were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 240, not voting 14, as follows:

[Roll No. 518]

AYES—177

Ackerman
Altmire
Andrews
Baca
Baldwin
Barber
Bass (CA)
Becerra
Berkley
Berman
Blumenauer
Bonamici
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Buchanan
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Fudge
Gibson
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hochul
Holt
Honda
Hoyer
Israel
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Pelosi
Perlmutter
Peters
Pingree (ME)
Platts
Polis
Price (NC)
Quigley
Rangel
Reichert
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Thompson (CA)
Thompson (MS)
Tierney
Tipton
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—240

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Rahall
Reed
Rehberg
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schrader
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOT VOTING—14

Bishop (NY)
Culberson
Dicks
Garamendi
Hirono
Jackson (IL)
Jackson Lee (TX)
Lewis (CA)
Lewis (GA)
Meeks
Reyes
Richmond
Stivers
Sutton

□ 1855

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GRIFFIN of Arkansas. 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. GINGREY of Georgia) having assumed the chair, Mr. SIMPSON, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4078) to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 4078, RED TAPE REDUCTION AND SMALL BUSINESS JOB CREATION ACT

Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 112–623) on the resolution (H. Res. 741) providing for further consideration of the bill (H.R. 4078) to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 134, CONDEMNING THE ATROCITIES THAT OCCURRED IN AURORA, COLORADO

Ms. FOXX. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider House Concurrent Resolution 134 in the House; that the concurrent resolution be considered as read; and that the previous question be considered as ordered on the concurrent resolution and preamble to adoption without intervening motion or demand for division of the question except 30 minutes of debate equally divided and controlled by Representative COFFMAN of Colorado and Representative PERLMUTTER of Colorado or their respective designees.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

HOUR OF MEETING ON TOMORROW

Ms. FOXX. 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 gentlewoman from North Carolina?

There was no objection.

RED TAPE REDUCTION AND SMALL BUSINESS JOB CREATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 738 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 4078.

Will the gentlewoman from Missouri (Mrs. HARTZLER) kindly take the chair.

□ 1900

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.

4078) to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent, with Mrs. HARTZLER (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 5 printed in House Report 112–616 offered by the gentleman from Massachusetts (Mr. MARKEY) had been disposed of.

AMENDMENT NO. 6 OFFERED BY MR. WATT

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 112–616.

Mr. WATT. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 18, strike ''or (d)'' and insert the following: ''(d), or (e)''.

Page 5, insert after line 7 the following:

(e) EXCEPTION FOR REGULATORY ACTIONS PERTAINING TO CERTAIN INTELLECTUAL PROPERTY RULES.—An agency may take a significant regulatory action if the significant regulatory action is a regulatory action by the United States Patent and Trademark Office that will help streamline the application processes for patents and trademarks, including rules implementing the micro entity provision of the Leahy-Smith America Invents Act.

Page 10, insert after line 13 the following and redesignate provisions accordingly:

(c) INTELLECTUAL PROPERTY EXCEPTION.—Section 202 shall not apply to a midnight rule if the midnight rule is a rule made by the United States Patent and Trademark Office that will help streamline the application processes for patents and trademarks, including regulations implementing the micro entity provision of the Leahy-Smith America Invents Act.

Page 19, insert after line 25 the following:

(d) EXCEPTION.—This section shall not apply in the case of any consent decree or settlement agreement in an action to compel agency action by the United States Patent and Trademark Office that will help streamline the application processes for patents and trademarks, including regulations implementing the micro entity provision of the Leahy-Smith America Invents Act.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Madam Chair, I yield myself such time as I may consume.

Madam Chair, after 6 long years of negotiation, thoughtful consideration, and bipartisan cooperation, we passed a patent reform bill which was signed into law on September 16, 2011, by President Obama. At the time the bill was passed, Speaker BOEHNER said:

Modernizing our patent system for America's innovators and job creators is an important part of the Republican Jobs Plan. This bipartisan measure reflects our commitment to find common ground with the President on removing barriers to private sector job growth, and I am pleased to see it signed into law.

Under the America Invents Act, we the Congress, Republicans and Democrats, directed the United States Patent and Trademark Office to issue 20 implementing rules. Of the 20 implementing rules, seven have already been implemented, nine have been noticed, and four are under development. Under this bill that we are considering today, that entire process would be stopped in its tracks.

Among the most troubling aspects of stopping the rulemaking process in this case is a rule that would be specifically designed to assist micro entities in securing patents for their inventions. It's a law that says, once the rule is adopted by the Patent and Trademark Office, micro entities will get a 75 percent reduction in the filing fees that they have applicable to them.

The Director of the Patent and Trademark Office has said:

The new micro entity provision in the America Invents Act makes our patent system more accessible for smaller innovators by entitling them to a 75 percent discount on patent fees. By paying discounted patent fees as micro entities, smaller innovators can access the patent system to move their ideas into the marketplace.

Although the micro entity definition became effective September 16 when the President signed the bill into law—the date of enactment of the patent reform bill—the discount is not available to these small entities until these rules are passed, and this bill would make it impossible for us to adopt the rules.

I reserve the balance of my time.

Mr. GRIFFIN of Arkansas. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GRIFFIN of Arkansas. Madam Chair, I first would like to say I supported the America Invents Act, supported it in committee, and I've got great news for you and great news for me, and that is I don't see any evidence that the rules to which you referred would total $100 million in impact and meet that threshold. I just don't believe that's the case. So this amendment is unnecessary. Even if they do meet that threshold, there are several ways that they could be brought to Congress for approval.

The amendment, like so many others offered here tonight, seeks to carve out one set of regulations while leaving all the other regulations under the bill. Surely folks have their favorite regulations that they want to save and defend, and like a number of other carve-out amendments, this one is just not necessary. Titles I and II of the bill, for example, already exempt regulations, as I indicated, that will not impose $100 million in cost on the economy.

Surely the regulations this amendment seeks to protect, those that will streamline patent application processes, will save the economy money, not impose more cost. There is, thus, no need to worry that they will be affected by these titles of the bill.

Meanwhile, title III of the bill imposes balanced improvements in transparency, public participation, and judicial review for regulatory consent decrees and settlements. It will not prevent the Patent and Trademark Office from settling regulatory suits by consent decree or settlement. For these reasons, I oppose the amendment.

I reserve the balance of my time.

Mr. WATT. Madam Chair, I yield myself such time as I may consume.

Let me get this straight. We have passed a bill on a bipartisan basis that directs that rules be written, and then we want, when the rules are written, to have it come back to Congress so that we can approve those rules. Tell me, first of all, what sense that makes.

Second of all, the gentleman obviously is not aware of some of the corporations that have started off as micro enterprises if he does not believe that this measures up to his $100 million, or whatever the threshold is. Let me read him some of the companies that started off as micro enterprises.

What about Google or Apple or Instagram or Microsoft or Facebook, a whole litany of people that, were this 75 percent reduction in fees not in effect, might have been discouraged from ever even applying for a patent. So this notion that this doesn't add up to $100 million, or whatever this threshold is, is just false.

The notion that we would tell the administration to adopt a set of rules and then say, okay, we're going to micromanage you and you've got to come back over here so we can cross your T's and dot your I's in a noncontroversial way like this and delay the process of innovation in our country is just nonsensical.

I yield back the balance of my time.

Mr. GRIFFIN of Arkansas. While I appreciate the passion of the gentleman from North Carolina, it doesn't change the fact that it's very unlikely that the impact on the economy would be $100 million or more. That has nothing to do with the sales of the company. It has to do with the impact of the regulation on the economy.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

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

Mr. WATT. Madam Chair, I demand a recorded vote.

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

□ 1910

AMENDMENT NO. 7 OFFERED BY MR. LOEBSACK

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 112–616.

Mr. LOEBSACK. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 18, strike ''or (d)'' and insert ''(d), or (e)''.

Page 5, after line 7, insert the following new subsection:

(e) CONSUMER PROTECTION FROM HIGH FUELS PRICES EXCEPTION.—An agency may take a significant regulatory action if such action would have the effect of lowering the price of oil or the wholesale or retail price of oil, gasoline, diesel, or other motor fuels.

Page 10, after line 4, insert the following new paragraph:

(3) likely to result in lower oil prices or lower wholesale or retail prices for oil, gasoline, diesel, or other motor fuels;

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Iowa (Mr. LOEBSACK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. LOEBSACK. Madam Chairman, I yield myself as much time as I may consume.

Madam Chairman, I wish to offer this amendment to provide the opportunity to lower the price of gas and oil. The purpose of my amendment is very simple: it's to ensure that our constituents are not disadvantaged by blindly holding up actions that potentially lower oil and gas prices. It will allow significant actions to move forward that would lower prices for gasoline, diesel, oil or other motor fuels.

We know that some regulations can be problematic when they aren't crafted carefully, with broad input and consideration for effects on the ground. We all know that and we all agree with that.

In fact, I've supported legislation in the past to give small businesses a bigger role in crafting regulations that affect them, and I am a member of the bipartisan Congressional Regulatory Review Caucus.

But we also know that there are some regulations that can protect public health, make our economy function more smoothly, and provide opportunity for all Americans to succeed. And as we struggle to recover from the worst recession since the Great Depression, there are families across the country making hard decisions about whether to put food on the table, clothes on their back, or gas in the car. Middle class folks we all know have been hurt disproportionately by higher gas prices, and that's why this amendment, I believe, is so important.

I think it would be irresponsible to pass legislation that would actually have the opposite effect, potentially, of its intention in a number of areas, gas prices being one of them.

Rural Americans, like those in my home State of Iowa, are more likely to have older vehicles, especially trucks, and farmers and others in rural areas need trucks. That is their mode of transportation.

Rural residents also—I think it's unknown to a lot of folks who live in urban areas—on average, drive 3,000 miles per year more than their urban counterparts, a disparity particularly evident when considering commutes to work.

My amendment will ensure that actions taken that would lower gas, oil, or other motor fuels, the prices of these commodities, can move forward and save money for all Americans and for Iowa families. If there is an action that could lower gas prices, I would think that we can all agree that it should move forward to benefit families and businesses and farmers who are struggling just to make ends meet.

