemaking. This amendment should be supported hopefully by both sides of the aisle.

Mr. Chairman, the last Congress spoke clearly and decisively on telemarketing fraud. There is no reason for us to put that work on hold.

I urge support for this amendment, when it comes up in the debate.

Mr. CLINGER. Mr. Chairman, may I ask who is entitled to close debate?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is entitled to close debate.

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

I want to point out a couple of things that have been discussed during the debate this afternoon. The gentleman from California indicated that this bill was going to roll back 25 years of health and environmental legislation. And that would be true if in fact we were going to reach back and deal with the regulations that have been put on the books in those 25 years, but that clearly is not the case.

This bill is only prospective, that is prospective from the point of November 20 until the end of the year. It is also temporary. We are not saying that this moratorium is going to go on forever. In fact, it has a final date of December 31 of this year. And could be much earlier than that if, in fact, regulatory reform legislation which we will be considering next week does pass.

So this is not a long-term and it is also, Mr. Chairman, not an unprecedented step. During the administration of President Bush, there was an executively imposed moratorium on regulations which went on for over a year, I believe. And in that case, there were no deleterious effects, no horrible rending of the social network or the social safety network, no destruction of the environment as a result of that moratorium. This is merely an opportunity, a temporary opportunity to try to say, let us put a hold on these things until we really get a sense of how we are going about imposing regulations. And clearly, I think even on both sides of the aisle, it would be admitted that we have gone overboard, that we have a sort of a sausage machine that just grinds out regulations without any thought given to what the ultimate impact may be, what the cost may be to the people that we are impacting. So, yes, there are indeed many regulations that are vitally important to the health and safety. We think that those types of regulations are clearly covered and exempted under the exemptions that we provide for imminent threats to the health and safety of individuals.

We do not think that this is a draconian device. It is merely a device that gives us a chance to review where we stand.

I would just point out, Mr. Chairman, that the legislation does indeed have a tremendous amount of support from hundreds, hundreds of national organizations inside and outside the beltway, including the American Farm Bureau Federation, the gentleman, chairman of the Committee of Agriculture, spoke earlier about the support of the farm community and the fact that their concerns, while having milk marketing orders and others, would not be affected. I think the American Farm Bureau Federation would not be endorsing this bill if there was a real threat to agriculture. The National Federation of Independent Business, the National Electrical Contractors, National Grocers Association, the U.S. Chamber of Commerce and the list goes on and on and on. So, Mr. Chairman, there is a tremendous amount of support for this bill outside this chamber, but also there is tremendous support right here in this chamber, for the legislation has about 150 cosponsors. In fact, it passed out of my committee, the Committee on Government Reform and Oversight, with a bipartisan vote of 28 to 13.

I just wanted to try and put this thing in context, that we are really dealing here with a rather modest proposal to give both ourselves and the administration, when I point out there is a companion, I view the effort by the President when he said he is directing every department-level, cabinet-level office as well as every agency to review the regulations which they have, to take a hard look at them and to come back with recommendations for those that could be eliminated. We hope that they will do that. But that is a companion piece to what we are dealing with. What we are dealing with is primarily new regulations, new burdens that are going to be imposed, not those that are already in existence. We applaud the President's efforts to look at existing regulation and perhaps eliminate those.

I think this would be a cooperative effort, not an adversarial effort, because we are both trying to do the same thing, which is deal with this regulatory overkill we have in this country.

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

Mrs. COLLINS of Illinois. Mr. Chairman, will the Chair tell Members how much time remains on both sides?

The CHAIRMAN. The gentlewoman from Illinois, [Mrs. COLLINS] has 2½ minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 8 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT], a new and valued Member.

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

Mr. Chairman, I rise in strong support of H.R. 450.

The distinguished majority leader, who is an economist, has called government interference in our businesses and in our lives ''the invisible foot'' of big government. And he is right. That foot is on the throat of people who create jobs.

Almost every day my office receives calls from small businessowners in Kansas who are caught between running their business and fighting with needless government regulations.

One man in Wichita who runs a roofing business called my office because the government wants him to secure his roofing ladders with ropes. But the ropes create a safety hazard to the workers, who get their feet tangled in the ropes. This is clearly counterproductive.

Let me quote from a letter recently received:

> As a small businessman I can tell you firsthand that I am drowning in a sea of regulation from Washington.

When we enact mindless regulation without understanding its costs we are playing a deadly game of Russian roulette with American jobs. When the gun goes off small businesses shut their doors, and ordinary working people lose their jobs. It's not smart, and it's not right.

For these reasons I urge H.R. 450's passage.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, I rise in strong support today of H.R. 450. The greatest burden that free enterprise and entrepreneurs and those who wish to pursue the American dream have today, the greatest problem they have is the regulatory burden they face every time they walk out the door, trying to create more jobs, trying to be more productive in this country.

Yesterday we were visiting with one of the representatives from the administration, and it was pointed out to us that there has been a problem in recent years with job growth and job creation, and I pointed out to them that one of the greatest reasons, perhaps the greatest reason, that there has not been as much job growth in this country in recent years is because the entrepreneurs, the small businesses, those who believe in free enterprise have to operate with handcuffs every day because the regulatory burden is so great.

Mr. Chairman, I am delighted that this effort we are undertaking today is a bipartisan effort. There is strong support on both sides of the aisle. I am excited because small business people in America can once again look to Congress and understand that they will have a friend and an ally in Congress as they get up to work every morning, oftentimes 7 days a week, to create jobs and be more productive in America.

Later on today, Mr. Chairman, we will also offer an amendment that will address private property rights. Regulatory burdens that have been imposed on people who own homes, small businesses, farms, and ranches across America mean people no longer have

an opportunity to do what they want on their own property.

Regulations have also been a tremendous burden on them, and I am delighted that this amendment that we will be offering later on, which we will elaborate on, is a tremendous bipartisan effort, as well, that we are excited about presenting today.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been mentioned that there has been bipartisan agreement in committee with this legislation. I just want to point out that there has also been bipartisan opposition to this bill in committee.

Let me say, too, Mr. Chairman, that I think that the Washington Post today really tells the story on this particular legislation. It has a story on the Federal page entitled ''Ambiguity Rules the Day.'' That in fact is what it does. This says ''The Republicans' rulemaking moratorium aims to relieve Americans of burdensome Federal regulations, but the bill that comes to the House for debate today could create just as much confusion as it seeks to prevent.'' It goes on to say that ''* * * the moratorium * * *, the first of the measures to come to the House, may gain its notoriety not from what it seeks to stop but its ambiguity. The bill will allow thousands of exemptions and create enormous gray areas likely to confound both rule-making and their congressional opponents.'' Further it says ''Beyond specific categories, however, the bill becomes fuzzy enough to provoke immediate chaos.''

There is no way I could say it any better than that, Mr. Chairman. What happens here is that we have this bill, which was very hastily crafted. I would want to say, it was not very artfully crafted. As I understand it, it is supposed to be a bridge between this bill and some others that have to do with risk assessments and cost analyses and things of that nature. It is a bill that does not do what it purports to do. It is very, very hazy, it is very, very fuzzy. It is the kind of legislation that I do not think has been very well-written. I think its purpose may have been laudatory, but its effect is not that.

For that reason, Mr. Chairman, I would certainly urge all of my colleagues to vote against this bill when it comes up for debate. The one thing we tried to do is to offer amendments that make good common sense.

I would certainly hope that my colleagues would vote for the amendments that we have offered, because I just do not believe that my colleagues on the other side of the aisle intended for there to be chaos, intended for there to be fuzzy rulings and ambiguity about the kinds of things that this bill is supposed to do when it comes down to the operation of the Federal Government.

For that reason, Mr. Chairman, I would say to them, pay close attention to the amendments that we have offered. They are very seriously given, they are very carefully thought out, they are very carefully drawn, and it seems to me that they are something we ought to do.

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I would like to enter into a dialog with the gentleman from Pennsylvania.

Mr. Chairman, as the gentleman knows, in the last couple of years we have instituted some of the largest trade agreements that mankind has ever accomplished. Of course, in anything as complicated as that, it does take regulations to carry them out.

We hope that the gentleman's language will give the administering agencies as broad a latitude as possible to carry out these agreements. We do not want to be in a position of not having passed these agreements, and having promised the world we will do some things, and then turn around and welsh on our own agreements.

I have sent the gentleman some correspondence on this. I hope to receive the gentleman's assurance that he feels that it is important in carrying out these agreements that the administrators have pretty broad latitude in issuing their regulations.

Mr. CLINGER. Mr. Chairman, let me assure the gentleman that we are very sensitive and very aware of the concern of the gentleman and others on the Committee on Ways and Means that were so vitally involved in negotiating these agreements. We think that the language would clearly allow this.

Mr. GIBBONS. Mr. Chairman, if the gentleman will continue to yield, I include for the RECORD a copy of my letter.

The letter referred to is as follows:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 22, 1995.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing in regard to the exception to the moratorium on Federal regulatory rulemaking actions in H.R. 450, the Regulatory Transition Act of 1995, for ''statutes implementing international trade agreements''. While we believe this exception is essential if H.R. 450 is enacted into law, we are deeply concerned about the narrow interpretation of this language set forth on page 22 of the Committee report which authorizes the Administration to conduct rulemaking actions during the moratorium period only with respect to provisions in such statutes which are ''specifically required'' to implement U.S. obligations under international trade agreements.

Such a narrow interpretation is contrary to the statutory basis on which implementing legislation for international trade agreements has been developed and passed by Congress and would potentially undermine the effectiveness of that legislation. The special ''fast track'' procedures set forth in the Trade Act of 1974, and reauthorized by subsequent Congresses for consideration of trade agreement implementing legislation, specifically states that such procedures apply to legislation which contains provisions which are ''necessary or appropriate'' to implement such agreements. Those procedures also require the Congress to approve an accompanying statement of administrative action which sets forth procedures and interpretations which are subsequently reflected in agency regulations.

Within that framework and on a bipartisan basis, committees of jurisdiction have developed, together with the Executive branch, and Congress has passed legislation since 1974 encompassing statutory changes and authority to issue regulations necessary or appropriate to implement U.S. trade agreement obligations. For example, legislation passed by the 103d Congress on a bipartisan basis to implement and North American Free Trade Agreement and the Uruguay Round multilateral agreements represented a careful balance of divergent commercial and political interests on a range of issues. An interpretation of the exception to the moratorium which limits rulemaking authority to only those provisions that are specifically required to implement trade agreement obligations is contrary to the intent of Congress in passing this legislation and will preclude agencies from issuing regulations to administer those provisions which are appropriate to achieve effective or intended administration of the statutes or agreements involved. Such an interpretation also runs the risk of upsetting the careful balance of interests reflected in the statute and unnecessarily reopening the debate on controversial issues.

In sum, we believe the statutory language contained in H.R. 450 should stand on its own. We further believe for the reasons stated above that the interpretation given to this language in your Committee report is totally inappropriate. Any changes in previously enacted trade agreement implementing legislation should be debated by committees of jurisdiction through the normal legislative process, and not be achieved through a regulatory vehicle such as H.R. 450.

We appreciate your cooperation on this matter.

Sincerely,

SAM M. GIBBONS,
Ranking Democratic Member.

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

Mr. Chairman, just to respond to the gentleman from Florida, it is clearly our intent not to interfere with the carrying out of negotiated treaties, particularly referring to GATT and NAFTA.

Mr. Chairman, I yield the balance of our time to the gentleman from Indiana [Mr. MCINTOSH], the author of the bill.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 3 minutes and 15 seconds.

Mr. MCINTOSH. Mr. Chairman, first let me commend you. It is an honor for me to be able to speak today on this bill that I helped author, and have a fellow colleague in the freshman class chairing the Committee of the Whole. You are doing a wonderful job, and I appreciate that.

I want to thank also my Democratic colleagues who have supported us in this, particularly the gentleman from Minnesota [Mr. PETERSON], the ranking member on our subcommittee. His contributions to this bill have helped craft it into a very strong piece of legislation.

Mr. Chairman, let me say, I do think the choice is clear today before this body, whether we are going to continue business as usual, to continue to have 4,300 new regulations coming out of this administration, to continue to be on the side of the 130,000 Federal bureaucrats who spend their time writing and enforcing regulations, or whether we are going to be on the side of the American people and say enough is enough. It is time we take a time out on Federal regulations. It is time that we have a moratorium, so we can go through and start getting rid of the unnecessary and ridiculous and burdensome regulations.

I wanted to share with the body some of the examples that have come to my attention, both as chairman of the subcommittee, and as working with former Vice President Quayle, as his staff director of the Council on Competitiveness.

One of those regulations was a rule that apparently would bar the tooth fairy in the United States. It was a requirement that every dentist not give back baby teeth to their parents. When we inquired, ''Why on Earth would you need to have that type of regulation,'' the agency said ''We are worried that those baby teeth might be hazardous waste material.''

Mr. Chairman, that, of course, is one of the most ridiculous assumptions we could possibly make. We asked ''Could you think about that a little longer?'' And they eventually said, ''Yes, the dentist can give back baby teeth.'' The tooth fairy can visit the American home.

Another issue that has come to my attention was the Consumer Product Safety Commission guideline that recommended that on the worksite every bucket with 5 gallons or more that could contain water have a hole in the bottom of it.

We asked ourselves, why on Earth would you want a bucket with a hole in the bottom of it?

□ 1340

Someone decided that it might contain water and that could become a hazard if someone slipped and fell and landed facedown in the bucket. Their response: Put a hole in the bottom of the bucket so that it leaks water and can no longer contain what it is meant to.

Another example from my district was Mr. Floyd, who is a farmer in Muncie, IN. He has had his farm in his family for over 50 years now. One day one of the neighboring businesses accidentally broke the drainage tile that allowed his property to be drained and farmed, creating a big mud hole. Soon after that, he was visited by Government regulators who told him, ''You can no longer farm your farm. We've decided that this mud hole is a wetland and needs to be protected.''

There you have Mr. Floyd, an 80-year-old farmer from Muncie, IN, going up against the Federal Government who says you can no longer use your farm because someone accidentally destroyed the drainage tiles and you now have a mud hole that we, the Federal Government, want to protect as a wetland.

Those types of regulations are ridiculous and they need to come to an end. This moratorium will put a stop to that needless regulation.

Mrs. COLLINS of Illinois. Mr. Chairman, over the course of our consideration of H.R. 450, a number of individuals and groups have expressed concerns over the impact that H.R. 450 would have on various important regulations. I have obtained copies of correspondence that these groups have sent to me and other Members. I would ask that these letters be inserted into the RECORD, for the benefit of my colleagues.

NEXTEL,
Washington, DC, February 13, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN COLLINS: I am writing to you on an urgent matter concerning the application of H.R. 450, the ''Regulatory Transition Act of 1995'', to an ongoing Federal Communications Commission (''Commission'') rulemaking which would enhance competition in the mobile telecommunications industry. As currently drafted, the ''regulatory moratorium'' legislation could indefinitely postpone Commission adoption of proposed rule changes which will result in the introduction of new mobile services, enhanced competition in the mobile marketplace, reduced administrative burdens on the Commission, and greater radio spectrum auction fees to the U.S. Treasury. While clearly this it not what the authors of H.R. 450 intended, we believe that is what the effect of this legislation will be, unless modified as suggested below.

Nextel Communications, Inc. (''Nextel''), is today the leading operator of traditional analog Specialized Mobile Radio (''SMR'') systems. Upon closing of certain pending transactions, Nextel will provide fleet dispatch communications to approximately 750,000 customers throughout the United States, Nextel has already invested nearly half a billion dollars to develop, construct and operate a nationwide digital wide-area SMR system which is fifteen percent more efficient than existing analog technology. This unique service offers mobile workforce customers a combination of private network dispatch, mobile telephone, paging, text messaging, mobile data (including portable computer and portable fax support) and enhanced services such as voice mail and call forwarding, all on a single handset. Nextel is currently operating its new digital system throughout most of California and is introducing this service in the greater New York and Chicago areas this quarter. In California alone, Nextel has created over 500 new jobs.

The Commission last year initiated a rulemaking procedure concerning wide-area block licensing for radio spectrum currently allocated for SMR services. The Commission's rulemaking is required by the Omnibus Budget Reconciliation Act of 1993 (''OBRA 93'') which established a new common carrier category of mobile communications providers—''Commercial Mobile Radio Service'' or ''CMRS''. In creating this new category of service, Congress mandated that the Commission eliminate regulatory disparities among different types of mobile service providers offering competing services. The ''regulatory parity'' provisions were designed by the Congress to promote fair competition among providers of commercial mobile services, regardless of their current regulatory status, and are an essential part of the spectrum auction provisions contained in OBRA 93.

The regulatory parity provisions in OBRA 93 require that SMR services reclassified as CMRS be subject to technical requirements comparable to those that today apply to substantially similar common carrier services, such as cellular telephone and Personal Communication Services (''PCS''). The reclassified SMRs have until August 10, 1996 to make whatever changes are necessary to come into compliance with the new regulations. Delay in adopting regulatory parity rules will harm reclassified SMRs who do not yet know what regulations they will be required to comply with only 18 months from now. Such delay will prolong the existing competitive disadvantage of these carriers vis-a-vis cellular and PCS services, contrary to the express intent of OBRA 93. The mobile communications consumer will be the ultimate loser.

Delay in finalizing the Commission's regulations will also harm the government. The Commission is now burdened with nearly 40,000 backlogged, private radio service applications, many of them for SMRs. It is proposing the elimination of some of its current licensing requirements and substituting others which will greatly simplify the licensing process and allow the Commission to eliminate much of its current processing burden. The creation of a contiguous spectrum block wide-area SMR license in the pending rulemaking will permit the further introduction of spectrum efficient technologies. In addition, as part of the pending rulemaking, the Commission is proposing to auction wide-area SMR licenses on a Major Trading Area basis to operate on four blocks of contiguous spectrum. A wide-area, contiguous channel block license would promote regulatory parity and enhanced competition while bringing the U.S. Treasury much needed revenues.

While the regulatory parity provisions of OBRA 93 are clearly intended to enhance fair competition by equalizing regulatory obligations, in reality a new regulatory scheme would be substituted for the existing one. Thus, it is not entirely clear that the exclusion which exists under H.R. 450 for rulemakings which the Head of the Agency and the Administrator of OIRA certifies is limited to ''repealing, narrowing, or streamlining a rule, regulation, or administrative process'' would be applicable to the Commission's regulatory or parity rulemaking. Nor is it clear that the exclusion applicable to an ''action relieving a restriction or taking any action necessary to permit new or improved applications of technology'' could be used to exempt the Commission's rulemaking from the moratorium—although this is the clear intent of the Commission's proposal.

Nextel firmly believes that any further delay in the Commission's rulemaking would play into the hands of those entrenched market participants who fear increased competition. Delay will deny consumers the benefits of increased competition. Delay will also reduce revenues to the Treasury and perpetuate an impossible Commission administrative burden. H.R. 450 should be amended to exclude from the moratorium rulemakings which are designed to enhance competition.

Sincerely,

ROBERT S. FOOSANER,
Senior Vice President, Government Affairs.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, February 9, 1995.

DEAR GOVERNMENT REFORM AND OVERSIGHT COMMITTEE MEMBER: On behalf of the 2.2 million members of the National Education Association, I urge you to vote against HR 450, the Regulatory Transition Act of 1995, during Committee markup.

HR 450 would freeze and delay implementation of a broad range of important federal regulations until an unspecified future date and would retroactively apply to many regulations already in effect. If enacted, HR 450 will undermine and negate many important safeguards and protections for Americans, and lead to confusion and uncertainty among state and local governments and employers attempting to understand their responsibilities for complying with federal laws.

Among the hundreds of regulatory actions that could be negated by this bill are:

Department of Labor final regulations to implement the Family and Medical Leave Act, scheduled to take effect on April 6;

Department of Education guidance to states and school districts on how to implement the new Gun-Free Schools Act;

Regulations currently being developed by the Education Department that are necessary to implement the new provisions of the recently enacted Elementary and Secondary Education Act;

Education Department regulations and guidance on the new college student Direct Loan program, which will save the federal government billions of dollars;

Proposed OSHA standards to protect workers from harmful indoor air pollutants; and

Expected FCC regulations to implement the Children's Television Act.

By imposing an across-the-board freeze on all federal regulations, the Congress would prevent the federal government from carrying out its responsibilities and leave many Americans without the benefit of important guidance and protections. NEA urges you to vote against this ill-conceived plan for reducing the scope of safeguards Americans expect from the federal government.

Sincerely,

MICHAEL D. EDWARDS,
Interim Director.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, February 22, 1995.

Hon. JOHN M. SPRATT, Jr.,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SPRATT: This responds to your letter seeking the views of the Department of Justice on the judicial review provision contained in H.R. 450, the Regulatory Transition Act of 1995. Specifically, you ask whether section 7 of the bill authorizes a remedy of judicial review for an individual seeking to delay or stop a regulation.

Section 7 states that, ''No private right of action may be brought against any Federal agency for violation of this Act.'' However, its next sentence contravenes this apparent bar to a private right of action by providing. ''This prohibition shall not affect any private right of action or remedy otherwise available under any other law.'' In effect, standard Administrative Procedure Act review would still be available to challenge an agency's determination that a rule fit within an exemption and was legal under the Act. This is recognized by the House Government Reform & Oversight Committee report which states,

This section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

As you know, the Administration strongly opposes H.R. 450. Its judicial review provision is but one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language and think the bill should include an express bar to judicial review.

We appreciate the opportunity to express our views on this important issue. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

ALUMINUM COMPANY OF AMERICA,
Washington, DC, January 30, 1995.

Hon. DAVID M. MCINTOSH,
Chairman, National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee, Government Reform and Oversight Committee, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MCINTOSH: I am writing to express the concerns of Aluminum Company of America (Alcoa) about the potential effect of your proposed moratorium on federal rulemaking activities on the promulgation of EPA's rule to implement the Acid Rain Opt-In Program for Combustion Sources. The proposed rule was published in the Federal Register on Friday, September 24, 1993; it has just cleared OMB, and is in the final clearance process at EPA.

Alcoa has strong concerns about the timing of this rule, which, as you can see, already has been delayed several years. Under the requirements of Title IV of the 1990 Clean Air Act Amendments, the program should have been established in May 1992. A public hearing and comment period followed the proposal of the rule; 43 comments were filed and while some addressed how certain parts of the program should be implemented, none suggested the program should not exist. Significant positive benefits of the program could be lost, if the rule is not promulgated soon.

As the attached paper entitled AGC Opt-In Concerns describes, Alcoa's subsidiary, Alcoa Generating Corporation (AGC), owns three generating units at the Warrick Power Plant in Warrick County, Indiana, which supply electricity only to our aluminum plant and are, therefore, classified as industrial boilers. The opt-in program presents an opportunity for AGC to lower the cost of making aluminum by lowering the net cost of the electrical energy supplied to the smelting process. Reducing the sulfur dioxide emissions through fuel switching and other control means and selling the resultant excess allowances to others would provide a cost improvement that would allow the Warrick smelter to be more competitive and would help protect the jobs of more than 900 Indiana employees.

Phase I of the Acid rain Program began on January 1, 1995. AGC had hoped to opt in to the program before that time so that we could take advantage of the utility markets' need for allowances. Use of allowances would enable utilities to meet the requirements of the Clean Air Act at a lower cost to them and their consumers. Any further delay in the issuance of the regulations jeopardizes our ability to negotiate necessary contracts and participate in the program at all.

The delay in this rule also threatens our ability to become a host site for a full scale test of a process selected under the DOE Clean Coal III technology program. As a host site for the NOXSO scrubbing process at one of our units, we might assure continued use of our current Indiana coal source at that unit, but also have the opportunity be part of the development of a technology to protect other high sulfur coal sources. Without opt-in, our participation in this project will not be feasible.

The opt in program seems to be an excellent way for our country to continue to make environmental progress while respecting considerations of cost-effectiveness and helping our industries to remain competitive. Delays in its initiation will threaten those benefits. I urge you to consider our concerns and assure that your greatly appreciated efforts to improve our regulatory environment do not mistakenly prevent the implementation of a rule that will benefit all stakeholders.

Thank you for your consideration. I would welcome the opportunity to discuss this matter or answer any questions you may have about our interest and shall contact your staff to see about arranging a meeting.

Sincerely,

MARCIA B. DALRYMPLE,
Manager, Government Affairs.

READ THE FINE PRINT

(By Thomas O. McGarity)

AUSTIN, TEX.—After the elections, the Republicans asked President Clinton for an outright ban on new Federal regulations. The White House said no—that it would generate needless litigation and red tape. Then the new House majority whip, Tom DeLay of Texas, introduced a bill to impose a retroactive moratorium on rulemaking.

Representative DeLay's ''Regulatory Transition Act of 1995'' would bar executive and independent agencies from issuing proposed or final rules, policy statements, inquiries and possibly guidance manuals until the end of June. It would also stay any actions the agencies have taken since the election. Hearings on the bill have been held in the House, and it is expected to move through both houses with little serious debate.

The purpose of the moratorium is to stop agencies from issuing new regulations while the Republicans enact the regulatory reforms promised in their Contract With America. But the fine print in the bill shows that the moratorium would not apply across the board to all regulations.

The act exempts actions that would repeal, narrow or streamline rules or regulatory processes or ''otherwise reduce regulatory burdens.'' In short, the moratorium is a sieve that would screen out rules that protect the environment, consumers, workers and victims of discrimination while allowing changes that cut the costs of complying with regulations.

The bill exempts action necessary to deal with ''an imminent threat to health or safety.'' This is meant to be a very narrow exception, and a DeLay staff member told the media that it would not apply to pending Occupational Safety and Health Administration rules to protect workers from death and injury. The aide said it would not apply to the proposed OSHA ergonomics standard, which would protect assembly line workers from repetitive motion injuries.

The bill had been in the hopper just a few days when special interest groups that helped finance last year's campaign became troubled. The Independent Bankers Association of America and the American Bankers Association realized that the moratorium would prevent the Federal Deposit Insurance Corporation from carrying out a planned reduction in the premiums banks pay to rebuild reserves drained by bank failures that stemmed from deregulation in the 1980's.

Faced with the prospect of paying millions of dollars in premiums they had not counted

on, the bankers pressed Mr. DeLay's office for an amendment to address their special situation and were assured that he would be happy to oblige.

Thus, the frazzled workers on the poultry assembly line who must slice seven birds a minute get no relief. The workers' boss's banker does.

The new majority claims that a new age has arrived on Capitol Hill, but to those outside the Beltway it sure looks like politics as usual.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MS. COLLINS: As the House of Representatives takes up H.R. 450, the Regulatory Transition Act of 1995, I would like to state the Department of Transportation's strong opposition to enactment of the bill. If H.R. 450 were presented to the President, I would recommend that he veto the bill because of its interference with important transportation safety regulations.

The President has made elimination of unreasonable and burdensome regulations a priority and has directed a detailed review of all the Department's regulations. This preserves each agency's ability to carry out its statutory mandate in the public interest. In contrast, H.R. 450 is designed to interrupt the regulatory process while consideration is given to permanent revisions. This approach would gravely impair the Department's ability to carry out its most important responsibilities. It would also create tremendous confusion with respect to rules that have gone into effect or have deadlines during the moratorium period, especially those that the bill would cover retroactively.

H.R. 450 would halt important transportation safety initiatives, such as rules to make commuter airlines meet the safety requirements of larger carriers, highly cost-beneficial rules to reduce deaths and injuries from head impacts in car crashes, and action to prevent natural gas pipeline explosions and hazardous material releases. The moratorium indiscriminately affects all Federal rulemaking activity, regardless of its merit or benefits. Retroactively taking regulations out of effect, after industries have invested time, money, and effort in compliance, imposes needless costs and disruption on regulated parties.

The narrow exceptions built into the proposed bill do not surmount these objections. The cumbersome approval procedure proposed for ''emergency'' safety rules would unacceptably slow action to respond to genuine emergencies immediately (e.g., FAA directives addressing equipment on an aircraft that needs to be modified to prevent crashes). Further, many important safety rules may not address ''imminent'' hazards. Many routine agency actions, often issued by DOT field offices (e.g., Coast Guard adjustments of opening times for drawbridges), appear not to fall within the bill's exceptions. Although some of our rulemaking may qualify for exclusion, the availability of judicial review could indefinitely hold up action in these areas as well.

I want to work with Congress to improve further the way that this agency and others carry out their statutory responsibilities, but this legislation will interrupt and delay our common goal.

The Office of Management and Budget advises that there is no objection to transmittal of this letter, and that enactment of H.R. 450 would not be in accord with the program of the President.

Sincerely,

FEDERICO PEÑA.

DEPARTMENT OF AGRICULTURE,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN COLLINS: Thank you for your work on behalf of food safety issues.

On February 3, 1995, the Food Safety and Inspection Service (FSIS) published the Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems proposed rule. Sanitation requirements, microbial testing, and process control systems for all meat and poultry plants as proposed in the rule are designed to close an existing gap in the current inspection system that does not focus directly and scientifically enough on preventing contamination of raw meat and poultry products with microbial pathogens. The magnitude of the problem underscores the importance of uninterrupted efforts to eliminate pathogens such as E. coli O157:H7, Salmonella, and Listeria monocytogenes in the food supply. Nearly 5 million cases of foodborne illness and 4,000 deaths may be associated annually with meat and poultry products contaminated by microbial pathogens according to the Centers for Disease Control and Prevention.

A regulatory moratorium, which applies to the Pathogen Reduction/HACCP proposed rule, would deny the United States Department of Agriculture's ability to meet the public's valid expectations concerning the safety of the food supply. All work on the FSIS Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking process and answer technical questions would need to be canceled.

The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450. We appreciate your efforts and the efforts of your fellow Members of Congress to protect the public's health and welfare.

Sincerely,

MICHAEL R. TAYLOR,
Under Secretary Food Safety.

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, February 15, 1995.

Hon. JOHN D. DINGELL,
Ranking Member, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: Thank you for your letter of February 6, 1995, inquiring about the potential effect of the regulatory moratorium of H.R. 450 on the Securities and Exchange Commission and securities markets. I am writing to respond on behalf of the Commission.

It is difficult to identify which Commission rules would be affected by this moratorium. In part, the difficulty is due to the uncertain duration of the moratorium. In the most recent version we have of the bill, a copy of which is attached, the moratorium period would end either with passage of regulatory reform legislation or on December 31, 1995. It is head to predict, in February, what rules may be necessary because of changes in the securities markets before December.

It is also difficult to identify which rules would be affected because of uncertainties in the legislative language. The ''regulatory rulemaking actions'' that may not be taken during the moratorium period are defined to include not only the issuance of rules and proposed rules, but also ''any other action taken in the course of the process of rulemaking,'' other than cost-benefit analysis or risk assessment. ''Rulemaking'' is defined as ''agency process for formulating, amending or repealing a rule.'' These definitions could be read to reach not only the issuance of rules and proposals by agencies, but any work by agency staff on rules or potential rules. If this reading is correct, a moratorium could seriously impede the Commission's ability to formulate and adjust its rules to the changing realities of the securities markets.

We have thus not attempted a comprehensive catalog of the Commission rules and rulemakings that are or could be affected by H.R. 450. There are, however, several important rules that we believe would probably be affected by the moratorium:

Unlisted Trading Privileges. As you know, Congress last year passed the Unlisted Trading Privileges Act (''UTP Act'') to simplify the process of obtaining UTP for a security listed on another exchange. The purposes of the Act including reducing regulatory burdens and opening up competition among the exchanges. The Act required that the Commission issue rules within 180 days, i.e., by April 21, 1995. The Commission presently expects to issue final rules shortly before that date.

Although H.R. 450 has an exception for rules that the head of an agency and head of the Office of Information and Regulatory Affairs both certify are ''limited to * * * reducing regulatory burdens,'' it is not clear that the UTP rules would come within this exception. If not, and if H.R. 450 passes before the Commission adopts final UTP rules, the Commission would not be able to issue these rules until the moratorium ends. If the moratorium legislation passes after the Commission adopts rules, the rules would not take effect until the end of the moratorium period. In either case, the ironic effect of H.R. 450 will be to delay adoption and implementation of rules generally designed to reduce regulatory burdens and to make competition among securities markets more fair. Delay will also injure investors, who are the ultimate beneficiaries of intermarket competition.

Risk Disclosure. The Commission is considering issuing a rule of interpretation to improve disclosure by corporate issuers regarding certain financial instruments, including derivatives. Similarly, the Commission is exploring methods to improve disclosure of the risks in mutual fund portfolios, including the risks created by derivative investments. Depending upon the timing and scope of the moratorium, work on both of these projects could be suspended.

Municipal Disclosure. The Orange County bankruptcy has again shown how important disclosure is to the individual investors who now hold over $500 billion worth of municipal securities. On November 10, 1994, the SEC revised the rules that apply to brokers and dealers of municipal securities to encourage more complete, more timely disclosure by municipal issuers. These rules are now set to take effect on July 3, 1995. If H.R. 450 passes after July 3, 1995, the retroactive provision of Section 3 would delay the effective date of these rules until the end of the moratorium period.

Three-Day Settlement. The delay between a securities trade and settlement creates risk not only for the parties to the trade but also for the entire securities settlement system. In October 1993, the SEC adopted a rule to shorten the settlement cycle for corporate securities from five to three business days. This rule is now set to take effect on June 7, 1995. If H.R. 450 passes after June 7, 1995, the retroactive provision of Section 3 would

delay the effective date of this change until the end of the moratorium period. The result would probably be substantial costs for the securities industry and customers in changing the settlement period from five to three business days on June 7, then back to five business days under H.R. 450, and then back to three business days under the rule.

Electronic filing. The SEC's electronic filing system, known as EDGAR, makes documents filed with the SEC available more rapidly and electronically. In December 1994, the SEC adopted a schedule for the continuing transition to electronic filing, which provided that companies not yet filing electronically would begin on various dates starting in January 1995 and ending in May 1996. H.R. 450 would extend, until the end of the moratorium period, the deadline for the companies required under this schedule to start filing electronically prior to passage of H.R. 450.

These are but a few examples of how H.R. 450 would affect securities markets and investors. If you or your staff have any questions about these issues, please do not hesitate to contact us.

Sincerely yours,

ARTHUR LEVITT,
Chairman.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to H.R. 450. I'll be the first to admit that certain Federal regulations make little sense and should be repealed. Moreover, we need to more carefully evaluate the effects of regulations and work with the regulated community to ensure that we accomplish our goals in the most efficient and sensible manner. This bill does not achieve these goals. In fact, it employs a meat cleaver when a scalpel is more appropriate.

This legislation is another example of bad public policy that has been hastily put together in order to meet an arbitrary deadline set by the Republicans in their Contract With America. It is becoming painfully obvious to me that ''the Contract says we are going to do this'' is becoming the refrain around here regardless of the implications of these ill-conceived proposals which I believe were thrown together to because they sound good on the surface. I do not believe the American people think that just because the contract says something will be done that it should be when it becomes clear that it is bad policy.

This bill isn't the Regulatory Transition Act, it's the Regulatory Demolition Act. It suspends all regulations issued between November 20, 1994, and December 31, 1995. Originally the bill only covered a 6-month period but it has been increased to more than a year. Oh, I know the bill says until December 31 or when other regulatory reform measures are enacted, whichever comes first. I think most of my colleagues agree that the other body is far less enamored with these proposals than Republicans in the House so it is safe to assume that December 31 is the more likely deadline. The language in this bill will result in the suspension of just about every regulation issued during this period. The definition of emergency is so narrow that few regulations will qualify and onerous certification requirements just compound this problem. I am also very concerned that while the bill includes endangerment of private property in its definition of imminent threat to health or safety, it does not include general threats to public health, safety and well-being. If not implementing a regulation might adversely affect a developer then we'll allow it, but a regulation addressing a human health issue can only go into effect if it will prevent death or serious injury rather than safe guard general welfare.

Mr. Chairman, I believe this bill will actually undermine efforts to improve the regulatory process. It defines regulatory action banned by the bill very broadly, including notice of inquiry, advanced notice of proposed rulemaking and notice of proposed rulemaking. For those familiar with the process of developing regulations, these are information gathering measures which open the process to all interested parties and afford them the opportunity of to raise important issues and point out possible pitfalls. These devices allow agencies to say here is what we are thinking about doing, what is your reaction and how can we do things better. I wish my Republican colleagues would explain to me how the process can be improved if agencies are barred from soliciting input from entities which might be covered by a regulation. This definition is totally counterproductive and again demonstrates that the proponents of this bill have not fully thought out its effects.

I am very concerned about the implications of this bill on the interests of the residents of my State. For example, important regulations issued by the National Marine Fisheries Service in December 1994 and January 1995 designed to protect certain New England fishstocks will be repealed. These regulations will help to stem the dramatic decline of haddock, cod, and flounder and rebuild these important species. Without these measures, it is very likely that these species will become extinct thereby driving fishermen in communities like Stonington, CT, out of business. As the bill is written, these regulations, which respond to an emergency, do not qualify as such. Furthermore, regulations issued by the Environmental Protection Agency last month to improve air quality in the Northeast will be declared void. These regulations were requested by nine States in the region and are among the most flexible I've ever seen. This bill casts aside the will of nine States and abrogates regulations which are a model of flexibility. Once again, this bill throws the baby out with the bath water purely and simply.