If this legislation under consideration were already in effect, no significant actions could have been taken this year to lower oil and gas prices during a time of record costs, and we all had conversations about that on this floor earlier this year.

I've pushed for initiatives to utilize more American-produced energy, but as our Nation continues to be dependent on foreign sources, American families' costs at the pump continues to be subject to the fluctuations of speculators and manipulation. And we've already heard from some Members previously about that issue.

I think we need to be focusing our attention on becoming more energy independent through a variety of energy sources. We need an all-of-the-above approach to domestic energy production. There's no doubt about that. And ensuring that actions to move forward that would lower oil or gas prices in the U.S. is part of an all-of-the-above approach where we need to be looking at all options.

I truly hope that my colleagues will support what is truly a commonsense amendment, I believe, and I urge my colleagues to ensure that our hands are not tied by this legislation and to take actions to lower gas prices. I think we can improve this bill, and I think this amendment will do that.

I reserve the balance of my time.

Mr. FARENTHOLD. I claim time in opposition.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. FARENTHOLD. I rise in opposition to this amendment which would provide an exception for regulations that attempt to manipulate the price of oil, gas, and other fuels.

As I was listening to my colleague from across the aisle, I was struck by the fact that he didn't actually mention any possible regulations that could do that. I also would like to point out that our hands, as Congress, are not tied. This bill ties the hands of regulators.

If he is able to come up with a good idea to lower fuel prices, he can bring it to Congress, we can pass it, the Senate can pass it, and the President can sign it, just the way the Founding Fathers intended.

Just to be clear, I also want to point out that nothing in H.R. 4078 prevents the administration from taking any number of actions that would increase the supply of domestic oil and gas and lower the price of gasoline at the pump. The passage of this amendment, however, would do nothing to lower the price at the pump.

Now, I realize this amendment seems to preserve the option to impose price controls. That's the only thing I could think of that it could do. We learned back in the 1970s that price control does nothing but lead to shortage and lines at the gasoline pump. There's absolutely no reason we need to return to the failed policies of the Carter administration.

Now, if the current administration were truly interested in providing relief at the pump, there are any number of actions they could do to increase the supply of oil and gasoline and lower the price at the pump. But the Obama administration's done little to tap into vast domestic resources that would increase the supply of American oil.

Rather, under President Obama, permitting and leasing on Federal land is actually down. Alas, the President has also vetoed or is opposed to the Keystone pipeline, which would have connected not only Canadian oil to refineries in the South but would have also have connected the new finds in North Dakota in the Bakken shale sands.

Canadian sands production is expected to double to 3 million barrels a day between 2010 and 2020, and domestic oil production will increase by as much as 20 percent. The lack of a Keystone XL-like pipeline means slower, less reliable, and less safe forms of transportation that will continue to necessitate transporting domestic oil from North Dakota by much more expensive and much less safe means of truck and rail, rather than pipelines.

Lowering the cost of that transportation would lower the cost of that crude oil and would lower the cost of gasoline at the pump. As a matter of fact, a barrel of North Dakota Sweet sells for $62. That's lower than the international price of oil, predominantly because of the additional transportation costs necessary to bring it down to be refined in the refineries that are currently set up in this country.

If this Bakken oil were made available to the rest of the country we would see an economic boom. We would see lower prices for gasoline at the pump. We would see more jobs in America. The east coast, in particular, needs this oil and this gas made available to bring costs down.

Bakken may lead to some price relief there. But it will also open Canadian oil. We talk about energy independence, but realistically, North America is the energy unit that we should be looking at for providing our source. As we tap resources throughout the United States, Canada, and Mexico, we are going to be able to become energy independent much more rapidly than anyone ever thought as these new technologies develop to let us reach oil and gas deposits that we never, even 10 years ago, thought was possible.

I was talking to a geologist just recently when I attended a field hearing in North Dakota, and he told me, when he was in school, they always considered shale to be the source and would never be able to tap it. But technology has proved that wrong. And, in fact, even with our current technology, we're only getting a small percentage of the actual oil trapped in that shale.

I'm confident that, as our technology develops, that is going to become more and more available, and this is going to take care of it.

But what we know is what's running up the price of oil and gas is excessive government regulation. And if we can put a hold on government regulation, so our businesses can know what they have to do to comply with those regulations, and not have the goalposts moved in the middle of the game, we'll have new refining infrastructure built, we'll have new factories built, we'll have new jobs created, and we will get to an unemployment rate of 6 percent a whole lot faster, I think, than anybody is predicting.

This bill is a rational step to put the brakes on an oppressive government that is stifling job creation. And carving holes in it and creating loopholes, like this amendment would do, only weakens that and will slow our path to recovery. So I urge my colleagues to defeat this amendment.

I yield back the balance of my time.

□ 1920

Mr. LOEBSACK. Madam Chair, how much time is remaining on my side?

The Acting CHAIR. The gentleman from Iowa has 1½ minutes remaining.

Mr. LOEBSACK. I don't know where to begin. I don't have enough time to respond to everything that was said by my colleague on the other side of the aisle.

What I will say at the outset is that this has nothing to do with the Carter administration, that it has nothing to do with any previous regulations, that it has nothing to do with cost control. This is a very simple amendment. I think, if one reads the amendment, one will find that there is absolutely nothing in the amendment that is feared by the gentleman from the other side of the aisle. It's that simple.

In fact, it's this kind of debate, if we want to call it that, that is something that is very upsetting to the American people at this time and is something I hear in Iowa all the time. We've got to have a rational debate that is based on fact. There is nothing in this amendment whatsoever that the gentleman referred to. The amendment, itself, because it is so simple and because it is open-ended, would allow for many of the very same things that the gentleman on the other side of the aisle suggests that we ought to do and that I may very well be open to doing myself.

I think that's what's important about this amendment. It's simple. It's open. In fact, it allows for the very kinds of things that he mentioned to go forward. If this amendment is adopted, I think it would vastly improve the underlying bill along the lines that the gentleman, himself, argued.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. LOEBSACK).

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

Mr. LOEBSACK. Madam Chair, I demand a recorded vote.

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

AMENDMENT NO. 8 OFFERED BY MS. RICHARDSON

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 112–616.

Ms. RICHARDSON. Madam Chairwoman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, after line 26, insert the following new paragraph:

(3) necessary to properly implement the provisions of (and amendments made by) the Patient Protection and Affordable Care Act (Public Law 111–148) and the provisions of (and amendments made by) title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152);

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from California (Ms. RICHARDSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. RICHARDSON. I would like to extend a thanks to Chairman SMITH and to Ranking Member CONYERS for having their hard work brought to fruition here with this legislation.

Madam Chairwoman, the Richardson amendment would allow the government to take significant regulatory action if and when the monthly national unemployment rate is above 6 percent, thereby allowing for the action and proper implementation of the Patient Protection and Affordable Care Act and the health provisions of the Health Care and Education Reconciliation Act of 2010.

The sponsors of H.R. 4078 suggest the legislation will promote job growth. I argue that the Affordable Care Act, when fully implemented, will promote job growth, support economic growth and spur deficit reduction in our economy in terms of the deficit that we currently are experiencing. My amendment is intended to ensure that adequate health care through the Affordable Care Act can be fully implemented.

Because so many Americans rely on their employers to have access to health care, high levels of unemployment can leave many of our U.S. citizens uninsured and underinsured. When the monthly unemployment rate is above 6 percent, something this Nation has unfortunately incurred for approximately 2 years now, that is the very time, I would argue, that our government was created to assist U.S. citizens and all of those who obviously need health care. A strong economy needs healthy workers.

There is a common and persistent misconception that the Patient Protection and Affordable Care Act will pose an undue burden on small businesses and will limit job creation, but this is absolutely untrue. Rather, the Affordable Care Act offers $40 billion in tax credits for small businesses to help pay for employee health insurance coverage. In 2011, this tax credit was used to pay for the coverage of over 2 million uninsured Americans. In my home district, the 37th Congressional District of California, 510 small businesses have already received this tax credit to maintain or expand the health insurance coverage for their employees.

The Affordable Care Act also establishes health insurance exchanges in which small business owners and employees can pool their buying power to shop for affordable plans. Beginning in 2014, all the plans offered in these exchanges will have guaranteed sets of minimum benefits to ensure that small businesses are not faced with gaps in coverage or fine print restrictions, which are documented problems that have plagued recipients in the past.

Despite the unfounded claims that this bill will raise taxes for everyday Americans, the Affordable Care Act will bring a significant and immediate savings to the middle class at a time when we need it most.

With that, I reserve the balance of my time.

Mr. GRIFFIN of Arkansas. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GRIFFIN of Arkansas. Madam Chair, this amendment would exempt regulations to implement ObamaCare, the President's health care law, from the regulatory freeze.

Fear and uncertainty among job creators of the coming regulatory tidal wave to implement ObamaCare is certainly holding back our economic recovery. The Congressional Budget Office projects that ObamaCare will cost over $1.1 trillion. For American small businesses that are already struggling to stay afloat, this is a staggering burden.

If you want to know what small businesses think about the bill that is before us, I will tell you that, in Arkansas, they support it, but they certainly do not support ObamaCare. I would also point out, Madam Chair, that the NFIB, the premier small business organization in America, supports the bill.

It is estimated that ObamaCare will require nearly 160 new boards, bureaus,

bureaucracies, and commissions. Overall, the Federal Government will issue, roughly, 10,000 pages of new regulations to implement the so-called ''health care reform.'' Yet this amendment would exempt these regulations from title I of the Regulatory Freeze for Jobs Act.

At a time when we should be working to repeal ObamaCare and to replace it with patient-centered health care reform, this amendment simply makes no sense. I would also point out, Madam Chair, that if there are regulations that the Obama administration wants to see proceed through the process, they can certainly send them to Congress and see if we will approve them. We can take a look at them, see if they make sense, see if they do what they intend, and see if it's right for the country.

For these reasons, I oppose this amendment.

I reserve the balance of my time.

Ms. RICHARDSON. Madam Chairwoman, how much time do I have remaining?

The Acting CHAIR. The gentlewoman from California has 2¼ minutes remaining.

Ms. RICHARDSON. I am convinced that President Obama does care, but today, I am here to talk about the Patient Protection and Affordable Care Act.

Regarding that act, I think it's important to note that this amendment is not simply a blanket exemption; rather, it deals with the time when unemployment exceeds 6 percent. For those American people—many of whom I represent, who have struggled through no fault of their own to be able to gain employment—this is a significant exemption that is needed.

Madam Chairwoman, when we look at the implementation of the Patient Protection and Affordable Care Act, it passed this body in Congress; it passed the body in the Senate; it was signed into law; and now it has been upheld by the Supreme Court of the United States. Health care reform is finally here to stay, and the time has come for us to commit ourselves and our attention and our efforts in this Congress to wholeheartedly supporting its enactment. Where changes and revisions and improvements need to be made, we have an opportunity to do so.

The Richardson amendment I bring forward today does not obligate additional funds to address health care reform. It would simply give the Federal Government the freedom—the freedom that we all believe in—to pursue all available options in the future, especially in the greatest times of need. My amendment ensures that the Patient Protection and Affordable Care Act is implemented without adding time and cost-consuming procedural burdens.

I urge my colleagues to join me in supporting Richardson amendment No. 8 and to reaffirm this Nation's commitment to providing the basic necessity. Certainly, I think that equates to the level of the right to the pursuit of happiness, which is what America was built on.

With that, I yield back the balance of my time.

Mr. GRIFFIN of Arkansas. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. RICHARDSON).

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

Ms. RICHARDSON. Madam Chairwoman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

□ 1930

AMENDMENT NO. 9 OFFERED BY MS. RICHARDSON

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 112–616.

Ms. RICHARDSON. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, after line 26, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

(3) necessary to carry out the Fair Credit Reporting Act;

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from California (Ms. RICHARDSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. RICHARDSON. Madam Chairwoman, the Richardson amendment simply improves the bill by allowing for necessary regulations to be promulgated when the monthly national unemployment rate is above 6 percent in order to protect consumers against unintended consequences that they might suffer under the Fair Credit Reporting Act.

This amendment promotes job growth by ensuring small businesses have fair and accurate credit scores to obtain competitive interest loans. This amendment enables the appropriate Federal agencies, such as the Federal Reserve, the Federal Trade Commission, and the Consumer Financial Protection Bureau, to issue regulations necessary to protect consumers and to promote small businesses.

The Fair Credit Reporting Act, also known as FCRA, is an important piece of legislation that protects the accuracy, fairness, and the privacy of information collected at credit bureaus. It gives consumers the right to view and challenge the information in their respective credit reports. Although this legislation was originally passed well over 40 years ago, this issue has remained in the forefront of public consciousness, and in 2003 we had provisions that were added to deal with identity theft.

The Fair Credit Reporting Act requires that consumer reporting agencies, also known as CRAs, ensure that they provide up-to-date information and remove negative information after 10 years. These requirements mandated by the Fair Credit Reporting Act provide entrepreneurs with fair credit scores and enable them to seek competitive loans to start or expand small businesses.

There are 28.6 million small businesses in the United States, and small businesses create two out of every three jobs in this country. In the State of California that I represent, small businesses employ more than 50 percent of the State's 16 million workers and represent 90 percent of the job growth for higher income.

With that, Madam Chair, I reserve the balance of my time.

Mr. MCHENRY. Madam Chair, I rise in opposition.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Madam Chair, I yield myself such time as I may consume.

I would say to my colleagues that the Fair Credit Reporting Act should not be singled out for special treatment.

This bill is about creating jobs; and the American people know, as we know, and as rational people looking at the process of regulation know, that higher regulation out of Washington means lower job growth. In particular, what this amendment would do is further constrict access to credit. Furthermore, this bill does not inhibit any individual from getting their free credit report or from having access to their credit report.

What this bill prevents, however, is an agency like the CFPB, which is a very powerful agency with an unconfirmed director. The President went around the process that the Senate has outlined for Senate confirmation. It's a very controversial appointment. They've taken these powers, and they can write very costly and expensive rules. Those costly rules inhibit credit opportunity for Americans, if not done correctly. We've seen some actions already out of this agency that raise great concerns that it's going to be very costly to small banks and to small businesses.

Let's avoid that. Let's reject this amendment. Let's create jobs by passing this bill.

With that, I reserve the balance of my time.

Ms. RICHARDSON. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentlewoman from California has 3 minutes remaining.

Ms. RICHARDSON. Madam Chair, in relation to the comments that have been made, I'd like to speak to why the fair credit reporting agencies would be exempted in this particular amendment.

When you consider that we're national representatives—and rational legislators do know, I would say, and I think small business owners are aware, that without capital, without the ability to have appropriate credit scores and not to be able to extend that, not to be able to get appropriate capital to have your business to be successful, there are no jobs. There is no thriving economy. That's why, in fact, this Agency should be exempted.

The statistics are clear: small businesses are the key to our economic recovery and our continued growth. Relieving the financial burdens of small businesses stabilizes the uncertainty and encourages critical job growth. Entrepreneurs and small businesses are the engines of innovation and economic growth, and the small businesses in my district are at the forefront of that innovation.

It would be wrong and counterproductive to limit the Federal Government's ability to support small businesses when they need it most. I urge my colleagues to join me in supporting Richardson Amendment No. 9 and reaffirming our commitment and this Nation's commitment that when businesses need the assistance, when they, in fact, can qualify for the assistance, that improper reporting or old reporting certainly shouldn't hinder their ability to have that vibrant business.

With that, I yield back the balance of my time.

Mr. MCHENRY. Madam Chair, I would say in closing that the Fair Credit Reporting Act should not be singled out for special treatment, nor should the Consumer Financial Protection Bureau be singled out for special treatment. We should not treat the CFPB rulemaking powers differently than any other Federal agency dealt with under this legislation before us.

Let me also say to my colleagues that it's very important to note that law enforcement actions will continue. Bad actors can continue to be rooted out, regardless of this legislation. That power is still given to the CFPB and other law enforcing agencies across the government. Furthermore, consumers will continue to have access to their credit reports, and this amendment doesn't address a consumer's ability to get that credit report.

Furthermore, let's create jobs by eliminating regulations that inhibit job growth. Let's roll back this uncertainty and give the American people a level of certainty and some expectation of the regulatory framework they have to work under. That's the way we help small businesses be able to take that risk, be able to get that access to credit so they can create jobs, and maybe even keep the doors open and the lights on.

With that, I urge my colleagues to reject this amendment and pass the underlying bill.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. RICHARDSON).

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

Ms. RICHARDSON. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. CONNOLLY OF VIRGINIA

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 112–616.

Mr. CONNOLLY of Virginia. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, strike lines 4 through 7 and insert the following:

(3) CONGRESSIONAL ACTION.—With respect to any submission by the President under this subsection—

(A) Congress shall give expeditious consideration to the submission by taking appropriate action not later than the end of a 7-day period beginning on the date on which the submission is received; and

(B) in the case that Congress fails to act upon the submission during such period, section 102(a) shall not apply.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Virginia (Mr. CONNOLLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. CONNOLLY of Virginia. Madam Chairman, my simple amendment would clarify the congressional procedure for acting on the President's written congressional waiver request as provided for in the bill.

Based on their remarks today, it appears my friends on the other side of the aisle view the availability of congressional waivers as sufficient to ensure commonsense, popular safeguards such as rules benefiting veterans with catastrophic injuries, assisting students with loan debt, or providing families with peace of mind that the peanut butter their children eat will not poison them.

□ 1940

So they are not blocked by this bill's arbitrary across-the-board moratorium action on significant rulemaking actions because there is a waiver provision.

Yet for all of the emphasis on the importance of these congressional waivers, this bill, H.R. 4078, only provides vague, unclear guidance concerning how such actions would proceed on the President's waiver requests. H.R. 4078 only specifies that Congress shall give each submission by the President ''expeditious consideration'' and take ''appropriate legislative action'' without defining these terms in statute. Anyone who has watched this 112th Congress here in the House knows that they shouldn't put undue faith in terms like ''expeditious consideration.''

Republican claims to the contrary notwithstanding, as currently written, the congressional waiver provisions seem designed to spur effective talking points, not exactly an efficient process for considering Presidential submissions.

My simple amendment ensures that if the President requests a necessary and urgent waiver, such as the flexibility for the Department of Labor to issue a rule protecting coal miners from black lung disease, expeditious consideration shall not take longer than 1 week. This simple amendment takes no position on the wisdom of the given waiver request. It simply requires the Congress, whether it decides to approve or disapprove a President's request, to do so within 7 days.

As the numerous amendments filed by my colleagues demonstrate, the majority of the President's waiver requests will address noncontroversial, yet critically important, rules that protect our Nation's veterans, families, workers, environment, and economy. By supporting this perfecting amendment, Members will ensure that no American is endangered because of congressional inaction.

I reserve the balance of my time.

Mr. GRIFFIN of Arkansas. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GRIFFIN of Arkansas. As I have said with regard to the other amendments that we have discussed here tonight, Madam Chair, there are several exemptions in the bill, and there is also the waiver, as the gentleman from Virginia has discussed.

Now, before I get to the waiver, I would like to point out that, unless I'm missing something, I think that the safety of peanut butter that I and my 2-year-old and my 4-year-old eat—I like crunchy; they like creamy—I think it's already regulated. And if it's not, we certainly make provision for that to happen. I, like the gentleman from Virginia, want to make sure people are protected. I happen to also be a veteran, and I certainly want to see veterans taken care of.

I want to make it clear that our bill does not go back and repeal regulations that are finalized and in place. What it does is it says, let's take a deep breath; let's have a time-out; and let's allow the many small businesses and other job creators in this country an opportunity to catch up.