Mr. Chairman, this is an ill-conceived measure which will jeopardize the health, safety, and well-being of every American. It does not facilitate a transition as the title suggests. Instead, it creates a massive chasm which its proponents virtually guarantee can not be bridged. It does not seek a separate out those measures which have widespread public support or address many important issues which might not cause immediate death. This bill is bad public policy and should be defeated.

Mr. CLAY. Mr. Chairman, I rise in opposition to H.R. 450. This is absurd legislation intended to prevent the President from exercising his constitutional responsibility to enforce the laws of the United States. It is an ill-conceived bill that creates tremendous confusion as to what kinds of regulations are subject to the moratorium and what kind are not. In effect, the new majority wants to make the President a powerless executive. If they succeed, the public will suffer.

The impact of this legislation on regulations intended to protect the health and safety of American workers clearly illustrates the extent of the confusion that enactment of this legislation would cause. The bill specifically provides that the Office of Management and Budget's Administrator of the Office of Information and Regulatory Affairs may issue a waiver for any regulation that is certified as necessary because of an imminent threat to health or safety. The term ''imminent threat to health or safety'' is further defined to mean ''the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans * * *.''

The Supreme Court has interpreted the Occupational Safety and Health Act to require a finding that a hazard poses a significant risk to workers before the Occupational Safety and Health Administration [OSHA] may regulate it. Therefore, based upon the text of the bill, it would appear that regulations issued by the Occupational Safety and Health Administration are potentially exempt under the imminent threat to health or safety exemption.

However, the committee report accompanying this legislation, Report No. 104–39 part I, goes on to state:

The inclusion of the word ''imminent'' is not intended to pose an insurmountable obstacle to the certification of health or safety regulations. Rather it is intended to guard against the undisciplined use of this exception as a means to evade Congress' intent. For example, this committee does not intend this exception to include OSHA's regulations prescribing ergonomic protection standards which require employers to build new work environments to prevent disorders associated with repetitive motions. Such regulations would not be excepted from the moratorium under section 5(a) because they do not address a threat that is imminent.

The imposition of a test of imminence of injury is absurd. Apparently, while the Republicans continue to adhere to the view that employers should not kill employees immediately, it is perfectly alright for employers to kill them slowly.

OSHA has prepared a protective rule to safeguard workers from exposure to methylene chloride, a carcinogenic solvent used to strip furniture and for other purposes. Methylene chloride is a carcinogenic. It does not kill instantly. It nevertheless produces death. By OSHA's estimate, a 1-year delay results in an estimated 21 deaths and 32,000 illnesses that otherwise would have been prevented. In my view, the methylene chloride rule clearly falls within the purview of the imminent threat to health and safety exception. Nevertheless, the committee report creates confusion and invites litigation over this issue.

The Republican indifference to the health and safety of working Americans becomes explicit with regard to the ergonomic regulations that the committee specifically intends to be subject to the moratorium. It is estimated that a 1-year delay of the ergonomic regulations will result in serious musculoskeletal or cumulative trauma disorders to 300,000 additional workers. Liberty Mutual estimates that the average musculoskeletal disorder costs $8,000 in workers' compensation claims, including wage replacements and medical benefits. The 300,000 additional ergonomic injuries, therefore, pose a potential cost of $2.4 billion. Many of these injuries would be prevented by the timely issuance of a protective standard requiring employers to develop ergonomics programs for at-risk jobs. Apparently, the Republicans prefer to allow workers to continue to be injured.

Mr. Chairman, based upon what has been put forward to explain this bill, it is impossible

to tell what kind of regulations are subject to the moratorium. What does it mean to streamline a regulation? What kind of matters relate to foreign affairs functions? What is a routine administrative function? More seriously, what is an imminent threat to health or safety?

The confusion engendered by this legislation is impractical, counter-productive, and unnecessary. It is also dangerous. I, therefore, urge the defeat of H.R. 450.

Mr. KIM. Mr. Chairman, I rise in support of this Regulatory Transition Act—it represents another commonsense reform in the Republican Contract With America.

The Federal bureaucracy is out of control issuing regulation after regulation. Many of these are unnecessary and have become great burdens on American businesses. Many of these regulations are contradictory and—in some cases—jeopardize the economic prosperity and personal safety of the public.

For example, in my own district I witnessed the struggle between the Federal Aviation Administration and the Fish and Wildlife Service over whose regulations were more important at Ontario Airport. The FAA's regulations require the destruction of vegetation around the airport. This is needed to keep birds away from being sucked into the engines of the jets flying people in and out of the airport. This is clearly a safety issue—one bird strike can crash an airliner.

But, because there was an endangered species—an endangered insect—a fly—near by, Fish and Wildlife regulations prohibited the destruction of the vegetation near the runway.

For 8 months everything was stalled and the risk of bird strikes increased. The bureaucrats were so academic and dedicated to their own particular regulations, they became illogical. An insect became more important than the life and death of people.

It's time to say, ''stop!'' to this nonesense.

It's time to re-evaluate and reform the way new regulations are issued. This bill will make sure that any new regulations are:

First, necessary;

Scond, logical—that means they make practical sense;

Third, cost-effective; and

Fourth, do not contradict other laws and regulations already in effect.

Mr. DOOLITTLE. Mr. Chairman, I rise today in strong support of H.R. 450, the Regulatory Transition Act. This legislation prohibits Federal agencies from promulgating new rules and regulations until December 31, 1995. In addition, the bill suspends any Federal rules issued since November 20 of last year.

Mr. Chairman, this legislation provides a needed time out from the onslaught of Federal regulations. Currently over 110 executive branch agencies issue regulations, including approximately 22 independent regulatory boards and commissions. Thomas Hopkins of the Rochester Institute of Technology places the total cost of complying with Federal regulations at $600 billion in 1994. Other estimates find the annual cost of these regulations to be closer to $1 trillion annually.

The worst aspect of excessive Federal regulation is its impact on job creation. According to the Heritage Foundation, regulation destroys jobs in several ways:

First, reductions in efficiency, productivity, investment, and economic growth due to regulation translate into fewer jobs. Second, regulations may raise the general costs of a particular business, leaving it unable or unwilling to hire as many workers as before. Third, regulations may raise the cost of employment by imposing specific costs tied to each new employees hired.

In order to provide flexibility, the bill includes commonsense exceptions for the enforcement of criminal laws, military and foreign affairs, reduction of preexisting regulatory burdens, continuation of agencies' routine administrative functions, or because of an imminent threat to health or safety.

Mr. Chairman, the people from my district and my State want to see their families unburdened from the heavy regulation that destroys real economic opportunity. A year off from costly Federal regulations will help advance this objective.

I urge my colleagues to support H.R. 450.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 450

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 ''Regulatory Transition Act of 1995''.

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term ''deadline'' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term ''moratorium period'' means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term ''regulatory rulemaking action'' means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term ''regulatory rulemaking action'' does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term ''rule'' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term ''rulemaking'' means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term ''license'' means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term ''imminent threat to health or safety'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

Pursuant to the order of the house of today, the following amendments and all amendments thereto will be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment:

Amendment 18, by the gentleman from California [Mr. CONDIT] or the gentleman from Texas [Mr. COMBEST] for 40 minutes;

Amendments 21 and 22 by the gentleman from Pennsylvania [Mr. KANJORSKI] for 30 minutes;

Amendment 28 by the Gentlewoman from New York [Ms. SLAUGHTER] for 30 minutes;

Amendment 5 or 6, by the gentleman from Indiana [Mr. BURTON] for 20 minutes;

Amendment 30, by the gentleman from South Carolina [Mr. SPRATT] for 30 minutes;

Amendment 36 or 37, by the gentleman from California [Mr. WAXMAN] for 30 minutes;

Amendment 7, by the gentlewoman from Illinois [Mrs. COLLINS] for 30 minutes;

Amendment 25 or 26, by the gentlewoman from the District of Columbia [Ms. NORTON] for 20 minutes;

An amendment by the gentleman from Washington [Mr. TATE] for 20 minutes;

An amendment by the gentleman from Louisiana [Mr. HAYES] for 20 minutes.

Amendment 38 by the gentleman from West Virginia [Mr. WISE] for 30 minutes;

Amendment 20 by the gentleman from Texas [Mr. GENE GREEN] for 20 minutes;

Amendment 35 by the gentleman from California [Mr. WAXMAN] for 20 minutes;

Amendment 3 or 4 by the gentleman from Pennsylvania [Mr. FATTAH] for 10 minutes, and amendment 34 by the gentleman from Missouri [Mr. VOLKMER] for 10 minutes.

Further, the Chairman of the Committee of the Whole May postpone a request for a recorded vote on any of the 11th through 15th amendments until the conclusion of debate on those amendments, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in this series of questions shall not be less than 15 minutes.

Further amendments will be in order following disposition of the aforementioned amendments, subject to the limit of 10 hours pursuant to House Resolution 93.

AMENDMENT OFFERED BY MR. CONDIT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONDIT: In the proposed section 6(2)(B), strike the period at the end and insert a semicolon, and after and immediately below clause (ii) insert the following: ''except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)3)), the term means the period beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.''

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. CONDIT] and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

PARLIAMENTARY INQUIRY

Mr. CONDIT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CONDIT. Did the Chair state that I am in control of 20 minutes?

The CHAIRMAN. The gentleman is correct. The gentleman is in control of 20 minutes.

Mr. CONDIT. Mr. Chairman, I ask unanimous consent to give 10 minutes to my colleague, the gentleman from Texas [Mr. COMBEST], the cosponsor of the amendment, for his use, and retain 10 minutes for my use.

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

There was no objection.

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

Mr. Chairman, I rise today to offer a bipartisan amendment to H.R. 450 that would extend the regulatory moratorium for new listing of endangered species or designation of critical habitat under the Endangered Species Act. These moratoria would continue until the law is reauthorized on December 31, 1996.

Under the current law, numerous species have been listed without adequate scientific proof of the need of their protection. This has resulted in severe regulatory action which would limit the use of natural resources and private

property while creating significant economic hardships on communities throughout this country.

For example, species listing a critical habitat designation has caused land values to plummet which has caused serious tax revenue shortfalls in many local communities across the United States. In this regard, the endangered species stands as a prime example of an unfunded Federal mandate.

We understand and we appreciate the value of protecting species that are truly in danger of becoming extinct. However, this decision needs to be based on sound scientific data with consideration to the economic impact that it would cause local communities throughout this country.

This is not what is happening under current law. Until the Endangered Species Act is reauthorized and these issues are considered, a moratorium should be placed on additional endangered species designation.

Several bills in Congress have been introduced with bipartisan support that would attempt to do what we are trying to do today, Mr. Chairman. That is, limiting new listing of endangered species or threatened species as well as limiting designated critical habitat. The Endangered Species Act does not consider an impact on human population, and I believe that this extended moratorium would provide leverage, and we need some leverage, necessary to ensure that the Endangered Species Act would be reauthorized in this Congress.

Today that is why I stand to urge the adoption of this amendment. It would give us the opportunity to spend some time to force Congress to consider reauthorization of the Endangered Species Act. It would also give breathing room for communities across the country, local governments, private property owners, so that they could catch up with the list of endangered species that have been passed up to this point.

Mr. Chairman, I would ask that Members support this amendment.

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

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

Mr. Chairman, I am pleased to stand with Mr. CONDIT in offering this amendment today. Our amendment will extend the regulatory moratorium in the case of new listings of endangered species or designations of critical habitat until the Endangered Species Act [ESA] is reauthorized or the end of 1996. The ESA expired in 1992 and until the act is reauthorized the bureaucracy should be shut down.

Under current law several species have been listed without adequate scientific proof of the need for their protection. This has resulted in severe regulatory actions which limit the use of natural resources and private property. These regulations have no real benefit to species protection. Over the last few years we have seen more and more cases of lives of law-abiding citizens being affected by ESA actions. These regulatory actions have resulted from a poorly written law.

Do I have interests that concern me parochially? Yes, I do. I am concerned about the possible listing of a 2-inch minnow. This could lead to unneeded regulation of drinking water for 11 cities in Texas and pumping of water by farmers for irrigation. Excess pumpage of ground water could result in fines of up to $100,000 for individuals and $200,000 for corporations per incident, plus 1 year of jail time. Our people and our economy depends on the use of these resources for their survival. Yet they could be subject to these enormous fines for normal water usage. Even though the Federal Fish and Wildlife Service says the minnow is endangered the Texas Parks and Wildlife Department concludes that the Arkansas River Shiner is neither threatened nor endangered.

When the act is reauthorized it should be rewritten to bring more legitimate science into the process and include strong provisions to protect property rights. Until that is accomplished the bureaucracy should not be allowed to continue wasting Federal resources. Citizens Against Government Waste says our amendment ''addresses one of the many examples of waste and mismanagement of taxpayer dollars.''

There is no need to protect species which are not endangered while restricting the use of precious natural resources and private property.

Support the bipartisan amendment to bring rational science back into the endangered species process.

□ 1350

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

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CLINGER. Mr. Chairman, in the event that the time is opposition is not claimed, may I as the chairman of the committee claim that time?

The CHAIRMAN. In the absence of a true opponent the gentleman, as chairman of the committee, may claim the time with unanimous consent.

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that the time in opposition might be claimed by myself.

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

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, it is my understanding someone may be coming in opposition to the amendment, so I would ask that the gentleman not do that at this time.

Mr. CLINGER. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO], one of the supporters of the amendment.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the Condit amendment to House Resolution 450, the Regulatory Transition Act of 1995.

It is important that we know what this amendment does and does not do.

It does not gut the Endangered Species Act. The ESA and its substantive provisions are left intact, untouched by the amendment.

The amendment does put the brakes on what is clearly a runaway train. Simply put, the Department of Interior is overwhelmed by the sheer number of listing decisions it faces.

There is plenty of blame to be shared for the current predicament we find ourselves in as we struggle with reforming the ESA.

A recent Wall Street Journal article reports that a last-minute consent decree signed by Bush administration officials on their way out the door left over 400 species petitions waiting at the Department of the Interior before the current administration was even sworn in.

To be specific on December 15, 1992, the Bush administration signed a settlement agreement stating that the U.S. Fish and Wildlife Service would act on 382 species petitions by September 30, 1996.

That settlement agreement is a legally binding requirement for the Service to act on nearly 400 species listing petitions in less than 4 years. And the agreement does not prevent new petitions from being added to that list of nearly 400.

Be that as it may, there is clearly a crisis in the implementation of the ESA.

The Condit amendment calls for a much needed time out in the species wars—a battle that threatens to divide people of goodwill on all sides.

The moratorium is temporary; it gives Congress the ability to control its own destiny.

This moratorium goes away so long as this Congress deals with reauthorization of the Endangered Species Act.

Otherwise, the moratorium expires naturally on December 31, 1996, after the adjournment of the 104th Congress.

Mr. Speaker, the Endangered Species Act is broken. But it needs to be fixed, not gutted.

This amendment will give us time to carefully consider how to fix the act. It also puts more pressure on both the legislative and executive branches to fix the act.

I have my own ideas about how we can fix the ESA. Basically, I believe we need to open up the act to allow for more public review and input.

We need comprehensive, multi-species habitat plans that take into consideration the human impacts of listings.

And we need a clear statement of the economic impacts of a listing decision. I am not advocating that ESA decisions be driven solely by the impacts on the treasury, but I am saying that

we need to know the exact burdens associated with the benefits we seek.

The ESA as written now is like a black box. A petition is dropped into the box and a listing comes out of the side. Unfortunately, the process that takes us from that petition to the listing is either unknown or incomprehensible to the average American citizen.

We need to open the act to the sunshine—to the light of public review.

We also need to restore the people's faith in the accuracy and quality of the science used in listing decisions.

I have a six-point plan for reauthorization of the ESA. These concepts in my plan have received favorable review by a wide range of interests, including local farm bureaus, the Governor of California, and others interested in reforming rather than gutting the ESA.

Mr. Speaker, I submit my proposal for reauthorization of the ESA and the Wall Street Journal article I cited earlier to be included in the RECORD.

In closing, I reiterate my support for this commonsense approach to call a time out to let the agencies charged with implementing the ESA to catch their breath.

We have to make some tough choices. We can no longer treat these species questions as if we have an unlimited pot of money for ESA purposes. The ongoing, hostile budget debate highlights the fact that we have limited resources in every aspect. We have to live within our means.

I support the Condit amendment as the first logical step toward a commonsense reauthorization of the Endangered Species Act.

FINDING A BALANCE FOR CALIFORNIA: REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

(By Congressman Vic Fazio)

The stakes for California in the reauthorization of the Endangered Species Act could not be higher. California has more listed species and candidate species than any other state. Each country has at least one species listed.

Reasonable implementation of the Endangered Species Act (ESA) calls for balancing of environmental quality with the economic livelihood and cultural identity of many California communities. Over the last few years, I have spoken repeatedly about the need for significant improvements in the ESA. As Congress prepares to debate the reauthorization, I have suggested six specific changes to the Act that I believe are vital to California's interests.

First, the implementation of the Act must provide an opportunity for greater public input. Currently, the public has no role in the petition process to list a candidate species endangered until after the agency has decided to list a candidate species as threatened or endangered.

Second, we need to speed up the process of developing and implementing species recovery plans. Right now, recovery plans have been prepared for barely forty percent of all listed domestic species. I believe the preferred time for the development of recovery plans should be in no less than one year after the listing occurs. Delays only serve to disrupt local economies and put the listed species in continued, and sometimes increased, jeopardy.

Third, the Act should include a thorough peer review of the data and analysis considered in decisions to list. Currently, the Act requires agencies to use ''the best scientific and commercial data available'' in making listing decisions. Unfortunately, ''the best scientific and commercial data available'' is not defined in the Act or the accompanying regulations. Unbiased peer review is the best way to ensure that the information used will support a listing decision without any subjective interpretation and ensure that it is both clear and convincing.

Fourth, Section 10 of the Act should be expanded to encourage the development of habitat conservation plans which address more than one listed or candidate species. The Act currently does not permit the development of habitat conservation plans for candidate species nor does the Act clearly encourage multiple species plans. Careful habitat planning can prevent the need to list a candidate species and speed the recovery of species already listed.

Fifth, the Act should be amended to provide equal access to the courts for those who challenge the listing of a species. Currently, the Act provides for judicial review for only those individuals or parties that oppose an agency's decision denying a petition to list a species. No similar access to the courts is provided to those who challenge the listing.

Sixth, and finally, the Act should be amended to require the development of an economic impact report concurrently with the listing of a species. The public has a right to know the best estimate of the total cost of implementing the Act for a given species. The report should detail the various direct and indirect economic factors that will be implicated by a listing and provide a reasonable estimate of the larger economic picture in light of the listing.

Balance is the key to reauthorizing the Endangered Species Act. The stakes in California are high, but we can protect our environment without destroying our economic prosperity by providing for greater public input into the decisions that affect us all.

[From the Wall Street Journal, February 17, 1995]

CAUGHT IN A TRAP—DEMOCRATS GET SNARED BY GOP PACT ON LIST OF ENDANGERED SPECIES—A BUSH-ERA 'CRITTER QUOTA' BOOSTS ANIMAL PROTECTION—AND ANTIREGULATORY IRE—MOSQUITOES VERSUS A RARE FROG

(By Timothy Noah)

TIBURON, CA.—It is Charlie Dill's job to kill disease-bearing mosquitoes, but he has had another pest on his mind lately: the Interior Department's Fish and Wildlife Service.

Mr. Dill, manager of the Marin-Sonoma Mosquito Abatement District, a local-government agency, keeps mosquito populations in check by dropping small fish that love to eat the insects into ponds and streams. Trouble is, some researchers say these ravenous mosquito fish also love to eat the eggs of California red-legged frogs, which, though rare, can be found in the San Francisco Bay area. And the service has proposed placing the frog on the endangered-species list.

Though people like Mr. Dill worry that this may make mosquito hunting more difficult, Interior Department officials say they had little choice. They cite a little-known legal settlement that President Bush's Interior Department and environmental groups reached after the 1992 election. The agreement committed the Clinton administration to propose listing nearly 400 endangered species over four years—in effect imposing a critter quota.

'A WINK AND A NOD'

Thanks to the quota, the number of plants and animals annually added to the list of endangered species, which averaged 50 a year during the Reagan and Bush administrations, now averages nearly 100 a year. This heightened regulatory activity, in turn, has added to a political backlash against environmental rules in general and the Endangered Species Act in particular.

''What our predecessors did was fight the lawsuit and then after the election was over, with a wink and a nod, say to the plaintiffs, 'We'll agree to whatever those numbers are,'" complains Interior Secretary Bruce Babbitt. ''It puts us in a reactive mode, always working from a very tight corner that we've been painted into.''

Former Bush administration officials deny that there was any deliberate effort to make life miserable for their Democratic successors. But ''a lot of stuff got flushed through'' between Election Day and Inauguration Day, concedes former Interior Department Solicitor Tom Sansonetti.

SNAIL'S PACE

The rising tide of antiregulatory sentiment in the new Republican-controlled Congress is viewed as a rebellion against the liberal policies of a Democratic administration. And, it is true, Democrats generally do tend to view government regulation more favorably than their Republican adversaries. But since the wheels of government don't turn quickly, some of the rules most abhorrent to conservatives—or the circumstances that created them—are the product not of two years of Democratic-run regulatory agencies but of the previous 12 years of Republican rule. The critter quota is one such example.

During the Reagan administration, a conservationist in Boulder, Colo., Jasper Carlton, grew frustrated with the Fish and Wildlife Service's seeming reluctance to add animals and plants to the federal endangered list. Mr. Carlton was uniquely well-equipped to notice this because he was among the most active endangered-species litigants in the U.S.; to date, he has been a plaintiff in 90 cases involving endangered species. In Mr. Carlton's words, he was ''getting fed up with the fact that it was so hard to get a listing of any species.''

BOTTLENECK IN WEST

Endangered-species listings, which had numbered 57 in fiscal 1980, the last full year Democrat Jimmy Carter was president, dropped to five in fiscal 1981. By the mid-1980s, annual listings had crept back up to around 50, but data collected by Mr. Carlton suggested that even this pace wasn't keeping up with extinctions that the Fish and Wildlife Service's own officials saw looming. The backlog was particularly hefty in the West, home of the California red-legged frog. (The West leads the nation in threatened extinctions because of its diverse topography and because of the relative newness of its commercial and residential development.)

Mr. Carlton figured that the backlog violated the fairly exacting requirements of the 1973 Endangered Species Act, which stipulates that if scientific evidence shows a species is endangered, it must be placed on the endangered list, regardless of political or economic consequences. So he joined the Fund for Animals and several other environmental groups in suing the Interior Department to compel the listings.

The department wasn't confident it could defeat the environmental groups in court. And after President Bush lost the 1992 election, recalls Eric Glitzenstein, an attorney for the Fund for Animals, ''a lot of potential objections'' to settling ''were cleared away. . . . Maybe the Republican administration

thought, 'Hey, let's see how the Democrats do with all these listings.' ''

''I'm sure there were forces in the department . . . who were very cognizant of the fact that the Bush administration was no longer going to have to deal with that,'' says Steven Goldstein, who at the time served as spokesman for Interior Secretary Manuel Lujan.

CHOOSING TO SETTLE

The government lawyers chose to settle. In an agreement dated Dec. 15, 1992, the Bush administration pledged that the Fish and Wildllife Service would, by Sept. 30, 1996, propose listing all species ''for which substantial information exists to warrant listing them as either endangered or threatened.'' The service had a list of these species—382 to be exact. Substitutions could be made, with proper reasoning, and certain species could be dropped from the backlog list, but only with voluminous scientific justification that in most cases would be hard to come by. (The settlement addresses only ''proposed'' endangered-species listings, but since more than 0% of all such proposals become, after a period of public comment, legally enforceable ''final'' listings, that distinction is largely moot.)

Today, at least one Bush administration official contends that signing the agreement was a mistake because it compelled the Interior Department to make too many listings. ''They wouldn't have signed if I had anything to do with it,'' says Cy Jameson, former director of the Bureau of Land Management.

Other former Bush officials disagree. John Turner, former director of the Fish and Wildlife Service, maintains the agreement had ''little impact'' because he was already accelerating the agency's actions on endangered species. He says it is ''absolutely not'' true that the November election goosed the decision to settle; the mandate to list about 100 species a year ''fit within the targets that we'd outlined for ourselves.''

On this last point, the numbers bear Mr. Turner out, In 1991, Fish and Wildlife listed 54 endangered species; in 1982, it listed 93, Virtually all of the 1982 listings were proposed before the Fund for Animals filed its lawsuit and became final before the settlement was struck in December 1992. The listings increased, Mr. Turner says because ''I just believed strongly in protecting diverse life forms.''

FRENZY OF ACTIVITY

Nevertheless, the net result of the critter quota has been that the Clinton administration is compelled to maintain a frenzy of species listing. By legal fiat, listings have maintained a brisk pace (95 in 1988), 103 in 1994), and will continue to do so through the 1996 election year. There currently are 919 plants and animals on the list.

Today, Mr. Babbitt says ''I would not have signed'' the settlement, though he adds that, given the listings bottleneck in the 1980s, the quota was probably inevitable. ''When administrative agencies fail to do their job,'' he says, ''they are inviting this kind of judicial takeover.''

Which brings matters back to item No. 135 on the court-ordered list of 382 species: the California red-legged frog.

Naturalists are puzzling over the causes for a declining frog population world-wide, but in the case of the California red-legged frog the answer is pretty straightforward. The long-legged amphibian was plundered by grenouille hunters for French restaurants that sprang up in San Francisco in the wake of the California Gold Rush, then fell victim to competition with the heartier bullfrog, introduced by settlers from the East in the 1890s. After widespread agricultural and urban development in the 20th century, the red-legged frog's range shrank to a few coastal areas, which are believed to represent only about a quarter of its former habitat.

By 1992, Mark Jennings, a zoologist affiliated with the California Academy of Sciences, was petitioning Fish and Wildlife to declare the California red-legged frog endangered. The department proposed listing the frog in February 1994—and promptly set off a squall among California's mosquito hunters.

The trouble began with the circulation of a study written by Randy Schmieder, a recent graduate of the University of California at Santa Cruz. As an undergraduate, Mr. Schmieder had compiled evidence suggesting that the non-native mosquito fish used by public-health officials to gobble up mosquito larvae were also gobbling up the eggs of red-legged frogs.

Mr. Schmieder's findings, and the fact that he then lacked a graduate degree, have made him the subject of criticism among mosquito-fish partisans. But in its proposed listing, the Fish and Wildlife Service noted Mr. Schmieder's findings, and the agency says it may have to limit use of mosquito fish to protect the frogs. (Mr. Babbitt says the California red-legged frog is ''a case that cries out for more biology and careful research.'')

RISK OF DISEASE

Mr. Dill says any restrictions on use of mosquito fish is cause for concern. California officials have been using the South American fish to control mosquito populations since a malaria epidemic during the 1920s. In 1993, the last year for which data are available, Mr. Dill's small Petahamn-based agency put 1,200 fish in 222 different water sources: ponds, streams, bird feeders, artificial lagoons and wherever else mosquitoes are liable to swarm.

Without proper mosquito control, says Mr. Dill, Californians risk contracting a variety of diseases, such as encephalitis, which had been detected in the animal population as recently as 1993. Should use of the mosquito fish be restricted in the future, he adds, he wouldn't stop killing mosquitoes. Rather, ''there would be a direct increase in the amount of chemicals we use'' to control mosquito infestation. The chemicals Mr. Dill refers to are ''biological'' pesticides, generally viewed as less harmful than their synthetic counterparts. But they are more harmful than mosquito fish, Mr. Dill says—and more expensive, too.

''If only they would take their time,'' Mr. Dill says of the Fish and Wildlife Service's final declaration that the red-legged frog is endangered, which is expected soon. ''We need the freedom to put the fish wherever we think it would do us some good.''

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, February 15, 1995.

SUMMARY OF ENDANGERED SPECIES ACT PETITION ACTIONS

The data below reflect findings on listing petitions received by the Fish and Wildlife Service in 1990, 1991, 1992, 1993, and 1994. The data pertain only to petitions to list taxa and do not include petitions to delist, reclassify, revise critical habitat, list humans, etc. More than half of the petitions were rejected either at the 90-day or 12-month stage. Section A is taken from petitions received during 1990 through 1993 (4 years) because only a few petitions received in 1994 have had 12-month findings come due.

A. 12-Month Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Not Warranted—26 native species (no foreign species).

Warranted/Warranted but Precluded—42 native + 53 foreign birds = 95.

12-Month findings overdue—23 native species (no foreign species).

90-Day Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Substantial—89 native species + 53 foreign birds = 142.

Not Substantial—115 native species (no foreign species).

90–day findings overdue—2 native species (no foreign species).

Subset of petitions to list native species during this period:

206—native species petitioned for listing.

115—turned down at 90 days.

91—remaining.

26—turned down at 12 months.

42—warranted/warranted but precluded.

23—findings overdue.

0—(68 percent turned down).

B. Petitions Received in 1994:

26 native species.

8 foreign species (7 butterflies, koala).

34 species.

As of 2/15/95:

90–day finding substantial—8 native + 8 foreign.

90–day finding not substantial—0.

12–month finding not warranted—1 (lynx).

12–month finding warranted/warranted but precluded—0.

PARLIAMENTARY INQUIRIES

Mr. COMBEST. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, if no one is here to claim the time of the opposition, is it proper under the House to ask for disposition of that time at this time, so that all of the time by proponents is not used up prior to someone claiming the time?

The CHAIRMAN. The Chair would inquire if any Member in the Chamber rises in opposition to this amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I will have a parliamentary inquiry after the Chair has answered the gentleman's parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, the Chair has not answered the gentleman's question yet.

The CHAIRMAN. The Chair was attempting to determine if there was any Member in the Chamber seeking recognition in opposition.

Mrs. COLLINS of Illinois. That was not his question, Mr. Chairman.

The CHAIRMAN. The time can be disposed of by unanimous consent.

Mrs. COLLINS of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, can the time be retained so that a Member who is probably on the way can have the opportunity to speak in opposition to the amendment?

The CHAIRMAN. If a Member were to object, the time could only be claimed by a Member in opposition.

Mrs. COLLINS of Illinois. I thank the Chair.

Mr. COMBEST. A further parliamentary inquiry, Mr. Chairman: In order to be able to have equal debate on the

issue, could the gentleman from California [Mr. CONDIT] and the gentleman from Texas [Mr. COMBEST] both reserve their time, and let us wait until someone appears or a decision is made about the remaining 20 minutes?

The CHAIRMAN. The Chair would ask if any Member in the Chamber is opposed to the amendment and wishes to be recognized?

Mrs. COLLINS of Illinois. The Chair has not answered the question, Mr. Chairman.

The CHAIRMAN. The Chair is exercising his prerogative to determine if there is opposition.

Mrs. COLLINS of Illinois. Mr. Chairman, I am exercising mine as a Member of this body to have an answer so I can know how I want to approach this issue.

The CHAIRMAN. The gentlewoman will suspend. Does a Member in the Chamber rise to claim time in opposition?

If there is no Member in the Chamber to claim the time in opposition to the amendment, does any Member object to the chairman of the committee claiming the time?

Mrs. COLLINS of Illinois. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CLINGER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CLINGER. Mr. Chairman, in the event no one is in the Chamber to claim time in opposition to the amendment and this is the appropriate time to make that claim, does the time lapse?

The CHAIRMAN. The time does not lapse until the Chair puts the question on the amendment.

Mr. CLINGER. In other words, the Chair is telling me, Mr. Chairman, if someone comes at the end of this debate when all of the proponents of the amendment have completed their time, and somebody in opposition appears and spends 20 minutes attacking the amendment, the proponents would not have an opportunity to answer those points?

The CHAIRMAN. That is the order of the House.

Mr. CLINGER. I thank the Chair.

Mrs. COLLINS of Illinois. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewomen will please state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, it is my understanding that the majority always has or the offerer of the amendment always has the opportunity to close. If in fact, as I understand, the gentleman from Texas [Mr. COMBEST] is coauthor of that amendment, in that case would he not have the opportunity to close?

The CHAIRMAN. If the Member claiming time in opposition were representing the committee position, then that Member would be entitled to close.

Mrs. COLLINS of Illinois. Mr. Chairman, I said, if the one who is the author, the offerer as a coauthor of the amendment would have the time to close if in fact he were a Member of the majority who has offered the amendment.

The CHAIRMAN. The answer to the gentlewoman's question is ''no.''

Mrs. COLLINS of Illinois. It is?

The CHAIRMAN. It would depend on who controls the time in opposition.

Mrs. COLLINS of Illinois. The gentleman from Texas [Mr. COMBEST] certainly controls that amount of time. If he has that amount of time I am sure a gentleman on this side of the aisle would yield him that time to close if he so chose or even if he asked.

Mr. CONDIT. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from California will state his parliamentary inquiry.

Mr. CONDIT. What happens if the gentleman from Texas [Mr. COMBEST] and myself finish our time?

The CHAIRMAN. Then the Chair would put the question on the amendment.

Mr. CONDIT. What if I yield back the balance of our time at this moment?

The CHAIRMAN. The gentleman may do that.

Mr. CONDIT. And we would call for a vote.

The CHAIRMAN. Do the gentlemen yield back their time?

The gentleman from California is recognized.

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

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

Mr. COMBEST. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, is it my understanding if the gentleman from California and gentleman from Texas yield back their time, the question would be put?

The CHAIRMAN. The gentleman is correct.

Mr. COMBEST. Under the parliamentary inquiry, Mr. Chairman, if I could I want to be certain there is not a misunderstanding that we are trying to close this out. I was wishing, if some Member were here to enter into debate, that we might be able to do that.

Mrs. COLLINS of Illinois. If the gentleman will yield, the Member we thought was on the way over here apparently has not come over here and, therefore, I would suggest that he might not be on his way any longer. He had plenty of time to get here by now.

Mr. COMBEST. Mr. Chairman, I appreciate the gentlewoman's comments and realize she may be in a somewhat peculiar situation and I want to make sure there is not a misunderstanding that we are trying to close out debate here.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. POMBO].

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

Mr. POMBO. Mr. Chairman, I rise in support of this particular amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of the Condit amendment.

Mr. Chairman, I am pleased to join my colleague, Mr. CONDIT, in offering a bipartisan amendment to extend the Regulatory Transition Act to cover new regulations under the Endangered Species Act.

The Endangered Species Act has destroyed the rights of hardworking, tax-paying American families for the sake of blind cave spiders, fairy shrimp, and golden-cheeked warblers. The following horror stories are not exceptions; they are the rule:

Landowners in 33 Texas counties are endangered because their land may be designated as ''critical habitat'' for the golden-cheeked warbler. This designation could render vast amounts of property useless and valueless.

In Montana, a rancher was fined $3,000 for violating the Endangered Species Act. His crime? He shot and killed a grizzly bear that charged him on his own property.

In Round Rock, TX, a school might not be expanded because Federal agents discovered a blind cave spider nearby. Government officials forced this delay after the school district had spent almost $100,000 of taxpayer money on environmental studies.

Just imagine if the Endangered Species Act had been around throughout history. In the Bible, Noah could have been condemned as an animal-hater, fined, and kept from launching his arc. American history could have been changed forever: George Washington could have been imprisoned for cutting down the cherry tree. Lewis and Clark could have been fined for trampling native grasses.

Until Congress reauthorizes the Endangered Species Act to balance common sense with environmental concerns, we must protect American landowners by putting regulators on a leash. This amendment would extend the regulatory moratorium on listing of endangered or threatened species or designation of critical habitat until Congress reauthorizes the Endangered Species Act.

Join this bipartisan coalition and support the Condit amendment.

☐ 1400

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BONILLA].

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

Mr. BONILLA. Mr. Chairman, I strongly support this amendment.

Mr. Chairman, today, I join a bipartisan group including Messrs. CONDIT, COMBEST, SMITH, EDWARDS, and HAYES, in offering an amendment which will help put a stop to the

current abuses of the Endangered Species Act [ESA]. I am very proud to be a part of this effort.

In its current form the Endangered Species Act—though well intentioned—works contrary to, and often against, one particular species—the human being.

Many hard-working ranchers, farmers, and homeowners in Texas have a greater fear of the golden cheeked warbler than they do of Federal tax hikes and tornadoes. In my own hometown of San Antonio, TX, the entire source of water has been held hostage by Federal agencies and courts over a small fish called the fountain darter. This amendment is an important first step to allay some of those fears and bring common sense to the ESA process. We in Congress must act and insure that human beings no longer play second fiddle to spiders and snakes.