We've heard a lot about small businesses tonight. And I will point out once again that the premier small business organization in this country is the NFIB, and they support the bill.

Now, with regard to the gentleman from Virginia's amendment, the Regulatory Freeze for Jobs Act will put a moratorium on unnecessary regulations that will cost the economy $100

million or more until the economy recovers. But even the administration admits that regulations can kill jobs and hinder economic growth, although this doesn't seem to have prevented them from issuing more and more of these most costly regulations.

Title I of the bill is carefully drafted to allow the President to issue certain necessary regulations during the moratorium period, such as regulations that implement trade agreements, for national security, for criminal and civil rights laws, the enforcement of those laws, and for an imminent threat to health or safety or other emergency. For any necessary regulation not covered by one of these exceptions, we have the congressional waiver that the gentleman from Virginia referred to. Under it, the President can ask permission for Congress to make the regulation, to approve it. This is entirely appropriate, since the Constitution vests in Congress ''all legislative powers.''

But this amendment could totally undermine the moratorium by allowing the President to swamp Congress with waiver requests. If Congress doesn't act on each request within 7 days—and the amendment doesn't specify whether this is calendar, session, or legislative days—then the waiver is deemed granted. With its track record of dramatically increasing the regulatory burden on the economy, this administration has shown that it cannot be trusted not to abuse the process this amendment would create. For these reasons, I oppose the amendment.

I reserve the balance of my time.

Mr. CONNOLLY of Virginia. May I inquire of the Chair how much time is left on this side.

The Acting CHAIR. The gentleman from Virginia has 2½ minutes remaining.

Mr. CONNOLLY of Virginia. I yield 2 minutes to the gentleman from Maryland (Mr. CUMMINGS), the distinguished ranking member of the Oversight and Government Reform Committee.

Mr. CUMMINGS. Madam Chair, I support the amendment offered by Mr. CONNOLLY.

The congressional waiver provision in this underlying bill is a farce. It requires the President to ask Congress its permission to issue a regulation and then wait for both Houses of Congress to approve the waiver. Give me a break. That could take months in the best case, but the more likely scenario is that it would never happen at all—and everybody knows that.

By adopting this amendment, we can ensure that the President can truly issue regulations when needed. Under this amendment, the waiver provision in the underlying bill will be changed so that if Congress doesn't act within 7 days on a waiver request submitted to it by the President, the waiver would be granted.

Let me be clear: under this amendment, Congress would still have the opportunity to object to a regulation when necessary. This amendment simply ensures that Congress' failure to act doesn't prevent the President from issuing needed regulations.

The majority claims that the congressional waiver provision in the underlying bill will ensure that the President can still issue important regulations. If the majority really intends to give the President that flexibility, they will adopt this amendment.

I hope my colleagues will join me in supporting this amendment.

Mr. GRIFFIN of Arkansas. I would just point out, Madam Chair, that the part of the bill that the gentleman from Maryland calls ''a farce,'' the Founding Fathers might refer to it as ''balance of powers.'' And that's what we're trying to do here, allow Congress to share in the process since we are the source of all legislative power. That is just another reason that I oppose this amendment.

I reserve the balance of my time.

Mr. CONNOLLY of Virginia. Of course I know my friend from Arkansas knows his history. That was the whole battle of Federalist versus anti-Federalist. The Federalists won out. That's how the Constitution of the United States got adopted, a more powerful government to help the union of the States.

Madam Chairman, I will close by simply noting the irony of opposing any kind of finite time limit. The very organization cited by my friend from Arkansas, NFIB, screams the loudest about uncertainty. Yet here we are, going to have expeditious consideration that could take weeks or months here in this body, and we're not going to put a finite time limit to give them the predictability and the certainty that they say they want. I think it's the minimum required in this legislation if we really mean to effectuate change.

I yield back the balance of my time.

Mr. GRIFFIN of Arkansas. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY).

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

Mr. CONNOLLY of Virginia. Madam Chairman, I demand a recorded vote.

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

AMENDMENT NO. 11 OFFERED BY MR. POSEY

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part B of House Report 112–616.

Mr. POSEY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, line 14, insert after the period the following: ''Such award shall be paid out of the administrative budget of the office in the agency that took the challenged agency action.''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Florida (Mr. POSEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. POSEY. Madam Chair, I yield myself such time as I may consume.

Madam Chair, today in Washington, bureaucrats are able to craft and enforce rules that cost our economy billions of dollars while remaining aloof to the consequences of their actions. There remains a disconnect between those who write these rules in the comfort of the Beltway, generating reams of red tape, and the actions taken by the courts or Congress to delay or roll back those same rules.

When a regulator has overreached, they have wrongfully robbed American citizens of their benefits, of their labor, and their means of productivity. Today there is really no penalty for those who overreach. I believe regulators should be more prudent and measured when drafting and issuing rules and regulations.

□ 1950

My amendment simply calls agency bureaucrats to account when they exceed their delegated authority.

Section 104 of the underlying bill permits a court to award reasonable attorney's fees and costs to a small business when they prevail in a suit against an agency that has exceeded their statutory regulatory authority.

My amendment takes this as a step further by requiring any attorney's fees and costs be paid out of the administrative budget of the particular office that is found to have exceeded that authority. I believe this will give regulators greater pause before they issue regulations and will cause them to double-check to make sure that they are on solid ground. When an agency overreaches, what they are fundamentally doing is denying an American citizen their right to pursue opportunity, create jobs, or enjoy the benefits of their labor.

In a sense, they are basically robbing someone of their opportunity. Outside of the regulatory environment, when someone takes property that belongs to someone else, there are criminal sanctions if we catch them doing it. In the regulatory environment, however, the best that an American citizen can expect from the Federal Government is ''I'm sorry,'' and that's at best.

We change that in this bill. With the adoption of my amendment, we change that for the particular regulators that exceed their authority. If adopted, this amendment will give more certainty to the regulatory process, and it ensure regulators are more prudent when drafting regulations. We make sure that any damages are not paid out of the agency slush fund but, rather, out of the administrative budget of the offending office. That brings personal and government accountability to the

regulatory process, something that's desperately needed. Now they will have some skin in the game, so to speak.

I urge my colleagues to support this good amendment, and I reserve the balance of my time.

Mr. NADLER. Madam Chair, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from New York is recognized for 5 minutes.

Mr. NADLER. I strongly oppose the Posey amendment because it makes even worse an already deeply problematic provision.

Under title I of this bill, a court is required to award attorney's fees and costs to a ''substantially prevailing small business'' in any civil action to challenge an agency's compliance with the moratorium. That provision further states that a small business can be substantially prevailing in the meaning of the bill even in the absence of a final judgment in its favor ''if the agency that took the significant regulatory action changes its position after the civil action is filed.''

There are two problems with this. First, it doesn't matter if the agency's change in position had absolutely nothing to do with the civil action. A court would still have to award attorney's fees to a small business that challenges an agency's compliance with the moratorium in court, even if the change in policy had nothing to do with the lawsuit.

Bad as this provision already is, the Posey amendment makes it worse by requiring that any award of attorney's fees and costs be taken out of the defendant agency's budget. Agencies are already straining under diminishing financial and staff resources, thanks in no small part to the budget priorities of this House during this Congress. Further debilitating agencies by taking fee awards out of their budgets—even under circumstances when their change in position had nothing to do with the underlying lawsuit—further damages agencies' ability to do what Congress tasked them with doing, namely, protecting public health and safety.

What this amendment says is, if an agency has a regulation which, in its judgment, it must issue to protect the public health and safety and a small business sues to stop that, and even if the small business doesn't prevail, if there is any change in the agency's position, and even if that change in position has nothing to do with the subject of the lawsuit by the small business, it must pay attorney's fees. And, under this amendment, it must pay attorney's fees out of its own budget. That is dangerous because it will debilitate the agencies that we task with protecting the public health and safety.

Second of all, it is self-defeating. If you are the agency and you know if you are going to change your position in any way you're going to have the pay the attorney's fees out of your own budget, better don't change. Fight the lawsuit. Don't give in. Fight the small business because you may win; while, if you change your position in any way, if you compromise, if you say, you know, they don't have that great of a case but we can accommodate them by making a small change—no, then you have to pay attorney's fees out of our own budget. So don't accommodate them. Don't comprise with them. Don't make the change. Fight them to the bitter end. That doesn't help the small business, and it certainly doesn't help the American people who need these agencies to police the marketplace and to protect the public health and safety. So it defeats its own purpose. It is just wrong on so many levels.

I reserve the balance of my time.

Mr. POSEY. Madam Chair, how much time do I have?

The Acting CHAIR. The gentleman has 2 minutes remaining.

Mr. POSEY. I yield 1 minute to the gentleman from Arkansas (Mr. GRIFFIN).

Mr. GRIFFIN of Arkansas. Madam Chair, I rise in support of this amendment. If an agency improperly makes a regulation during the moratorium period, as written, the Freeze Act would allow a small business that successfully challenges the action to collect attorney's fees. The gentleman from Florida's amendment would strengthen this provision by ensuring that any attorney's fees awarded under title I come out of the agency's budget and not from the general Federal Treasury through, for example, the judgment fund. If an office or agency defies the law and tries to make a regulation that should be subject to the Freeze Act, then that particular office or agency should bear the consequences of forcing a small business to go to court to vindicate its rights.

For these reasons, I support the amendment.

Mr. NADLER. How much time do I have remaining?

The Acting CHAIR. The gentleman has 2 minutes remaining.

Mr. NADLER. Madam Chair, I yield myself such time as I may consume.

Again, we oppose the bill to start with because we shouldn't have a moratorium on rules that are intended to protect the public health and safety that may be necessary.

But second of all, this amendment is self-defeating because if a small business sues the agency, two things. Number one, let's assume that the agency thinks that the small business' suit has some merit, not enough to win the case, but some merit. Under this amendment, the agency cannot compromise, cannot say, You're right; we'll make this change, because the moment it makes a change, even a minor change, then it is no longer the prevailing party. The small business, under the definition of the bill, is the prevailing party and will get attorney's fees, and the attorney's fees come out of the budget—maybe the small budget—of the agency. So rather than yielding in any way, rather than compromising with the small business, fight them. Fight them tooth and nail. That's what this amendment says to the agency. It is, on its own terms, silly and self-defeating, and I urge its defeat.