Specifically, this amendment will suspend the further listing of endangered or threatened species and the designation of new critical habitat until the Endangered Species Act is reauthorized by Congress. The ESA's authorization expired in 1992. This measure is a realistic vehicle toward reforming the ESA. Passage will compel Congress to consider human factors and bring balance to the ESA when it considers the reauthorization. ESA must be reconstructed with amendments which not only protect the environment, but respect property rights.

Protecting property rights does not mean that threatened species cannot be protected. It simply means that human costs should be considered when the ESA is imposed. It also means that Government agencies, such as the Fish and Wildlife Service, should be creative in finding ways to balance these goals, rather than slamming the heavy fist of the Federal bureaucracy down on landowners. The Federal Government should work in concert with the true stewards of the land, instead of threatening them with fines without warning.

Please join us in this important bipartisan effort. It is long since past time that we bring sanity and common sense to the ESA process. This will stop current abuses and make possible real reform of the ESA.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. LUCAS].

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

Mr. LUCAS. I also strongly support the bill.

Mr. Chairman, I rise in strong support of the amendment coauthored by my good friends, Mr. CONDIT and Mr. COMBEST. I believe that of all the amendments offered to improve this legislation this is one of the most important.

The 104th Congress must put a moratorium on any future endangered species listings until the Endangered Species Act is reauthorized. As currently written, the Endangered Species Act should be considered a pariah in society and be cast out with many other over-zealous big-government institutions that plague individual freedom, industry and potential economic development. It is fundamentally flawed and must be redrafted.

Last month, I came to the floor and spoke in morning hour about a little bait fish lurking in the Arkansas River Basin that might have the power to stop those in the agriculture industry from irrigating their land, or protecting their crops. I wondered if the little bait fish might inhibit rural towns from utilizing their primary water sources or impact a major metropolitan area's $250 million downtown restoration project which is crucial to its economic future. I spoke of my dissatisfaction with the Fish and Wildlife Service who failed to respond to my queries on the proposed listing of the Arkansas River Shiner in a timely fashion. And I called on my colleagues to cosponsor legislation putting a moratorium on any new listings until the ESA is reauthorized.

This bipartisan amendment offered by Mr. CONDIT and Mr. COMBEST will buy the American people time and protection from the ever growing ESA web that is sweeping our country. I am confident this Congress will shortly take up this task. I look forward to infusing a little common sense into the act. Private property rights, economic impact, cost-benefit analysis, and human compassion must be an integral part of a new Endangered Species Act.

In addition to the sponsors of the amendment, I would like to laud Mr. SMITH, Mr. BONILLA, and Mr. POMBO for their efforts on the issue. I urge my colleagues to support this important addition to this legislation.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. HOSTETTLER].

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

Mr. HOSTETTLER. Mr. Chairman, I rise in favor of the Condit bipartisan amendment to H.R. 450. As a cosponsor of H.R. 490, the bill introduced by my colleague, Mr. SMITH, the gentleman from Texas. I am quite aware of the hardships that have been caused by sending the original Endangered Species Act into regulatory overdrive. In my district, there have been coal operations endangered because of the potential listing of a water snake that happens to abide in mines. There have been farmers with easements placed on their farms to preserve potentially critical habitat for bats. The horror stories elsewhere about ranchers being fined for protecting their sheep from bears and farmers jailed for killing rats are numerous.

But beyond the horror stories, there is a fundamental issue at stake. The rights of American citizens to own and enjoy their property. No one is advocating the wanton extermination of legitimate species here. But it's time that we make a decision about what takes a higher priority—the property rights of taxpaying American citizens or the comfort of creeping things and the special interests that represent them. Mr. Speaker, I urge passage of the Condit-bipartisan amendment and final passage of H.R. 450.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona, [Mr. HAYWORTH].

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

Mr. HAYWORTH. Mr. Chairman, I stand in strong support of this amendment.

This amendment provides Americans temporary relief from the onerous and intrusive provisions of the Endangered Species Act [ESA].

When residents of Greenlee County, AZ attempted to repair a dirt road after flooding wiped it out last November, heavy handed bureaucrats from the U.S. Fish and Wildlife Service threatened a daily fine of $20,000 if the work wasn't halted.

The dirt road in question is near the Blue River designated as habitat for the loach minnow which the Fish and Wildlife Service has listed as threatened under the Endangered Species Act.

Elsewhere on the Blue River, in Pinal County, AZ, the county is seeking to replace a bridge which washed out during a flood in 1993. The county has two alternatives: Spend $4 million to replace the washed out bridge in the same high risk location, or build a bridge upstream out of harms way for half the cost.

Common sense would dictate building the cheaper, safer bridge. Unfortunately, Mr. Chairman, I've learned that nothing makes sense about the ESA and the only thing common is for the Fish and Wildlife Service to trample on the rights of people.

The ESA has allowed bureaucrats to make decisions having serious negative economic consequences throughout regions of the United States. These decisions are made without benefit of comprehensive economic analysis or without public accountability.

Let me mention an example of just one area of the ESA in desperate need of reform. The Fish and Wildlife Service views State borders as a division of species habitat. For example, if you have a population of birds that crosses a State border, it could be considered as two different species. One could be listed, while a plentiful amount lived on the other side of the stateline. Again, common sense is lacking from the process.

Of the 853 species placed on the endangered or threatened lists in the law's 22 year history, only 24 have come off. Of this 24, over half should not have been listed in the first place. In some cases the courts have forced the Fish and Wildlife Service to remove species from the list. With regards to recovery programs it is estimated that each species cost an average of $3 million to recover. I should also note, Mr. Chairman, that another 3,600 are being considered for listing. Unless we reform the ESA, beginning with this temporary moratorium, expect to see the problems faced by those in Greenlee and Pinal County coming soon to a city, county, or backyard near you.

As a member of the Endangered Species Task Force, I believe that we must address these concerns immediately. In the interim, however, the Condit amendment halts further listings until Congress can properly reauthorize the ESA.

I urge my colleagues to support this important amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HERGER].

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

Mr. HERGER. I thank the gentleman, and I stand in strong support of this amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STOCKMAN].

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

Mr. STOCKMAN. Mr. Chairman, I want to stand in support of this bill and this amendment.

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

Mr. EDWARDS. Mr. Chairman, I rise today in support of the Condit-bipartisan amendment to H.R. 450 and in doing so recognize the importance of reforming the Endangered Species Act. This amendment is virtually the same as a bill introduced last year by Congressman HENRY BONILLA and me. The act, expiring in 1992, should have been reauthorized by Congress more than 2 years ago. Since that time, endangered and threatened species continue to be listed and critical habitats continue to be designated—without the act being reviewed by Congress.

This amendment is simple. It would suspend the authority of the Secretary of the Interior to designate funds for the further listing of any endangered or threatened species or for the designation of critical habitat until the Endangered Species Act is reauthorized.

If we do not adopt the Condit-bipartisan amendment, the Endangered Species Act could continue in full force without congressional review.

Presently, 775 animals, plants, and insects are listed as endangered or threatened under the Endangered Species Act—almost a 400-percent increase from the original endangered species list. Another 3,900 species are candidates for listing.

I see the result of this in my own backyard where the U.S. Fish and Wildlife Department proposed to designate portions of 33 counties for the protection of the golden-cheeked warbler. This proposal would have encompassed some 20 million acres.

The current enforcement of the Endangered Species Act is a direct attack on private property rights. It seems that there are more protections for bugs and birds than for people and their constitutional private property rights.

We cannot continue an act that is not working. Help stop Endangered Species Act abuse; return common sense to environmental law. Vote yes on the Condit-bipartisan amendment to H.R. 450.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Condit-bipartisan amendment to H.R. 450, the Regulatory Transition Act.

The Condit-bipartisan amendment would extend the regulatory moratorium for new listings of endangered species or designation of critical habitat under the Endangered Species Act [ESA]. Therefore, there could not be any new listings until Congress reauthorizes the ESA or until December 31, 1996.

The lack of common sense exercised under the ESA in designating critical habitat was clearly illustrated in the State of Texas last year when the U.S. Fish and Wildlife Service designated 33 counties in Texas as critical habitat for the golden cheeked warbler.

The Fish and Wildlife Service regulations in designating this critical habitat fly in the face of common sense. Property owners in the habitat area have been prohibited from making even the most limited alterations on their land, such as building fences or trimming hedgerows.

The critical habitat designation is intended to prevent activities that harass the warblers. However, the activities that are considered harassment include ''chasing away a warbler that took up residence on the front porch of a farmhouse,'' according to a Fish and Wildlife official interviewed in the Wall Street Journal. This same official considered the Agency's enforcement of its policies ''reasonable and prudent.''

Reasonable and prudent enforcement of the warbler's critical habitat should not mean that private property owners are stripped of their rights to manage their own holdings. Reasonable and prudent enforcement should mean that concern for the environment and endangered species is tempered with common sense to protect the rights of landowners.

The only reasonable and prudent course is for Congress to unite to see that common sense drives changes in the current regulations. We can do that today by supporting the Condit-bipartisan amendment to H.R. 450.

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today to speak in favor of the Condit amendment to H.R. 450—the Regulatory Transition Act.

Let me tell you a little story about an animal called the copper-belly water snake.

It's a nonpoisonous snake that ranges from Michigan to Kentucky—mostly in the wetlands.

Now by all accounts it's a very nice snake. And those of us from farm States know that snakes provide a useful service removing rodents and other nuisances.

But if the copper-belly water snake is added to the threatened species list, thousands of farmers throughout Kentucky could be out of work.

We've heard too many such stories:

The farmer who accidentally ran over an endangered mouse.

Or the man who killed a rat in his basement, only to find out that it was a protected species.

What sort of fine might a Kentucky farmer be forced to pay if he accidentally ran over a copper-belly water snake?

Would the regulatory forces that serve as judge, jury, and executioner impound his tractor?

Our farmers are generally the best stewards of our land. They have to be—their crops depend on fertile soil and clean air and water.

The men and women who literally make their living off the land are already suffering due to overzealous regulators.

The coal industry could also be affected by the copper-belly water snake.

Nearly 500 people in the western Kentucky county of Daviess still depend on coal-mining to put bread on the table.

Are we to shut down the few remaining mines if a copper-belly water snake decides to go undergound?

Let me again say, Mr. Chairman, that I have no quarrel with the copper-belly water snake.

I've certainly never been bitten by one.

But I urge my colleagues to support the amendment to H.R. 450—so that our farmers, miners, and indeed all of us aren't bitten by the latest version of the snail darter or spotted owl.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I have amendments at the desk that were proposed by Mr. KANJORSKI, who is on his way to the Chamber, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments, Nos. 21 and 22, is as follows:

Amendments offered by Mrs. COLLINS of Illinois: Amend section 6(2)(A) (page , line) to read as follows:

(A) beginning on the date of the enactment of this Act, and Amend section 7 (page , beginning at line) to read as follows:

SEC. 7. JUDICIAL REVIEW.

This Act shall not be considered to authorize or require any action that is subject to judicial review.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. Under the order of the House of today, the proponent and an opponent will each control 15 minutes.

Does the gentleman from Pennsylvania [Mr. CLINGER] rise in opposition?

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendments.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I said, the gentleman from Pennsylvania [Mr. KANJORSKI] is on his way to the Chamber.

Mr. Chairman, I support the gentleman's amendments.

As far as I am concerned, the two worst things about this bill are that it is retroactive and that it does not prohibit judicial review. The gentleman's amendment solves both problems.

Under the bill, many regulations that have already been issued would be suspended, even though business and others, in good faith, may have made major investments in order to comply.

In addition, proponents of this bill overlook the fact that Federal regulations often create markets and opportunities for business. H.R. 450, with its retroactive starting time for the moratorium, would require agencies to take away opportunities that business has already received.

For example, the FCC took action recently to allocate for sale of the private sector 50 megahertz of spectrum

that has been controlled by the Federal Government.

Why would we want to stop this rulemaking which will create new opportunities for U.S. telecommunications firms, and at the same time cut back the Federal Government's role in telecommunications?

Mr. Chairman, we ought not to be changing the rules once the game has already started, and that is what this bill does.

Mr. Chairman, H.R. 450 also fails to prevent a court challenge of an agency decision to exclude a rule from the moratorium.

Although the bill does not specifically authorize judicial review of agency decisions, neither does it preclude judicial review under the authority of other laws.

The committee report states, and I quote:

The section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

With the courts looking over their shoulders, clever lawyers can tie up regulations in litigation for months, even if they fall under one of the bill's exclusions.

Judicial review, therefore, effectively guts the authority in the bill to exempt a rule or regulation from the moratorium.

Unless excluded, important health and safety rules, rules pertaining to foreign affairs or military functions, rules relating to the provision of benefits, as well as rules affecting financial institutions could be suspended by the courts—even if an agency head believed these rules fell within the statute's exemption provisions.

The authors of this bill recognize that it is a difficult decision to decide that a rule is necessary to avoid an imminent threat to health and safety, so the committee report provides guidance. However, it is almost a certainty that if an agency exempts a regulation under that standard, business will be in court to challenge that decision. Is that what we want?

The gentleman's amendment is a major improvement over the language of the bill, because it eliminates judicial review and retroactivity. I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I yield myself 3 minutes.

I do so to rise in opposition to the gentleman from Pennsylvania, Mr. KANJORSKI'S amendments en bloc.

Let me point out that in terms of trying to do this in a cooperative effort, we did request of the administration to have them declare a moratorium on all regulation activity for the first 100 days of this Congress so that we would have an opportunity to do that. That was not an unprecedented action. In fact, moratoria have been declared by both Presidents Reagan and Bush heretofore.

This basically would move the date only prospectively, but it would not pick up a vast horde of regulations, frankly, that really, I think, need to be looked at before they are passed on to the American people, about 600 during the time of this amendment.

So, moving this to a prospective date I think would undercut a real purpose that we are trying to accomplish here.

The other element that I think needs to be dealt with is the amendment to eliminate all judicial review, which is included in the gentleman's amendment, is unnecessary. This amendment is really redundant because section 7 of H.R. 450 already contains a limitation on judicial review. It provides simply that no private right of action may be brought against any Federal agency for violation of this act. This makes it clear that the act does not grant any new private right of action enforceable in the courts.

It is clear because this moratorium was limited in nature. The longest it can go is to December 31 of this year. And then it could be terminated much before that if in fact we pass regulatory reform under H.R. 9, that the time period that would be involved would be so short you would not really be able to conduct an effective judicial review.

On the other hand, we did not want to take away from people the rights that they presently have under existing law, primarily under the Administrative Procedure Act.

So I would submit this amendment is really unnecessary because there is no extended or no expanded right of judicial review in the bill. For that reason, I would oppose the amendment

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 13 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI] and I ask unanimous consent that he be allowed to further yield time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 13 minutes.

Mr. KANJORSKI. I thank the chairman.

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

Mr. Chairman, I want to thank the ranking member of the committee, the gentlewoman from Illinois [Mrs. COLLINS], and I rise in support of the amendment, obviously, because what we have here in the text of this legislation is that when you join it with what would be allowed under the APA rule is that every rule promulgated by every agency of the U.S. Government will be subject to court review and court action.

What we are structuring here is an absolute freeze on the actions of government for the next period of time, however that may eventually last, that the moratorium is in place.

If that is not bad enough, what we are allowing here by virtue of allowing judicial review under the APA regulations is that in the future any contested promulgated rule or regulation frozen in place in this time can be attacked by virtue of the right of review under judicial review. So that 4 years down the road, if something is felt to not comport with the act itself in the moratorium, you will be able to have an attack and a request for judicial review to go over that and have that rule or regulation set aside or the effectiveness set aside.

A simple example would be a rule or regulation by the wildlife area in Interior. If there were a question raised on the licensing or area qualifications for duck hunting—duck hunting—which nobody in this Chamber would oppose, activists rights organizations could attack the promulgated rules and regulations allowing that duck hunting to occur however and for whatever purpose the rule is promulgated. It would end up in the court and the decision under the judicial review would take such a period of time that whatever the purpose and finality of that ruling would be, would be inconsequential because of the passage of time.

□ 1410

What we have created here in essence, when we look at the total bill itself and the judicial review that is allowed under existing law by implication of this entire statute, is we have allowed an opportunity for those people who fundamentally and philosophically do not believe that government should work in any respect. They will have accomplished their end.

This is not just a moratorium. This is not just a surgical procedure to rule out of order improper or zealous rule makers or improper application of rules. This is a process and procedure that by not being surgical in our strike will allow those people with the worst intentions to prevail and to have consequences that we cannot even determine now, during the moratorium period, or for years thereafter, and the one thing we are certain of is that by use of allowing judicial review of this act we are going to allow the freezing of the remaining 2 years of the Clinton administration.

Now, if that is the intention of the makers of this statute, and if the intention of the makers of this statute is not providing for no judicial review during the moratorium period or thereafter, they will accomplish their end.

So I would recommend that everybody from the minority or the majority that desires to close government down in all respects of what we do, they should definitely vote against this amendment, but if they are sensitive to the fact that what we are doing is causing a wealth of litigation to occur by anyone and for any purposes, then we should seriously review what we are doing today.

We have, on February 22, received a communication from the U.S. Department of Justice, Office of Legislative Affairs and under the signature of the Assistant Attorney General of the United States that lays out the Justice Department's position on this amendment, and not reading the entire letter other than the fact that they support the amendment in its entirety, if I can quote a portion of this?

It says, ''As you know, the administration strongly opposes H.R. 450. Its judicial review provision is one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language, and we think the bill should include an express bar to judicial review,'' and this amendment provides that ''express bar'' to judicial review.

I cannot urge my colleagues more firmly, and this is not a partisan issue. This is a Government issue. This is a question of whether or not we believe this Government should function and whether or not we are not capable as a Congress of finding another way to correct overzealousness in rulemaking or improper applications of rules. The fact is there are tens of thousands of rules promulgated every year. The overwhelming majority are necessary and do not cause problems or conflict with the people, but in fact enable us to carry on government. In order for us to solve the problem of perhaps 1 or 2 percent where there is some disagreement we are throwing out literally the baby with the bath water, and I think the admonishment of the U.S. Department of Justice should be taken seriously and those people that are interested in Government functioning should understand that they have made a thorough review of this act, and particularly section 7, and on the basis of that I would recommend all my colleagues to act in a bipartisan way to see certain that we do not freeze the activities of Government.

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

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG], a very valued and contributing member of the committee.

Mr. SHADEGG. Mr. Chairman, let me focus the debate on this issue.

Quite frankly what we have here is a proposal to subsume the entire moratorium in one rule. The language which appears in the existing bill is carefully crafted to preserve the rights which presently exist. That language appearing in section 7 says no private right of action may be brought against any Federal agency for a violation of this act. What that means plainly and simply is: By the passage of this measure we are not creating a new and separate right of action. However, there is a second sentence also intended to preserve that balance, and that is: This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

Mr. Chairman, those combined two sentences are designed to preserve the status quo, and what that means is that anyone who is in a rulemaking proceeding and who has a right to bring an action under the Administrative Procedures Act is authorized to bring that act under this section. No new action is created, but no existing action is taken away.

What the Kanjorski amendment does when it proposes to change the language of section 7 is to literally take away the entire meaning of the moratorium. What it would do in effect is to say that any regulatory agency which chose to ignore willy-nilly the moratorium itself and to proceed with a regulatory action, no matter what the basis for that was, could not be challenged in court for doing so. The plain and simple effect of that is to mean that no regulatory action would be stopped. We would have passed a moratorium which would say that for this period there were to be no ongoing rulemaking regulatory actions, and yet there would be absolutely no penalty whatsoever for a Federal regulatory agency that just simply chose to ignore that language altogether.

I suggest to my colleagues that when they understand that language of the Kanjorski amendment and when they understand that effect, it is not surprising that the administration supports that amendment and opposes the current language in the bill, and it is not surprising that what they will have done is rendered this entire act meaningless. This Congress is not about passing a moratorium which will have no effect whatsoever, a moratorium which will say the U.S. Congress wants to suspend all rulemaking actions and all regulatory actions except those for which there are enumerated exceptions, but nonetheless imposes no penalty whatsoever for doing so.

Mr. Chairman, I cannot more strongly than that urge the rejection of that amendment on the ground that it would render the entire moratorium and the very important purpose the moratorium will serve nugatory and accomplish nothing.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume to respond to and perhaps engage with the gentleman.

I think the gentleman is suggesting that rulemaking authority, as passed in statute by this body, has no way of a check and balance operating, and I suggest that most authorizing legislation authorizes a Cabinet-officer-level individual. The secretary shall have the authority to promulgate rules and regulations so that any agency that would come under the umbrella, and most of them do, of a Cabinet officer would subject that Cabinet officer to impeachment from office if he violated the clear intent of Congress as expressed by this legislation.

We are not crippling this legislation. What we are basically doing is taking out the second sentence of section 7 because that is the devil in the details. The gentleman said that the purpose of section 7, and he read it, that no right of action may be brought against any Federal agency for violation of this act.

□ 1420

That is a great sentence, and if that were the only sentence, I would have no problem with that. But the next sentence says ''This prohibition shall not affect any right of action or remedy otherwise available under any other law,'' which is the Administrative Procedures Act of the United States. So individuals do have actions and rights of actions under the Administrative Procedures Act, so therefore the second sentence really vitiates the expressed intent in the first sentence, and using the description of legislative language, the second sentence becomes controlling of the first sentence.

So very clearly we can have actions that exist under the Administrative Procedures Act, will exist in this act and be able to be used to attack all future rules and regulations.

Let me tell you how serious it is. The seriousness is in rulemaking as it is described. We are just thinking we are attacking things already out there. This legislation defines rulemaking. The term ''rulemaking'' means any agency process for formulating, amending, or repealing a rule. It means that if your constituent or mine who finds a commentary period and expresses their feelings on a rule or regulation and sends that in, if the agency opens that commentary, they have violated the rulemaking procedure of this House, and it could not only cause them difficulty under this act, it could vitiate that rule and the subsequent value or efficacy of that rule in the future.

We are really muzzling, gagging, the American people, interested people in legislation, Members of Congress. If I send a letter to an agency about the fact that I do not think the rule or regulation should be effective the way it is, and that agency opens my letter, under this basis that is formulating, amending, or repealing and taking an agency process to do that, and they are in violation of the statute. And under the APA section under judicial review, that process could be knocked out, the rule itself could be knocked out in the moratorium period of time, and thereafter if the moratorium leaves a ''no other actions taken of that process'' during the moratorium period of that time.

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

Mr. KANJORSKI. I yield to the gentleman, with the understanding that we will trade time back in the future.

Mr. SHADEGG. Mr. Chairman, I simply want to make a couple of points. First, by acknowledging that what you think should happen here is that we

should go to the Under Secretaries or the Secretaries who have the authority to promulgate your rules, you are acknowledging that the Kanjorski amendment would leave no judicial remedy for an Agency which chose to ignore the moratorium. You are at least agreeing that is your proposal.

Mr. KANJORSKI. There is no process to ignore it? No. You can just tell the Secretary.

Mr. SHADEGG. Absolutely. So everyone affected by a rulemaking proceeding would be left at the mercy of calling the Secretary of that particular regulatory Agency and asking him to stop. He could not go to court and pursue the current legal rights he would have but for the language. That is, you are taking away a right he would have under the APA to go to court and challenge a rulemaking proceeding by the Kanjorski amendment.

Mr. KANJORSKI. Reclaiming my time, I am taking away the advantage that wealthy individuals and corporations in this society would have to stop the progress and protection of our people, whereas average Americans could never assume their rights under the APA.

I think it goes to the essence of what this act is all about, and maybe it extends beyond this act and goes to what we are here for this first 100 days, it is all about. It is a tremendous shift of power, to give the wealthiest elements and corporations of our society a special seat in government, a special opportunity in litigation, to frustrate the protections and the needs of average Americans. You bet your life I think that is the problem.

Mr. SHADEGG. What we are talking about really is the fact that average Americans take advantage of the APA on a regular basis, and that you are taking advantage of this moratorium to take away their right to go to court and challenge the regulatory agencies that are currently regulating and taking away their rights. The purpose of the moratorium is to preserve the status quo for the time period. The language of section 7 does that precisely by saying we are creating no new right of action, but we are preserving the existing rights of action.

Mr. KANJORSKI. No, you are going beyond that, so that I may answer you. You are reserving a right of action that is based on this statute, if the APA rules are the vehicle to bring that action. So you are accomplishing nothing by the first sentence, it does not even matter being there, because the second sentence becomes controlling, and everybody who could attack this and would be denied that right under the first sentence of the act, has the right under the second sentence if they proceed under Administrative Procedures Act.

Mr. SHADEGG. The first sentence of the amendment simply says that this legislation does not in and of itself create a new right of action. That is because it was not the goal of those who are proponents to create a new right of action or to increase any amount of litigation. That is what the sentence says.

Mr. KANJORSKI. What it says in simple language, maybe I cannot read it right, this prohibition shall not affect any private right of action or remedy otherwise available under any other law. The Administrative Procedures Act allowed people to go for judicial review to attack every other law and every law, and this is every law, and therefore they come in and have the same rights that they have.

Mr. SHADEGG. Therefore the moratorium as written preserves their current legal rights and your amendment would take away those rights.

Mr. KANJORSKI. I am going to the essence of what the moratorium is all about. Are we attempting to have a moratorium and freeze until you have an opportunity to examine what may be misused and abused, or are you using the moratorium to freeze Government and deny average people the rights of judicial review, but allow large corporate entities to spend the money and to take the actions to frustrate this Government, and not only frustrate this Government, but to frustrate the rights of average American people who cannot afford the legal price to pay to go to litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired. The gentleman from Pennsylvania [Mr. CLINGER] has 9 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCINTOSH] for purposes of engaging in a colloquy with the gentleman from Nebraska [Mr. BEREUTER].

Mr. MCINTOSH. Mr. Chairman, I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, on February 15, 1995, HUD issued regulations to revise and clarify the final rule on escrow accounting procedures under the Real Estate Settlement Procedures Act. The final rule was published on October 26, 1994 and established accounting rules and methodologies for computing escrow accounts on federally related loans. The amendments to those regulations, which were published last week make a number of changes which were sought and are supported by the mortgage industry. I would like to clarify that it is just these type of regulations that would fall within the exclusion of Section 6(3)(B)(i).

Mr. MCINTOSH. Yes, the gentleman is exactly right. The recently published amendments to the final rule on escrow accounting procedures are an example of the type of regulation intended to be covered by that exclusion. The February 15 regulations reduce regulatory burden by streamlining the notice required to be sent to borrowers by lenders when itemizing their escrow account. That regulation amending the final rule also streamlines the administrative process for implementing this major new requirement that is being imposed on mortgage servicers, by providing an additional month to allow the industry to gear up to comply with the final rule.

It is exactly the type of rule that we would allow to go forward because it limits the burden and reduces the regulatory impact.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes for the purpose of engaging in a colloquy with the gentleman from California, [Mr. RADANOVICH].

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

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

Mr. RADANOVICH. Mr. Chairman, the moratorium on Federal regulations does not apply to the California Bay-Delta agreement of December 15, 1994, and the actions necessary to implement that agreement.

The December 15 agreement is an accord between the Federal agencies of the Department of the Interior, Commerce, and EPA and the State of California. It is not a Federal regulatory action.

The agreement calls for the withdrawal of the EPA final rules for water quality standards in the delta, once the California Water Resources Control Board adopts its own final rules under State law. This is expected to happen in March 1995. Thus, there is no impediment to the implementation to the bay-delta agreement as a result of the EPA regulations becoming subject to the moratorium.

The agreement also calls for the 1995 Biological Opinions on winter run salmon and Delta smelt to be consistent with the bay-delta agreement. This means that the existing 1994 biological opinions must be revised to conform to the bay-delta agreement. It should be clear that the revision on these biological opinions is not a regulatory action subject to the moratorium. If, for some reason, the 1994 biological opinions could not be revised to conform to the bay-delta agreement, there could be a significant water cost to Federal and State contractors south of the delta. This would be a significant obstacle to the continued implementation of the bay-delta agreement.

We know that the gentleman from Pennsylvania is aware of the environmental problems in California in the San Francisco Bay and the Sacramento-San Joaquin River Delta. We know that you are also aware of the recent historic agreement between the State of California and a number of Federal agencies that has temporarily resolved many of the environmental problems in the delta.

Mr. CLINGER. The gentleman is correct. I am aware of the agreement.

PARLIAMENTARY INQUIRY

Mr. KANJORSKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] yield to the gentleman from Pennsylvania

[Mr. KANJORSKI] for the purpose of raising a parliamentary inquiry?

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KANJORSKI. Mr. Chairman, is the discussion on the floor germane to the amendment or not germane to the amendment, and should it not be included in some other aspect of the transaction occurring today? I was kind enough on my side to yield to the other side to have a discussion. I thought the remainder of the time of my friend, the gentleman from Pennsylvania [Mr. CLINGER], would be either used on my amendment, or the gentleman would afford me the opportunity to discuss some of the pertinent facts relevant to my amendment. But now I see nongermane material is being discussed here.

The CHAIRMAN. The debate must relate to the amendment when that question is raised.

Mr. RADANOVICH. It does, as it clarifies the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] may proceed.

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

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

Mr. DOOLEY. Mr. Chairman, while we considered offering an amendment, we do not, at this time, believe that the bay-delta agreement is jeopardized by H.R. 450. We are, however, seeking your assurance that should questions arise during continued debate on this legislation, you will work with us to make sure that the agreement—which is so important to the agricultural, urban, and environmental interests of California—is protected from the requirements of H.R. 450.

Mr. CLINGER. My colleagues have my assurance that I will work with them on this issue.

□ 1430

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. DAVIS], a member of the committee.

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

I am always puzzled when I hear remarks about only wealthy individuals and big corporations would be able to sue under this act. I have perused the language of the act and find no such language that excludes small businesses, individuals, or anyone else who feels aggrieved by a large Federal bureaucracy from suing.

Perhaps the gentleman from Pennsylvania can show me the language he is referring to.

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

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

Mr. KANJORSKI. Mr. Chairman, what I am showing the gentleman is partiality and reasonableness.

Does he know of any of his constituents on an average basis that can afford legal counsel of $50,000 to $100,000 to attack the efficacy of a rule?

Mr. DAVIS. Mr. Chairman, reclaiming my time, let me tell the gentleman what we found in Fairfax County, when we held hearings on this at the Fairfax Government Center.

First of all, to go back to the issue of retroactivity that the gentleman talked about, we have over 50 billion dollars' worth of costs, if all of these regulations were to be promulgated, that would go down, many of these on small businesses and individuals across this country. We heard the testimony of Mr. Bill McGillicuddy, a small businessman with AutoCare, Inc., talking about some pending rules and regulations before the EPA under the Clean Air Act and how this, Mr. Ron Harrel, a Mobil Oil dealer in Fairfax, Dennis Dwyer of Potomac Mills Exxon in Virginia. These individuals would be put out of business, if certain regulations now pending before EPA were put into compliance.

Their option here is to come as a group and sue. They may not have the money individually, but a group of service station operators together could get together. These are not wealthy individuals. They are not big corporations. But they need this remedy of judicial review to be able to correct what I consider to be some very, very gross overreaching by the Federal bureaucracy. That is really the issue in this case.

And to make this a class-warfare issue, that this applies only to wealthy individuals and corporations is, I think, misleading and really gets us off the point.

Mr. KANJORSKI. Mr. Chairman, if the gentleman will continue to yield, I hope I do not leave the impression of a class-warfare issue, because I could go to the other side. I would predict under the present act, if it goes into effect as it does now, you will see billions of dollars of construction activity come to a grinding halt until the people that are making that investment are certain as to what the status of the law, the rule or regulation will be.

Mr. DAVIS. Reclaiming my time, I yield to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Would the gentleman consider the fact that there are billions of dollars in activity that do not happen to date because banks cannot lend money, not knowing the regulatory impact of properties that are held as collateral for loans to do commercial activity? And would the gentleman answer the question, the gentleman from Virginia, how many people does he represent that have $250,000 to go into Federal court to have to assert a constitutional takings under the fifth amendment since there is no low-cost administrative procedure to undermine them from the burdens that they now face under regulations of disclaimer?

Mr. DAVIS. I would just note once again, it is the National Federation of Independent Businesses, the small businesses that are endorsing this legislation and moving forward. And I understand the gentleman's concern. I will oppose the amendment.

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

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 271, not voting 8, as follows:

[Roll No 160]

AYES—155

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

NOES—271

Allard	Bateman	Bunn
Archer	Bereuter	Bunning
Armey	Bilbray	Burr
Bachus	Bilirakis	Burton
Baesler	Bliley	Buyer
Baker (CA)	Blute	Callahan
Baker (LA)	Boehner	Calvert
Ballenger	Bonilla	Camp
Barr	Bono	Canady
Barrett (NE)	Brewster	Cardin
Bartlett	Browder	Castle
Barton	Brownback	Chabot
Bass	Bryant (TN)	Chambliss

Chapman	Hilleary	Pombo
Chenoweth	Hobson	Porter
Christensen	Hoekstra	Portman
Chrysler	Hoke	Poshard
Clement	Horn	Pryce
Clinger	Hostettler	Quillen
Coble	Houghton	Quinn
Coburn	Hunter	Radanovich
Collins (GA)	Hutchinson	Ramstad
Combest	Hyde	Regula
Condit	Inglis	Riggs
Cooley	Istook	Roberts
Costello	Jacobs	Roemer
Cox	Johnson (CT)	Rogers
Cramer	Johnson (SD)	Rohrabacher
Crane	Johnson, Sam	Ros-Lehtinen
Crapo	Jones	Roth
Cremeans	Kasich	Royce
Cubin	Kelly	Salmon
Cunningham	Kim	Sanford
Danner	King	Saxton
Davis	Kingston	Scarborough
de la Garza	Klug	Schaefer
Deal	Knollenberg	Schiff
DeFazio	Kolbe	Seastrand
DeLay	LaHood	Sensenbrenner
Diaz-Balart	Largent	Shadegg
Dickey	Latham	Shaw
Dooley	LaTourette	Shays
Doolittle	Laughlin	Shuster
Dornan	Lazio	Sisisky
Dreier	Leach	Skeen
Duncan	Lewis (CA)	Skelton
Dunn	Lewis (KY)	Smith (MI)
Edwards	Lightfoot	Smith (NJ)
Ehrlich	Lincoln	Smith (TX)
Emerson	Linder	Smith (WA)
English	Lipinski	Solomon
Ensign	Livingston	Souder
Everett	LoBiondo	Spence
Ewing	Longley	Stearns
Fawell	Lucas	Stenholm
Fazio	Manzullo	Stockman
Fields (TX)	Martini	Stump
Flanagan	McCollum	Talent
Foley	McCrery	Tanner
Forbes	McDade	Tate
Fowler	McHale	Tauzin
Fox	McHugh	Taylor (NC)
Franks (CT)	McInnis	Tejeda
Frelinghuysen	McIntosh	Thomas
Frisa	McKeon	Thornberry
Funderburk	McNulty	Thornton
Gallegly	Metcalf	Tiahrt
Ganske	Meyers	Torkildsen
Gekas	Mica	Upton
Geren	Miller (FL)	Visclosky
Gilchrest	Molinari	Vucanovich
Gillmor	Montgomery	Waldholtz
Gilman	Moorhead	Walker
Goodlatte	Myers	Walsh
Goodling	Myrick	Wamp
Goss	Nethercutt	Watts (OK)
Graham	Neumann	Weldon (FL)
Greenwood	Ney	Weldon (PA)
Gunderson	Norwood	Weller
Gutknecht	Nussle	White
Hall (TX)	Ortiz	Whitfield
Hamilton	Orton	Wicker
Hancock	Oxley	Williams
Hansen	Packard	Wilson
Hastert	Parker	Wolf
Hastings (WA)	Paxon	Wyden
Hayes	Payne (VA)	Young (AK)
Hayworth	Peterson (FL)	Young (FL)
Hefley	Peterson (MN)	Zeliff
Heineman	Petri	
Herger	Pickett	

NOT VOTING—8

Andrews	Gonzalez	Meek
Ehlers	Hilliard	Zimmer
Frost	McCarthy	

□ 1452

Mr. JOHNSON of South Dakota changed his vote from ''aye'' to ''no.''

Mr. TAYLOR of Mississippi and Mr. SERRANO changed their vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SLAUGHTER: At the end of section 5 (page , after line), add the following new subsection:

(c) FOOD AND WATER SAFETY REGULATIONS.—Section 3(a) or (4)(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) MEAT AND POULTRY INSPECTION.—Any regulatory rulemaking action to reduce pathogens in meat and poultry, taken by the Food Safety and Inspection Service of the United States Department of Agriculture and with respect to which a proposed rule was published on February 3, 1995 (60 Fed. Reg. 6774).

(2) DRINKING WATER SAFETY.—Any regulatory rulemaking action begun by the Administrator of the Environmental Protection Agency before the date of the enactment of this Act that relates to control of microbial and disinfection by-product risks in drinking water supplies.