I yield back the balance of my time.

Mr. POSEY. Let me tell anyone who may not have ever seen a war with an agency over agency rules before, they dig in and they fight to the death anyway, whether it's coming out of their budget or not. I've seen them lose at three levels with a private citizen and go after them yet a fourth time because their pockets are bottomless and they hope they can break the back of a citizen like that.

You know, what make this country unique is we believe we get our rights from God. We believe in inalienable human rights here, and we give rights to government. Government doesn't give us rights. We give rights to our government. And we're charged with administering the rights that were given to our government here in Congress. And we give the administration, we give the agencies the right to write rules, specific rules. We don't allow them, without our authority and beyond the scope of their authority, to abuse citizens, to steal their productivity, their labor, and the benefits that they've worked hard for. And that's what the agencies have done. We have asked them not to do it. They've reformed the Administrative Procedures Act a number of times. The agencies just don't get the message. They see it as their goal and their destiny to be the boss.

Congress is supposed to have dominion over the bureaucrats, and this is one of the ways that we're going to enforce that dominion. We don't let the fox run the henhouse.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. POSEY).

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

Mr. POSEY. I demand a recorded vote.

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

□ 2000

AMENDMENT NO. 12 OFFERED BY MR. NADLER

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part B of House Report 112–616.

Mr. NADLER. Madam Chair, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 2, insert after ''guidance'' the following: ''(other than a rule or guidance regarding the safety of a civilian nuclear power plant)''.

Page 19, after line 25, insert the following new subsection:

(d) EXCEPTION.—The provisions of this title shall not apply in the case of a consent decree or settlement agreement pertaining to a civilian nuclear power plant.

Page 65, line 17, strike ''section (p)'' and insert ''sections (p) and (q)''.

Page 66, after line 5, insert the following:

''(q) EXCEPTION FOR CERTAIN PROJECTS.—This subchapter does not apply in the case of any project that pertains to the safety of a civilian nuclear power plant.''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER. Madam Chair, I yield myself 4½ minutes.

Madam Chair, I rise in support of my amendment, which would exempt rules to protect nuclear power plant safety from titles I, III, and V of the bill.

It is rare that the premise of an entire week of legislative work on the House floor is wrong, but, here we are here. We are told this is ''regulatory week,'' during which House Republicans are supposedly working to see that the yoke of oppressive government regulation is thrown off and the American entrepreneur is freed to grow his or her business and increase jobs. In thinking about this view, I am reminded of a famous line in Shakespeare's MacBeth, ''It is a tale told by an idiot, full of sound and fury, signifying nothing.''

We have heard, and will continue to hear, a lot of sound and fury this week on the House floor, but just like all the other regulatory bills the House has passed this year, what we pass this week will die in the Senate as well. So all of that talk will signify nothing. Like health care repeal, on which we have taken 33 votes, this, too, is a tremendous waste of time.

More importantly, there is no evidence to support the position that overregulation is the major cause of our slow economic growth and high unemployment rate. According to the Economic Policy Institute, ''economy-wide studies do not find a significant decline in employment from regulatory policies.''

The real culprit of our slow growth and high unemployment is reduced aggregate demand. Do not just take my word for it—this is what economists and business are saying. The Wall Street Journal surveyed dozens of economists last July, and it found that the ''main reason U.S. companies are reluctant to step up hiring is scant demand.''

The National Federation of Independent Business found that when business owners with declining sales were asked the cause, 45 percent said declining sales. Only 10 percent said higher taxes and regulations.

If all of this is true, why are we here making it harder for the government to enact protective rules and regulations to protect the public health and safety?

Bruce Bartlett, a senior policy analyst in the Reagan and George H.W. Bush administrations, suggests an answer. He has said:

> Regulatory uncertainty is a canard invented by Republicans that allows them to use current economic problems to pursue an agenda supported by the business community year in and year out. In other words, it is a simple case of political opportunism, not a serious effort to deal with high unemployment.

Let us look at what the bill that this canard has brought us would do. To me, it seems like Frankenstein. It's put together from various different pieces that do not fit together, and it is very frightening. For example, the underlying bill would block all and any major efforts to protect public health, safety, the environment and so on until the unemployment rate falls below the arbitrary figure of 6 percent; and the bill would impose needless costs on the government and make protecting health and welfare that much more difficult by putting impediments to agreeing to consent decrees and settlements. What all this means is that the most potentially dangerous industries, like nuclear power, the safety of the American public would be put at serious risk by this bill.

My amendment would attempt to make this Frankenstein bill slightly less of a horror show by exempting the issue of nuclear power plant safety from three sections of the bill.

The dangers of nuclear power are well known. One accident can doom millions of people. Because of the almost unimaginable disaster that could happen at a nuclear power plant, regulations to prevent accidents or meltdowns in advance are critically important. The underlying bill would make it harder for the Nuclear Regulatory Commission to adopt such rules or policies, thereby putting millions of lives at risk.

Hampering the ability of the NRC to require safety measures like those necessary to prevent a meltdown in the event of an earthquake or an act of terrorism could be devastating. My amendment would free the NRC from the burdens of this bill and allow it to promulgate those rules and regulations necessary to protect us from the disaster of a nuclear catastrophe such as those that occurred at Chernobyl in Russia or at Fukushima in Japan.

I urge everyone to approve the amendment, and I reserve the balance of my time.

Mr. ROSS of Florida. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROSS of Florida. Madam Chair, this amendment would unnecessarily exempt regulations from title I and consent decrees and settlement agreements contained in title III. Title I already contains adequate exceptions for necessary covered regulations. Agencies do not yet need another loophole to make regulations by consent decree or settlement agreement.

As to title V, the part of the bill that was formerly known as the Responsibly and Professionally Invigorating Development Act, also known as the RAPID Act, this amendment would block needed construction projects from breaking ground.

Unemployment is stuck above 8 percent and millions of Americans are looking for work. The March 2011 Project No Project study identified 351 energy projects, including nuclear projects, that, if approved, could generate $1.1 trillion for the economy and 1.9 million jobs.

I appreciate that the gentleman is concerned about the safety of nuclear power, but this act does not require agencies to approve or deny any particular project or permit application, nor would any agency ever act on a permit application before all of the relevant review and analysis has been completed; rather, the act establishes a reasonable timetable for agencies to follow when conducting environmental review and making permitting decisions. This will give job creators and investors confidence that the process will not drag on indefinitely.

The act is consistent with the administration's own guidance and rhetoric and with the President's Jobs Council's recommendations. It builds upon bipartisan legislation that passed the 109th Congress, which has dramatically reduced the time it takes to prepare environmental impact statements for transportation projects. In short, the road to economic recovery runs through permit streamlining.

For these reasons, I oppose the amendment, and I reserve the balance of my time.

Mr. NADLER. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman has 1 minute remaining.

Mr. NADLER. Madam Chair, first of all, we're dealing with nuclear regulatory authority, with nuclear power plants, and we're not dealing with small businesses. We are dealing with very large businesses. Secondly, we're dealing with permits for construction or modification of a nuclear power plant.

Because of the disaster at Fukushima, hopefully, we learned from experience, it may very well be that the Nuclear Regulatory Commission will want to put out new regulations or modify old ones in light of what we have learned from what the Japanese didn't do right, and this would say that they could not promulgate any such regulation as long as unemployment is above 6 percent. As long as unemployment is above 6 percent, we must continue to risk all of our lives. That makes no sense.

Second of all, yes, we want to do environmental streamlining. Well, what this bill says—and this would apply to this, too—is that if an environmental

impact statement takes longer than a certain number of days, forget about it. But it's the sponsor, not the Nuclear Regulatory Agency, the sponsor that controls the timing of the EIS.

So if you've got a terrible project which you know is an environmental disaster, all you have to do, under this bill, is to slow-walk the EIS because you control it, and then you don't have to worry about any environmental consequences. That's backwards, it's upside down, and it risks the public safety.

I urge the adoption of this amendment, and I yield back the balance of my time.

Mr. ROSS of Florida. Madam Chair, let's look at this. If the sponsoring agency decides to hold back and there is a presumption or approval, who better to have the onus of having to prove that it should not be built than those who fail to act as opposed to those who are ready to act?

The one thing that we found out is that the regulatory environment is so burdensome that whatever recovery our country attempts to pursue right now is being strangled. Polls show it. A Gallup poll on February 15 of 2012 among 85 percent of U.S. small business owners who are not hiring, nearly 46 percent of these cited being worried about new government regulations. Small business owners cite complying with government regulations as their most important problem.

It is overwhelming that we have placed in the hands of bureaucratic agencies unaccountable authority that is strangling the business recovery of this country. This bill as it is, without this amendment, will allow for the streamlining and 4½ years of the permitting process, and the permitting process will allow us to invest private capital to create private sector jobs.

With that, I urge opposition to this amendment and yield back the balance of my time.

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

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

Mr. NADLER. Madam Chair, I demand a recorded vote.

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

AMENDMENT NO. 13 OFFERED BY MR. MCKINLEY

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part B of House Report 112–616.

Mr. MCKINLEY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 5, strike ''$100,000,000'' and insert ''$50,000,000''.

Page 8, line 25, strike ''$100,000,000'' and insert ''$50,000,000''.

Page 27, line 18, strike ''$100,000,000'' and insert ''$50,000,000''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from West Virginia (Mr. MCKINLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from West Virginia.

□ 2010

Mr. MCKINLEY. Madam Chairman, I rise today to offer an amendment that will add more clarity and accountability to the regulatory process.

Under this bill, Congress will require additional analysis and reporting on all government regulations affecting the economy by $100 million or more annually. This amendment simply reduces this threshold of $100 million to $50 million.

In FY 2011, nearly 4,000 rules were published in the Federal Register; only 83 of these rules were classified as having an annual effect on the economy of $100 million or more. This represents only 2.1 percent of all the rules published. Thus far in 2012, 2,071 rules have been published, and 51 of these have been projected to have an annual effect on the economy of $100 million or more, equating to just 2.4 percent.

According to the Small Business Administration, the cumulative burden of regulations exceeds more than $1 trillion annually on our economy, costing more than $10,000 per household. Regulations are clearly impacting our economy by this astounding $1 trillion amount each year, and nearly 98 percent of these rules have virtually no economic analysis or oversight.

We have more than 23 million Americans underemployed or unemployed. This political maneuvering in rulemaking has to stop. The American people sent us here to improve the economy and help them get back to work, but not to allow the promulgation of more questionable, job-hindering regulations.

When I served in the West Virginia legislature in the eighties and early nineties, no regulations were adopted until the legislature approved them—not just a few here and there, but every single regulation came before the legislature for approval, significant or otherwise.

Not conducting analysis and reports on nearly 98 percent of all government agencies' proposed regulations confounds and confronts our job creators with potentially excessive and burdensome rules.

Madam Chairman, as a reminder, in 1995, Congress passed the Job Creation and Wage Enhancement Act, which dealt with lowering the regulatory threshold from $100 million to $50 million, just as this amendment would do today. That bill passed the House by a vote of 277–141, including many Members who are present here today.

Madam Chairman, I reserve the balance of my time.

Mr. CUMMINGS. Madam Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Maryland is recognized for 5 minutes.

Mr. CUMMINGS. I yield myself such time as I may consume.

I strongly oppose the amendment offered by the gentleman from West Virginia (Mr. MCKINLEY), which would make a very dangerous bill even more devastating to the American people. If implemented, this amendment would broaden the scope of this legislation to impede the issuance of even more rules than are impeded by the underlying bill itself.

By lowering the threshold at which a ''significant regulatory action'' is measured from rules that have an annual cost to the economy of $100 million or more to just $50 million or more, the legislation would prevent the implementation of important rules whose benefits far outweigh their costs.

One of the things that we do not zero in on with regard to this legislation overall—and we saw it in our committee—is the cost-benefit analysis. I think it's very, very significant, when you think about the fact that there are certain regs which save lives, many which protect our constituents with regard to their pocketbooks, all kinds of things. Sometimes when you just look at the cost of a business coming in and complaining, as opposed to balancing it with regard to benefits, sometimes I think things get out of balance.

The amendment clearly illustrates why Cass Sunstein believes a moratorium on the issuance of regulations is such a bad idea. As he stated at an Oversight Committee hearing last September, he said:

A moratorium would not be a scalpel or a machete, it would be more like a nuclear bomb, in the sense that it would prevent regulations that cost very little, and have very significant economic or public health benefits.

This amendment only increases the size of the bomb we are dropping.

Just one example of a pending regulation that would be halted by this amendment is the Securities and Exchange Commission's proposed rule implementing a section of the Dodd-Frank Act to reduce the purchase of ''conflict minerals''—minerals whose sale by combatants in the Democrat Republic of Congo is known to fund the human rights abuses perpetrated by these combatants.

Dodd-Frank requires the SEC to issue a rule directing publicly held companies to disclose whether any of four metals—gold, tantalum, tungsten or tin—used in the products they produce came from Central Africa, where trade in these commodities has funded years of civil war. The SEC issued a proposed rule in December 2010, but has delayed finalizing the rule in response to fierce business opposition and business lobbying. This proposed rule is estimated to cost industry $71 million per year.

The benefits of this rule cannot be quantified, simply cannot. By ensuring

that publicly traded companies in the United States track the supply chain of minerals and disclose whether their purchases are financing armed groups responsible for committing atrocities—killing people, rapes, hurting people—this proposed rule will save lives and help prevent sexual and gender-based violence. Adopting this amendment would prohibit the issuance of this regulation intended to help quell international violence and help end a humanitarian crisis.

We simply cannot put financial profit, as I said a few minutes ago, above our moral obligation to protect the most vulnerable among us. So, ladies and gentlemen, I urge Members to oppose this incredibly dangerous amendment, and I reserve the balance of my time.

Mr. MCKINLEY. Again, Madam Chairman, I just respectfully disagree with the comments made, recognizing, again, that this House has already spoken on this matter of reducing it from 100 to 50.

The real issue here is whether or not we want to have 98 percent of the rules that are being promulgated to go without oversight and review. It's time that we get this under control and allow more of our people to get back to work.

I reserve the balance of my time.

Mr. CUMMINGS. Madam Chair, I hope that the body will vote against this amendment.

I yield back the balance of my time.

Mr. MCKINLEY. Madam Chairwoman, I just encourage my colleagues to support this amendment and, once it's adopted, to support the piece of legislation that's so needed.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from West Virginia (Mr. MCKINLEY).

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

Mr. MCKINLEY. Madam Chairman, I demand a recorded vote.

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

AMENDMENT NO. 14 OFFERED BY MR. SCHWEIKERT

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in part B of House Report 112–616.

Mr. SCHWEIKERT. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 10, insert after the period the following: ''In determining the annual cost to the economy under this paragraph, the Administrator shall take into account any expected change in revenue of businesses that will be caused by such regulatory action, as well as any change in revenue of businesses that has already taken place as businesses prepare for the implementation of the regulatory action.''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Arizona (Mr. SCHWEIKERT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

□ 2020

Mr. SCHWEIKERT. Madam Chairman, my amendment hopefully is deemed to be somewhat simple, as this piece of legislation moves forward, trying to make sure that definition of cost from the regulatory environment, is properly, shall we say, a proper box is built for it. So the amendment in many ways is very simple.

The costs to organizations, a business, a business concern—as rules are being promulgated, that business is spending money to get into compliance. Those costs should also be calculated and put into the cost to the economy calculation.

Secondly, as the calculations are being built, it should also—the calculations should take a look at what it did to the revenues of organizations, because those revenues are what are used to hire people, to grow, to expand the economy and, actually, ultimately, expand the tax base.

So the amendment's very simple. It basically says, as the calculations are being made for cost of regulations, okay, let's actually add them up in a fashion where we actually acquire the real cost.

Madam Chairman, I reserve the balance of my time.

Mr. CUMMINGS. Madam Chair, I rise to claim time in opposition.

The Acting CHAIR (Ms. HAYWORTH). The gentleman from Maryland is recognized for 5 minutes.

Mr. CUMMINGS. I yield myself such time as I may consume.

I strongly oppose the amendment offered by the gentleman from Arizona (Mr. SCHWEIKERT), which would make an already ambiguous bill even harder to implement. The amendment proposes to define the term ''annual cost to the economy'' as including ''any expected change in revenue of businesses'' caused by such regulation, including any change in revenue as a result of preparing for the implementation of the regulation.

Imagine the consequences of this amendment. If it would cost a business any additional funds to ensure that baby formula does not contain toxic substances, that business could block a regulation requiring those safety measures. Is that really how we want to run our country?

The truth is that businesses routinely blame regulations for costs they already incur. For example, power companies routinely blame the EPA for the fact that high-cost coal plants struggle to compete in today's market with lower-cost natural gas plants. Despite the fact that many of these coal plants are shut down because they are uncompetitive, some repeatedly blame EPA regulations for forcing their closings.

The intention of this amendment appears to be to give businesses a veto over any regulation they oppose just by claiming that it's implementation somehow affects their bottom line. Since it would be virtually impossibility for OMB to confirm or deny such claims, they would be irrefutable.

Now, I do believe that the cost of regulations imposed on industry should be one of many factors considered when we compare the overall costs and benefits of a rule. But these costs should not be the overriding factor to be considered, as this amendment would require.

The amendment is just another example of the misguided effort to put business' profits before the health and safety of the American people. Therefore, I urge Members to oppose this unworkable and harmful amendment.

I reserve the balance of my time.

Mr. SCHWEIKERT. Reclaiming my time, Madam Chairman, and I appreciate the gentleman from Maryland's comments. But he hit one part there, and that is you do believe that the costs to industry, to business, to job creators should be calculated. It's just the debate here is how they should be weighted and how ultimately, I assume, how they should be documented.

All I'm trying to accomplish here with this amendment is a couple of very simple mechanics, those costs that go into the preparatory to be in compliance with the newly promulgated rule should be calculated, and that the calculation of the cost in the net revenues, gross revenues, to a job-creating industry should also be part of that calculation.

And part of this was the bill is—I obviously fully support it, but I thought actually creating a little tighter definition of many of the types of costs that happen in a regulatory environment. I mean, obviously we will have a separation on the view of does it stymie regulation.

I'm from the view that I truly believe one of the great hindrances to economic growth, to job growth in this country is the substantial growth of our regulatory environment.

Okay, if we're going to run legislation that says regulations that exceed a certain cost, you know, are held till employment reaches a certain level, why not make sure we're calculating those appropriately?

Madam Chairman, with that, I reserve the balance of my time.

Mr. CUMMINGS. Madam Chair, I stand on my arguments, and I yield back the balance of my time.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. SCHWEIKERT).

The amendment was agreed to.

AMENDMENT NO. 15 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 15 printed in part B of House Report 112–616.

Mr. GEORGE MILLER of California. Madam Chair, I seek to offer an amendment.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 10, insert after the period the following: ''Such term does not include a rule that would prevent or reduce deaths or injuries caused by explosions and fires related to the ignition of combustible dusts in the workplace.''.

Page 10, after line 13, insert the following:

(c) ADDITIONAL EXCEPTION.—Section 202 shall not apply to a rule that would prevent or reduce deaths or injuries caused by explosions and fires related to the ignition of combustible dusts in the workplace.

Page 10, line 14, strike ''(c)'' and insert ''(d)''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. Madam Chair, my amendment would allow the Occupational Health and Safety Administration to continue efforts to prevent combustible dust and fire explosions in the workplace. Combustible dust explosions threaten lives, limbs, jobs and property across this country. And it's abundantly clear that Federal regulatory action is needed, but the bill before us today threatens to block that action.