(3) IMPORTATION OF FOOD IN LEAD CANS.—Any regulatory rulemaking action by the Food and Drug Administration to require that canned food imported into the United States comply with standards applicable to domestic manufacturers that prohibit the use of lead solder in cans containing food, taken under sections 201, 402, 409, and 701 of the Federal Food, Drug, and Cosmetic Act and with respect to which a proposed rule was published at 58 Federal Register 33860.

The CHAIRMAN. Under the previous order of the House of today, the gentlewoman from New York [Ms. SLAUGHTER] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the gentlewoman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee, will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from New York [Ms. SLAUGHTER].

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

Mr. Chairman, anyone who dismisses the problem of micro-organisms in our food has not been reading the newspapers. But few realize just how widespread these quiet killers are.

According to the Centers for Disease Control and Prevention, bacteria in meat and poultry products cause nearly 4,000 deaths and 5 million illnesses each year. Last year's outbreak of E. coli at fast food restaurants on the West Coast is just one example of such a tragedy. In fact, there were confirmed outbreaks of E. coli in dozens of States over the past 2 years, and other pathogens such as salmonella are even more widespread.

For a person infected by a food-borne pathogen, there is usually no treatment or cure. These diseases are particularly dangerous for children and the elderly, whose immune systems are weaker. For them, the sickness often follows a painful course ending in death.

Beyond the enormous human suffering caused by food poisoning in meat products, the economic cost is gigantic. Estimates vary, but the price tag in medical care and lost wages is over $4.5 billion annually.

For this reason, I have written a simple, carefully drafted amendment. It would clearly exempt three particular regulations crucial to providing safe food and water.

One has to do with the importation of food in lead cans which we do not allow American manufacturers to do, and the other is the cryptosporidium that is being found in America's drinking water.

We will hear more about these issues from other speakers. As a former bacteriologist with a master's in public health, I would like to concentrate on the third regulation, which would finally modernize our outmoded meat inspection system.

Just this month, the Department of Agriculture started the process of developing new pathogen standards. The proposed rule began a 120-day comment period—double the standard length. The Department also plans an aggressive outreach campaign to hear the views of every concerned party. In fact, the administration has followed a model of responsible regulation, carefully listening to every viewpoint before reaching any decision.

Unfortunately, not exempting food safety would stop that process right in its tracks. In a letter to me yesterday, the Undersecretary for Food Safety told me what would happen under a moratorium. He wrote—and I quote:

All work on the . . . proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country . . . would have to be cancelled.

That is not reform, Mr. Chairman. It is vandalism. This process would benefit everyone, even those who want to change the proposal. It is supported by industry and consumer groups, and suspending it serves no purpose. While we saw the development of new pathogen standards, more Americans will be poisoned by their dinner at home or what they eat in restaurants or what they eat at school.

Mr. Chairman, these are invisible killers. We are going to hear that this will be taken care of in the imminent threat to health and safety. Unfortunately, the kinds of pathogens that we are talking about do not give an advanced notice that they are going to happen. We will not know that there is a threat to health and safety until after it has occurred.

□ 1500

What we are trying to do with the new regulation, Mr. Chairman, is to prevent it from happening in the first place.

The tragedy is that in the United States when food inspection started in

1906 or 1907, based on a public outcry from a book by Upton Sinclair, we have maintained that same method of operating and checking on meat and poultry, with very little update. What we were doing now was for the first time to recognize the role of pathogens in meat inspection and what happens.

But every day that we delay this moratorium that would cause this delay, 11 Americans will lose their lives and every day over 13,000 will be ill. The delay caused by the moratorium will sentence 3,420 more people to die needlessly in the United States.

It does not matter what Members think of the details of the Agriculture Department proposal, or it does not matter what they think of the regulatory process overall. It does not matter what their district is or what political party they belong to. A vote for this amendment is a vote for your constituents, it is to ensure that food and water are safe.

I am not willing to sacrifice my constituents' lives, health, and wealth on the altar of regulatory reform, and I ask all of my colleagues not to sacrifice theirs. Please support the Slaughter amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I come from Milwaukee, WI, and Milwaukee, WI, unfortunately made national headlines in 1992 because of a severe outbreak of illness resulting from the parasite, cryptosporidium.

This amendment also would permit the research and the regulations that are being done at the Federal level by the EPA on the outbreak, and provide help to other communities who suffer this same tragedy in their own communities.

Since this tragedy has already hit my community the easiest thing in the world for me to do is say we have already taken care of the problem in Milwaukee. I do not care what happens anywhere else in the country; if they have another outbreak in another community, that is their problem. But I do not think that is what the American people want. I do not think the American people want the Federal Government, when it has the opportunity and the resources and the requirement, to come in and try to help people save lives.

In committee and on the floor today I am going to guess that we are not going to hear anything about the merits of this regulation. No one will talk about why we should stop the work on cryptosporidium. What we are going to hear is that it is not part of the program or somehow we are going to slow down this bill and/or we are going to try to gut this bill because of this amendment.

But this is a good amendment. The Federal Government by its nature does not only do bad things. I know it comes as a surprise to some Members of this body, but the Federal Government actually does some good things, and preserving safe drinking water in our country is one of them, preserving safe food in our country is another.

I am all for getting rid of unnecessary regulations, but let us do it when we find a regulation that does not work. But when we have a regulation that works, let us work it, let us have it help save lives. And this is what this amendment does.

So I would ask the Members of this body to please vote their conscience and do the right thing. A regulation that works should move forward.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, this is an extreme bill; while calling for a moratorium on new Federal regulations may sound good, it will have unintended consequences that will put millions of Americans at risk.

Our amendment is simple and straightforward: It will allow the Federal Government to continue its efforts to ensure the safety of our Nation's food and water.

For example, this amendment will allow the Federal Government to continue its efforts to protect our citizens from the threats posed by cryptosporidium in our water and E. coli bacteria in our meat.

In my district, in my home of New York City, people are very worried over recent discoveries of the cryptosporidium parasite in our water supply.

They have good reason to be worried: Recent outbreaks in Milwaukee of the disease caused by this parasite, cost over 100 people their lives and made hundreds of thousands sick.

The medical evidence clearly demonstrates that for our most vulnerable populations this illness can be fatal.

Only in 1994, was the EPA able to issue rules about collecting data on the dangers posed by this disease.

And now the experts at EPA tell us that this bill will halt testing for this deadly parasite.

We cannot allow that to happen.

Mr. Chairman, the safety of our drinking water is precisely the type of problem that the Federal Government is best equipped to combat because it affects the residents of all 50 States.

Water does not respect State boundaries; neither do parasites or bacteria.

As currently drafted, this bill could present a threat to every American who eats or drinks.

Our amendment would simply remove any ambiguity about the continuing ability of the American Government to combat these deadly threats.

Parasites don't take a moratorium; microbes don't take a moratorium, and safeguards shouldn't take a moratorium.

Please support this amendment.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes. I do so to oppose the gentlewoman's amendment. I know of her expertise in this area as a microbiologist and her great concern for the implications of this measure, but I would submit that the amendment is really unnecessary because the bill does provide a very, very broad exception for health and safety. In fact, if Members read the Washington Post, it would suggest it would exempt everything out of that. I do not think we go that far, but I think it does provide the kind of assurance to the gentlewoman that that kind of thing would not be held up.

The legislation reads, imminent health and safety means the existence of any conditions, circumstance, or practice reasonably expected to cause death serious illness or severe injury to humans.

And the legislation is very flexible, Mr. Chairman. It is structured so that the head of the OIRA regulatory administration will make the determination as to what qualifies as imminent health and safety, and the head of OIRA determines it meets the criteria, and I think the sorts of things the gentlewoman from New York is mentioning would probably meet that criteria that the regulations could and should be promulgated and implemented.

I suggest it is not just end result that is going to be affected by this, because the opponents say that humans need to die or get violently ill prior to meeting a test for imminent health or safety. This is just not the case. The regulations can be promulgated prospectively if it is perceived that without doing so there would be harm done, and I think the case that the gentlewoman talks about would not be precluded from proceeding with the testing for that purpose.

So I would submit that the gentlewoman's amendment is not necessary and would be covered by the existing exemptions in the bill.

Mr. Chairman, I yield 4 minutes to the author of the measure, the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Chairman, I think it is very important as we discuss this legislation that we be aware of the important changes that were made in committee on the bill dealing with health and safety. I think Members will hear a lot of claims by the administration and others that this legislation would undo 20 years of regulation, that this legislation could lead to the loss of life and other claims which are clearly preposterous and intended to scare the American people.

For that reason, Mr. Chairman, I want to read the provision of this bill that deals with health and safety. Any regulation that is needed to protect against an imminent threat to health and safety is exempt from the moratorium and can go forward. The definition of imminent threat to health and safety means ''any regulation that is

needed to prevent the condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans or substantial endangerment to private property during the moratorium.''

What this exception says very clearly is that the regulatory bodies can protect against death, they can protect against threats of severe injury, and they can protect against threats of substantial endangerment to private property. All they need to do is go to the President's staff at OMB and say we need an exemption. The President can issue that immediately, and the agency can go forward.

□ 1510

Now, perhaps some of these agencies are not competent enough to deal with these threats, and they may try to hide behind the moratorium and not issue the regulation. But let it be very clear today, looking at this language in the bill, any serious threat to human health or safety can and will be dealt with pursuant to this moratorium.

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

Mr. MCINTOSH. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman just said, I think, you added some words in there as you talked, the term ''imminent threat to health or safety''; then you said, ''means a proposed rule that deals with the existence''; I do not see that ''means a proposed rule'' in there at all.

Mr. MCINTOSH. The language of the bill says that any regulatory action needed to address an imminent threat to health or safety can go forward, and what this language does is tells us what regulations are dealing with an imminent threat to health or safety.

Mr. VOLKMER. Right. The existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness; now, what if you are just trying to improve on a process of inspection so that you have less likelihood of causing disease? That is not an imminent threat, I would say.

Mr. MCINTOSH. Let me say I think that is an important question. I think the test the agency would need to meet in those regulations is: Are they calculated to prevent death, serious injury, or substantial loss to property? A lot of times an agency will say, ''We are protecting health and safety,'' but when you actually read the regulation, none of the provisions end up meeting that criteria. In those cases, they could not go forward.

But if they want to improve an inspection process and can show that they will prevent a death or severe injury, then they would be exempt.

Mr. VOLKMER. What if they cannot positively, but based on the best scientific evidence that it is an improvement over an inspection process that is currently being used, but you cannot show that if you do not do it there are going to be deaths, you cannot show that serious illness is going to occur?

Mr. MCINTOSH. The burden on the agency is to show their regulations would be helpful.

Ms. SLAUGHTER. Mr. Chairman, if I could just make a comment to the gentleman from Indiana [Mr. MCINTOSH], I know previously you worked for Vice President Quayle. I think it is probable we have an obligation to point out you misspelled existence.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI], who has done a good deal of work on this issue.

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

The Members of the majority may not think that this will impede regulations for food safety.

But one would think the U.S. Department of Agriculture would be somewhat controlling. In a letter to the gentlewoman from New York [Ms. SLAUGHTER], they have written that the current program will be suspended. There will not be a need for public comment. They will not proceed with the February 3 regulations, because while the threat to human safety is real, it is not imminent. It is substantial, but it may not be immediate. And years of work, years of work to try to protect the American people are going to be lost.

My colleagues, 2 years ago a young woman in my district named Katie O'Connell walked into a fast-food restaurant in New Jersey, and 48 hours later she was dead. That case has been repeated 4,000 times a year, year in and year out across this country.

We have an epidemic of food safety, because we have not improved the methods of inspecting food for 75 years in this country. The average American food inspector has less than a half a second to use his eyes and his nose in the age of the computer and electronic sensor to determine whether or not food is safe for your table, and they are missing thousands of times determining contaminated food.

The cost of the February 3 regulations on the industry will be two-tenths of 1 cent per pound. Too much of a cost to bear for American industry to save thousands of lives.

I know the majority wants to vote with their leadership. I know they want to lessen the burden. But the costs for your constituents are too great.

My colleagues, support the amendment. It is simply the right and decent thing to do.

Mr. CLINGER. Mr. Chairman, I might point out to the gentlewoman from New York that that misspelling was deliberate. We wanted to just see if everybody was paying attention, and we are delighted that you were.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Chairman, I appreciate the chairman yielding to me.

Mr. Chairman, I am just flabbergasted by this debate on this amendment. I just ask the Members to read the bill.

Nothing in this amendment nor much of what has been said in support of this amendment has anything to do with the bill. The bill is very specific in giving exemptions to these regulations that affect safety and health and food inspections and many other of the issues.

It is obvious to me, Mr. Chairman, that this amendment is the first step down the slippery road to status quo.

What is underlying the statements by the President and proponents of this amendment is that they believe in regulations. They believe in the regulatory police. They believe in what has been going on in the last 40 years as it pertains to regulation. They believe in being able to find that man that got fined for moving two truckloads of dirt, or they believe in the regulations that classify children's teeth as hazardous waste and take on the tooth fairy herself.

What we are trying to do and what the American people are trying to ask us to do is give us a break from these outrageous regulations that have been placed upon us.

What the proponents of this amendment want to do is gut the moratorium bill and stop the regulatory reform effort. Over and over again we keep hearing about what horrible things we are going to inflict on the American people through this moratorium. We have heard it from the White House, from a number of the executive agencies, and from certain Members.

Clearly the other side has run out of ammunition against this bill and has resorted to the lowest of politics in trying to scare the American people beyond what is even contemplated by the moratorium.

The bill cannot be written more clearly. The moratorium exempts regulations that are needed to protect against imminent threat to health and safety.

Their examples of such regulations could include food regulations on E. coli bacteria, medical testing regulations for cancer. The President, in the bill, the President decides when written by the head of the agency whether that particular regulation ought to be exempted.

Remember, it is up to the Federal agency to identify which regulations should be exempt from the moratorium.

And I finish with this, if the President of the United States had shown any leadership on regulations, we would not even be discussing this bill at all.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, no one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the U.S. new meat inspection rule, can tell whether the meat we feed our children might actually kill them.

At our committee's markup of this bill, we had a young woman who appeared who lives every day with the tragedy that can come from bacterial contamination of meat.

Mrs. Nancy Donely from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993 after he ate E. coli contaminated hamburger meat. She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli. She is a very strong advocate for the USDA's new meat inspection regulations.

Mrs. Donely has said Alex's last words to her were, and I quote, ''Mommie, don't worry.''

For us not to worry that we have failed to protect little children like Alex from illness and death caused by bacteria-contaminated meat, we have to vote to exempt the meat inspection regulations from the moratorium in this legislation. It just seems to me that there is a commonsense way to go about any kind of bill that would put a moratorium on something that is so important as the food we eat, as the water we drink, as the air we breathe, as benefits we give to all American people, that we simply cannot fail to pass this amendment offered by the gentlewoman from New York.

□ 1520

It just makes good sense in order to do so. Nobody wants to be accused of not protecting our children. We hold our children to be the most precious possessions, and in order for you to continue to protect their health, we certainly have to vote for this amendment.

Mr. Chairman, I rise in support of the gentlewoman's amendment.

All Members should support this amendment. Unless we explicitly exclude the new meat and poultry inspection rule from the moratorium, the Department of Agriculture has told me that they do not believe the rule would qualify for an exception under the bill's exception for rules that are needed to deal with imminent threats to health or safety.

You will likely hear the proponents of the bill claim that they have taken care of this problem in the committee report, and there is no need to worry. Be on notice, however, that in order to exempt the new meat and poultry inspection rule from the moratorium, the Department of Agriculture would have to determine that failure to issue the rule would pose an imminent threat to the public health or safety.

Now, I want to make sure each Member of this House understands completely that the Department of Agriculture does not believe it could make the determination necessary to exclude this regulation.

Let me read from a letter I received from Michael R. Taylor, Under Secretary of Agriculture for Food Safety, that is dated February 22, 1995. It says in part that:

All work on the FSIS [Food Safety and Inspection Service] Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking processs and answer technical questions would need to be canceled. The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450.

So, should we care that the moratorium would block implementation of the new meat and poultry inspection rules?

I firmly believe we should. Meat and poultry sold to the American consumer are currently being inspected under procedures that were implemented in 1907. These 82-year-old procedures simply call for visual inspection of animal carcasses.

The meat inspection rule that the Department of Agriculture published recently in the Federal Register represents a drastic improvement over this outdated, outmodied system. This regulation would, for the first time, simply require that processors test meat and poultry regularly for bacteria. This regulation is also the Agriculture Department's long-awaited response to the massive food borne illness outbreak that spread across the west coast 2 years ago.

No one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the USDA new meat inspection rule, can tell whether the meat we feed our children might kill them.

At our committee's markup of this bill, we had a young woman appear who lives each day with the tragedy which can come from bacteria contamination in meat. Mrs. Nancy Donley, from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993, after he ate E. coli contaminated hamburger meat.

She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli, and she is a strong advocate for the USDA's new meat inspection regulation.

Mrs. Donley has said that Alex's last words to her were, ''Mommy, don't worry.''

For us ''not to worry'' that we have failed to protect children like Alex from illness and death caused by bacteria contaminated meat, we must vote to exempt the meat inspection regulation from the moratorium in this legislation.

I completely disagree with the proponents of this bill that we should delay for 1 minute, much less 6 months, the implementation of regulations that can require the testing needed to detect bacteria on meat. Only such testing will reduce the number of deaths and illnesses from food poisoning.

Mr. Chairman, the gentlewoman's amendment would exempt from the moratorium rules that provide important protections for the public health. If the proponents of the bill feel so strongly that their bill exempts these matters, then we need to make that point explicit and clear in the bill itself.

When concerns were raised in the committee about the moratorium's possible application to bank and tax regulations, these matters were excluded from the bill. We should do the same thing for the important food and water safety regulations addressed by the gentlewoman's amendment.

I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the chairman of the Subcommittee on Civil Service, the gentleman from Florida [Mr. MICA].

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

Mr. MICA. I thank the gentleman for yielding this time to me.

Mr. Chairman, ladies and gentleman of the House, I cannot believe what the other side of the aisle is saying. Let us really get the facts straight here.

They are accusing us of delaying. They are accusing us of endangering health and welfare.

Well, let me say this: I served on the subcommittee that oversaw this matter, so I know in depth what tool place. The problem with E. coli bacteria is not anything new. The report goes back to May 21, 1993. The question about risk-based inspections and the need for monitoring meat and poultry are here in these reports that span the length and breadth of this administration.

Come on, let us get the facts straight here. What is going on?

Mike Espy said at a press conference, May 1993, he said, ''The regs are on the way. I have directed FSIS officials to publish in 90 days.''

Do not give me that.

Let us see what the New York Times said about delays in this process. This is an article in the New York Times, June 9, 1994.

The decision by the Agriculture Department in 1993 which spared Tyson and other poultry producers from rigorous inspections brought a chorus of complaints from the meat packers and consumer groups about enforcement of an industry with longstanding ties to the President.

Come on, let us not scare the people of this country. We also know that we heard in those hearings on E. coli bacteria, people were told to cook their meat.

The point brought up about Milwaukee, here is another example: There are 53 water contaminants mandated by this Congress in regulations to study and the Milwaukee contaminant was not one of them. The blame is here. We are not delaying anything.

You saw the chairman of this subcommittee stand up and give an explanation of the exemptions for public health, safety, and welfare.

I tell you, ladies and gentlemen, this is not going to do anything to endanger any child or any individual. It is not going to endanger the health, safety, and welfare of one American.

What we are doing is we are saying we are overegulating. We are saying—why not concentrate on real problems.

We are passing regulation after regulation that does not make any sense. We are tying up industry, business, and local government, and the people of this country are rebelling against that regulation. That was the message on November 8, and that is the message today.

If we want to look at delay, if we want to look at reasons for endangering the health and welfare and safety of people, look at what this administration has done, look at the delays that have been caused here. The date of this rule is February 4, 1995. That is when it came out. Those are the facts.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

Mr. SPRATT. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, the problem we had in committee with this is the language of the bill itself. The imminent threat to health or safety exclusion falls under section 5, which is emergency exceptions. So the context of this is there must be an emergency and there must be an imminent threat.

We tried to rewrite this language so it would clearly apply to cases of food health and safety, to no avail.

So I ask the other side, and yield the time necessary to get an answer: Is the bill, is the regulation which deals with E-coli, with salmonella and other food pathogens, is that sort of regulation sufficient to come under this exclusion? Will they state for the record whether or not this sort of regulation would be excluded under this language, since they seem to imply that it already is? Is that what they are saying, that the regulation is already excluded? Or are they saying this kind of regulation dealing with food-borne pathogens, E-coli, salmonella, are they saying it is so excluded that it is unnecessary to have this amendment?

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not know how many of you have read this rule. This is the rule that is being talked about. I think everybody should take a copy of it and read it; that is, the proposed rule.

You know, we need to get back to what the situation is. First of all, if the department knows how to reduce the threat to health and safety, they have the power to do that without having to go through rulemaking already.

Second of all, there is nothing in the proposed rule that is going to guarantee that we are going to have—we are not sure. Some people think what is in here is going to reduce the risk, and some people are not so sure it is not going to cause more problems. So there is a difference of opinion on the issue.

There are different aspects in this regulation. Some of this regulation does not go into effect for 4 or 5 years. So it is way beyond the moratorium. There are some specific issues that may do some good: The antimicrobial rinsing provisions that are in this bill where they are going to ask the companies to have that as standard operating procedure. Some folks argue that, by putting the Federal regulation in place, we are actually going to get in the way of industry.

So I do not think that you can argue that holding up parts of this bill, this rule, if they are held up, which I do not think they will be, is going to make any difference. They were 3 years getting out in the first place.

Lastly, we had this discussion about cryptosporidium in the committee. You know, this is a problem, and we got all the groups together, the water organizations, to discuss how to deal with this, and they all agreed what they should do. I do not believe we need a Federal rule or regulation to accomplish this. The testimony was that they all agree what needs to be done, they can go out and do it. Why do we have this mentality in this country that unless the Federal Government mandates that you regulate or that you do a rule, that it cannot be done? Clearly, this case is being taken care of with the local communities working together. We do not need a rule in that area.

So this is covered in the exception, and I oppose the amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield the remaining 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the committee.

Mr. MORAN. I thank the gentlewoman, my friend from New York [Ms. SLAUGHTER] for yielding to me.

This amendment would do 3 things: It would enable us to regulate pathogens in meat and poultry, deadly microbes in drinking water and lead in canned food. Those are the 3 specific regulatory areas we are trying to insure will continue.

You heard from Mr. BARRETT, who represents Wisconsin, where thousands of people in Milwaukee got sick because of cryptosporidium in the water supply. The Environmental Protection Agency was able to take that experience, and when they found cryptosporidium in the Washington area water supply, they were able to stop it. As a result, we did not have thousands of people getting sick in the Washington area.

What they now need to do is to determine what the appropriate tolerable level of cryptosporidium is. They need to conduct the experiment. This would prevent them from being able to do that.

You know, I cannot imagine why we would want to prevent these kinds of what are really both common sense and terribly important regulations.

On the one hand you say we ought to leave it up to the administration to exercise judgment, and the rest of the time they spend criticizing the administration for exercising poor judgment. Let us get the law protecting the America.

Mr. CLINGER. Mr. Chairman, I am pleased to yield the balance of time to the gentleman from Wisconsin [Mr. GUNDERSON], who is a member of the committee and who is also an expert in this area.

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

□ 1530

Mr. GUNDERSON. Mr. Chairman and Members, I rise in opposition to this amendment, and I do so because this amendment frankly is exactly why we need regulatory reform. The fact is that what this amendment is trying to do is to preserve a rule making regulatory process of the Department of Agriculture that does not repeal the existing regulations. It just overlaps a whole bunch of new regulations on top of existing regulations at a cost of $750 million for implementation, $250 million annually, and then on top of that they are doing this without any kind of comprehensive meat inspection reform. Comprehensive meat inspection reform means you change the law and you change the regulations. You got to do both. They are trying to pick one thing up in isolation and say they have got to do that. As has been articulated earlier here, my colleagues, they do not need this exemption to deal with critical food safety issues. They did not propose this regulation until 20 months after the E. coli outbreak occurred, and so this is all face-saving propaganda that has nothing to do with comprehensive meat inspection reform. The subcommittee will take that issue up, and we will bring it to this Congress.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER]

Mr. Chairman, I rise in support of the amendment to H.R. 450 the Regulatory Transition Act offered by my colleague from New York, Ms. SLAUGHTER. This amendment is the least that should be done to minimize the damage to public health that will result if this ill-conceived piece of legislation is enacted.

I note that we once again have a narrow time-limit to debate and amend a hastily-crafted bill here on the floor. I would have to agree with the majority that we may as well not use more than 10 hours on H.R. 450. All the time in the world would not be enough to improve this bill, and it would take us many days to enumerate all the regulations that protect human health and safety, ensure workers a

safe workplace, protect our food supply, maintain and improve our environment, create jobs, and save taxpayer and consumer dollars.

I will offer one such example of a set of regulations that would be stiffled by the enactment of this bill: the regulations to improve our meat and poultry inspection system. The Food Safety and Inspection Service recently issued a proposed rule to modernize our meat and poultry inspection program. This rule has been in development for quite some time. The need for improvements to our inspection system were brought to national attention through the tragic deaths of a number of children 2 years ago when they became the victims of an outbreak of a food-borne illness. Ten years ago, the National Academy of Sciences recommended that FSIS develop a program that would control contamination from pathogenic microorganisms. A GAO study completed in May of last year recommended that FSIS develop a mandatory hazard analysis and critical control point system. USDA has now followed this wise advise. Why should this regulatory action be postponed? Do we need a few more outbreaks of food-borne illness or a few more deaths to qualify this rule for an exemption from this moratorium?

The FSIS estimates that compliance with this rule will cost industry $2 billion over a 20-year time period. However, it is estimated to save 3 to 12 times that amount in public health costs, not to mention that it will save lives. How much does it cost the restaurant industry and the meat and poultry industry if an outbreak of a devastating disease results in public perception that their products are unsafe? Too much.

The assumption that underlies this legislation is that all Federal regulations are unjustified. This is ridiculous. Some of our children grow up to be criminals. Should we put a moratorium on the birth of any additional children until we find a solution to that problem? Let us not throw out the baby with the bathwater. This bill proceeds from an incorrect assumption and then broadly applies a one-size-fits-none solution to regulatory problems associated with some specific statutes.

There are statutes that we have enacted that have not enabled Federal agencies to pursue the most cost-effective regulatory pathways. They should be improved. Instead of jeapordizing public health and safety through passage of one-size-fits-all legislation, let us do regulatory reform as it should be done. We need to use a common sense, responsible, statute-by-statute approach to achieve the sensible, cost-effective regulatory policy that industry and the public deserve.

The CHAIRMAN. All time on the gentlewoman's amendment has expired.

The question is on the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER].

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

RECORED VOTE

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 249, not voting 8, as follows:

[Roll No. 161]

AYES—177

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

NOES—249

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

NOT VOTING—8

Andrews	Frost	Meek
Barton	Gonzalez	Zimmer
Ehlers	McCarthy	

□ 1550

The Clerk announced the following pair:

On this vote:

Mrs. Meek for, with Mr. Barton against.

Messrs. LIVINGSTON, BROWDER, CRAMER, and BROWNBACK, Mrs. LINCOLN, and Mr. WILLIAMS changed their vote from ''aye'' to ''no.''

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Burton of Indiana: In Section 6(3)(B)(ii), after the comma following ''agreements'' insert the following: ''including all agency actions required by the Uruguay Round Agreements Act,''

The CHAIRMAN. Pursuant to the order of the House, the gentleman from Indiana, [Mr. BURTON], and a member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the statement I am about to make, while it applies to the textile industry, other parts of the GATT agreement that apply to steel, auto parts and possibly other industries would also be positively impacted by this amendment.

Mr. Chairman, I offer this amendment to the Regulatory Freeze Bill, H.R. 450, to prevent this legislation from inadvertently thwarting an action specifically mandated by Congress on an important matter pertaining to Customs Service rules of origin.

Congress was very clear on what it wanted Customs to do last year when it approved the Uruguay Round Agreements Act, because that legislation spelled out in precise detail how the U.S. Customs Service would be required to promulgate this rule of origin for textiles and apparel. There is no leeway for the bureaucracy to make any interpretation because Congress told them what to do. The regulation was actually spelled out for Customs when Congress approved these principles as part of the Uruguay Round implementing legislation.

For years the United States Customs Service has used a cutting rule of origin which permits country-of-origin status to be determined by where a garment is cut, not where it is actually made. This has enabled China to ship billions of dollars worth of goods through third countries in circumvention of the quotas they have agreed to.

No other major country has used such a liberal rule of origin requirement which permits quota evasion. And in the Uruguay Round agreement itself, the signatory nations agreed to work to standardize the rules of origin for textile production and products.

Accordingly, the U.S. Customs Service recommended and this Congress agreed, as part of the Uruguay Round implementing bill, to bring our Customs rules in line with the rest of the world.

What I am offering today is an amendment to clarify that these regulations, which were considered and duly voted on by the Congress and which by law must be issued shortly, will be exempted from the regulatory freeze. There simply is no need to freeze actions which have been directed by the Congress.

And I would like to once again state, Mr. Chairman, that the amendment is drawn in such a way as to positively impact on other industries such as the steel industry and auto parts industry.

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

The CHAIRMAN. Does the gentlewoman from Illinois [Mrs. COLLINS] seek recognition in opposition to the amendment?

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that if no Member is prepared to seek to control the time in opposition to the amendment, that the time might be given to the gentlewoman from Illinois [Mrs. COLLINS].

Mr. VOLKMER. Mr. Chairman, is the gentleman's request that the time in opposition be given either to the gentlewoman from Illinois [Mrs. COLLINS] or to the gentleman from South Carolina?

Mr. CLINGER. Mr. Chairman, that is my request.

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I would just say that this is an outstanding amendment. I think it is supported by all Members on this side that I know of. It is much needed to this bill.

It is interesting to me, though, that an amendment like this that is providing an exception, like the one before, there will be others after it, is going to now be accepted by the majority. I agree with that, but I do not understand the philosophy of the majority. Perhaps the chairman can elaborate on that, why they can accept certain ones as exceptions and not others. Can the gentleman from Indiana tell me why?

Mr. BURTON of Indiana. Mr. Chairman, reclaiming my time, I yield to the gentleman from Pennsylvania, [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, in response to the gentleman from Missouri, my position is, I do not really think the amendment is necessary, because I think that it is covered under the existing exceptions that are provided for foreign affairs and because there is a trade exception under the bill. But I do not think that, in other words, I think it may be covered but to ensure that, we would certainly accept this amendment.

□ 1600

Mr. VOLKMER. Mr. Speaker, the gentleman did not say that on the last amendment.

Mr. BURTON of Indiana. It may be an interpretation of what is really insurance as far as these industries are concerned.

Mrs. COLLINS of Illinois. Mr. Chairman, will be gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I would like to pose a question.

The gentleman's amendment refers to rules, ''as required by section 334 of the Uruguay Round Act.''

Under the bill, there is an exclusion in section 6(3)(B)(ii) for rules relating to ''statutes implementing trade agreements.''

Why, therefore, I would ask the gentleman, does he believe his amendment is necessary?

Mr. BURTON of Indiana. Mr. Chairman, I would say to the gentlewoman, I think I agree with what the chairman said, that it probably is not absolutely necessary. However, there are a number of industries in this country that feel like there needs to be some insurance that there is no misinterpretation. That is why we have offered the amendment, to make sure they feel comfortable with this piece of legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I agree with the gentleman's concern. As a matter of fact, I have a couple of concerns myself.

One, of course, has to do with the textile and apparel workers. I have a lot of those in the city of Chicago, and I know this moratorium bill would have made it more difficult for customs to stock illegal textile imports, so I am going to support the gentleman's agreement.

I am also concerned that H.R. 450 could stop our Government from imposing sanctions against China for pirating copyrighted United States products, like compact disks and videocassettes. I would also like to think that that would also clarify that those sanctions would not be permitted, as well.

Mr. BURTON of Indiana. Mr. Chairman, I think it could be interpreted to be broad in that regard, too.

I would just reclaim my time and thank the gentlewoman for her comments. I think this amendment speaks for itself, and I would rather not get into a lengthy discussion on China and other things of that type. However, I do think this amendment is broad enough that it probably covers a lot of those concerns.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

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

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by the gentleman from Indiana [Mr. BURTON]. This amendment would ensure there would be no interruption in the rulemaking authority for the Rules of Origin provision contained in the Uruguay Round Agreements Act. It is of great importance to the textile and the apparel trade during the current 10-year phase out period for all import quotas on these products.

The rules of origin provision has the full support of the U.S. textile and apparel unions and trade associations representing some 2 million American workers.

Adoption of this amendment is also essential to help to deter fraud and abuse of the Rules of Origin by several leading exporting countries.

Under the new rules, the country of origin is where the garment is assembled or where the fabric is woven.

The illegal transshipment of apparel products has in the past been a key irritant in our bilateral relationship with China. I ask my colleagues for their support for this provision, which will prevent any future efforts by China to export garments into this country illegally under the quota of its neighbors, including Hong Kong and countries in Asia and Latin America.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, as I said earlier, I am very concerned about the fact that there should be some kind of sanctions imposed against China for pirating patented and copyrighted United States products, such as compact discs and videocassettes, and the Trade Representative has recently announced those sanctions.

They would be implemented pursuant to a rule printed in the February 7, 1995, Federal Register. Few challenge our findings that China has violated the intellectual property rights of American companies. We know of at least 29 factories in southern China which produce 75 million compact discs a year, of which 70 million are exported.

These pirated copies are competing directly with U.S. exports, and cost the copyright industries of the United States almost $1 billion in lost exports each year. For the past 20 months we have been negotiating with China in an effort to get them to agree to stop these pirating activities. Those efforts have failed.

In documents provided to the committee by the Office of Management and Budget, H.R. 450's impact on the China sanctions is described in this way: ''The moratorium would hold up the trade sanctions and subject them to challenge, affecting the administration's ability to set trade policies to protect U.S. firms and consumers.''

Therefore, I am very happy about the gentleman's amendment. The reality is that the sanctions the administration has said it would impose on China are the only leverage we have to encourage the Chinese to stop pirating United States copyrighted products.

Why would we ever want to make it more difficult for the administration to get the Chinese to stop violating United States intellectual property rights? Similarly, a proposed rule published in December by the Customs Service would establish a 180-day conditional release period for imported textiles and textile products, during which it can be determined whether a product is entitled to entry into the U.S. market.

It is well-known that many foreign countries successfully avoid U.S. textile quotas by shipping their products through a third country. The conditional release period provided for in the new rule would have given Customs the time it needs to verify country of origin and to stop illegal shipments from entering our country.

In documents provided by OMB, the impact of H.R. 450 on the rule is described in the following way: ''Textiles will continue to enter the United States illegally due to lack of a provisional approval period, unfairly competing with products from domestic textile producers.''

Therefore, it just makes all kinds of sense to have the gentleman's amendment. Mr. Chairman, it is just about time for us to look very carefully at the kinds of rulemaking that would be stopped if H.R. 50 were not amended by some real sensible amendments, so I thank the gentleman for offering this, because it certainly does a great deal to help those people in my district who are textile workers, and those in my district who are very concerned about the fact that there is so much copyrighting of videocassettes and compact discs.

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

Mr. BURTON of Indiana. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. QUILLEN].

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

Mr. Chairman, I think this is a fine amendment. It was an oversight that it was not included in the original bill. Mr. Chairman, I urge our Members to vote for it. It corrects a situation for the textile and apparel industries that badly needs to be realized and corrected.

I commend the gentleman from Indiana [Mr. BURTON] for sponsoring this amendment, and I join hands with him to get it passed.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

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

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

Mr. RADANOVICH. Mr. Chairman, I am told that I may inform my colleagues in this House that I have an amendment to offer, but in the interest of ensuring the speedy passage of H.R. 450, I will not offer the amendment, but instead start a dialogue concerning an issue which must be dealt with in the near term. That issue is the regulation concerning ''fresh'' and ''frozen'' chickens. My points are these:

Why cannot this wait until the moratorium is over?

Shoppers across the country are paying anywhere from 40 cents to 1 dollar more per pound for chicken they think is fresh, when it isn't. This means that American homes are being defrauded of millions of dollars each year and to wait means we are sitting back and knowingly allowing this fraud to continue for an entire year.

In California in particular, it would mean another year in which out-of-state processors can intentionally undersell regional producers by misrepresenting their product. The industry has 25,000 employees and has steadily lost market share to frozen chicken sold as fresh.

How long has this fight been going on?

USDA has been trying to change this rule since 1988. The Food Safety and Inspection Service changed it's policy to stop the use of the term ''fresh'' on frozen chicken, but powerful national poultry producers intervened and stopped the new policy from going into effect.

The California legislature tried to act on its own to prohibit mislabeling in September, 1993. When they were stopped from doing so by a Federal court, they started working to persuade USDA to adopt a better standard for the whole country.

□ 1610

Mr. Chairman, based on these concerns, I urge the Committee on Agriculture to consider in some appropriate context the passage of a special allowance for this regulation. I find it difficult being a small businessman with this kind of concern, and I support fully H.R. 450, but I wish that in this particular area, a consideration would be given.

Mr. Chairman, I submit for the RECORD a short fax sheet explaining the history of this problem, as follows:

THE FRESH CHICKEN CONTROVERSY

Historically, national poultry producers have been putting fresh labels on frozen chicken. They freeze their chicken rock solid, label it fresh, truck it across the U.S., thaw it out locally and sell it to consumers as if it had never been frozen. These producers know that consumers will pay a premium for fresh food, but consumers don't know they're being duped.

On July 11, 1988, after months of scientific analysis, the Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) issued Policy Memo 022B, raising the fresh poultry labeling standard from 0 to 26 degrees Fahrenheit. This meant that national producers could no longer put fresh labels on chicken chilled below 26 degrees—the actual freezing point for poultry. National producers were not happy with this policy change.

On January 11, 1989, despite FSIS's scientific conclusions six-months earlier, USDA abruptly rescinded Policy Memo 022C and restored the old standard allowing producers to once again freeze chicken as low as 1 degree Fahrenheit and still label it as fresh.

In 1993, the California legislature unanimously passed a law mirroring the short-lived Federal standard of 26 degrees. The National Broiler Council and the Arkansas Poultry Federation sued, arguing that a

state cannot pass a more stringent labeling rule than the U.S. government. USDA filed a brief in the lawsuit supporting the poultry industry position. A Federal court blocked enforcement of California's law on jurisdictional grounds on April 8, 1994. The issue was appealed.

Many other states, including New York, Arizona, Oregon, Maine, Alaska, Illinois, Washington and Puerto Rico, have passed poultry labeling laws regarding the definition of ''fresh'', as well as organic and kosher production and processing.

On February 10, 1994, USDA Secretary Mike Espy issued a press release, pledging that USDA would direct the Food Safety and Inspection Service (FSIS) to reexamine whether current policy on fresh labeling is reasonable.

On June 16, 1994, the Government Operations Subcommittees on Human Resources and Intergovernmental Relations and Information, Justice, Transportation and Agriculture conducted a joint hearing on USDA rules concerning ''fresh'' labels on poultry products. Richard Rominger, USDA Deputy Secretary, testified that FSIS staff would review current policy on two tracks: evaluate scientific literature concerning temperature effects on poultry, and, conduct regional hearings to assess consumer expectations. These results would form the basis of any policy revision regarding labeling of ''fresh'' poultry.

Support for a new rule continued to grow. Well-known and respected consumer groups urged Secretary Espy to act, including Consumers Union, Consumer Federation of America, National Consumers League and Public Voice for Food & Health Policy.

On July 27, ''The Truth in Poultry Labeling Act of 1994'' was introduced by Senators Boxer and Feinstein and Representative Condit in the 103rd Congress. The Senate approved Senator Boxer's Amendment to S. 2095 expressing the sense of the Senate that delays in proposing a new rule must be ended and a decision must be made ''as expeditiously as possible.''

FSIS Administrator Michael R. Taylor promised Senator Barbara Boxer and Representative Condit that truth-in-labeling would be addressed on a ''fast track''.

On August 26, 1994, USDA Food Safety and Inspection Service announced public hearings on the use of the term ''fresh'' on the labeling of raw poultry products to be held on: September 12, 1994 in Modesto, California; September 16, 1994 in Atlanta, Georgia; and September 20, 1994 in Washington, D.C., to assist FSIS in developing a new policy.

Consumer advocates, chefs, consumers and home economists came forward and testified at these public hearings across the country that it was time for USDA to listen to consumers and end mislabeling of poultry.

In a letter to Senator Boxer and Congressman Condit. USDA promised a rule before Thanksgiving.

On December 14, 1994, a victory was won by California consumers when the Ninth Circuit Court of Appeals reinstated the provision making it illegal for poultry frozen below 26 degrees Fahrenheit to be advertised or sold as fresh.

Consumer advocates Public Voice for Food and Health Policy and the National Consumers League implored USDA to change federal labeling laws so that all Americans are afforded the same protection against the misrepresentation of frozen chicken being sold as fresh.

On December 21, 1994, Senator Boxer again urged USDA Deputy Secretary Rominger to expedite rule-making, particularly in light of the recent California Court decision. Deputy Secretary Rominger again assured her that a proposed rule would be announced within four weeks. Consumers, chefs, consumer advocates, home economists and members of Congress continue to anxiously await USDA's resolution of this priority issue.

While USDA drags its feet, Congressman Condit introduces H.R. 203, ''The Truth in Poultry Labeling Act'' in the 104th Congress.

On January 17, 1995, FSIS finally acts and releases a proposed regulation on labeling ''fresh'' poultry prohibiting the use of the term ''fresh'' being used on raw poultry products whose internal temperature has gone below 26 degrees and requiring thawed products which have gone below 26 degrees to be labeled ''previously frozen.''

Truth-in-advertising and honest labeling have not yet been achieved. Consumers, consumer advocates, poultry producers, and other supporters who believe in honest labeling can tell USDA to not bow to the pressure of those producers interested in continuing to mislead the public. FSIS must be vigilant in preserving the rights of consumers. Comments to the Federal Register will be accepted until March 20, 1995.

A federal rule on poultry freshness will not stop national producers from selling chickens nationwide, nor will it stop them from selling at lower prices than in-state growers; it will simply enable consumers who wish to pay a premium for freshly killed poultry to make an informed selection.

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

Mr. CLINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I had an amendment to do the very same thing. I still plan to offer it, if time allows, because I have been in contact with USDA and the general counsel over there, and they advise me that these regulations will not be able to go forward if this bill passes and becomes law as it is presently written. What it will mean is that the matter now being proposed at USDA to correct the problem that the gentleman has in California will not be done.

So I think that the gentleman surely would join with me in that amendment if we get an opportunity to do it.

Mr. RADANOVICH. I wish to raise the issue, but I have no intention of stopping the speedy passage of H.R. 450.

Mr. VOLKMER. What do you mean? You had rather not take care of the problem?

Mr. RADANOVICH. I had rather it be taken care of in the Committee on Agriculture.

Mr. VOLKMER. Committee on Agriculture. How are we going to do it in the Committee on Agriculture? I am a member of the Committee on Agriculture.

Mr. RADANOVICH. I am not interested in slowing the passage of H.R. 450, sir.

Mr. VOLKMER. Yippee.

AMENDMENT OFFERED BY MR. SPRATT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

AMENDMENT OFFERED BY MR. SPRATT

At the end of the bill (page , after line), add the following new section:

SEC. . REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, Interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator or the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administrater laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce Intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7320).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1983 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licensee utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased

competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking ws published on February 9, 1995 (60 Fed. Reg. 7118).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

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

Mr. Chairman, I rise to support the Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment to H.R. 450.

Basically, Mr. Chairman, this amendment carves out several selected exceptions to this regulatory freeze to allow for rules that American businesses have actually sought and supported. Our amendment would mean the moratorium would not apply to five subject areas:

No. 1. Trade sanctions against China. Mr. Chairman, if this bill passes, the administration may, I cannot say this with any certainty, but it may be barred or at least impeded from imposing sanctions against China for pirating our patents and copyrights. Section 6 of the bill does exclude from the freeze ''statutes implementing international trade agreements.'' But the sanctions we would impose upon China do not implement any international trade agreements, they are sanctions imposed under our own trade laws. So they may not be precluded as a rule-making action as this bill is written now.

Our amendment would make certain simply that we can sanction China for pirating our patents and copyrights, and I do not see how anybody can oppose that.

No. 2. Implementation of the so-called Customs Modernization Act. American exporters and importers alike support the Customs Modernization Act because it cuts costs and cuts delays as well. The Customs Service supports it because the Modernization Act saves millions of dollars and allows Customs to streamline its operations and get rid of obsolete requirements. H.R. 450 will potentially stop Customs from implementing by regulation all parts of the Modernization Act. Surely there is no reason for us to do that. The Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment would ensure that this bill does not inadvertently get in the way of Customs modernization. There is nothing wrong with that.

No. 3. Wider access to telecommunications, the so-called auction of the spectrum. H.R. 450 will potentially suspend rules that govern the auction of the spectrum that have been issued recently and it could require the FCC to shut down its auction for as much as the next 10 months. Since December, these FCC auctions have raised $6.1 billion. Do we want to have H.R. 450 stop the Government from collecting revenues of this magnitude for the rest of the year? Do we want to prevent the FCC from making available additional spectrum to police and public safety officials under new and revised regulations? Our amendment would make certain that we do not do that.

No. 4. Improved opportunities for regional stock exchanges. The SEC issued rules this month to allow for increased competition among regional stock exchanges. H.R. 450 would freeze these rules with all others. Our amendment would simply ensure that they go forward.

Finally, Mr. Chairman, Customs is about to issue textile rules of origin which we just talked about that will authorize our Government to stop exporting countries like Hong Kong from shipping to us goods under their quota which are actually made in China. This is a form of fraud. Surely we do not want to block rules that crack down on fraudulent trade. That is why we just accepted the Burton amendment, but mine goes further and deals with other textile and apparel import rules and regulations that deal with fraud, evasion and circumvention.

For example, Customs has recently issued another rule that stiffens the penalties against textile transshipments which are a form of fraud and quota evasion. This amendment would simply allow that these regulations against trade fraud and evasion take effect. That should not be objectionable to anybody, particularly since the Burton amendment was just accepted without objection without any more than a voice vote.

I say to my colleagues, regardless of how you want to vote on H.R. 450, you ought to vote for this amendment. If you want to have our Government have the power to impose trade sanctions upon China, you should vote for this amendment. If you want to see the auction of the spectrum and the billions of dollars it is generating in revenues for the Treasury go forward under new clarified rules of procedure, then you should vote for this amendment. If you want to crack down on fraud and evasion by countries that ship billions of dollars into our markets but flout our rules of trade, then you should vote for this amendment.

These are regulations, as I said at the outset, that American businesses have sought and supported, many of us in this House have sought and supported them, and we gain nothing and we lose a lot by freezing actions on them for 13 solid months.

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

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

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

Mr. Chairman, basically I think the same argument would apply to this as would apply to some of the others that have been suggested, and, that is, whether this would accomplish what the gentleman really seeks to accomplish. It seems to me that we have provided an exemption here that would deal with the issue that the gentleman raises. I gather there are two issues raised in this amendment. The one on the textile element was not covered by the last amendment, may I ask the gentleman?

Mr. SPRATT. If the gentleman will yield, it was only partially covered by the last amendment, because the last amendment went to the rules of origin which are a legally dictated rule that was imposed upon the Treasury Department by the GATT-implementing legislation when it was passed. This deals with a wider spectrum of rules and regulations that apply to fraud, evasion, circumvention, textile trade fraud, more than just the rules of origin problem.

Mr. CLINGER. Specifically what do you provide with regard to the FCC?

Mr. SPRATT. There are rules now pending which have been issued by the FCC that will deal with additional auctions of the spectrum in a certain megahertz range. We will have members of the Committee on Commerce come here shortly and speak to that. But basically if those rules do not go forward, then the auction itself could be impeded and billions of dollars could be in jeopardy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, it is my understanding that much of the provisions that are being discussed in this amendment actually can go forward under the exceptions that we currently have in the bill. Specifically those dealing with the FCC licensing provisions, we have an exemption for licenses that would allow the FCC to go ahead and issue all of those licenses. It is my understanding that it is their practice to implement their policies on a license-by-license basis, be able to go forward, both with the auction and the other licenses that they would seek to offer.

In terms of the regulations regarding trade in the textile area, to the extent those are related to an international trade agreement, the exception there would apply. Those that are related to fraud in a criminal sense would be able to go forward under the exception allowed for regulations necessary to enforce criminal statutes.

For those reasons, I think the real gravamen of this amendment is taken care of already in the bill and we do not need to have special exceptions in this case.

□ 1620

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the ranking member of our committee, the gentlewoman from Illinois, [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Carolina.

Business loves to complain about burdensome Federal regulation, but the fact of the matter is that business also benefits from Federal regulation. The regulations included in the gentleman's amendment make this point very clear.

The regulations issued by the Federal Communications Commission which are contained in the Spratt amendment are good examples of Federal regulations that benefit business. The FCC has a rulemaking under way pertaining to mobile wireless radio services, such as wireless fleet dispatch communications.

There is a company in Chicago, NEXTEL, which is eager to compete in providing this service, and they need this rule issued to be able to compete effectively.

Why would we want this moratorium to apply to rules like this? Are we against regulations that will produce revenues for the Federal Treasury and increase competition?

NEXTEL does not believe the exclusions in the bill protect them, and they have said so in a letter to me. They would not be eligible for the exclusion for new technologies. Their technology is already being offered in Los Angeles, and as of last month in Chicago as well. But, to compete with other telecommunications firms, NEXTEL needs the common carrier status which this rule would grant it.

Furthermore, NEXTEL is by no means the only beneficiary of this rule. Until this new rule goes forward, more than 800 companies similar to NEXTEL all over the country, will be stopped from competing to provide wireless mobile radio services.

Finally, regulations will soon be issued by the Securities and Exchange Commission which will promote the competitiveness of regional stock exchanges in Chicago, Boston, Philadelphia, Cincinnati, Los Angeles and San Francisco.

These regulations would eliminate the time regional stock exchanges must wait before they can trade in new stocks listed on the principal exchanges.

I was a cosponsor of the Unlisted Trading Privileges Act under which these regulations are being issued. This legislation had strong bi-partisan support and passed the House three times before it was included in last year's budget reconciliation bill.

Why would we want to block implementation of regulations that will promote competitiveness of the regional stock exchanges?

Unless we are willing to surrender to foreign unfair trade practices and do not care about creating a competitive, state-of-the-art telecommunications industry, we should exempt these regulations from the moratorium.

I urge my colleagues to support the gentleman's amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time.

I will simply say, Mr. Chairman, that I was in favor of the Burton amendment, a good sound amendment, but I believe the Spratt-Coble-Ballenger-Payne amendment extends the propriety thereof and I think it extends it in areas that are needed.

Sanctions against transshipments and other forms of quota violations, in my opinion, Mr. Chairman, are epidemic and I think we need this additional amendment to address that.

Textile and apparel workers, my mom used to be one, worked at a hosiery mill, was a machine operator. I represent thousands of employees who earn their living to this day in textile miles, a very significant cog in the American wheel of industry.

I think this is an amendment that is needed. I think it will address areas that in my opinion the Burton amendment does not address, and furthermore, I think will do harm to no one.

I think it will enhance America's role, in fact, not just in the textile and apparel area but otherwise. I urge support of the amendment and I thank the gentleman for having yielded time to me.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of the Spratt, Payne, Coble, Ballenger, Hefner, Burr, Rose, Funderburk amendment to H.R. 450. While I am pleased that the gentleman from Indiana's amendment was accepted and I think it was a very important amendment. It does not address several other issues that are critical to American industry, particularly the American textile industry, while I am pleased our amendment on the other hand, does in fact speak to the needs of our industry.

Our amendment is a good government amendment. It protects American businesses and workers from unintended consequences of the regulatory moratorium. It allows several specific exemptions to the moratorium that American businesses want and need.

Our amendment will allow the Customs Service to continue its fight against illegal transshipments. These illegal shipments or textile and apparel goods represent up to $4 billion in lost sales every year to the American textile and apparel industry.

Last year, as part of the GATT implementing bill, the Congress directed the Customs Service to take additional measures to fight this serious transshipments problem. Unfortunately, the language of H.R. 450 would prevent the Customs Service from issuing regulations to implement what Congress specifically requested.

The Customs Modernization Act is also addressed. Importers and exporters alike have complained for years that Customs procedures and structures are badly in need of reform. In response to those concerns, Congress passed the Customs Modernization Act as part of the NAFTA implementing bill in 1993.

Since then, Customs has been proceeding in a very deliberate manner to reform itself in a way that will be more responsive to the businesses who depend on importing and exporting to survive.

However, this comprehensive, bipartisan, and widely supported effort will not go forward without the exemption that this amendment would grant.

Mr. Chairman, our amendment is aimed at just one thing: Preserving American jobs by preserving the competitiveness of American businesses.

I urge my colleagues to support this amendment.

Mr. CLINGER. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Chairman, I rise in support of the Spratt-Payne amendment. It is a necessary and important piece of amendatory legislation.

This bill is going to have some surprising effects, many harmful, and many which will surprise those who support it.

I refer specifically to the situation with regard to FCC regulations which govern the behavior of the entirety of the telecommunications industry.

I would point out to my colleagues that the amendment would prevent the suspension of a series of important regulations relating to the issuance of new licenses for operations of portions of the radio spectrum to assist the growth of our telecommunications industry.

I would tell my colleagues if these regulations are suspended, serious consequences occur. First of all, American industry is delayed in getting into the new telecommunications services. American business and consumers are hurt by that action.

Revenues are lost both to providers of service and to users of telecommunication services.

Beyond that, it will preclude the taxpayers from benefiting from the competitive bidding procedures established by the Congress in the 1993 reconciliation bill.

The Spratt-Payne amendment ameliorates to a large degree these deficiencies. It exempts from the sweeping scope of this legislation 3 important FCC regulations that create business opportunities and that protect the public interest.

It exempts those which protect the public safety and bring important revenue into the Federal Treasury.

The amendment also provides an exception for regulations issued last November that created the Personal Communications Services, the PCS's.

□ 1630

These regulations establish geographic areas that would be covered by PCS licenses. They establish the bandwidth and other circumstances associated with the behavior of licensees.

The regulations establish the basis for companies to bid for licenses at auction. In December, on the 5th day, the FCC commenced to auction the PCS licenses. This auction is still going on today. As of the close of business last night, bids totaling $6.3 billion had been logged into the FCC computers. When the three pioneer preference licenses are factored in, the total amount in FCC computers is $6.9 billion that would come to the taxpayers if the FCC is not precluded from including those revenues in those regulations because of the enactment of this, quite frankly, silly piece of legislation.

What will happen to these bids if the regulations that govern the licenses are suspended? Will the bidders such as AT&T or Pacific Telesis or any other bidders keep bidding? Will they continue to make payments to the Treasury hoping that the regulations will ultimately be permitted to take place?

Another regulation that the Spratt-Payne amendment would exempt from the allocation or, rather, from the provisions of this legislation, are allocations of 50 megahertz of radio spectrum the Federal Government has transferred to the FCC for new uses, something that the American manufacturing and telecommunications industry desperately needs. Potential users of these frequencies are police, fire, public safety users of the spectrum in our largest cities. There is a critical shortage of this spectrum.

I urge my colleagues to reject the language of the bill and to adopt the Spratt-Payne amendment.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

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

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Spratt-Payne-Coble-Ballenger amendment. It is important to textile workers and industry in North Carolina.

Mr. SPRATT. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time. I thank him and the gentleman from Virginia for making this amendment.

To follow on what the gentleman from Michigan was just referring to, we have two very important issues that would, in fact, be affected if we did not pass the amendment before us right now. No. 1, out of the Commerce Committee last year we passed legislation on something called unlisted trading privileges.

Now, it all sounds very technical, but the net result of it is that it allows the Philadelphia Stock Exchange, the Boston Stock Exchange, the Chicago Stock Exchange, Pacific Stock Exchange, Cincinnati Stock Exchange to get into all new activities in a much more telescoped timeframe than they have ever been allowed to engage in trading before. It is a real spur to competition out in the marketplace. It is something ultimately we were able to pass on a unanimous basis.

But if the amendment does not pass, it will be impossible for the Securities and Exchange Commission to be able to get this regulation in place and to give benefits to the Chicago and Philadelphia and Pacific, other regional, stock exchanges in their competition with New York and the American Stock Exchange.

Second, we have a tremendous revolution taking place in this country that involves cellular phones, faxes, and wireless technologies of all kinds. Last year we passed laws out of the Commerce Committee so that the Federal Communications Commission would transfer 50 megahertz of spectrum for use in this area.

By the way, when you think about 50 megahertz, you have an idea just what that is, that is all of the spectrum now being used for cellular phones, all of them. We are talking about moving over the spectrum so we can have this revolution so the Dick Tracy two-way wrist radio is something that is in the stores within 2 or 3 years.

If this amendment does not pass, it is going to stall, delay, and make almost impossible our ability as a Nation to get our product out onto the international market first so that we are most competitive, so the jobs are here in the United States.

Those are two examples. We could go on, but I think that just so you have a sense of the range of concerns of industries as diverse as the Pacific Stock Exchange and every cellular and fax and wireless company in the United States. Let us hope this amendment passes.

Anyone who is listening, American competitiveness very much depends upon the Spratt-Payne amendment passing this House this afternoon.

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

Mr. Chairman, I think we feel that the items that the gentleman is attempting to deal with in this amendment would be eligible to go forward under exemptions which are provided in the bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, let me say that the points that my colleague, the gentleman from Massachusetts [Mr. MARKEY], has raised are some very important changes in the regulatory system, and he and his staff are to be commended for having worked on those, in particular reducing the burdens on some of the exchanges outside of New York so that they can offer those additional services.

It is the opinion of the authors of this bill and my committee, subcommittee, and the gentleman from Pennsylvania [Mr. CLINGER], the full committee, those types of regulations are exempt from the moratorium precisely because they do reduce the current regulatory burden on the private sector, and that the SEC could go forward with those regulations. The FCC can go forward with its licenses and allow the private sector, through an auction process, to expand the cellular phone markets and other services that they seek to provide for.

So I think the problem is addressed in the moratorium legislation. There is not a need for an explicit amendment.

One of the things that we have very carefully guarded against is starting a long list of particular regulations that would be exempt because of the problem of statutory construction. If you have a very general provision that says we are going to protect health and safety, we are going to allow regulations that reduce burdens on the economy, but then you start a list of particular amendments or particular regulations, there might be something that is not on the list, and our concern was those items not on the list that protect health and safety or reduce a burden could be held up because they were not listed.

We tried to keep it a very general provision allowing the particular regulations that the gentleman from Massachusetts [Mr. MARKEY] mentioned to go forward.

For that reason, I would urge that the body today vote against that amendment.

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

Mr. MCINTOSH. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

There is an exemption in your legislation for licensing. What we have to distinguish though is the difference between licensing and the FCC promulgating rules and regulations with regard to bandwidth, with regard for geographic distancing, with regard to who is eligible. Right now, based upon the regulations that are out there, $6½ billion—billion dollars—has been bid by companies for this spectrum.

If we change that today, all of that money is just going to be taken back off the table by all of these companies because of the uncertainty which is going to be established. So it has a big

impact on our deficit-reduction objectives as well, because these companies are bidding based upon the FCC's ability to lay out not just the licensing but the eligibility, bandwidth, geographic spacing of all of these technologies as well.

So I appreciate what you are trying to do in licensing. It just does not quite reach the problem, and it will affect all of the cellular phone competition out there in the market.

Mr. MCINTOSH. If I could respond to that, because I want to make it clear to the FCC, in our opinion they can continue to grant those licenses. It is my understanding they can, on a case-by-case basis, apply all of those criteria as they issue the particular license. I want them to be sure and go ahead and issue those licenses.

Mr. MARKEY. If the gentleman will yield further, they can issue the licenses under the exemption. What they cannot do is establish the regulations for the conditions dealing with the issuance of the license, and that is not in fact exempted in your language; they will be handcuffed in terms of the ability to take the next step, and as a result, all the bidders will pull the $6 billion worth of bids for this spectrum off the table.

You have an error here in terms of the overall operation of how the FCC actually promulgates regulations, and it has an impact on a bipartisan piece of legislation that passed which will generate $6 to $10 billion if the FCC is allowed to proceed as they have.

Mr. MCINTOSH. Mr. Chairman, let me just conclude by saying I think that the provisions in the bill right now would let them specify those general policies and continue on with their licensing program. But I appreciate my colleagues' bringing this to our attention.

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

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 189, not voting 10, as follows:

[Roll No. 162]

AYES—235

Abercrombie	Bereuter	Brown (FL)
Ackerman	Berman	Brown (OH)
Bachus	Bevill	Bryant (TX)
Baesler	Bishop	Bunn
Baldacci	Blute	Burr
Ballenger	Boehlert	Cardin
Barcia	Bonior	Chambliss
Barr	Borski	Chapman
Barrett (WI)	Boucher	Clay
Becerra	Brewster	Clayton
Beilenson	Browder	Clement
Bentsen	Brown (CA)	Clyburn
Coble	Johnson (SD)	Pickett
Coleman	Johnson, E. B.	Pomeroy
Collins (IL)	Johnston	Poshard
Collins (MI)	Jones	Quillen
Condit	Kanjorski	Rahall
Conyers	Kaptur	Rangel
Costello	Kennedy (MA)	Reed
Coyne	Kennedy (RI)	Regula
Cramer	Kennelly	Reynolds
Danner	Kildee	Richardson
de la Garza	Kleczka	Rivers
Deal	Klink	Roemer
DeFazio	LaFalce	Rose
DeLauro	LaHood	Roybal-Allard
Dellums	Lantos	Rush
Deutsch	Laughlin	Sabo
Dicks	Leach	Sanders
Dingell	Levin	Sawyer
Dixon	Lewis (CA)	Schroeder
Doggett	Lewis (GA)	Scott
Dooley	Lincoln	Serrano
Doyle	Lipinski	Sisisky
Duncan	Lofgren	Skaggs
Durbin	Longley	Skelton
Edwards	Lowey	Slaughter
Engel	Luther	Solomon
Eshoo	Maloney	Spence
Evans	Manton	Spratt
Everett	Markey	Stark
Farr	Martinez	Stenholm
Fazio	Mascara	Stockman
Fields (LA)	Matsui	Stokes
Filner	McDermott	Studds
Flake	McHale	Stupak
Foglietta	McInnis	Tanner
Ford	McKinney	Tauzin
Fowler	McNulty	Taylor (MS)
Frank (MA)	Meehan	Taylor (NC)
Frost	Menendez	Tejeda
Funderburk	Mfume	Thompson
Furse	Miller (CA)	Thornton
Gejdenson	Mineta	Thurman
Gephardt	Minge	Torres
Geren	Mink	Torricelli
Gibbons	Moakley	Towns
Gilman	Mollohan	Traficant
Gordon	Montgomery	Tucker
Green	Moran	Velazquez
Gutierrez	Morella	Vento
Hall (OH)	Murtha	Visclosky
Hall (TX)	Myrick	Volkmer
Harman	Nadler	Wamp
Hastings (FL)	Neal	Ward
Hayes	Norwood	Waters
Hefner	Oberstar	Watt (NC)
Heineman	Obey	Waxman
Hilliard	Olver	Whitfield
Hinchey	Orton	Williams
Hoke	Owens	Wilson
Holden	Pallone	Wise
Houghton	Parker	Wolf
Hoyer	Pastor	Woolsey
Hunter	Payne (NJ)	Wyden
Inglis	Payne (VA)	Wynn
Jackson-Lee	Pelosi	Yates
Jacobs	Peterson (FL)	
Jefferson	Peterson (MN)	

NOES—189

Allard	Coburn	Franks (NJ)
Archer	Collins (GA)	Frelinghuysen
Armey	Combest	Frisa
Baker (CA)	Cooley	Gallegly
Baker (LA)	Cox	Ganske
Barrett (NE)	Crane	Gilchrest
Bartlett	Crapo	Gillmor
Bass	Cremeans	Goodlatte
Bateman	Cubin	Goodling
Bilbray	Cunningham	Goss
Bilirakis	Davis	Graham
Bliley	DeLay	Greenwood
Boehner	Diaz-Balart	Gunderson
Bonilla	Dickey	Gutknecht
Bono	Doolittle	Hamilton
Brownback	Dornan	Hancock
Bryant (TN)	Dreier	Hansen
Bunning	Dunn	Hastert
Burton	Ehrlich	Hastings (WA)
Buyer	Emerson	Hayworth
Callahan	English	Hefley
Calvert	Ensign	Herger
Camp	Ewing	Hilleary
Canady	Fawell	Hobson
Castle	Fields (TX)	Hoekstra
Chabot	Flanagan	Horn
Chenoweth	Foley	Hostettler
Christensen	Forbes	Hutchinson
Chrysler	Fox	Hyde
Clinger	Franks (CT)	Istook
Johnson (CT)	Moorhead	Shadegg
Johnson, Sam	Myers	Shaw
Kasich	Nethercutt	Shays
Kelly	Neumann	Shuster
Kim	Ney	Skeen
King	Nussle	Smith (MI)
Kingston	Oxley	Smith (NJ)
Klug	Packard	Smith (TX)
Knollenberg	Paxon	Smith (WA)
Kolbe	Petri	Souder
Largent	Pombo	Stearns
Latham	Portman	Stump
LaTourette	Pryce	Talent
Lazio	Quinn	Tate
Lewis (KY)	Radanovich	Thomas
Lightfoot	Ramstad	Thornberry
Linder	Riggs	Tiahrt
Livingston	Roberts	Torkildsen
LoBiondo	Rogers	Upton
Lucas	Rohrabacher	Vucanovich
Manzullo	Ros-Lehtinen	Waldholtz
Martini	Roth	Walker
McCollum	Roukema	Walsh
McCrery	Royce	Watts (OK)
McDade	Salmon	Weldon (FL)
McHugh	Sanford	Weldon (PA)
McIntosh	Saxton	Weller
McKeon	Scarborough	White
Metcalf	Schaefer	Wicker
Meyers	Schiff	Young (AK)
Mica	Schumer	Young (FL)
Miller (FL)	Seastrand	Zeliff
Molinari	Sensenbrenner	Zimmer

NOT VOTING—10

Andrews	Gekas	Ortiz
Barton	Gonzalez	Porter
Ehlers	McCarthy	
Fattah	Meek	

☐ 1658

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton against.

Mr. NEY, Mr. CRAPO, Mrs. CHENOWETH, Mr. DOOLITTLE, Mrs. CUBIN, Mr. METCALF, and Mr. SCHUMER changed their vote from ''aye'' to ''no.''

Mr. CHAMBLISS and Mr. STOCKMAN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1700

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: In section 5(a)(2) (page , line), strike ''imminent threat'' and insert ''substantial endangerment''.

In section 6(7) (page , beginning at line)—

(1) strike ''death, serious illness, or severe injury'' and insert ''substantial endangerment'';

(2) in the heading strike ''IMMINENT THREAT'' and insert ''SUBSTANTIAL ENDANGERMENT'', and in the text strike ''imminent threat'' and insert ''substantial endangerment''; and

(3) strike ''during the moratorium period''.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. WAXMAN] and a Member opposed, will each control 15 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

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

Mr. Chairman, I offer this amendment on behalf of the gentleman from Wisconsin [Mr. BARRETT], the gentleman from Vermont [Mr. SANDERS], and myself. The purpose of this amendment is to apply the same protection to human health that H.R. 450 would provide to private property. This bill provides an exemption from the moratorium for imminent threats to health or safety. In section 6(7) this is defined to be a reasonable expectation of death, serious illness or severe injury to humans, or substantial endangerment to private property.

This definition in H.R. 450 provides significantly more protection to private property than to health. My amendment would equalize the level of protection. It would apply the substantial endangerment test to both private property and human health. It is inconceivable to me that this body would want to go on record as providing more protection to private property than to human health. It is inconceivable that we want to set up a different standard for the protections of private property than for human health, which is exactly what this bill would do, and it does not make sense. Let me explain why H.R. 450 provides more protection to private property than human health.

This bill in the case of private property requires a reasonable expectation of an endangerment, and that would be sufficient to exempt a regulation from the moratorium. There is no requirement to show that there is a reasonable expectation of actual injury. All you have to show is that private property is placed in jeopardy.

In the case of human health or safety, the standard of a reasonable expectation of an endangerment is not enough to exempt the regulation. It is not enough to show that people will be put in a dangerous situation. Instead, you must show it is likely that there will be actual death, actual illness, or injury.

This test is much more difficult to meet than private property tests. It is much easier to show that there is a reasonable expectation that some property may be endangered but not actually injured, which is the private property test, than to show that there is a reasonable expectation that some person will be actually injured, which is the health test.

Private property gets more protection than health for a second reason, also. A regulation to protect private property can be exempted from the moratorium so long as the endangerment is just substantial. When it comes to human health, however, the agency must show that the injury is either severe or serious. Obviously, the threshold of showing that an injury to health or people is serious or severe is higher than the threshold of showing that an injury to property is merely substantial.

So this amendment would delete the requirement that the injury occur during the moratorium period. It would equalize the standard. This is essential to ensure that agencies can act to prevent serious health impacts that should occur, especially outside the moratorium period.

Mr. Chairman, let me describe this issue of the moratorium period. The Food and Drug Administration is in the process of examining whether there ought to be any regulations with respect to the tobacco industry, but under the language of this bill, they only look for a threat to severe injury during the moratorium period.

Well, there is no more important health and safety regulation being considered than the one that deals with FDA, where they are concerned about tobacco companies targeting children. But work on this regulation would be halted under H.R. 450 because FDA could now show that the injury to children would occur during that moratorium period.

Three thousand kids start smoking everyday. Hundreds of these kids will eventually die from smoking. Under H.R. 450 this is not considered an imminent threat because they are not going to die for 20 to 30 years.

So we would do two things in this amendment: One, establish the same standard whether it is public health or danger to property; and not restrict the legislation to threats only within the moratorium period.

Mr. Chairman, I would urge support for this amendment.

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

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

The CHAIRMAN. The gentleman from Pennsylvania will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, merely to point out to the gentleman in the report where we make it very clear that it is certainly not the intent to raise concerns or interest in property to a higher level than that which we provide for human health. We define ''imminent threat to health or safety'' to mean the existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property, during the moratorium period. In setting forward this definition, the Committee has not elevated protections of private property above human health or safety, or even attempted to equate endangerment to private property with death, illness or injury to humans. Rather, it seeks to protect both human health and safety and private property according to appropriately separate and distinct standards. It is the Committee's understanding that the moratorium should not prevent the promulgation of rules and regulations that are necessary to make food safe from E. coli bacteria, or others discussed in regard to the slaughter amendment.

Mr. Chairman, we reject the notion this is somehow raising this concern to a higher degree.

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

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise in strong support of this amendment.

I am very concerned about how H.R. 450 would impede the Department of Energy's ability to write needed safety regulations for the clean-up of the Hanford nuclear weapons complex.

The Hanford complex has 1500 sites contaminated by radioactive and hazardous waste. Some of this radioactive waste has begun to leak into the Columbia River and contaminate its water and fish. DOE needs the ability to act quickly to promulgate regulations to protect the safety of workers at the Hanford site and to protect the public from the hazardous waste stored there.

You say that H.R. 450 contains an exemption for regulations to address ''imminent threats to health and safety.'' What I want to know is how long will it take the DOE to get an exemption under this law? It is my understanding that DOE would have to submit a written request to OMB and to the appropriate congressional committees in the House and Senate. Then OMB would have to find in writing that this waiver was indeed necessary. And finally the DOE Secretary would have to publish the findings and waiver in the Federal Register. How long will this process take?

Mr. Chairman, the threats to public safety from the Hanford complex are real and can impact citizens throughout the entire Northwest. If there is any doubt that the Department of Energy will be impeded in protecting American citizens from Hanford's radioactive hazards, then I say that risk is too great.

I urge my colleagues to vote for the Waxman amendment.

☐ 1710

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. EHRLICH].

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. EHRLICH].

The CHAIRMAN. The gentleman from Maryland [Mr. EHRLICH] is recognized for 4 minutes.

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

Mr. EHRLICH. Mr. Chairman, with all due apologies to my subcommittee chair and to the gentlewoman on the other side, we have, in fact, corrected the misspelling, a demonstrative piece of evidence we have here. The gentleman from California will recall our debate in subcommittee and in committee and, in fact, on the floor of the

House. As the chairman quite rightfully said, this bill does not provide a priority to property and the committee report, in fact, specifies that property is not elevated above health and safety. But because the gentleman made such an eloquent point in committee, I have gone through the legal research to the code.

As the chart here states, the term ''imminent threat to safety or health'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness or severe injury to humans or substantial endangerment.

The issue the gentleman raised in committee was, what about the relative thresholds here. Do we have a lower threshold with respect to property as opposed to health and safety? That is the point I researched. I would like to tell the gentleman that in the code, the term ''serious illness'' is actually defined. And the definition of serious illness is an imminent hazard. It is subsumed within the definition of imminent hazard. That definition applies to death, serious illness and severe personal injury, and that applies to human beings.

Under the other part of the definition of imminent hazard, we see the provisions that apply to property. Substantial endangerment to health, property or the environment. So that it is quite clear under the code, under the way the actual terms are defined under the code, we have not created separate thresholds with respect to human health and safety on the one hand and property on the other.