Beginning in 2003, the Chemical Safety Board investigated three major explosions caused by combustible dust in North Carolina, Kentucky and Indiana, where 14 workers lost their lives. As part of its investigation, the board identified hundreds of other combustible dust fires and explosions, causing at least 119 fatalities and 718 injuries over 15 years. The board recommended that OSHA issue rules to protect against these hazards because the existing OSHA protections were inadequate.

The investigators were not alone. Family members have also asked that action be taken.

Tammy Miser of Kentucky testified before Congress how her brother, Shawn Boone, was killed in a metal dust fire in an aluminum wheel plant in Huntington, Indiana, in 2003.

She told us how Shawn suffered from this horrific event. She said that Shawn did not die instantly. He laid on the smoldering floor after the explosion while aluminum dust burned through his flesh and muscle tissue. His breaths burned his internal organs as the blast took his eyesight.

Shawn was still conscious and asking for help when the ambulance took him. He lived for a number of hours before he finally succumbed to his injuries.

Shawn wasn't the first to die at work this way, and he hasn't been the last.

It's been more than 4 years since the Imperial Sugar explosion in Georgia. That explosion killed 13 workers. It caused hundreds of millions of dollars in damage. The tragedy was the result of unchecked accumulation of sugar dust that ignited and caused a chain of explosions, and Port Wentworth sugar refinery was leveled.

These workplace explosions have not stopped. There have been 23 major combustible dust fires or explosions that have killed 15 and injured 35 since that Imperial Sugar explosion in Georgia.

The response of OSHA has been to begin the development of a rule to reduce the risk of combustible dust explosions. That rule should be allowed to go forward, and this bill threatens the opportunity of that bill to go forward.

I reserve the balance of my time.

□ 2030

Mr. LANKFORD. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LANKFORD. While I can certainly, certainly empathize and have tremendous compassion for the families involved and for the individuals involved in this, OSHA has been working through this rule since 2009. It has been in the advanced rulemaking phase for a very long time. The struggle they have is this large one-size-fits-all approach. Even under the passage of this particular bill, OSHA has some great options.

Option No. 1 for them: to narrow their rulemaking. They're doing a large one-size-fits-all to try to cover all types of dust, all types of factories, all types of places. If they were to narrow their rule to specific types of places, they would be well under the $100 million limit.

The second rule they have is very clear: that this bill, itself, already sets in an exemption for health and safety. Clearly, this would be within those guidelines of health and safety. The President could do an executive order and pass that and then allow them to move forward, or he could come back to Congress.

The thought that only the folks at OSHA are compassionate about issues like this fails even the most modest of tests. Obviously, people who are within Congress are also compassionate to the needs here. If a regulation comes that deals with a problem in a commonsense manner that can function, certainly Congress would be able to approve that, and certainly a President is going to have tremendous compassion for the health and safety of individuals if they're able to come up with a regulation that clearly deals with this.

So, while I have tremendous compassion for these families and look forward to OSHA's completing what they have been stalling on for 3 years, this bill already deals with this, and this exception is not needed in addition to this.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. So, as for these workers who work in these dangerous conditions around all kinds of dust that explode on a moment's notice—without any notice, in fact—they should rely on the idea that we would all be compassionate here.

The subcommittee that reported this legislation asked people in the industry, and they immediately targeted this standard.

This won't be about the compassion of Members of Congress. This will be about the interests and the lobbying by the special interests to keep this dust standard from going into effect. It will not meet the requirement of imminent danger because it happens all the time. We have about 18 of these a year. It happens all the time. People are killed all of the time in different settings and with different dust. This isn't about one size fits all. This is about dust that explodes and kills people and burns them to death on the job. It destroys the workplace, and in some cases it's never rebuilt and the jobs are never brought back. In other cases, as in one of these cases, the employer is now saying, Give us this dust standard. Give us this dust standard.

The workers in this country have a right to rely on the law to protect them, not on some notion of this committee or of this Congress' sense of compassion and of whether it will be invoked on that given day or not against the lobbying efforts by these industries.

It's about the law that protects workers and their families—workers who get up and go to work every day, whose families hope they get to come home at night, but it doesn't happen for a lot of workers. In these industries with combustible dust, it happens over and over and over again. They get killed on the job. I've been here a long time working on combustible dust. Let me tell you, the industry doesn't say, Ah, gee, we've killed enough people. Let's all just kind of hold hands and see if we can come up with something.

It's complicated. You must do it right. It's based upon science. It's based upon research so that you can isolate the dust so the explosions don't happen.

But this legislation suggested by the committee notices in the committee that this is one of the regulations that they would target. They can use the old conundrum ''one size fits all.'' Do you know what? If you're working around combustible dust, you want the dust that you have taken care of. So maybe we can whittle it down. We'll take care of some of the dust but not all of the dust because we can get under the $100 million rule.

What are you talking about? These are the lives of the American people. These are the lives of working people. This is an interesting notion you have.

It just doesn't fit in the workplace. It just doesn't fit in the daily lives of these people who are threatened by these horrible, horrible, horrific incidents that take place usually through no fault of the workers. Other decisions were made about not keeping the plant clean. Other decisions were made about not installing equipment that could mitigate this under the old standards.

That's the reason we need the law, the reason the workers in this country need the law—not some expression of compassion late at night in an empty Chamber of Congress. Tell them to rely on that, that one night in an empty Chamber of Congress the proponent of the legislation said, We'll be compassionate when this comes to the floor. We understand this. We'll grant you a waiver. We'll figure it out.

The ACTING CHAIR. The time of the gentleman has expired.

Mr. GEORGE MILLER of California.

* * *

The ACTING CHAIR. The time of the gentleman has expired.

The gentleman from Oklahoma is recognized.

Mr. LANKFORD. How unfortunate to have the implication that Members of Congress, including myself—I have workers in my district who live with this same thing—would not have compassion for people in our districts. OSHA has not completed this regulation. They have delayed this. They've had multiple options. They need to complete their work. There is a work safety issue that's here.

As it is currently, the bill stands up strong for worker safety. It allows any exception for worker safety currently in this bill. So, while exceptions are pursued to add additional things into this bill, the bill, itself, already contains those things.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

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

Mr. GEORGE MILLER of California. Madam Chair, I demand a recorded vote.

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

AMENDMENT NO. 16 OFFERED BY MS. WOOLSEY

The Acting CHAIR. It is now in order to consider amendment No. 16 printed in part B of House Report 112–616.

Ms. WOOLSEY. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 10, insert after the period the following: ''Such term does not include a rule that would prevent or reduce the number of workers suffering electrocutions or other fatalities associated with working on high voltage transmission and distribution lines.''.

Page 10, after line 13, insert the following:

(c) ADDITIONAL EXCEPTION.—Section 202 shall not apply to a rule that would prevent or reduce the number of workers suffering electrocutions or other fatalities associated with working on high voltage transmission and distribution lines.

Page 10, line 14, strike ''(c)'' and insert ''(d)''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from California (Ms. WOOLSEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WOOLSEY. Madam Chair, I rise today to offer an amendment to titles I and II of H.R. 4078.

My amendment would exempt a proposed worker safety rule from the ''regulatory freeze'' and the prohibition on so-called ''midnight rules.'' This OSHA rule would update 40-year-old protections for those working around high-voltage transmission and distribution lines and equipment, which would bring them into the 21st century. If this amendment is not adopted, Madam Chair, many workers will be needlessly electrocuted or burned from electrical hazards—at least until unemployment drops to 6 percent.

Are we really going to make workers wait until the jobless rate is 6 percent before getting protections for workers against burns from high-voltage electric arcs that run as hot as 35,000 degrees? If we are, they will be waiting a long time, because this Republican majority shows absolutely no interest in passing a jobs bill.

Is it fair, Madam Chair, to make these workers wait for 6 percent unemployment before their employers have to assess and provide safe minimum distances from high-voltage lines? Is it morally defensible to make workers wait for a full economic recovery before they get simple protections like rubber-insulated sleeves so that their arms aren't blown apart from having contact with high-voltage wires?

Certainly not.

Unless the bill sponsor is aware of some new scientific discovery, 35,000 degrees feels just as hot no matter how many Americans are out of work. Shock at 14,000 volts of electricity does the same damage whether unemployment is 8 percent or 6 percent. Yet this bill seems to assume lethal hazards are somehow less lethal during tougher economic times. Even worse, this bill implies that preventable electrocutions are somehow acceptable whenever unemployment is high.

□ 2040

This is irresponsible, if not unethical.

With that, I reserve the balance of my time.

Mr. LANKFORD. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LANKFORD. I thank my colleague for bringing this up, but this again is something that is obviously dealt with already in the text of the bill. As we anticipated, there would be issues like this. On page 3, line 23 of the bill, it actually states the President has the ability, by executive order, in dealing with any significant regulatory action to go ahead and waive this, if it's necessary, because of an imminent threat to health or safety or other emergency.

This is already dealt with in the bill itself. While we do need to be able to deal with this, and obviously the vast majority of electricity providers are very attentive to their workers, including the companies that are in my district, and take great pride in how they care for the health and safety of the workers that are on those lines and that are out there in very dangerous situations, it is a very important thing to them. We have the ability already within this bill to be able to address that. For that reason, I would oppose this.

With that, I reserve the balance of my time.

Ms. WOOLSEY. Madam Chair, each year, 74 electrical workers covered under this rule are killed on the job. Another 444 are severely injured. OSHA is authorized to regulate a hazard when the risk of fatality is more than 1 in a 1,000. The fatality rate for workers covered under this OSHA rule is 14 times that level. Full compliance would eliminate 79 percent of these fatalities and injuries.

Madam Chair, the one-size-fits-all approach of this bill will block a commonsense, cost-effective rule that produces an estimated $4 in benefits for every dollar in cost. OSHA's proposed update would provide an estimated $100 million in savings every single year.