In fact, what we have done is create the same threshold with respect to the central issue here, although we have used different language with respect to health on the one hand, property on the other.

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

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

Mr. WAXMAN. Mr. Chairman, if the gentleman claims that they are both treated the same, why not use the same language? Why have any doubt? The clear wording of that section is to say that there is a substantial endangerment for property but reasonably expected to cause death or injury when it comes to people. Why not a substantial endangerment to people or a substantial endangerment to property?

It just seems to me that the gentleman's logic is incorrect, as is the spelling at least of one of the words on that chart. If we are going to achieve the same result, both property and humans, then let us use the same standards.

Mr. EHRLICH. Mr. Chairman, in fact, I understood the gentleman's point, but the fact is, the language, the verbiage used in the code uses different language dependent upon whether we are talking about humans on the one hand, property on the other. And that was the point I made earlier.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, the only point I would say is that we are writing the law here. Let us write the law so that the standard is the same and we will not have what I believe in clear words that give a higher threshold before we will protect human beings than before we step in to protect property while this moratorium is in effect.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. SANDERS], a cosponsor of this amendment.

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

I am proud to be a cosponsor of this amendment that saves human lives and I strongly urge its adoption.

In its current form, the moratorium does not apply to regulations that protect against imminent threats of serious illness, severe injury, or death or substantial endangerment to private property. As Mr. WAXMAN described, this is an absurd provision that gives greater protection to private property than to human life. I think this is a absurd set of priorities that needs to be changed.

Furthermore, the bill is misleading because it does not allow regulations that protect public health and safety. In fact, it threatens regulations implemented last year that:

Promote safer meat, poultry, and seafood;

Establish standards for water quality;

Set standards for disposal of nuclear and other hazardous waste;

Set motor vehicle safety standards for brake systems;

Amend performance standards for children's life jackets;

Set safety standards for baby walkers and children's toys; and

Standardize aviation rules.

Under the current definition of ''imminent threat of human health and safety,'' regulations that protect against activities that cause cancer, AIDS, or any other illness that has a latency period cannot be implemented. Today 1 in 3 of us will get cancer, and tragically 1 in 4 will die of it. Over 60 different occupations are at a documented risk of cancer, including farmers, petrochemical workers, asbestos workers, plastics manufacturers, and radiations workers. If this amendment is not adopted, the administration will not be able to respond to this expensive and debilitating health care crisis by implementing regulations that prevent cancer.

For instance, regulations that provide certification standards for mammography that are required by law will not be implemented unless this amendment is adopted. Regulations that prevent breast cancer and save lives should be implemented.

Indoor air regulations that protect against toxic exposures that ultimately cause asbestosis, lung cancer, or other serious respiratory illnesses, will also be prohibited if this amendment is not adopted. OSHA has been considering a rule banning smoking in workplaces nationwide, the FDA is considering to regulate cigarettes as a drug, and the Department of Health and Human Services is working on regulations that limit smoking in schools and other places where children congregate. All of these plans will be put on hold unless this amendment is adopted. Lung cancer is the No. 1 cancer killer. The immediate implementation of regulations like these could save many lives.

Also, nuclear safety standards for waste disposal, like the regulation allowing nuclear wastes to be transferred from sites in Idaho, Colorado and other States to a WIPP facility in New Mexico, will be retroactively canceled. Thus, more Americans could potentially be exposed to toxic substances that cause serious illness and death.

I simply do not see the sense in the current language which allows regulations that protect against deaths in 1995, yet prohibits regulations that protect against deaths in other years. If the drafters of this bill intended to protect against cancer and AIDs, then this intention should be made clear in the plain meaning of the definition of ''imminent threat to human health or safety.''

I strongly urge you to support this amendment which clearly states that we care enough about human lives to permit regulations that prevent serious illnesses, severe injuries, and death in any year and gives human lives as much protection as the bill gives to private property.

☐ 1720

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Minnesota.

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to thank and compliment the gentleman from Vermont, and I have to admit I am befuddled by the fierce opposition to this amendment. It seems like common sense to me.

The gentleman from Maryland [Mr. EHRLICH], I think gave an eloquent explanation as to why we have in the exact same paragraph two different standards, one for property, one for human life, but we are going to use different language to meet the exact same standard.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, I think it is incumbent as we start thinking about changes in this finely crafted exemption for health and safety that we address some of the particular problems that have come to our attention in drafting this moratorium.

For example, there is the guideline from the Consumer Product Safety

Commission which would require that all buckets have a hole in the bottom of them, so that they can allow water to go through and avoid the danger of somebody falling face down into the bucket and drowning; the leaky bucket regulation.

There is also the regulation that allows FDA officials to break into a doctor's office in Kent, WA, and hold at gunpoint the doctors and the nurses there to force them to answer a series of questions, because they use injectible vitamin B and other products. Would those regulations be exempt under this new standard?

There is also a regulation that the Occupational Safety and Health Administration, OSHA, promulgated which would require that all baby teeth be disposed of as hazardous waste material, rather than be given back to the parents, to allow the tooth fairy to come back and do that. How would the amendment apply to those regulations?

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

Mr. MCINTOSH. I am happy to yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman, is reiterating the point I was making. Yes, there are regulations which are silly; yes; there are regulations which are useless and should be gotten rid of, but the scope of what the gentleman is talking about is not amusing.

Yes, holes in buckets is very funny, gets good laughs, I agree with the gentleman. But cancer and breast cancer, particularly, are very serious problems in America. AIDS is very serious. It is not a laughing matter.

What the gentleman's legislation does is it may deal with the holes in the buckets, fine, but is also preventing the Government from taking measures that will save people from getting cancer. That is not so funny.

Mr. MCINTOSH. Reclaiming my time, Mr. Chairman let me make it very clear that this moratorium does not do that. There is the language which the gentleman from Maryland [Mr. ERLICH] pointed out, and I pointed it out earlier, and I thank the gentlewoman from New York, [Ms. SLAUGHTER] for pointing out the spelling error, which seriously says regulatory agencies must deal with health and safety threats that pose an imminent danger to human health and safety. That exception would allow regulations that prevent loss of life to go forward.

What we need to do, Mr. Chairman, is to protect the American people from the silly, stupid, needless regulations that not only are humorous, they are very serious in their consequences of costing jobs when companies move overseas or go out of business. They are very serious when consumers have to spend $6,000 a year more to comply with those regulations. I urge a ''no'' vote on this amendment.

Mr. WAXMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.).

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Waxman amendment.

Mr. Chairman, the definition of imminent threat to health or safety that is now in the bill H.R. 450., is inadequate. It is an unusually high standard for demonstrating personal injury; it would require that death, serious illness, or severe injury occur during the moratorium period.

It would also permit substantial endangerment to private property to be a basis for finding imminent threat to health or safety. Not only is it unusual to have harm to property as a basis of a health or safety standard, but it would also arguably be easier to exempt a rule on the basis of endangerment to private property than it would be to exempt a rule on the basis of a threat to human health.

The Waxman amendment, therefore, does one important thing; it equalizes the standard for injury to persons and injury to property. Under the amendment, a regulation could qualify for the imminent threat to health or safety exemption, if it could be expected that substantial endangerment to humans or private property would occur.

Why is it so important to have a reasonable standard? The answer is because no one, including the authors of this bill, can say with any certainty whether a particular regulation would be excluded from the moratorium. A perfect example of this is the meat inspection rule.

At the end of our committee's debate on the amendment to exempt the meat inspection rule, the chairman of the subcommittee spoke with Mrs. Nancy Donley, whose 6-year-old son died from eating E Coli contaminated hamburger. He told Mrs. Donley that he would put language into the committee report, making it clear that the Agriculture Department could go forward with the meat inspection rule.

I think the addition of this language in the report could be helpful, but it provides no assurance that the meat inspection rule can go forward. The bill does not prohibit anyone from challenging in court an Agriculture Department decision to exempt the meat inspection rule from the moratorium. Furthermore, what about all the other perhaps equally significant health or safety rules that are not mentioned in the committee report. A standard is needed that could be used to exempt these rules as well.

We, therefore, need a clear and simple standard under which we could exempt a matter on grounds of threat to health or safety. The Waxman amendment gives us such a standard, and I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Florida, [Mr. MICA], a member of the committee.

Mr. MICA. Mr. Chairman, I speak in opposition to the Waxman amendment. I would like to make several points.

First of all, the new language that is being proposed here, I really do not believe that it does that much to protect public health, safety, and welfare. I know the gentleman is well-intended, I know our independent colleague is well-intended, that they are indeed concerned about public health, safety, welfare.

However, I think that we have provided in this moratorium some very specific language that in fact will do the job. In fact, we are not ending regulation as we know it. This is not an end to regulation. This is, again, as I said earlier on the floor, this is a stop and let us look at what we are doing with these regulations. Let us make some sense.

We have a mechanism in the bill and I believe we have a precedent for the language that we have put in this bill, to really accomplish what they would like and really, in a more effective fashion. That is why we have to defeat the Waxman amendment.

Again, Mr. Chairman, we are all concerned here. We are all human beings. I am a parent. I have children. I am concerned about the air they breathe, the water they drink. I am concerned about our environment.

However, we have to start taking all this regulation in perspective. This is not an indefinite moratorium. Even the moratoriums of the Reagan administration were more long-term than this. In fact, this even says if we take time and read it, that when we have some provisions in place to look at the cost and the benefit and risk, that we can go forward.

We have in here protections that reasonable people, working together, can use to go forward, and we can enact necessary restrictions and needed regulations.

No, in fact, this is not an end to regulation as we know it. This bill is concerned about people; that we have limited resources; that this country and its taxpayers want the very best regulation as far as protection of the health and public welfare and safety of our children. So yes, we on this side of the aisle, are concerned.

We want to work with the gentleman, and we want to pass something reasonable. We think our language is better. I urge my colleagues to come down here and to sort through all of the smoke and mirrors, to defeat this amendment, to pass a well-crafted, a well-defined piece of legislation that will put a stop sign, that will put a yield sign, and that will also put a go sign and a green light where we must protect public health, safety, and welfare.

With those comments, I do appreciate the gentleman's position, and speak against his amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT] a member of the committee.

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Waxman amendment. I do so for a couple of reasons.

First of all, Mr. Chairman, we are convinced on this side that the amendment is not needed. We know the gentleman from California [Mr. WAXMAN] is sincere in his concern about human health. I also want to make the point, I think to a certain degree, however, we labor under an illusion, and part of the background for this amendment is that somehow government regulation can create a risk-proof society, and that somehow, with more government regulation, we can completely prevent people from getting cancer, from people getting sick, from people not having a certain risk as it relates to their health.

The truth of the matter is, Mr. Chairman, and I used this example in committee, and I would share it with the body now, last year I was invited to the Governor's mansion of the State of Minnesota.

I was 1 of 17 Members who ate pineapple. As a result, I got sick. In fact, we never really did determine what the bacteria was, but I would share with the Members that that pineapple had been inspected by the USDA, it had been processed all the way under USDA regulations.

I guess what I said then and I would say now is that I got sick under government regulations, and I got well, despite government regulations. The truth of the matter is we cannot create a completely risk-proof society.

□ 1730

We see over there about 64,000 pages of government regulations. Bad things still happen. There is no amount of government control or regulations that is going to completely stop that.

I really do not believe that this amendment is needed. I rise in opposition to it. I would encourage a ''no'' vote.

Mr. CLINGER. I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, to close debate on my amendment, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The CHAIRMAN. The gentleman from Wisconsin [Mr. BARRETT] is recognized for 2 minutes.

Mr. BARRETT of Wisconsin. Mr. Chairman, I remain perplexed. We hear the gentleman from Maryland and the gentleman from Minnesota talk about how they do not like bureaucrats. ''We don't like bureaucratic language. We don't like unnecessary or silly regulations.'' Yet before us we have a paragraph where you have two standards: One standard for property, a different standard for human life.

The gentleman from California [Mr. WAXMAN] has eloquently explained why it does not make sense to have those two standards and argues that the standard for property is higher than the standard for human life. The gentleman from Maryland argues that is not the case, that even though they are different phrases, they have the same identical meaning. That is not only a lawyer's dream, it is a law review editor's dream to have within the same paragraph two different definitions and have someone argue that they are the same language, that they have the same meaning.

Somehow I fail to see what is going on here other than to say if you are arguing that we want to have the same standard, why create bureaucratic language to give two different meanings to two different phrases? If you mean that they have the same standard, let us give them the same standard. There is no other explanation and no other clear-cut way to do it than to say let us not create more litigation, let us not create a dream for lawyers, let us say what we mean. If we mean it is the same standard, let us say so.

What we are doing here, you are opening yourself up for attack by setting a lower standard for human life than for private property. That is not what we want to do. We do not want to create more regulation, we do not want to create more litigation, and this amendment goes to that goal.

If you want more regulations, if you want more litigation, then defeat the Waxman amendment, because he is trying to streamline the process and have clear, simple language. For those reasons, I think it makes sense.

Again, I am completely befuddled as to why we want to have a paragraph with two different definitions that the majority argues have the same meaning.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 259, not voting 8, as follows:

[Roll No. 163]

AYES—167

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

NOES—259

Allard	Ehrlich	LaTourette
Archer	Emerson	Laughlin
Armey	English	Lazio
Bachus	Ensign	Leach
Baesler	Everett	Lewis (CA)
Baker (CA)	Ewing	Lewis (KY)
Baker (LA)	Fawell	Lightfoot
Ballenger	Fields (TX)	Linder
Barr	Flanagan	Lipinski
Barrett (NE)	Foley	Livingston
Bartlett	Forbes	LoBiondo
Bass	Fowler	Longley
Bateman	Franks (CT)	Lucas
Bentsen	Franks (NJ)	Manzullo
Bereuter	Frelinghuysen	Martini
Bevill	Frisa	McCollum
Bilbray	Funderburk	McCrery
Bilirakis	Gallegly	McDade
Bliley	Ganske	McHugh
Blute	Gekas	McInnis
Boehner	Geren	McIntosh
Bonilla	Gilchrest	McKeon
Bono	Gillmor	Menendez
Brewster	Gilman	Metcalf
Browder	Goodlatte	Meyers
Brownback	Goodling	Mica
Bryant (TN)	Gordon	Miller (FL)
Bunn	Goss	Minge
Bunning	Graham	Molinari
Burr	Greenwood	Montgomery
Burton	Gunderson	Moorhead
Buyer	Gutknecht	Myers
Callahan	Hall (TX)	Myrick
Calvert	Hamilton	Nethercutt
Camp	Hancock	Neumann
Canady	Hansen	Ney
Castle	Hastert	Norwood
Chabot	Hastings (WA)	Nussle
Chambliss	Hayes	Orton
Chapman	Hayworth	Oxley
Chenoweth	Hefley	Packard
Christensen	Heineman	Parker
Chrysler	Herger	Paxon
Clinger	Hilleary	Payne (VA)
Coble	Hobson	Peterson (MN)
Coburn	Hoekstra	Petri
Collins (GA)	Hoke	Pickett
Combest	Horn	Pombo
Condit	Hostettler	Pomeroy
Cooley	Houghton	Porter
Cox	Hunter	Portman
Cramer	Hutchinson	Pryce
Crane	Hyde	Quillen
Crapo	Inglis	Quinn
Cremeans	Istook	Radanovich
Cubin	Johnson (CT)	Ramstad
Cunningham	Johnson, Sam	Regula
Danner	Jones	Riggs
Davis	Kasich	Roberts
DeLay	Kelly	Roemer
Diaz-Balart	Kim	Rogers
Dickey	King	Rohrabacher
Dooley	Kingston	Ros-Lehtinen
Doolittle	Klug	Roth
Dornan	Knollenberg	Roukema
Dreier	Kolbe	Royce
Duncan	LaHood	Salmon
Dunn	Largent	Sanford
Edwards	Latham	Saxton

Scarborough	Spence	Walker
Schaefer	Stearns	Walsh
Schiff	Stenholm	Wamp
Seastrand	Stockman	Watts (OK)
Sensenbrenner	Stump	Weldon (FL)
Shadegg	Talent	Weldon (PA)
Shaw	Tanner	Weller
Shays	Tate	White
Shuster	Tauzin	Whitfield
Sisisky	Taylor (MS)	Wicker
Skeen	Taylor (NC)	Wilson
Skelton	Thomas	Wolf
Smith (MI)	Thornberry	Young (AK)
Smith (NJ)	Tiahrt	Young (FL)
Smith (TX)	Torkildsen	Zeliff
Smith (WA)	Upton	Zimmer
Solomon	Vucanovich	
Souder	Waldholtz	

NOT VOTING—8

Andrews	Fattah	Meek
Barton	Gonzalez	Ortiz
Ehlers	McCarthy	

□ 1750

Messrs. STEARNS, SHADEGG, and GORDON changed their vote from ''aye'' to ''no.''

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and my colleagues, I rise in order that if the distinguished chairman would engage in a colloquy with me about definitions and applications of this legislation.

Mr. Chairman, I have an amendment that I was going to offer to exempt regulations of the Department of Agriculture for the moratorium. Although I support a moratorium on regulations, I have discussed the specific provisions of this bill with the Department and have concerns that the exceptions contains in the bill are too narrow to prevent disruptions of USDA programs and operations that benefit consumers, farmers, ranchers, agribusiness, and our Nation as a whole.

As you know, during the 103d Congress, the Committee on Agriculture led the way in reforming the bureaucracy by reorganizing the Department of Agriculture. The reorganization of the Department included the establishment of an Office of Risk Assessment and Cost-Benefit Analysis to review all major regulations of the Department affecting human health, human safety, or the environment.

This is the first such established in any major department of the Federal Government.

I look forward to seeing the regulations promulgated by all Federal agencies made subject to risk-assessment and cost-benefit analysis.

I would like to ask the distinguished gentleman if I am correct in stating that the regulatory moratorium contained in this bill is not intended to affect regulations implementing the provisions establishing the Office of Risk Assessment and the regulations undergoing such risk assessment and cost-benefit analysis.

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

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I assure the gentleman that is absolutely correct.

Mr. DE LA GARZA. I thank the gentleman. I also thank the gentleman for the clarification and would like to include in the RECORD an analysis prepared by the Department of Agriculture listing the regulations that may be affected by the moratorium, and I will ask for such permission in the House.

I want to be sure that the Department will be able to continue to help farmers, ranchers, exporters, and the food service industry to supply agricultural products for our Nation's consumers and consumers around the world. I also want to be sure that the agency charged with implementing and enforcing animal and plant quarantine laws is able to carry out its charge to protect against long-term hazards associated with animal and plant diseases.

Finally, I want to be sure the Forest Service is able to manage our National Forest System lands for the benefit of recreational users, timber industry, ranchers, and the wildlife in our forests and rangelands.

I would also like to ask the gentleman if I am correct in stating the bill before us is not intended to affect regulations making routine adjustments to USDA activities or programs including the following: establishing industry self-help and promotion programs for port, beef, milk, fruit, vegetables, and specialty crops, commodity grading programs, animal-plant health programs, adjustments in agriculture under article 28 associated with GATT, timber-sale contracting, animal damage control programs, labeling of meat and poultry products, and internal USDA regulatory streamlining and reform.

I yield to the gentleman from Pennsylvania.

Mr. CLINGER. The gentleman is correct.

Mr. DE LA GARZA. I thank the gentleman for those clarifications.

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

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding, in that we have both worked on the gentleman's statement, and we have mutual concern and interest in making sure this bill in no way impedes the regular, normal business procedures and, yes, also regulations simply within the Department of Agriculture.

I think the colloquy is extremely important. I associate myself with the gentleman's remarks, and I think this should take care of many concerns that both of us share.

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

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding.

As I have discussed earlier with the chairman, I am sure he knows my feelings that this colloquy really, in my opinion, does not solve the basic problem as to whether the law actually does these things or does not do it, and I know the intentions of the gentleman, and that is the word that is used, it is not intended to do these things. It was never stated in his colloquy it would not do these things. That gives me great concern.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I have an amendment that I have printed in the RECORD and hope to offer at a later time, maybe tomorrow, that would exempt the wool and mohair promotion program.

□ 1800

That was a program that we enacted last year, as the chairman will remember, in response to the fact that we had done away, this House had done away with the wool and mohair program. This is one that does not cost the taxpayers money, it is just like the other programs that he has enumerated before, pork and beef and milk. This is one that is financed by the producers themselves. The regulations are now in process. If we do not exempt them, that means they are not going to have anything at the end of this year when the present program expires.

As a result, will the gentleman agree with me that the wool and mohair self-promotion program which we passed last year is not exempt from this bill?

Mr. DE LA GARZA. I yield to the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. I thank the gentleman for yielding. I ask the gentleman from Missouri to repeat his question.

Mr. VOLKMER. The present law that we passed last year for the wool and mohair promotion program, which is patterned after the dairy program, the beef, pork, and all the rest, is going through the regulatory process right now for the first time. This colloquy does not cover that? I have talked this over with my ranking member, and he agrees with me.

I just want to know if the gentleman from Kansas also agrees that it is not covered and that if we are going to exempt it, we would have to do so specifically.

Mr. ROBERTS. Mr. Chairman, normally I would be more than happy to agree with the gentleman from Missouri. But the key word is ''routine.'' The question is whether the Department of Agriculture counsel feels that

the regulations that are now being promulgated apply.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. ROBERTS and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. I continue to yield to the chairman of the committee.

Mr. ROBERTS. I thank the gentleman for yielding further.

Mr. Chairman, I think this whole thing depends on whether the lawyer down at the Department of Agriculture believes that the regulations that are now being promulgated in regards to the wool and mohair program fall in the classification of routine. You can talk to John Golden down there; he is the attorney. He expressed some concerns not only in this regard but the whole laundry list of things that was listed here. In talking to Secretary Rominger last night, I know what the situation is here. We have many agencies under marching orders from the administration who express concern about this. We share that concern. I think it does fall under the category of routine.

We have made our best effort in this colloquy to make it very clear to the Department that it is routine and that this bill will not interfere with any regulations in regard to the self-help and promotion program for the hard-pressed wool grower.

So my answer to the gentleman from Missouri [Mr. VOLKMER] is, with all due respect, I think it is exempted. He has a different view. I think we can make sure. We have oversight responsibility to take care of it.

The information referred to follows:

FOREST SERVICE SUMMARY

[Cummulative List of Agency Rules and Policies for OMB Review, revised January 25, 1995. Those intended for publication between July 18, 1995 and June 15, 1995]

List	Title of regulation or policy; publication date	Reg action	FS recommendation	OMB recommendation	Staff
1	Rangeland Management, Livestock Use and Grazing Fees; April 28, 1994	Proposed Rule	Sig	Sig	RGE
1	Hells Canyon NRA—Private Lands; December 14, 1993	Proposed Rule	N-Sig	N-Sig	RHWR
1	Hells Canyon NRA—Public Lands; January 19, 1994	Proposed Rule	N-Sig	N-Sig	RHWR
1	National Forest Prohibitions; Law Enforcement Activities; February 16, 1994	Proposed Rule	N-Sig	Sig	LEI
1	Land Exchanges; March 8, 1994	Final Rule	N-Sig	N-Sig	L
1	Federal Cave Resources Protection; June 17, 1994	Final Rule	N-Sig	N-Sig	RHWR
*1	Land and Resource Management Planning—in clearance now	Proposed Rule	N-Sig	Sig	RN
*1	Group Uses of NFS Lands—in clearance now	Final Rule	N-Sig	Sig	RHWR
*1	Log Export & Substitution	Final Rule	N-Sig	Sig	TM
**1	Timber Sale Contracting: Cancellation of Timber Sale Contracts	Proposed Rule	N-Sig	Sig	TM
*1	Indian Allotments	Final Rule	N-Sig	N-Sig	L
1	Timber Sale Contracting: Financial Security of NF Timber Sale Contracts; February 2, 1994	Final Policy	N-Sig	N-Sig	TM
1	Timber Sale Contracting: Downpayment, Transfer or Retention; Speculative Bidding Criteria; Reduction of Performance Bond; February 2, 1994	Proposed Policy	N-Sig	N-Sig	TM
2	Small Tracts Act Revision	Proposed Rule	N-Sig	N-Sig	L
*2	Hydropower Applications	Proposed Policy	N-Sig	N-Sig	L
2	Recreation Residence Authorization Policy; June 2, 1994	Final Policy	N-Sig	N-Sig	RHWR
2	Use of Fixed Anchors for Rock Climbing in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
2	Revise Land Status Regulations (technical amendment); January 20, 1994	Final Rule	N-Sig	N-Sig	L
2	Prohibition on Mechanical Transport and Other Activities in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
*2	Mining Operations in the Smith River National Recreation Area Litigation: FS failure to adopt rules	Proposed Rule	N-Sig	N-Sig	M&GM
2	Use of Bait in Bear Hunting; March 14, 1994	Proposed Policy	N-Sig	N-Sig	WL&F
*2	Special-Use Applications and Administration of Special-Use Authorizations	Final Rule	N-Sig	N-Sig	RHWR
2	Species Surplus to Domestic Manufacturing Needs	Proposed Rule	N-Sig	N-Sig	TM
3	Below-Cost Timber Sale Program Policy and Guidelines	Final Rule	N-Sig	N-Sig	TM
**3	Timber Sale Contracting: Timber Sale Performance and Payment Bond Form Revision	Final Policy	N-Sig	Sig	TM
3	National Forest System Land and Resource Management Planning Manual (FSM 1920)	Proposed Policy	N-Sig	N-Sig	LMP
*3	State and Private Forestry Assistance Stewardship Incentive Program	Final Rule	N-Sig	Sig	S&PF
3	Locatable Minerals	Proposed Rule	N-Sig	N-Sig	M&GM
3	Change to Transaction Evidence Appraisal as Prime Method of Appraising FNS Timber	Proposed Rule	N-Sig	N-Sig	TM
3	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	Proposed Rule	N-Sig	N-Sig	RHWR
3	Timber Sale Contracting: Indices To Determine Market Related Term Additions	Proposed Policy	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Market Related Term Additions	Proposed Rule	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Pre-Award Information Requirements	Proposed Rule	N-Sig	N-Sig	TM
3	Solid Waste Disposal Policy	Proposed Policy	N-Sig	N-Sig	L
3	Hells Canyon NRA—Private Lands; June 13, 1994	Final Rule	N-Sig	N-Sig	RHWR
3	Hells Canyon NRA—Public Lands; July 19, 1994	Final Rule	N-Sig	N-Sig	RHWR
4	Private Sale of Golden Eagle Passports	Proposed Rule	N-Sig	N-Sig	RHWR
*4	Occupancy and Use of Developed Sites & Areas of Concentrated Public Use	Final Rule (no prior proposed rule) (considered minor but OMB says Sig.).	N-Sig	Sig	RHWR
4	Animal Damage Management; June 13, 1994	Proposed Policy	N-Sig	Sig	WL&F
5	Ski Area Fees	Proposed Policy	N-Sig	Sig	RHWR
**5	Timber Sale Contracting: Extension of Certain TS Contracts To Permit Urgent Removal of Timber From Other Lands (FSM proposed policy as appendix)	Proposed Rule and Proposed Policy ..	N-Sig	N-Sig	TM
*5	Special Uses Management—Outfitting and Guiding	Final Policy	N-Sig	N-Sig	RHWR
5	Appeal of Land Use Decisions Related to Small Business Program	Proposed Rule	N-Sig	N-Sig	L
6	National Forest Prohibitions; Law Enforcement Activities	Second Proposed Rule	Sig	Sig	LEI
6	Range Management. Grazing in the West; Qualification Criteria for Fee Discounts	Proposed Rule (action suspended Dec. 1994).	Sig	Sig	RGE
*6	Fee Schedules for Communications Uses on NFS Lands	Final Policy	N-Sig	Sig	RHWR
**7	Timber Sale Contract Revision	Proposed Policy	Sig		TM
8	Timber Sale Contracting: Elimination of Stumpage Rate Adjustment Procedure Contracts	Proposed Policy	N-Sig		TM
8	Rangeland Management. Grazing Fees	Final Rule (action suspended Dec. 1994).	Sig		RGE
*9	Use of Bait in Hunting	Final Policy	N-Sig		WL&F
*10	Animal Damage Management	Final Policy	N-Sig		WL&F
7	Grazing Administration (permit issuance, applications etc.)	Final Rule		Sig	RGE

Dates Lists of Significant Regulatory Actions submitted to OBPA: List 1, November 5, 1993; List 2, December 22, 1993; List 3, February 2, 1994; List 4, May 5, 1994; List 5, June 16, 1994; List 6, July 29, 1994; List 7, September 9, 1994; List 8, October 20, 1994; List 9, December 2, 1994; and List 10, January 13, 1995.

ISSUE: ENVIRONMENT

States affected: All.

Rule: Doc. No. 93–165–3, National Environmental Policy Act Implementing Procedures. Sets forth procedures APHIS will follow to comply with NEPA.

Beneficiaries: Consumers; environmental groups.

Impact: Many environmental groups have been lobbying APHIS for years to redesign and publish these procedures. They will see their withdrawal as backing away from commitment to environmental quality.

Date: Final rule published 2/1/95; effective 3/3/95.

States affected: All.

Rule: Doc. No. 93–026–2, Introduction of Nonindigenous Organisms That May Be Plant Pests. Would establish comprehensive regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms that may be plant pests. Responds to an Office of Technology Assessment report stating that harmful introductions cost an estimated $97 billion between 1906 and 1991, and that controls are urgently needed. The rule would clarify the current ''permit'' process, which can take a long time and which importers do not like.

Beneficiaries: American public; university and corporate researchers.

Impact: Failure to proceed would endanger agricultural production and the environment, alarm environmental groups, and frustrate researchers seeking permits under the outmoded current system.

Date: Proposal published 1/26/95.

ISSUE: INTERNATIONAL TRADE

States affected: All.

Rule: There are several important regulations pending. Some of these regulations directly affect our implementation of GATT. These regulations relate to requests from foreign countries or importers to remove or ease restrictions on importations of various commodities. One such regulation under development (Doc. No. 94–106–1) would revise

our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas. Another regulation that has generated considerable interest concerns the importation of logs, lumber and other unmanufactured wood (Doc. No. 91–074–1). Other examples include importation of animals and germ plasma from countries where scrapie exists (Doc. No. 94–085–1), importation of additional species of embryos from countries where foot-and-mouth disease exists (Doc. No. 94–006–1), removal of a staining requirement for imported seed (95–004–1), and a number of regulations allowing the importation of additional types of fruits and vegetables from various countries, including Mexico, Korea, and Chile. In addition, we routinely publish regulations to change the disease status of a country or area, based on changes in those conditions. Pending regulations include ones to declare Spain free of African horse sickness and swine vesicular disease, and to declare Switzerland free of foot-and-mouth disease and viscerotropic velogenic Newcastle disease. These changes would relieve certain restrictions on imports from those countries. Conversely, we sometimes need to publish a regulation to restrict imports when there is an outbreak of a pest or disease in a country or area.

Beneficiaries: The ability to improve the variety and supply of animals, plants, and their products benefits producers, importers, brokers, food distributors and processors, and consumers. Northwest lumber mills would benefit from the rule concerning wood imports.

Impact: When the scientific/biological data provides no indication of substantial pest or disease risk from the importation, failure to revise our regulations puts us in violation of GATT. There is considerable pressure on the United States to implement these many of the regulations listed above in response to GATT. Failure to finalize Doc. No. 94–106–1 could result in other countries putting additional restrictions on U.S. exports. While there is often opposition to regulations of this type, there is always some interest, usually for the purpose of improving bloodlines or stock, or establishing a supply to meet a new or growing market. Northwest lumber mills are eager for wood rule because they believe it will give them additional logs to cut, and some environmentalists prefer using imported to domestic logs. A number of mills have stated they will go out of business without a reliable source of imported logs.

SPECIFIC RULES WITH INTERNATIONAL TRADE IMPACTS

States affected: Cattle and swine producing States.

Rule: Doc. No. 94–106–1, Regionalization for Animal Imports. Would revise our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas.

Beneficiaries: Producers, importers, brokers, food distributors and processors, and consumers benefit from the ability to improve the variety and supply of animals, plants, and their products.

Impact: Failure to proceed would produce opposition from animal breeding industries and GATT partners.

Date: Proposal under development.

States affected: New Hampshire, New England States.

Rule: Doc. No. 94–080–2, Specifically Approved States Authorized to Receive Mares and Stallions Imported From CEM-Affected Countries. Allows horses imported from countries where contagious equine metritis exists to be treated and quarantined in NH.

States affected: NH and other New England States.

Beneficiaries: Horse industry in NH and elsewhere in New England. This rule gives New Hampshire an economic advantage for valuable import.

Impact: Withdrawal would cause objection from beneficiaries.

Date: Direct final rule effective 12/16/94.

States affected: All.

Rule: Doc. No. 93–096–3, Horses From Mexico; Quarantine Requirements. Removes restrictions that are no longer necessary on the importation of horses from Mexico. Restrictions were to prevent the introduction into the U.S. of Venezuelan equine enteritidis, which is no longer present in Mexico.

Beneficiaries: Importers of horses from Mexico.

Impact: Would negatively affect relations with Mexico and could cause repercussions in other animal or plant health areas if Mexico retaliates. Would be contrary to NAFTA and GATT.

Date: Final rule published 1/26/95; effective 2/16/95.

States affected: California.

Rule: Doc. No. 93–157–3, Mexican Fruit Fly Regulations; Removal of Regulated Area. Removes restrictions on movement of citrus and other regulated articles.

Beneficiaries: Growers, wholesalers, exporters.

Impact: California production would be negatively impacted by the failure to lift the quarantine. Fruit and vegetable producers and associations would be likely to complain about this action.

Date: Published 1/26/95; effective 2/27/95.

States affected: California.

Rule: Doc. No. 94–117–1, Oriental Fruit Fly; Quarantine Part of LA County, CA. Quarantines an area to prevent OFF spread and protect export markets.

Beneficiaries: Growers, wholesalers, exporters.

Impact: Withdrawal would allow OFF spread. If spread occurs, it would likely lead Japan and U.S. citrus States to reject CA citrus.

Date: Published 11/14/95; effective 11/7/95.

States Affected: Primarily CA, FL, and HI.

Rule: Doc. No. 93–147–2, Imported Palms. Allows certain palms to be imported from New Zealand and Australia. Beneficiaries: Supported by comercial ornamental plant growers. Hawaiian Representatives Patsy Mink and Neil Abercrombie supported this rule.

Impact: Withdrawing this rule would reduce the number of sources for Howea palms to one. Opposition from nurserymen in CA, FL, and HI.

Date: Final rule published and effective 1/24/95.

States affected: All.

Rule: Doc. No. 93–031–2, Inspection of Animals Exported to Canada and Mexico. Requires a final inspection before export of livestock, including horses, shipped by air to Canada or Mexico.

Beneficiaries: The American Horse Council supports this rule.

Impact: Failure to take this action could result in sick animals being exported to Canada and Mexico, and having to be returned to the U.S.

Date: Final rule published 1/24/95; effective 2/23/95.

States affected: CA, FL, all.

Rule: Doc. No. 89–154–2, Importation of Plants Established in Growing Media. Allows additional genera of plants in growing media (potted plants) to be imported into the United States.

Beneficiaries: Importers and brokers of imported products.

Impact: From the standpoint of GATT, there is no sound biological reason to continue to prohibit these imports, which would be the effect of a moratorium. California and Florida representatives are most likely to hear from their constituents, although other areas may be affected as well.

Date: Final rule published 1/13/95; effective 2/13/95.

States affected: All (GATT/NAFTA issue).

Rule: Doc. No. 89–117–4, Honeybees and Honeybee Semen From New Zealand. Allows imports.

Beneficiaries: Apiary industries.

Impact: If we withdraw the rule, we may be challenged under GATT conflict resolution procedures.

Date: Final rule published 2/1/95, effective 3/3/95.

States affected: California.

Rule: Doc. No. 94–042–2, True Potato Seed From Chile. Allows imports.

Beneficiaries: Plant breeders, potato producers.

Impact: California Department of Food and Agriculture supports this, and several California companies (especially Esca Genetics/TPS Products) have invested heavily in expectation of it. CA Rep. Anna G. Eshoo wrote in support of it.

Date: Final published 2/16/95, effective 3/20/95.

States affected: All.

Rule: Doc. No. 94–069–1, Tangerines From Cheju Island (Korea). Would allow imports.

Beneficiaries: Consumers; exporters seeking reciprocal arrangements.

Impact: GATT issue, we could be challenged if we withdraw it.

Date: Under development.

States affected: All.

Rule: Doc. No. 94–114–1, Imported Fruits & Vegetables; 6th Periodic Amendment. We do this kind of rule regularly to allow newly-requested frutis and vegetables to be imported.

Beneficiaries: Importers, wholesalers, consumers.

Impact: Delaying this rule would affect importers and distributors in most States, and reduce the variety of produce available to consumers.

Date: Proposal nearly ready to publish.

States affected: All.

Rule: Doc. No. 94–116–3, Fresh Hass Avocados From Mexico. Would allow imports of Hass avocados.

Beneficiaries: Importers, consumers.

Impact: Mexico has been seeking this change for years and will accuse the U.S. of violating NAFTA if we do not pursue the proposal. Domestic avocado producers would support the delay in this proposal.

Date: Under development.

ISSUE: ANIMAL AND PLANT HEALTH

States affected: All.

Rule: There are several important regulations pending. Some of these are necessary to prevent the spread of pests and diseases within the United States. These include additions to lists of noxious weeds (Doc. Nos. 93–126–3 and 94–050–1). Others are needed to protect U.S. livestock and poultry from additional sources of disease and to further the eradication of bovine tuberculosis. Examples include payment of indemnity for cervids destroyed because of tuberculosis (Doc. No. 94–133–1), payment of indemnity for cattle and bison destroyed following exposure to tuberculous cervids (Doc. No. 93–125–1), discontinuance of the in-bond program for cattle from Mexico (Doc. No. 94–-87–1), and a revision of domestic regulations pertaining to viscerotropic velogenic Newcastle disease (VVND) in birds and poultry (Doc. No. 87–090–2). In addition, APHIS routinely publishes rules related to changes in the disease or pest conditions in a State or area. When an

outbreak occurs, the Agency must move quickly to contain the outbreak, and keep the pest or disease from spreading. Examples include regulations quarantining areas because of fruit flies, pink bollworm, and pine shoot beetle, and regulations that change the disease status of a State or area because of new outbreaks of brucellosis or tuberculosis.

Beneficiaries: U.S. livestock and poultry producers, as well as fruit, vegetable, and grain producers, exporters, food distributors and processors, and consumers.

Impact: The spread of noxious weeds would result in a reduction in usable agricultural acreage, harming the cattle industry and other agricultural entities. Failure to finalize the tuberculosis regulations would impede efforts to eradicate the disease in the U.S., hurting the livestock industry and creating human health concerns. The revisions to the VVND regulations would, among other things, reduce the number of birds that would have to be destroyed if there is an outbreak of that disease in U.S. poultry flocks. Failure to take emergency actions could cause severe economic losses to U.S. agriculture.

SPECIFIC RULES WITH ANIMAL OR PLANT HEALTH IMPACTS

States affected: All.

Rule: Doc. No. 92–098–3, Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling. Prohibits certain repackaging of, and removal of labels on, veterinary biological products.

Beneficiaries: Consumers (primarily animal hobbyists and breeders).

Impact: Consumers (primarily animal hobbyists and breeders), will continue to suffer from the lack of dose instructions available to them when they purchase single doses of vaccines, etc. This has resulted in illness and death among animals. Failure to implement the regulations will allow this situation to continue. Biologics manufacturers will be happy because they do not want to comply with labeling requirements.

Date: Published 1/12/95; effective 8/19/95.

States affected: Illinois, Indiana, Michigan, Minnesota, Ohio, and Pennsylvania.

Rule: Doc. No. 92–139–8, Pine Shoot Beetle Quarantine Areas. Quarantines areas in States because of the pine shoot beetle.

Beneficiaries: The Christmas tree industry is most directly affected by the failure to quarantine to prevent the spread of the pest. This industry exists in Indiana and surrounding States.

Impact: States with PSB that lack a Federal quarantine will likely have to comply with commerce restrictions imposed by surrounding States. This is a routine action that could apply to other States as well in the next 6 months.

Date: Interim rule published 1/9/95; effective 12/29/94; more rules pending.

ISSUE: ANIMAL WELFARE

States affected: All.

Rule: Several are pending, including one concerning ''Swim With The Dolphins'' programs (Doc. No. 93–076–3), one that would remove a requirement for hot-iron face-branding of certain cattle (Doc. No. 95–006–2), and one that would allow certain diseased horses to be moved to slaughter without being permanently marked with a hot iron, chemical, or freeze brand or lip tatoo (Doc. No. 94–061–2).

Beneficiaries: Animal welfare issues have generated intense and widespread interest among animal rights organizations and the American public in general. The ''Swim With The Dolphins'' regulation is supported by the Humane Society of the United States, the Animal Welfare Institute, the American Zoo and Aquarium Assn., and the Alliance of Marine Mammal Parks and Aquariums. Animal Rights International and People for the Ethical Treatment of Animals have been lobbying hard for changes to our face-branding requirements.

Impact: The ''Swim With The Dolphins'' regulation is necessary to ensure facilities with these programs adhere to certain standards for care of the dolphins. Animal welfare activists, especially in Florida, would weigh in heavily if we do not take this action. An earlier (1994) rulemaking that removed face-branding requirements for certain imported cattle generated tremendous interest and support, including full-page ads in the Washington newspapers and New York Times.

SPECIFIC RULES WITH ANIMAL WELFARE IMPACTS

States affected: All.

Rule: Doc. No. 93–006–3, Identification of Certain Cattle Imported From Mexico. Allows cattle from Mexico to be permanently identified with a mark located high on the hip rather than be face-branded with a hot iron.

Beneficiaries: Generated tremendous interest and support, including full page ads placed in Washington newspapers and New York Times by Animal Rights International. PETA and other animal welfare groups also lobbied hard for this change.

Impact: Serious opposition from animal rights organizations. After many years and considerable effort, the United States is nearing eradication of tuberculosis. While we are moving to eradicate the last areas of infection in the United States, we must improve our level of protection against new introductions of the disease, which not only affects cattle, but can be transmitted to humans. In addition to being an animal health issue, this became an animal welfare issue. This issue was so important to the animal welfare community that it generated thousands of letters and resulted in full-page advertisements in national newspapers.

Date: Final rule published 12/22/94; effective 1/23/95.

ISSUE: DOMESTIC TRADE

States affected: All.

Rule: Several are pending, including one that would give accredited veterinarians additional time between inspection of animals and the issuance of a certificate for their movement (Doc. No. 94–027–1) and one that would provide an additional official test for pseudorabies in swine (Doc. No. 94–064–2). In addition, APHIS routinely publishes rules related to changes in improvements in disease or pest conditions in a State or area. When a pest or disease is eradicated, the Agency should relieve unnecessary restrictions on producers and others as rapidly as is practical. An example of this would be removing an area from quarantine for Mediterranean fruit fly, or raising the brucellosis status of a State to Class Free. These actions relieve restrictions on interstate movements and improve the marketability of previously restricted articles.

Beneficiaries: The rule concerning accredited veterinarians would primarily affect large swine producers in Iowa, Illinois, North Carolina, Nebraska, Minnesota, Indiana, Georgia, Kansas, Pennsylvania, Michigan, and South Dakota. The swine industry, especially in Illinois and Iowa, is very interested in the pseudorabies test docket because making the test available would allow thousands of herd owners to qualify their animals for interstate movement to new markets. Supporters of the pseudorabies test include vaccine producers Kline Beecham and IDEXX, State animal health officials, the American Association of Veterinary Laboratory Diagnosticians (AAVLD), and the United States Animal Health Association (USAHA). Other types of domestic trade actions pending would benefit the U.S. livestock in general, as well as fruit and vegetable producers, exporters, food distributors and processors, and consumers.

Impact: A moratorium would keep unnecessary restrictions on producers and others. Lack of the pseudorabies test rule, in addition to keeping many markets closed to many swine producers, would hinder Federal and State efforts to eradicate pseudorabies because swine producers are reluctant to vaccinate their animals if their markets for those swine would be restricted.

SPECIFIC RULES WITH DOMESTIC TRADE IMPACTS

States affected: Colorado.

Rule: Doc. No. 94–134–1, Brucellosis; CO From Class A to Class Free. This interim rule raised the brucellosis status of Colorado.

Beneficiaries: Livestock producers in CO.

Impact: Invalidating would place unnecessary restrictions on livestock moving from the State, and would hurt their marketability. This is a routine action that could apply to other States as well over the next 6 months.

Date: Published and effective 1/23/95.

States affected: all cattle producing States.

Rule: Doc. No. 94–093–2, Brucellosis in Cattle and Bison; Payment of Indemnity. Authorizes payment of indemnity for additional cases.

Beneficiaries: Herd owners affected by brucellosis.

Impact: Failure to finalize would hinder brucellosis eradication efforts. Members likely to hear from NCA, USAHA and other farm groups.

Date: Proposal published 1/31/95.

States affected: Hawaii primarily; also Alaska.

Rule: Doc. No. 93–088–2, Avocados From Hawaii. Allows avocados to move from Hawaii into Alaska without treatment.

Beneficiaries: Hawaiian avocado growers and related industries; consumers in Alaska.

Impact: HI has a strong interest in this rule. Hawaiian avocado growers would be negatively affected.

Date: Final rule published and effective 12/28/94.

States affected: All—national issue. Northeast, CA heavily affected.

Rule: Doc. No. 92–151–3, National Poultry Improvement Plan and Auxiliary Provisions. Revises Plan standards.

Beneficiaries: poultry producers, food safety interests.

Impact: This rule will implement recommendations made by industry groups; failure to finalize will negatively affect efforts to control disease and improve the health of poultry flocks.

Date: Final rule published and effective 11/18/94.

ORGANIZATIONS AND ASSOCIATIONS THAT ROUTINELY EXPRESS INTEREST IN ACCOMPLISHING APHIS RULES

American Association of Nurserymen, Animal Rights International/Coalition for Non-Violent Food, Humane Society of the U.S., American Veterinary Medical Association, National Cattlemens Association, U.S. Animal Health Association, California Department of Food and Agriculture, FDACS, PETA, American Horse Council, National Pork Producers, Doris Day Animal League, Animal Legal Defense Fund, Society for Animal Protective Legislation, Fund for Animals, National Milk Producers Federation, Texas & Southwestern Cattle Raiser's Assoc., State Agriculture Departments, State Cattle Feeder Associations, American

Farm Bureau Federation, Eastern Milk Producers, State Cattlemens Assocs, and State Animal Health Commissions.

ISSUE: NUTRITION LABELING OF MEAT AND POULTRY (USDA)

States affected: All

Rule: This rule amends current regulations to provide condified language for provisions that previously cross-referenced RDA regulations, make corrections to existing regulations, and minor technical changes. This rule streamlines and makes consistent an existing regulation.

Beneficiary of the Rule: Industry, consumers, health professionals, nutrition interests, laboratories, libraries—anyone who uses the Code of Federal Regulations.

Impact of H.R. 450: Would leave existing, more cumbersome regulation in force.

Date: Published January 3, 1995.

ISSUE: NUTRITION LABELING OF GROUND BEEF AND HAMBURGER (USDA)

States affected: All

Rule: This rule would permit the nutrition labeling of ground beef and hamburger to include ''___% lean'' ''___% fat.''

Beneficiary of the Rule: Consumers; truth-in-labeling issue, dieticians, nutritionists, industry; marketing advantage.

Impact of H.R. 450: Suspension of the rule will deny consumers information to help them make healthy dietary choices.

Date: Expected to publish in second quarter of FY 1995.

ISSUE: POULTRY PRODUCTS PRODUCED BY MECHANICAL SEPARATION AND PRODUCTS IN WHICH SUCH POULTRY PRODUCTS ARE USED (USDA)

States affected: All, primarily poultry producing states

Rule: Rule would require that mechanically separated poultry be identified in ingredients statements of hot dogs, bologna and other processed products as ''mechanically separated chicken or turkey'' instead of simply ''chicken'' or ''turkey.'' Because bones and carcass parts are ground and crushed to extract adhering meat fragments, mechanically separated product has a physical form and texture that differ from ordinary chicken or turkey meat.

Beneficiary of the Rule: Consumers; truth-in-labeling. The meat industry, whose mechanically separated and deboned products do not differ in texture from ordinary meat products, supports this rule because it would make a labeling distinction between the content of mechanically separated poultry and meat products.

Impact of H.R. 450: The suspension of this rule would leave current regulations in force, which allow mechanically separated poultry to be labeled ''chicken'' or ''turkey,'' but require mechanically separated or deboned meat to be labeled as such.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

ISSUE: OPPORTUNITY TO PROMOTE AND STRATEGICALLY MARKET SHEEP PRODUCTS THROUGH PRODUCER SELF-HELP (USDA)

States affected: California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming.

Rule: USDA must publish rules to implement the newly enacted Sheep Research and Promotion Act passed by Congress. U.S. sheep producers have collectively voted to assess themselves and importers, to use the funds collected to conduct research and promotion activities to strategically market sheep and products.

Beneficiaries: U.S. sheep producers, and consumers of lamb and wool products.

Impact of H.R. 450: The Nation's sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products if H.R. 450 is implemented. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

ISSUE: COTTON CLASSING FEES (USDA)

States affected: California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri

Rule: Annual determination of fees to be charged cotton producers who voluntarily request and obtain grading services to determine the quality of their cotton.

Beneficiaries: U.S. cotton producers, and wholesale and retail buyers of cotton and products made from cotton.

Impact of H.R. 450: USDA can reduce the fees charged to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide. Any opportunities to keep costs low, while maintaining the availability of quality assurance, would be lost if H.R. 450 is enacted.

ISSUE: PATHOGEN REDUCTION IN MEAT AND POULTRY PRODUCTS; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS (USDA)

States affected: All

Rule: The proposed rule is designed to eliminate a critical gap in the meat and poultry inspection program and reduce the incidence of foodborne illness caused by pathogenically contaminated meat and poultry products. Through mandatory HACCP, we will (1) target pathogens that cause foodborne illness; (2) strengthen industry responsibility to produce safe food; and (3) focus inspection and plant activities on prevention objectives.

Beneficiary of the Rule: Consumer interests, persons at greatest risk for foodborne illness: elderly, children, persons with compromised immune systems.

Impact of H.R. 450: According to the Centers for Disease Control, foodborne illness from all food sources range from 6.5 million to 81 million cases each year, and up to 9,000 deaths. Suspension of this rule would forego yearly public health benefits ranging from $990 million to $3.7 billion. These estimates include the cost of medical care and lost work time.

Date: Published February 3, 1995. Comment period ends June 5, 1995. USDA's goal is to publish a final rule by the end of the year.

ISSUE: USE OF TERM ''FRESH'' ON THE LABELING OF RAW POULTRY PRODUCTS (USDA)

States affected: Poultry producing states, particularly California, Arkansas, Georgia, and Minnesota

Rule: The proposed rule would amend the Poultry Products Inspection Act (PPIA) to prohibit the use of the term ''fresh'' on the labeling of raw poultry products whose internal temperature has ever been below 26°F. Raw poultry product whose internal temperature has ever been below 26°F, but above 0°F, may not be labeled as ''fresh'' and must be labeled as ''previously frozen.'' Raw poultry product whose internal temperature has ever been at or below O°F may not be labeled as ''fresh'' and must be labeled as ''frozen'' or ''previously frozen.''

Beneficiary of the Rule: Truth-in-labeling issue benefiting consumers, as well as regional poultry producers whose products compete in local markets with nationally distributed, previously frozen birds that can be thawed and labeled ''fresh'' under current regulations.

Impact of H.R. 450: Existing regulations allowing previously frozen poultry to be labeled as ''fresh'' would remain in force, causing continued confusion in the marketplace.

Date: Published January 17, 1995. Comment period closes March 20, 1995.

ISSUE: MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND MEAT RECOVERY SYSTEMS (USDA)

States affected: All, primarily states with large meat processing industries

Rule: Rule amends the federal regulations to allow meat produced by advanced meat and bone separation machinery to be labeled as ''beef'' or ''pork'' instead of ''mechanically separated beef or pork.'' This action was taken to update the definition of ''meat'' to acknowledge advances in meat separating technology that enable meat to be separated from the bones of livestock without grinding, crushing, or pulverizing bones to remove adhering skeletal tissue.

Beneficiary of the Rule: Truth-in-labeling issue that benefits consumers. Also, the meat industry benefits from a redefinition of meat that includes mechanically separated product.

Impact of H.R. 450: Suspending this regulation would meet with opposition from the meat industry which, for years, has claimed that poultry producers have a market advantage in that product they produce using mechanical separation can be labeled simply as ''chicken'' or ''turkey,'' while beef or pork produced through mechanical separation must be labeled as ''mechanically separated.'' The meat industry could be expected to point to this as another illustration of how unequal meat and poultry regulations result in preferential treatment of the poultry industry.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

IMPACT OF A REGULATORY MORATORIUM ON INDUSTRIES SERVED BY THE AGRICULTURAL MARKETING SERVICE (AMS)

Marketing Orders and Agreements: Under a moratorium, these self-help programs will be useless as a viable tool for producers to use to help strategically market perishable commodities.

Regulations Affected by a Moratorium: Operating rules for marketing strategies, committee budgets and expenses, and industry assessments. For producers in 38 fruit and vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

There are approximately 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk and dairy products, that benefit from these self-help programs.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting

quality, wholesome U.S. products. A moratorium will effectively render these programs useless as a viable marketing tool by producers.

DAIRY MILK MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Approximately 92,000 dairy farmers (about three-quarters of all dairy farmers) participate in 38 federal milk marketing orders. Their average herd size is 75 cows, and before expenses, dairymen average less than $150,000 in annual sales.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. In other words, milk marketing orders, and the rules under which they operate, are truly in the hands of the producers, not a federal agency.

Since November 1994, revisions in 11 milk marketing orders have been initiated; these 11 orders represent over 34,500 milk producers. These actions are not regulatory burdens imposed on industry. Rather, the actions taken or proposed to be taken, by industry, help to keep marketing orders dynamic, so they reflect current market conditions facing dairy producers, with respect to adequate supplies of milk needed in a market, milk prices received by producers, and recordkeeping or other ''housekeeping'' or administrative procedures. Actions taken since November include the following:

Central Arizona Milk Order (135 producers covered)—Action to correct marketing inequities within the order. Rescinding the action means recalculating dairy farmers' milk checks, and some producers might have to refund income they have already received and used to cover expenses.

Central Arizona Milk Order—Action taken to propose, beginning March 1, 1995 and extending indefinitely, suspension of certain pooling provisions applied to producers' milk. Inability to suspend the pooling requirements could result in an imbalance of supplies to meet demand in fluid, soft, and hard products markets, with adverse consequences for producer prices and incomes.

Carolina and Tennessee Valley Orders (covering 3,100 producers)—Action to provide notice of a hearing, whose purpose is to correct pricing problems that exist in the orders. Failure to hold the hearing and correct the pricing problems will lead to imbalances in milk supplies relative to local demand, with negative consequences for incomes of some producers in the order areas.

Carolina Milk Order (1,550 producers covered in the Carolina Order alone)—action initiated to propose relaxing certain order provisions for the period January-February 1995, to correct pricing problems. Rescinding the action would result in loss of money for some handlers.

Georgia, et al. (covering 1,355 producers)—Initiation of a formal rulemaking process to consider proposals to merge a number of marketing areas in the Southeast under one order. Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Chicago Milk Order (covering approximately 18,000 producers)—Action taken to accommodate all interests in the order, by providing an extension of time for filing exceptions on proposed amendments to rule.

Southern Illinois-E. Missouri Milk (covers over 2,250 producers)—Action to relax certain provisions of the order, to enable better balancing of supplies. Without the action, excessive milk would be shipped for fluid use, unnecessarily depressing prices and resulting in inefficient allocations of supplies to meet local demand.

Southern Illinois Milk Order—Action to relax pooling regulation for producer milk that is supplied by 2,257 producers. Cooperatives will lose money without the suspension, because members' milk will be ineligible for pooling.

Central Illinois Milk Order—Action proposed to relax pooling requirements. Rescinding this action means that dairy farmers covered under this order would not be able to have their milk priced and pooled, and would lose income.

Southern Michigan Milk Order—Action taken at the request of the industry, to update the method of paying the 3,600 dairy farmers covered under this order for their milk.

Iowa Milk Order—Action taken to withdraw an earlier proceeding initiated to increase the pool supply of milk; supplies now appear to be adequate for meeting local needs. Over 3,400 producers are covered by this order.

Tennessee Valley Milk Order—Action taken to prevent the uneconomical shipment of milk and ensure that milk produced under the order during the fall will continue to be pooled.

Texas Milk Marketing Area—Action proposed to suspend certain provisions of the order from March 1, 1995 through July 31, 1995. Requested by a cooperative association representing a substantial number of the 2,400 producers covered by the order. Failure to suspend the provisions could result in uneconomical and inefficient movements of milk.

Other actions that would affect all dairy milk marketing orders, and must be approved by a majority of the affected producers:

Class II Milk Pricing: This decision changes the Class II pricing formula for soft dairy products (yogurt, cottage cheese, etc.) under Federal orders, and will mean more income for dairy farmers.

M–W Price Series: Decision to replace current outdated pricing series, will improve the accuracy of milk payments to dairy farmers in reflecting actual market conditions.

FRUITS AND VEGETABLES—MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Over 75,000 fruit and vegetable producers, farming an average of 54 acres, participate in 38 federal marketing orders that generate an average of $70,000 in gross sales to producers. Marketing orders are self-help programs that enable producers to develop marketing strategies to compete in a market where buyers have a much greater natural market advantage. Buyers tend to have a greater market advantage not just because there are fewer buyers than sellers, but because the products are highly perishable—producers have limited ability to use time to their advantage and hold commodities off the market until more favorable terms appear.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. Fruit and vegetable marketing orders are truly in the hands of the producers, not a federal agency.

Actions initiated by industry, since November 1994, cover more than 63,000 fruit and vegetable producers operating under some 22 marketing orders. Actions since November include announcements of seasonal marketing strategies to improve or maintain returns, in the face of unexpected large crops, or measurable changes in crop quality, announcements of budgets, expenses, and assessments, for committees to administer the marketing orders locally.

Domestic Peanuts (covering 25,000 growers, with average sales of $36,000 per grower)—Actions taken to update marketing agreement provisions for the recent marketing season, and to assess non-signatory peanut handlers, which is mandated by law.

Far West Spearmint Oil (256 producers, with average annual sales of $100,000)—Action to announce salable quantities and allotment shares for ''Class 1'' and ''Class 3'' spearmint oil, to avoid extreme fluctuations in supplies and prices and thus help maintain stability in the Far West spearmint oil market.

Far West Spearmint Oil—Action to announce salable quantities and allotment shares for the 1995–96 marketing season. This rule needs to be effective during the June 1, 1995–May 31, 1996 marketing year. Without it, handlers will be unable to purchase or handle spearmint oil from the marketing order area, resulting in immediate farmer income loss.

Cranberries (1,046 growers in 10 states)—Action to impose financial responsibility on handlers by setting late payment charges. Late payments of assessments hinder the ability of the committee to carry out its financial obligations responsibility, such as prompt payment for services, salaries, and other current expenses.

California Almonds (7,000 producers, with average annual sales of $130,000)—Action to establish marketing strategy for the 1994/95 crop season, by announcing salable, reserve, and export market share recommendations for handler compliance. Inability to pursue the marketing strategy will lead to fluctuations in supplies in various markets and attendant price variability.

Kiwifruit (600 producers, with average annual sales of $27,000)—Action to change district boundaries, to accurately reflect distribution of growers in membership on administrative committee.

California Olives (covering 1,200 producers, with an average of $47,000 in sales per producer)—Action to establish and announce a marketing strategy for olive growers for the 1994–95 season.

California Olives—Action to announce expenses for administrative committee to run marketing order locally.

California Peaches and Nectarines (1,800 producers, with average annual sales of $57,000)—Producers voted in a referendum to terminate this order. This action would carry out that termination request by industry.

California Raisins (4,500 producers, with average annual sales of $80,000)—Action to announce expenses for administrative committee to run marketing order locally.

California Table Grapes—Action to pursue marketing strategy, by relaxing minimum quality requirements currently in effect for table grapes grown in southeastern California, and imported table grapes, to increase the marketing of grapes that would not otherwise meet the grade requirement. This action conforms to industry practice of allowing the marketing of good quality, but smaller bunches, of grapes. Rescinding or preventing the action would result in loss of income to some producers and handlers for these smaller size grapes.

California Walnuts (5,000 producers, with average annual sales of $73,000)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish potatoes (390 producers)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish Potatoes—Action to realign the representation of the administrative committee to more accurately represent the distribution of growers in the industry.

Florida Avocados (200 producers, with average annual sales of $18,000)—Action to increase expenses to provide funding for a research project to improve marketability of Florida avocados; without funding, the research project will be terminated.

Florida Celery—Action to notify the industry that the marketing order will be suspended after 60 days notification to Congress. The industry wants the order suspended at this time. Nullification of the Final Rule would delay suspension.

Florida Citrus (11,965 growers, with average sales of $22,546 each)—Marketing strategy based on a larger citrus crop, to raise minimum quality grade characteristics, to improve consumer appeal and keep producer returns from declining with excess supplies.

Florida Citrus—Action by the Florida citrus industry requesting that quality standards for grapefruit, oranges, tangelos, and tangerines be revised to more clearly reflect current cultural and marketing practices.

Florida and Imported Citrus—Action to relax the minimum size requirement for red seedless grapefruit, to expand the length of marketing season for Florida handlers and importers of red seedless grapefruit to permit them to continue to ship for the entire 1994–95 season.

Florida Limes (150 producers, with average sales of $39,000) and Avocados—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes (250 producers)—Action to clarify ambiguities in certain rules and regulations of the marketing order, to improve compliance.

Florida Tomatoes—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes—Action to assure that producer representation on the committee more closely reflects the distribution of growers in the industry.

Idaho Potatoes (1,846 producers, with average annual sales of $119,000)—This action is the second of a four-step formal rulemaking process to amend existing marketing order provisions to more appropriately reflect marketing conditions and strategies needed for Idaho potato growers.

Oregon and Washington filberts and hazelnuts (851 producers, with average annual sales of $28,000)—Action to establish a marketing strategy for the 1994–95 season, by setting recommended shares for domestic, export and other outlets. The percentages stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand and provide a reasonable return to producers.

Texas Grapefruit (1,000 producers, with average annual sales of $15,607)—Marketing strategy to raise quality and relax size requirements for the 1994–95 marketing season.

Texas Citrus—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

Texas Citrus—Action to revise container and container pack requirements, to facilitate marketing and business operations.

Texas Melons—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

South Texas Melons—Action to increase expenses for the Administrative Committee to fund an additional research project. Without these funds, the research project would have to be terminated.

Texas Onions—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue, and the committee will be unable to implement needed compliance activities and a planned market development program.

Walla Walla (Washington) Sweet Onions—Action is the second of a four-step formal rulemaking process to establish a new marketing order for Walla Walla onions in Washington, as requested by growers.

Research and Promotion Programs—Under a moratorium, sheep producers will not be able to implement the promotion program authorized by Congress to help promote sheep, wool, and lamb products.

An important upcoming issue is the opportunity for the Nation's sheep ranchers to promote and strategically market sheep products through this self-help mechanism. Producers in California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming recently received authorizing legislation to initiate this program through self-assessments. USDA must publish rules in order to implement the program. Producers collectively will vote on whether to assess themselves and importers, to use the funds collected to conduct research and promotion activities.

With a moratorium, sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

Other R&P issues expected to surface in coming months include:

Soybeans—The Department is required to conduct a producer poll in a timely manner to determine if a refund referendum should be held. That poll is tentatively set for early summer, and procedures for its conduct must be finalized so that producers can receive adequate notice.

Watermelons—The industry will be unable to revise its program, for which it has already received authority to eliminate refunds and revise assessments.

INDUSTRY-FINANCED RESEARCH AND PROMOTION PROGRAMS

Various industry groups have petitioned for and received authorization to collectively assess themselves and use the funds to conduct research and fund promotional activities for their commodities. All of the 16 active R&P programs are totally self-supported. No taxpayer dollars are used. The cost of the Washington staff is reimbursed by the industries. As with other self-help marketing order and agreement programs, R&Ps are initiated by producers, and can be terminated by producers when the programs are no longer considered to be effective. The following actions have been initiated by industries since November:

Egg Research and Promotion Act—Producer Vote to Increase the Assessment Rate: The American Egg Board (AEB) would be unable to collect the 10 cents per 30-dozen case assessment beginning February 1, 1995, and the assessment would revert to 5 cents. AEB would have to develop a new budget and submit it to the Department for approval. Projects as outlined in AEB's 1995 budget are already in progress and would have to be scrapped. The 10 cent assessment was approved by the producers in a referendum held September-October 1994, and the increase was heavily publicized.

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order: This rule implemented the program. Termination of the program would result in a substantial widespread revenue loss to producers and shippers.

Honey Research, Promotion, and Consumer Information Order: Interim Final Rule was published May 2, 1994. This action clarifies and corrects the Order and rules and regulations which were amended in August 1991.

Lime Research, Promotion, and Consumer Information Order: This Final Rule implemented the changes to the Order which reflect amendments made by Congress in December 1993 to the authorizing legislation. Before the 1993 amendments the program was inactive. A moratorium would nullify this industry program.

Pork Research and Promotion; Increase in Assessment Rate: The increase in the overall assessment rate is needed to provide additional funding to enable the pork industry to better assist the movement of record supplies of pork to consumers at improved producer price levels. A portion of all funds collected are redistributed to states to facilitate state promotional activities for pork.

Potato Research and Promotion—Change in Size of Administrative Committee: This Final Rule adopts without change an Interim Final Rule published September 26, 1994. Not implementing this rule would prevent the committee from selecting members on a representative basis. The Final Rule does not change the Interim Final Rule which would remain the active regulation.

INDUSTRY FINANCED GRADING PROGRAMS

Under a moratorium, cotton growers will pay $3–4 million in higher grading fees that are not necessary, if USDA is prevented from reducing the fees through the regulatory process.

USDA can reduce the fees charges to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide.

Any opportunities to keep costs low, while maintaining the availability of quality assurance for growers that is recognized as the universal standard of quality, would be lost with a moratorium. Cotton producers in California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri would pay more than needed for a service they value.

INDUSTRY-FINANCED QUALITY GRADING AND GRADE STANDARDS PROGRAMS

Quality grade standards, and the grading services provided by AMS, are wholly voluntary programs, financed through fees paid by industry for services on demand. These customers are the ''cash and carry'' customers who must be satisfied with AMS service, and believe in the value of the grading service, because they are under no obligation whatsoever to use the grading service. The application of grade standards facilitates trade, and the use of contracts in trade, over long distances where commodities cannot be inspected visually. Grading also increases buyer confidence, by providing up front assurances about the quality of the product before purchase. All of the actions below are

examples of actions initiated by industry, and AMS makes sure that there is industry consensus before the action becomes final:

Beef Grades: Proposal would revise the beef grade standards to assure that older cattle are not included in the U.S. Choice and U.S. Select grades, thereby improving the overall quality of beef in these grades. The action will improve both the consistency of and consumer satisfaction with beef grades.

Dairy Grading Standards: Changes in Anhydrous Milkfat and Butteroil Requirements: Changes were made in the USDA grade standards for anhydrous milkfat and butteroil, that more closely aligned U.S. requirements with international standards. Without the changes, domestic manufacturers of anhydrous milk and butteroil would not be able to compete on equal terms in international markets. As a result, Dairy Export Incentive Program contracts could not be filled, and the dairy industry could lose $1.3 million in annual sales.

Frozen Bean Standards: Proposal would revise quality standards for grades of frozen green and frozen wax beans. The proposed action will improve trade contracts between processors and buyers and improve the marketing of frozen green beans.

Onion Standards: A broad spectrum of growers and shippers of onions requested that the U.S. grade standards be revised to provide clear, objective interpretation and to bring the standards into conformity with current harvesting, handling and marketing practices.

Poulty Grade Standards: These changes update the voluntary poultry grade standards in response to advancement within the poultry industry and changes in consumer preferences.

Tobacco Standards: Action requested by the industry to improve the integrity of American burley tobacco. Industry has been trying for 2 years to get rule in place and it would have strong reaction to any more delay.

AGRICULTURAL MARKETING SERVICE

Implications for AMS Programs Should a Regulatory Moratorium Be Imposed

User fees

The Agricultural Marketing Service administers 50 laws which translates into an equal number of programs for the marketing sector of Agriculture. AMS is unique in that 76% of funding required to provide its services to the agriculture community is paid by numerous players throughout the agricultural marketing chain. Should a regulatory moratorium be imposed, AMS would be unable to promulgate adjustments of annual fees for the numerous inspection and grading activities offered by AMS as well as numerous self-help programs initiated by the various industries. For example:

Cotton classing

In the area of cotton, AMS classes 98% of the cotton crop. Annual fees, which are based on the size of the crop, are announced via Federal Register publication in early spring in order for AMS to assess a uniform fee to the industry when the classing season starts up on June 1. Given the size of the crop this year, AMS will actually be able to consider adjusting the annual fee downward. Without the ability to announce a fee that is in compliance with the formula prescribed in Sec. 3A of the Cotton Statistics and Estimates Act, the Department could actually be in a situation of charging a fee higher than is needed to provide the service to the industry. Although such savings may be a few cents per bale, that savings translates into the big dollar savings for America's producers when they are looking at a record crop which needs classing.

Marketing orders

Federal marketing orders for milk, fruits, vegetables and specialty crops are unique programs that are recommended by industry and approved by the Secretary. Unlike most regulations, these are requested by the industries that are being regulated. Growers and producers voluntarily initiate all marketing orders. A formal rulemaking process, including a hearing on grower/producer approval by a two-thirds or larger majority in referendum, is required before any program may be implemented.

Once operational, industry committees recommend changes in regulations that will assist the industry in addressing unique marketing challenges. The perishability of most of the commodities regulated under these programs makes rapid responses to changes in crop and market conditions essential. Under a regulatory moratorium, timely responses to changes in crop and market conditions will not be possible. Such delays are not only disconcerting to the industries, but result in loss of revenue without the necessary objectives being met.

Under the Federal Milk Order Program, it should be noted that regulatory actions sometimes occur during the course of the year that will in fact suspend certain provisions of that particular federal milk marketing order. For example, regulations are often utilized to suspend the requirements to pool plant qualification of a milk manufacturing plant operated by a cooperative. Milk orders utilize the opportunity to suspend regulations to avoid unnecessary milk movements. A regulatory moratorium would preclude suspending such requirements, thereby requiring unnecessary and uneconomic shipment of milk.

Organic standards

The Department received authority in the 1990 Farm Bill to establish an organic standards program. Over the period of the past five years, the Department has worked closely with the National Organic Standards Board and all segments of the organic community in developing standards by which the organic community can market its products in the mainstream of American Agriculture. The Department is proceeding to publish rulemaking that will provide the necessary standards for implementation of this program. A regulatory moratorium would further delay this effort to the disadvantage of organic producers.

Sheep Research and Promotion Program

The Department expects to promulgate regulations and implement this new program this year. The Department would be unable to implement this Act this year in event of the moratorium.

Watermelon Research and Promotion Program

The watermelon industry under a moratorium would be unable to revise its program for which it has already received statutory authority to eliminate refunds and revise its assessments. The industry is asking for a promulgation of a final rule by March 1 of this year.

Soybean Research and Promotion Program

The soybean legislation approved by Congress in the 1990 Farm Bill requires the Department to conduct a producer poll in a timely manner to determine if a refund referendum should be held. The poll is tentatively set for early summer. Procedures for its conduct must be finalized in time to adequately inform producers. A regulatory moratorium would obviate the Department's ability to meet the statutory requirement.

Pork Research and Promotion Program

The pork industry wishes to increase the rate of assessment from .35% to .45% of the market value of porcine animals. The overall assessment increase is needed by the pork industry to better assist their program efforts for the marketing of record supplies of pork to consumers at improved price levels. A regulatory moratorium would preclude this rulemaking from taking place.

ISSUE: STRATEGIC MARKETING OF FRUITS, VEGETABLES, AND DAIRY PRODUCTS THROUGH PRODUCER SELF-HELP PROGRAMS (USDA)

States Affected: For fruit/veg—mainly Southern and Western States; for dairy—nearly every State.

Rules: Self-Help Marketing Programs—Operating Rules for Marketing Strategies, Committee Budgets and Expenses, and Industry Assessments. For producers in 38 fruit/vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

Beneficiary: 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk, and dairy products.

Impact of H.R. 450: The average fruit and vegetable producer who participates in a self-help marketing order farms just 54 acres, and earns about $70,000 in annual sales, before expenses. The average dairy producer who participates in a marketing order has just 75 cows, with a total value of milk sales before operating expenses, of less than $150,000.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting quality, wholesome U.S. products. H.R. 450 will effectively render these programs useless as a marketing tool.

H.R. 450 would also prevent the initiation of new self-help programs that have recently been enacted by Congress, to help producers promote horticultural products, sheep, wool, and lamb.

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

I would like to enter into a similar colloquy with the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Chairman, a recent tragedy in the Midwest, involving a regional airline brought to the public's attention that 2 different sets of safety standards exist for the airlines, one for the major airlines and one for the regional airlines.

It is my understanding Secretary Peña is looking into that and is expected in a short period of time to be releasing a new set of regulations bringing the regionals up to a par with the major airlines. That is something that is long overdue, since more and more cities are being served by regional airlines and fewer and fewer cities are having full jet service.

I hope it is the intention of the Chair to allow, within the discretion that he has for technical adjustments, when this bill is put into its final stage would somehow include some language so that it is very clear that when these

regulations come down, they will not be subject to the terms of this bill.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would be happy to engage in colloquy with the chairman, and the answer is it is pretty clear to me that the circumstances we are talking about here, which is obviously the safety involved in regional aircraft, is a very, very critical one and one that clearly relates to safety of individuals and constituents a threat.

We have seen too many accidents, too many deaths resulting from this.

So that I think it is clearly exempt under the exemption we provided for imminent threat to health and safety. The language specifically says that substantial endangerment to private property during the period of the moratorium. So under either of those criteria, it would be covered.

I think we should also try to clarify that.

Mr. TAYLOR of Mississippi. Mr. Chairman, while we have the interested parties here, could I address the ranking minority member and ask if she would be in agreement to allow during the technical revisions at the end of the bill to allow the chairman, if need be, to include that language? It is a lot quicker than offering an amendment. Again, we all know regulations are coming that would otherwise be necessary. I would hate to see anyone hurt because this Congress failed to do its job.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentlewoman.

Mrs. COLLINS of Illinois. Mr. Chairman, I say to the gentleman, ''With all certainty.''

Mr. TAYLOR of Mississippi. I thank the gentlewoman.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words in order to enter into a colloquy with the gentleman from California [Mr. HORN].

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

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

Mr. HORN. I thank the gentleman for yielding.

Mr. Chairman, my question is this: Section 5 of the Regulatory Transition Act of 1995 provides for certain exceptions to the regulatory moratorium in the case of regulations which are necessary because of an imminent threat to health or safety. While I applaud this section, I am concerned that it might be construed to apply to regulations proposed under the National Flood Insurance Program.

I have been trying to work with the Federal Emergency Management Agency as that agency prepares to issue a final rule implementing amendments to the national flood insurance program. This amendment—which was passed as part of the 1992 housing reauthorization—addressed areas which once had adequate flood protection, but which had experienced a decertification of their flood control system. Importantly, these amendments only apply to areas which are in the process of recertifying a flood control project. Thus, these communities have the distinction of having once prepared for a flood and of having to do so once again. Certainly, this is not an instance of trying to get out of dealing with a flood threat.

Unfortunately, FEMA has not considered the legislative history of this issue, and is preparing to issue a final rule that will impose a requirement for local homeowners to buy flood insurance and for certain construction projects to be modified to reflect a possible flood.

This rule will cost homeowners several hundred million dollars per year, and even more in lost economic opportunity, as builders delay construction projects to avoid having to elevate structures that will only be at risk for a short period of time, until the flood control project is recertified. In sum, we are facing a multibillion dollar cost from this rule, while the cost to recertify the flood control project is only $300 million. Meanwhile, the risk of a flood is less than 1 percent in any given year.

In my mind, that small risk does not constitute an imminent threat to health and safety, as defined under this bill in section 5. Would you agree with this characterization?

Mr. MCINTOSH. Mr. Chairman, yes, I concur. Rulemaking by the Federal Emergency Management Agency which imposes flood insurance on a community cannot be construed as an imminent threat to health and safety, and thus would not be eligible for consideration under section 5 of the bill.

Mr. HORN. Mr. Chairman, I thank the author of the legislation, who knows it better than anyone.

Mr. MCINTOSH. I thank the gentleman.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois:

At the end of section 5 (pages , after line), add the following new subsection:

(c) COMMON SENSE REGULATORY IMPROVEMENTS.—Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) PERSONAL USE OF CAMPAIGN FUNDS.—A regulatory rulemaking action by the Federal Election Commission governing personal use of campaign funds, taken under the Federal Election Campaign Act of 1971 and with respect to which final rules were published on February 9, 1995 (60 Fed. Reg. 7862).

(2) IMMIGRANT ASYLUM REQUESTS.—A regulatory rulemaking action to improve procedures for disposing of requests for asylum under immigration laws, taken by the immigration and Naturalization Service and with respect to which final rules were published on December 5, 1994 (59 Fed. Reg. 62284).

(3) HUD REGULATORY IMPROVEMENTS.—A regulatory rulemaking action by the Department of Housing and Urban Development—

(A) to establish a preference for the elderly in the provision of section 8 housing assistance, taken under subtitle D of title VI of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on December 21, 1994 (59 Fed. Reg. 65842);

(B) to eliminate drugs from federally assisted housing, as authorized by section 581 of the National Affordable Housing Act and section 161 of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on January 26, 1995 (60 Fed. Reg. 5280); or

(C) to designate urban empowerment zones or enterprise communities, taken under subchapter C of part I of title XIII of the Omnibus Budget Reconciliation Act of 1993 and with respect to which a final rule was published on January 12, 1995 (60 Fed. Reg. 3034).

(4) COMPENSATION TO PERSIAN GULF WAR VETERANS.—A regulatory rulemaking action to provide compensation to Persian Gulf War veterans for disability from undiagnosed illnesses, taken under the Persian Gulf War Veterans' Benefits Act and with respect to which a final rule was published on February 3, 1995, (60 Fed. Reg. 6660).

(5) CHILD MOLESTER DATABASE.—A regulatory rulemaking action by the Department of Justice to require persons criminally convicted of a sexually violent offense against a minor to register with State law enforcement agencies so that such agencies can develop a database of the identities and residences of those offenders, taken under title XVII of the Violent Crime Control and Law Enforcement Act of 1994.

(6) MIGRATORY BIRD HUNTING.—A regulatory rulemaking action by the Department of the Interior that establishes the hunting season, hunting hours, hunting areas, and possession limits for migratory birds, and with respect to which final rules were published on November 21, 1995 (59 Fed. Reg. 59967 and 59 Fed. Reg. 60060).

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot during this debate about regulations that do not pass the commonsense test. A proposal considered by Federal agencies to require the manufacture of buckets that leak has often been cited as an example of what is wrong with Federal regulation.

What the proponents of this bill do not like to admit, however, is that some regulations actually do pass the commonsense test. It is important to

remember, therefore, that H.R. 450 does not just stop bad regulations—it stops virtually all regulations.

There is no exemption in this legislation for regulations that simply make good sense. As a result, the amendment I am offering would exempt several regulations that I believe most Members will agree make sense, and should not be subject to a moratorium.

Regulations that would be exempt from the moratorium under my amendment include: rules prohibiting the personal use of campaign funds; improved procedures to dispose of meritless petitions for asylum under immigration laws; rules to give preference to the elderly in public housing, to exclude drug addicts from public housing and to designate empowerment zones and enterprise communities; rules authorizing payment of benefits to Persian Gulf veterans; rules providing for the development of a data base for child molesters; and rules necessary to establish the hunting season for ducks and other waterfowl.

□ 1810

Let me speak first on the duck hunting issue.

My amendment would exempt from the moratorium the Interior Department's regulations establishing the hunting season, hunting hours, hunting areas, and bag limits for migratory birds. Without this exclusion, this year's hunting season for ducks and other waterfowl could be canceled, according to the Fish and Wildlife Service.

I am sure the bill's proponents did not have the Nation's hunters in their sights when they took aim at Federal regulation. However, without the exclusion contained in my amendment there will not only be disappointed hunters this hunting season, but there will also be reduced Federal and State revenues from the sale of licenses and duck stamps.

Why would we want the moratorium to stop the hunting season?

I would also caution my colleagues against relying on assurances from the bill's proponents that there is no need to worry, because this or that regulation can be excluded under the term of the bill.

There are no automatic exclusions under this bill. Furthermore, since the bill allows the courts to review an agency decision to exclude a matter, the agencies will be very reluctant to grant exclusions.

Let me give my colleagues a little background on some other rules, and I think it will be very clear why they should be excluded from the moratorium:

The Federal Elections Commission has recently completed a rulemaking clarifying its prohibition against the personal use of campaign funds.

The new FEC rule defines personal use to include expenses such as club memberships, clothing, tuition payments, and mortgage and rent payments on a candidate's personal residence. If the FEC's rule is not allowed to go into effect, there will be no definition of personal use, and the opportunity for intentional, or inadvertent violation of the law will increase.

It is my belief that the American people will hold each of us no less accountable than Members of past Congresses for excesses and abuses of our office.

Why then should we want H.R. 450 to stop the FEC from aggressively enforcing its ban on the personal use of campaign funds?

Similarly, the Department of Justice issued a final rule on December 5, 1994, which will make it easier to deport immigrant aliens who file meritless cases for asylum.

Under this rule, persons who are seeking asylum would not immediately become eligible to receive employment authorizations. Under the previous rule, asylum seekers were granted employment authorizations immediately upon filing for asylum. As a result, many fraudulent asylum petitions were filed in order to obtain much sought after employment authorizations.

We have had many examples of abuses of our asylum laws in recent years.

The Moslem religious leader who is accused of masterminding the bombings of the World Trade Center in New York City has remained in the United States, after filing a request for asylum. The sniper attack last year outside the Central Intelligence Agency was also perpetrated by an asylum applicant.

In both these cases, the individuals involved were able to extend their stay by filing appeals and exhausting their administrative remedies under the asylum regulations now in effect. Such tactics have meant that it now takes the Immigration and Naturalization Service [INS] up to 2 years to process an asylum application.

If we do not exempt this rule from the moratorium, we will be protecting those who do not have a legitimate claim for asylum in our country. According to the administration, and I quote,

> The effect of H.R. 450 would be an institutionalization of the prior, unworkable and inefficient asylum system.

I do not believe that is in the interest of the American people.

Neither do I believe it to be in the public interest to repeal HUD's designation of more than 100 empowerment zones and enterprise communities throughout the United States. I am happy to say that Chicago was designated one of the empowerment zones.

Under this program, cities would be given tax incentives, flexible block grants, waivers, and flexibility with existing Federal resources and priority consideration for discretionary Federal programs. In short, cities would get the kind of cooperation and flexibility from the Federal Government that they have been seeking for a long time.

Why would we want the moratorium to stop this regulation? Members of the majority have been advocating this approach for years.

I would remind the bill's proponents that when a question was raised about whether the moratorium would apply to bank and tax regulation, the response was to clearly exempt these matters in the provisions of the bill itself. I would ask for the same treatment for the rules contained in the amendment I am offering.

Let me conclude that my statement is a commonsense fix on this bill, yet if this amendment is defeated, I would be willing to grant that we are going to end up passing this in the new Corrections Day that the Speaker has promised us.

I believe the regulations my amendment would exempt do make good sense, and I would urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS], and I yield myself such time as I may consume.

Mr. Chairman, I do this reluctantly because I know that the minority has attempted to marshal the amendments into en bloc amendments. Unfortunately this amendment really is too en bloc. We have too many disparate elements included in this amendment, some of which may be meritorious, but others which I think are redundant or unnecessary. So, because it has a whole potpourri of various considerations, various exemptions included in this, I think it goes beyond, and it really would have the effect of gutting the intent of the bill, which we are trying to resist as many exemptions as possible here because we feel that the exemption provisions in the bill itself are very broad. They would allow amendments to go forward clearly for a variety of reasons, whether for to protect the health and safety, whether it is streamlining or removing regulations, reducing the regulatory burden on people and for normal, routine operations.

There are a number of exemptions in here, and to start down the slippery slope of identifying specific programs I think would be a mistake, and I would also submit, Mr. Chairman, a number of the provisions in the gentlewoman's amendment I think would be clearly covered by some of those exemptions that are applied in the bill. For example, the immigrant asylum provision would really be covered, I believe, under the streamlining exemption. It says that one is actually removing regulations that are imposed in this area, and it is making the system easier. So I think they would not be affected by or they would be exempt under this amendment. The child molester data base would be covered clearly, I think, under the criminal enforcement exemption. Again that is already in the bill, and to specifically list child molesting

might preclude the consideration of other vitally needed criminal regulations that should go forward.

So, there are a number of other items, as I have indicated, like the migratory bird hunting amendment. I would tell the membership we are going to deal where there is an amendment that will be forthcoming that I think addresses the migratory bird hunting problem with greater finesse. This would provide us an exemption, spell out an exemption, for migratory bird hunting. The amendment that will be considered in due course defines what the existing exemption would include within the existing exemption and make it clear that this was a sort of thing that we intended to be included within the existing exemption.

So, for those reasons I must oppose the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to modify or amend the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS] by taking the language that applies in the amendment that is in the amendment lines 2, 3, and 4, beginning with the word ''section'' and insert ''it also,'' and on page 3 between lines 14 and 15.

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

□ 1820

Mr. CLINGER. Mr. Chairman, reserving the right to object, I would have the gentleman repeat his request.

Mr. VOLKMER. If you take the language in the front of the amendment, line 2, section 6, et cetera down to ''thereto,'' take the same language and put it over on page 3, between lines 14 and 15; that is all it does.

Mr. CLINGER. Further reserving the right to object, what is the purpose of this amendment?

Mr. VOLKMER. It does not change the substance of the amendment at all.

Mr. CLINGER. Why are we moving it, if it does not change the substance? What is the effect of the change?

Mr. VOLKMER. The effect is the change will permit me to ask for a division or separate vote on that last part, on the migratory bird hunting.

Mr. CLINGER. Mr. Chairman, as I indicated earlier, we are going to deal with that matter in a subsequent amendment, and we feel that the amendment that will be offered later is a more artfully drafted amendment. So I would not want to muddy the water here, and I must maintain my objection.

The CHAIRMAN. Objection is heard.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentlewoman from Illinois for yielding, and also thank her for her leadership and allowing me to have input and assistance on this amendment.

In their haste to expedite the process, my colleagues on the other side of the aisle seem to have forgotten there are some helpful regulations needed by hunters, veterans, seniors, crime fighters, and even Members of Congress. The Collins-Stupak amendment would make some important needed corrections in this legislation.

H.R. 450, the regulatory moratorium, is for the birds, but, more specifically, it is for ducks, geese, doves, woodcocks, and pigeons. In fact, it really should be renamed the Migratory Bird Safe Passage Act of 1995, because one of the consequences of the legislation is that the U.S. Fish and Wildlife's Federal regulations would not be able to set up this year's migratory bird hunting season and bag limits. Under the provisions of the migratory bird treaty, the U.S. Fish and Wildlife allows waterfowl hunting between September 1 and March 9. Because of the moratorium that we have here today, the U.S. Fish and Wildlife would be hard-pressed to set the hunting season before September 1, 1995. Without this amendment, 3 million duck hunters can hang up their shotguns, States will forego $1 million in license revenue, and rural communities such as northern Michigan which depend on the hunting season will lose an aggregate total economic benefit of $3.6 billion. In Michigan's upper peninsula alone, over 5,000 duck hunters bring nearly $1 million to our economy.

Further, this amendment reminds us that we should reflect on our goal for veterans. Many of the young veterans from the gulf war are suffering from a mysterious delibitating disease. The Secretary of Veterans Affairs recently authorized benefits for soldiers and their families to help them cope with the gulf war syndrome. The authorization, aimed at providing relief, would be considered under this legislation a burdensome regulation. I find it unconscionable that now we put forth a moratorium and turn our back on our suffering veterans.

What about our seniors? HUD regulations, which will help keep drug and alcohol abusers out of senior housing complexes are now under assault. Every senior should be afforded the opportunity to live in comfort and safety in their home. The moratorium would halt this rule making process and would continue to put our Nation's seniors at risk.

The Collins-Stupak amendment would allow duck hunters to hunt this year by exempting them from the rulemaking action of the Fish and Wildlife Service with regard to the migratory bird treaty. It provides for our veterans and it protects our seniors. I ask that my colleagues support this amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. STUMP], the chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as chairman of the Committee on Veterans' Affairs, I can fully appreciate the intent of the gentlewoman's amendment to H.R. 450 regarding VA compensation. However, I believe the amendment is unnecessary because under section 6, veterans' benefits would be already exempt.

If you would allow me to paraphrase, I will read you under the definition of section 6 exclusions: The term ''regulatory rule making action'' does not include any action relating to statutes implementing benefits.

Our committee has asked the VA their opinion about this. They have no concern about this, since this clearly exempts them and they have no problem with it. So I urge my colleagues not to be concerned about the Persian Gulf compensation regulations. It would not affect them.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STUMP. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman thinks it is clear, others do not. So if you support my amendment, then it would be clear and there would be no confusion about the issue.

Mr. STUMP. Mr. Chairman, reclaiming my time, I guess my objection to it would be that this may be used to enhance the passage of this amendment, and I object to the amendment for other purposes, too. I want to make it perfectly clear it does not affect compensation for Persian Gulf war veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will yield further, it is the agency that has to make the determination. That is why I would like to have it in this bill, so the agency would be clear of the congressional intent.

Mr. STUMP. Mr. Chairman, reclaiming my time, I would repeat under the rule, exclusion section 6, it is not necessary and does not affect veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER], a coauthor of the amendment.

Ms. SLAUGHTER. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, national statistics indicate that rapists are ten times more likely to repeat their crimes than other types of criminals. The American people are right to be outraged by the sensational cases where such sexual predators were released into our communities, and often neither the police nor the community knew they were there.

Polly Klaas in California and Megan Kanka in New Jersey are two recent examples of young children allegedly

abused and murdered by released sex offenders. In my home town of Rochester, NY, Arthur Shawcross went on a rampage of serial rape and murder while he was on parole for abusing and murdering two young children.

Communities across the Nation have similar horror stories to tell. And we here in Washington heard those stories, and vowed to take action. Last year, I introduced legislation expanding our national crime database to cover all sexual predators. A sexual predator database was included in last year's comprehensive crime legislation, with strong support from Republicans and Democrats alike.

By collecting this information nationally, and making it available by computer to every police department in the country, we can help prevent new tragedies from occurring.

Let me close with an example of a recent case in which the predators database could have made all the difference. Two years ago, Virginia authorities were puzzled by the crimes of the notorious ''maintenance man rapist,'' who attacked as many as 18 women by posing as a repairman to gain access to their homes and then brutally raping them.

Tragically, Eugene Dozier had already been convicted for a string of rapes in New York in which he used exactly the same predatory tactics. He was released from prison in New York and moved down the coast to northern Virginia. Information from a nationwide database would have led Virginia police right to his door. Instead, 18 women were needlessly brutalized before the maintenance man rapist was brought to justice.

I urge my colleagues to support the Collins amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the distinguished majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Collins amendment.

Mr. Chairman, to paraphrase Abraham Lincoln, an amendment divided against itself cannot stand. And the Collins amendment has so many different divisions, it cannot stand the scrutiny of reason.

Look at what we have here. We have a giveaway to the FEC, a special break for HUD, a little something for the veterans, and how about something for duck hunters? We are going to have a duck hunting amendment that follows later on tonight. Taken alone, each one of these special exemptions may sound good. Taken together, this amendment quickly escapes reason.

Mr. Chairman, let us not lose sight of the real issue here. What we are trying to do is end the regulatory burden on our small businesses and the American family. What the opponents are trying to do is to keep these job-killing regulations flowing and going. Mr. Chairman, I urge my colleagues to vote against this amendment and support the underlying bill.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Illinois.

□ 1830

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding to me.

The reason why I had to fashion my amendment in the way I did is because we had time limitations, and I wanted to make sure that these four particular parts of the amendment were being covered somehow. So all we could do is cluster the amendment, and that is why my amendment has four different categories in it.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand the ranking Member's problem and appreciate the problem, but the point still is the same. This is an amendment that is trying to undercut the bill and the intent of the bill.

The bill takes care of the problems, as we have said all day long, of many of the Members that want certain regulations to continue, safety and health, routine licensing, regulations that lift burdens on other regulations. The bill takes care of most of this.

I understand that the gentlewoman supports and that side of the aisle supports regulation, but what we are trying to do here is to put King's X on regulations until we are able to implement our regulatory reform package and, hopefully, see that the President signs them.

We could all play political games, some for political cover, but the real intent of these amendments is to destroy the underlying intent of the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, let me say to the gentleman that it is not the intention to do any kind of political amendments. What it is the intention to do is to let American people know what is in this bill and what is not in this bill.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand, we all understand what is going on here. Those that want to protect the regulations want to do as much as they can.

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

I think that the only point I would like to stress again, I know that there are many in this Chamber, many in their offices who are concerned about an issue that has become very, very prominent in this debate. That is whether or not we would have a duck hunting season in this country this year. I want to assure those that might be inclined to vote for this amendment because of that concern that there will be a subsequent amendment that will deal, I think, more artfully with that problem and will make it very clear that the exemption that exists in the bill is meant to cover the very concern that people have had about having a duck hunting season.

I think it is better than the proposal in the gentlewoman's amendment, which would carve out a totally separate exemption and, therefore, I think open the door to massive other numbers of exemptions which we are trying to resist.

So I would encourage those who might be inclined to vote for this amendment because of the migratory bird provision not to do so. They will have that opportunity when the amendment, the next amendment, one of the amendments will be considered later.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the gentleman for clarifying that fact, because I understand there is no higher priority in this body than to make sure that we do have duck hunting season. We will take care of that.

But there are other amendments within this package of common sense amendments that we really need to take care of.

It is probably so that there are Members on this side of the aisle, the Democratic side, who really believe that whatever regulation the Federal Government issues, it is needed. It is important and they would not question it. There are obviously Members on the Republican side who seem to feel that any Federal regulation is wrong and should not have been issued.

I suspect, and I would suggest to the Members of this body, that the truth probably lies somewhere in between, that there are regulations that are just plain nutty and we have had those shared with us today and will tomorrow as well.

There are regulations that in their implementation they are excessive. They are implemented in a cookie cutter approach, when the intent is good but the result is not what this legislative body intended. Then there are other regulations that are absolutely essential and necessary, and we would really not object to those, if we had an opportunity to fully consider them.

That is, it is those regulations that we are considering in this amendment. This amendment was put together under the guise of common sense.

When we talk about the asylum issue, for example, OMB has told us that under H.R. 450, they would not be able to issue those INS regulations.

Now, we have been working with INS for years. It does not make sense to have 450,000 political asylum cases in limbo, waiting to be processed. It increases by 100,000 a year. There is nothing to do with the political situation in other countries. It is because people have figured out how to use this loophole.

You have got people in other countries that consider themselves immigration consultants, and they tell people that ''you get on the plane, you

flush your papers down the toilet en route. You get over there and you say you are claiming political asylum. It will take 2 years before they process and by then they will never find you.'' That is what happened with Mir Amal Kansi who killed two people outside the CIA. He was on political asylum. The people that bombed the World Trade Center, political asylum. We have got thousands of people that have no business being in this United States.

So we finally got a regulation that the INS issued that will make sure that they all get processed in 6 months instead of 2 years.

That is a regulation that OMB tells us they will not be able to implement this year if H.R. 450 passes as is.

It needs to be changed. Other amendments that have been included in this package need to be changed. I would hope that we would do so.

Mr. Chairman, this amendment gets to the heart of the problem with the Regulatory Moratorium Act.

This legislation assumes that all regulations are bad and that Government only works to impose new and unnecessary burdens on businesses and citizens. By arbitrarily reaching back to November 1994, this legislation attempts to impugn the motives of any regulation not implemented with the advise and consent of the new Republican revolutionaries. This is fine as political rhetoric, but it is shortsighted and destructive as public policy.

My concerns focus on an individual case in point. On December 5, 1994, regulations were published in the Federal Register that provide desperately needed reforms of our political asylum process. This reform is important because the number of political asylum cases has exploded. In 1983, there were fewer than 5,000. This grew to 56,000 in 1991 and more than 150,000 last year. The backlog of unprocessed asylum cases has grown to more than 425,000 cases by the end of last year and is rising at the rate of 100,000 each year.

This increase in political asylum cases is not driven by a rise in legitimate refugees seeking protection from the United States, but rather by an increased awareness of the loophole overseas. What is happening is that aliens and immigrants are coming to this country, flushing their papers down the toilet on their flight over and claiming political asylum once they land at JFK or Dulles International Airport. They are learning how to do this through conmen and immigration consultants overseas.

The reason aliens are claiming political asylum, in such large numbers, is that they know they can use the process to get into the United States with little or no problem or governmental control. INS officials cannot summarily dismiss these complaints and send the aliens back home. Instead the aliens are given work permits and temporary visas while the INS reviews their claim. With a backlog of 425,000 claims, this initial review can be up to 24 months away. Even after the INS reviews the claim and rejects it, the alien simply appeals the decision and continues to live and work in the United States. More often than not we are finding that aliens are using this delay to simply disappear into the vast underground of immigrants in New York, Los Angeles, or even Arlington, VA.

This system is being seriously abused. Sheik Omar Abdel Rahman and his gang, who tried to blow up the World Trade Center, had political asylum cases pending. Mir Amal Kansi, the Pakistani who 2 years ago murdered two people outside the CIA headquarters building in northern Virginia, came to the United States on a visa and then applied for asylum.

Last year, the Clinton administration and the INS began the process of reforming our asylum laws and closing this loophole. The December 5 regulations will help the INS fully process applications within 180 days. The INS will focus on the new asylum claims and prevent aliens from melting into our society. In addition, asylum applicants will not be given work permits until after 180 days. The regulations will significantly improve our asylum process.

But now, we are willing to throw out those regulations simply because they were implemented after the November elections. We are reopening a huge loophole in our immigration policies and telling potential immigrants to come on in.

This is simply inexcusable. We must not overturn legitimate and necessary government policies simply to score political gains.

The Collins-Moran amendment corrects this flaw by excluding the INS regulations from the scope of the legislation.

I urge all of my colleagues to vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 242, not voting 11, as follows:

[Roll No. 164]

AYES—181

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

NOES—242

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

Stockman	Torkildsen	Weller
Stump	Upton	White
Talent	Vucanovich	Whitfield
Tanner	Waldholtz	Wicker
Tate	Walker	Wolf
Tauzin	Walsh	Young (AK)
Taylor (NC)	Wamp	Young (FL)
Thomas	Watts (OK)	Zeliff
Thornberry	Weldon (FL)	Zimmer
Tiahrt	Weldon (PA)	

NOT VOTING—11

Andrews	Fattah	Meek
Bartlett	Gibbons	Ortiz
Barton	Gonzalez	Torres
Ehlers	McCarthy	

□ 1853

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton of Texas against.

Ms. JACKSON-LEE and Mr. DOOLEY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. NORTON: At the end of section 5 (page , after line); add the following new subsection:

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I say consume.

Mr. Chairman, the only difficulty this amendment presents for me, and I believe for most of the Members, is that it is not already in the bill. Had I not had a conflict that prevented me from being at the committee for part of the time, I have every reason to believe that the bill would have come to the floor with this amendment in it.

The proof is that the language I now propose has already been adopted by this House in the unfunded mandate bill. I would simply exempt, to use the language of that bill, ''regulatory rulemaking action to establish or enforce any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.''

If this language was appropriate for the Unfunded Mandate Reform Act of 1995, it is more so for the Regulatory Transition Act now before us. Unfunded mandates seldom sound in equal rights terms. Regulations do far more often.

For example, as we speak, administrative action is under way to conform the time limits for filing civil actions under the Age Discrimination Act to those of the Civil Rights Act we passed in 1991. This is an action of particular importance. Several years ago, hundreds of middle-aged and elderly workers lost their rights under the age discrimination statute because of differences in time limits for filing. This body had to pass a special bill to reinstate those actions. Now administrative action is pending that would safeguard these rights and promote efficiency by eliminating inconsistencies in time limits allowed for people to go to court. There should not be one time limit for filing based on gender or race, for example, and another time limit for those who claim discrimination because of age.

Another pending example would conform the Rehabilitation Act to the Americans With Disabilities Act. The Rehabilitation Act is the Disabilities Act as applied to Federal employees.

The regulatory moratorium bill was not drawn with regulatory actions of this kind in mind, Mr. Chairman. This body's action that exempted civil rights matters from similar and prior legislation this very month shows a bipartisan intent to leave matters of equality untouched by legislation designed to attack other problems.

The last thing the country needs is a notion that the House regards the right to be free of discrimination not as a right at all, but as an unfunded mandate or a paperwork problem.

□ 1900

In fact, that is not the view of this body, to its credit. We have said so once and we should say so now.

These have not been the best of times for equal rights. There is polarization where there should be reconciliation. We need a more problem-solving, sober leadership on equal rights on this delicate yet volatile issue than it sometimes attracts.

My aim is designed to bring us together where we ought to be on equal rights. We will not be able to be there all of the time. It should not be difficult to be together on this amendment at this time.

I ask for and urge Members' support.

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

AMENDMENT OFFERED BY MR. MC INTOSH TO THE AMENDMENT OFFERED BY MS. NORTON

Mr. MCINTOSH. Mr. Chairman, I rise in technical opposition to the amendment and I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH to the amendment offered by Ms. NORTON: Before the period at the end of the amendment insert '', except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status''.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 10 minutes.

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

Mr. Chairman, the purpose of my amendment is to clarify that any regulation that would go forward to protect civil rights would not create a quota or a preference. We have seen time and time again instances where people implementing the Civil Rights Act were overzealous in the application of the civil rights laws, which has led to the unintended or perhaps intended consequence that regulations have created a preference where individuals would be hired, fired, otherwise subject to employment decisions that were in fact based on suspect criteria, such as race, gender or national origin.

Our goal here is to make it very clear that those regulations could not go forward during the moratorium period, and I think it will send a strong message to the country that we want to have racial equality and do so in a way that is truly without regard to race, gender, national origin, handicap, or disability status.

I urge a yes vote on the amendment, and then would be delighted to support the amendment of the gentlewoman from the District of Columbia [Ms. NORTON].

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

Mr. Chairman, I appreciate the gentleman's amendment and the work he has put into it. I certainly do not mean to create the impression that anything in my amendment does anything but conform to existing law. So I take the use of the words ''quota'' and ''preference'' to be interchangeable because otherwise the one word is so wide open and does not have a fixed meaning in law, and on that basis I would accept the gentleman's secondary amendment.

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

Mr. Chairman, the reason for the choice of the word ''preference'' was that some people attempted to create quotas and call them preferences, so I am delighted the gentlewoman is accepting the amendment.

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

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

Again, Mr. Chairman, let me just indicate that the Civil Rights Act most recently passed by this body in 1991 bars quotas, and I certainly mean to conform to that act, and I believe the gentleman is entirely in good faith in his use of the language to conform to that act, and certainly I do not mean any quotas, and the use of preference in this context interchangeable with quotas is satisfactory to me.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the full committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the gentlewoman's amendment that would exclude civil rights regulations from the moratorium.

Mr. Chairman, I express my support for the Norton amendment that would exclude civil rights regulations from the moratorium.

The enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Americans With Disabilities Act, and the Age Discrimination in Employment Act represent significant triumphs in an ongoing struggle to ensure that all Americans are treated fairly. These laws, among many other civil rights protections, ensure equality of opportunity, and equality of access for all.

Although this bill does not purport to impact these laws, its practical effect is to seriously undermine their potency. For example, agencies would be prevented from promulgating regulations to ensure safety for the handicapped or disabled, and to ensure that these individuals have the same physical access to facilities as the rest of the population. In addition, agencies would be prohibited from undertaking investigations pursuant to allegations of discrimination.

I truly wish that many of these regulations were not necessary to protect the rights of our citizens. However, all we need to do is take a page from the history books to illustrate the unfortunate disregard that we have shown for our fellow citizens' rights in the past.

I believe that if we do not exclude these regulations, then we seriously compromise one of the most fundamental premises of our democracy * * * the equality of all citizens.

I also believe that we would be sending the wrong signal to the American people, that the protection of their civil rights is not important. I do not believe that this is the signal that any of us would want to send. I would therefore ask my colleagues to support this amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] seek time?

Mr. CLINGER. Mr. Chairman, yes, I do.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. CLINGER] reclaims the time of the gentleman from Indiana [Mr. MCINTOSH].

There was no objection.

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

Mr. Chairman, I just want to say I am delighted that the gentlewoman from the District of Columbia and the gentleman from Indiana have been able to come together in a cooperative fashion to come up with an amendment which I think accomplishes what he wants to accomplish. As the gentlewoman from the District of Columbia said, this was language that was included in the unfunded mandates provision. It makes it very clear that these were to be not on the table in terms this kind of thing.

So I think it is an important addition to the bill and I am happy to support her amendment as amended by the gentleman from Indiana.

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

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

Mr. Chairman, I thank the gentleman for his support. The fact is that the word quotas has become quite a dirty word in the language and I did not want to add any dirty words to this bill, and I think what we do by adopting this amendment is to take that word off the table, to indicate that we certainly do not mean quotas, and thereby make this bill that every Member can support.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. MCINTOSH] to the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON], as amended.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 0, answered ''present'' 14, not voting 15, as follows:

[Roll No. 165]

AYES—405

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller

White	Wise	Yates
Whitfield	Wolf	Young (AK)
Wicker	Woolsey	Young (FL)
Williams	Wyden	Zeliff
Wilson	Wynn	Zimmer

ANSWERED ''PRESENT''—14

Becerra	Hilliard	Payne (NJ)
Brown (FL)	Johnson, E. B.	Rangel
Collins (IL)	Lofgren	Souder
Dellums	McKinney	Waters
Hastings (FL)	Owens	

NOT VOTING—15

Andrews	Furse	Kaptur
Barton	Gibbons	McCarthy
Boehlert	Gonzalez	Meek
Ehlers	Hoke	Ortiz
Fattah	Johnson (SD)	Torres

☐ 1927

Messrs. DELLUMS, RANGEL, PAYNE of New Jersey, and HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MCKINNEY changed their vote from ''aye'' to ''present.''

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to announce that in a moment I will move that the Committee do rise for the purpose of a unanimous-consent request, which would provide for the House to sit tomorrow morning starting at 9 o'clock.

Thereafter, I would advise the membership we would go back into the Committee, we will dispose of one additional amendment this evening, and there will be one additional vote anticipated, but we should be completed with all business in Committee by 8 clock.

With that, 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. GUNDERSON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, had come to no resolution thereon.

HOUR OF MEETING ON TOMORROW

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

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

Mr. WISE. Mr. Speaker, reserving the right to object, this has been cleared by the leadership on the Democratic side.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

☐ 1930

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 and rule XXIII, 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. 450.

☐ 1930

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. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON] as amended had been disposed of.

For what purpose does the gentleman from Indiana [Mr. MCINTOSH] rise?

Mr. MCINTOSH. Mr. Chairman, I move to strike the last word.

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

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH] for yielding to me for the purpose of a colloquy, and I would like to ask the chairman of the subcommittee three questions, if I could. The first question is this: In December 1994, the INS promulgated comprehensive regulations to streamline the asylum process and prevent abuse of the asylum system. Is it your understanding that these regulations would be excluded under section 6(3)(B)(i) as being ''limited to streamlining a rule, regulation, or administrative process?''

Mr. MCINTOSH. Yes, that is my understanding of the effect of section 6(3)(B)(i) with respect to streamlining INS regulations of this type.

Mr. SMITH of Texas. In 1994, the Violent Crime Control and Law Enforcement Act and the Immigration and Nationality Technical Corrections Act established a process to expeditiously remove from the United States criminal aliens. Is it your understanding that these regulations will be excluded from the moratorium because they fit within the streamlining exception under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. And last, I appreciate the gentleman's patience, the third question is: It is my understanding the INS also plans to issue regulations to streamline the rules and procedures for certain types of nonimmigrant visas, in part to prevent the abuse of such visas. Is it your understanding such reforms to the visa process fall under the streamlining exclusion under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH].

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

AMENDMENT OFFERED BY MR. HAYES

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

The Clerk read as follows:

Amendment offered by Mr. HAYES: In section 6(4), in the last sentence, after ''restriction'' insert the following new clarifying clause: ''(including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action)''.

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

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

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today the gentleman from Louisiana [Mr. HAYES] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I rise in support of an amendment that while styled as such because of the procedural rules of the House is actually a clarification language of section 64.

As background it should be noted that the reason that we are here this evening is because we have had so many regulatory actions, they have trampled on so many individuals' rights, and we have had so many instances in which we were unable to redress the complaints made by those whom we represent that it boiled over to the point where finally there is a regulatory reaction. I say to my colleagues, incredibly enough the kinds of things that were happening to folks at home that led to this sort of concern are the kinds of things they complain to and to you about when you return there. They walk up and they say, ''Look, my son is owning a piece of property that has some water on it. There's no means by which I can tell what it is, and unless I apply for a permit to do something, the Corps of Engineers won't tell me what it is, but the minute I decide to put some kind of crawfish pond there I find out the entire Federal bureaucracy not only wants to tell me what it is, but what to do with it.''

Mr. Chairman, we have regulatory overreach that has caused us in representing those half million-plus people who call us Congressmen to come here this evening.

I say to my colleagues, incredibly enough, with the efforts that deserve