While the authors of this bill argue that the President can seek a waiver from Congress to allow the rule, I'm not buying it. As we saw with the so-called ''comma bill'' proposed by Mr. SENSENBRENNER a number of years ago, it took three sessions of Congress just to fix a harmless typo. We all know that when a special interest wants to stop something around here, there are countless ways to win. If this bill is not amended, Madam Chair, Congress will be sentencing scores of workers every year to preventible electrocutions and to burns.

I ask for adoption of this amendment, and I reserve the balance of my time.

Mr. LANKFORD. Madam Chair, one quick statement.

This particular rule is unique in a lot of our conversation because it's already gone through the process. Currently, the OIRA office has, in fact, had it for the last 30 days. They could issue this at any point. This is right at that point that it's going to be released. It wouldn't even fall underneath this bill. Obviously, we pass this bill tonight, we send it over to the Senate, it works

through the process. OIRA can release this at any point that they choose to.

While I again have tremendous compassion for the workers that are on the lines, and I have tremendous respect for electric companies around the country and how they take care of their workers, this particular rule has already gone through the process, it already sits in OIRA, and it would not apply to them. With that and also with the knowledge that we have the exceptionary built in for safety, I would choose to oppose this and continue to do that.

With that, I yield back the balance of my time.

Ms. WOOLSEY. Madam Chair, the gentleman from the other side of the aisle is not correct on this. If the President signed the bill, the regulation would be stopped.

In closing, Madam Chair, the adoption of my amendment will save the lives of Americans who work in some of the most dangerous conditions imaginable. It is ridiculous and it's downright cruel to tell these men and women who risk electrocution everyday that OSHA will only step in to help them when the jobless rate reaches some arbitrary level. Whether unemployment is 6 or 8 or 10 percent, whether the economy is strong or weak, we need to protect our workers.

I ask for Members to support my amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 18 OFFERED BY MS. WATERS

The Acting CHAIR. It is now in order to consider amendment No. 18 printed in part B of House Report 112–616.

Ms. WATERS. I have an amendment at the desk that is made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 67, line 24, strike ''shall—'' and insert ''shall, subject to appropriations made specifically for such purpose pursuant to paragraph (7)—''.

Page 69, line 3, insert '', subject to appropriations made specifically for such purpose pursuant to paragraph (7),'' after ''shall''.

Page 71, line 7, insert '', subject to appropriations made specifically for such purpose pursuant to paragraph (7),'' after ''shall''.

Page 75, line 22, strike the close quotation mark and following period and after such line insert the following:

''(7) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2013.

''(B) COVERED EXPENSES.—Funds appropriated pursuant to this paragraph shall be for any costs incurred by the Commission in carrying out the requirements of this subsection, including any costs of litigation related to the requirements of this subsection.''.

Page 77, line 4, strike ''shall'' and insert ''shall, subject to appropriations made specifically for such purpose pursuant to paragraph (3),''.

Page 77, line 15, insert '', subject to appropriations made specifically for such purpose pursuant to paragraph (3),'' after ''shall''.

Page 78, line 22, strike the close quotation mark and following period and after such line insert the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2013.

''(B) COVERED EXPENSES.—Funds appropriated pursuant to this paragraph shall be for any costs incurred by the Commission in carrying out the requirements of this subsection, including any costs of litigation related to the requirements of this subsection.''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Madam Chair, my amendment authorizes such appropriations as may be necessary to allow our financial regulators to carry out the activities required under title VI and VII of this legislation. The purpose of the amendment is that if we're having our regulators undertake new and perhaps even duplicative economic analysis functions, we should provide them with the resources to do so.

Madam Chairman, we know that the majority has tried to shortchange our Federal regulators in terms of appropriations, particularly when we contrast their funding with the new responsibility entrusted to them after the financial crisis. Let's consider the SEC, one of the cops on the beat for Wall Street.

This agency is tasked with enforcing our securities laws. They protect investors and make sure firms are held to account when they create toxic financial instruments. The fiscal year 2013 Republican budget proposal calls for funding the SEC at almost $200 million less than what the President has requested and what the Senate Appropriations Committee has provided in their funding bill. This is just another part of an onslaught of cuts to the SEC's budget that Republicans have proposed and that we've been fighting against over the last few years.

The SEC's funding has been erratic. After significant increases in the early half of the decade, the agency was forced to reduce staff. During this period of inconsistent funding, trading volume more than doubled. Since 2003, the number of investment advisers has grown by roughly 50 percent and funds that they manage have increased nearly 55 percent. The SEC's 3,800 employees currently oversee approximately 35,000 entities, including thousands of investment advisers, mutual funds, broker/dealers, and public companies.

With all this responsibility, my colleagues on the other side of the aisle want to spread the commission even thinner with new duplicative cost-benefit requirements that open the agency up to constant litigation, and they want to do this while at the same time refusing to devote additional resources to the agency. The result is that the SEC would be forced to divert resources away from other key functions of the commission, including, perhaps, prosecuting wrongdoers who violate our security laws.

Madam Chair, I reserve the balance of my time.

□ 2050

Mr. SCHWEIKERT. Madam Chairman, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Arizona is recognized for 5 minutes.

Mr. SCHWEIKERT. And to my friend from California, she has always been a passionate and very articulate in the battle for resources for the regulators.

But I'm going to stand here in opposition to this amendment for a couple of very simple reasons. One, this is already the job they're supposed to be doing with the money they have, this cost-benefit analysis. And we can talk about that further.

But also, as you work through the amendment, I have great concern for the law of unintended consequences, and that is, in a weird way, subsidizing and incentivizing bad cost-benefit analysis. In the amendment, it basically says, if you end up in litigation over your cost-benefit analysis, there should be an appropriation, an unspecified amount of money that the appropriators should send you for that litigation. So if you do a really bad job in your cost-benefit analysis and you get sued, you actually get more money that is supposed to be appropriated to you.

The sort of constant thing I focus on a lot is that law of unintended consequences of, does it actually create an incentive to draw down more cash for the agency, for the litigation? And the way you get to the litigation is the quality of the work that was done in the cost-benefit analysis.

So there are two primary issues: A, this is what the agencies are supposed to be doing; and B, in the design of the amendment, I actually have a concern that ultimately, it may incentivize the very thing we're trying to stop.

And with that, Madam Chairwoman, I reserve the balance of my time.

Ms. WATERS. Madam Chair, my amendment also addresses title VII of the bill, which relates to the Commodity Futures Trading Commission. The CFTC is the cop on the beat that

we tasked to regulate much of the derivatives market under the Wall Street Reform Act. And the CFTC is the agency that cracked down on Barclays when they manipulated a key interest rate benchmark, the Libor, in order to benefit their derivatives trade.

This bill also imposes new cost-benefit requirements on the CFTC. While the requirements on this agency aren't as onerous as the ones imposed on the SEC, I think it is inappropriate to spread the CFTC any thinner when Republicans have proposed to cut the CFTC's funding by 12 percent relative to last year and 40 percent relative to what the Senate provided.

As CFTC Chairman Gary Gensler said last month, the result of proposed House funding cuts ''is to effectively put the interests of Wall Street ahead of those of the American public by significantly underfunding the agency Congress tasked to oversee derivatives—the same complex financial instruments that helped contribute to the most significant economic downturn since the Great Depression.''

Finally, I disagree with the claim that more cost-benefit analyses can solve every regulatory question we face. In fact, I think that these economic analyses often offer a false sense of precision and fail to capture things that aren't easily quantifiable, things like avoiding the next financial crisis and protecting overall market integrity.

I would urge my colleagues to support my amendment, which makes compliance with the new requirements under the underlying bill contingent on them receiving sufficient appropriations to carry out these functions.

I reserve the balance of my time.

Mr. SCHWEIKERT. My two arguments still stand. But there is one other point. And I actually have a little bit of information here.

According to the inspector general of the CFTC, the commission regularly employs a ''stripped down'' type of cost-benefit analysis that has ''proved perilous for financial market regulators.'' In the past, they've used a stripped-down methodology.

So in many ways, what we're doing here in the overall legislation is saying, here's the box, you are supposed to be doing this, it's already part of your budget. And as I spoke earlier, in the design of the amendment, I have a fear of the unintended consequences that you are almost incentivizing; that when the litigation happens, the agency actually ends up getting more money.

And with that, Madam Chairwoman, I yield back the balance of my time.

Ms. WATERS. In closing, this bill adds duplicative new rules. SEC is already held to account on cost-benefit analysis. Proxy access was overturned. The bill opened CFTC up to new industry lawsuits.

I would ask for an ''aye'' vote on my amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

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

Ms. WATERS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 19 OFFERED BY MR. FITZPATRICK

The Acting CHAIR. It is now in order to consider amendment No. 19 printed in part B of House Report 112–616.

Mr. FITZPATRICK. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 71, line 12, add at the end the following: ''In reviewing any regulation (including, notwithstanding paragraph (6), a regulation issued in accordance with formal rulemaking provisions) that subjects issuers with a public float of $250,000,000 or less to the attestation and reporting requirements of section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)), the Commission shall specifically take into account the large burden of such regulation when compared to the benefit of such regulation.''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Pennsylvania (Mr. FITZPATRICK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. FITZPATRICK. Madam Chair, the amendment I'm offering tonight would require the SEC, when reviewing regulations, to consider the burden of applying section 404(b) of Sarbanes Oxley to companies with a public float of less than $250 million. Simply put, this amendment requires regulators to consider the cost of a specific regulation which hinders job creation in my district and across the Nation.

Section 404(b) requires audits of a public company's internal controls. While this sounds innocuous, the cost of external audits can be staggering. Those costs are exponentially more burdensome on smaller companies. Currently, the law extends the auditing requirement to any company with a public float of $75 million or more, and that number has been widely criticized as too low and adds an extremely costly burden on small and growing companies.

Recognizing that burden on emerging growth companies, the House overwhelmingly passed, as part of the JOBS Act, an exemption from 404(b) for companies with up to $1 billion in revenue for 5 years after their initial public offering.

This amendment would merely require the SEC to consider the burden of section 404(b) when reviewing their regulations and would not change current law. This amendment would apply to all companies and would not discriminate based on when a company issued their IPO.

Congress and the SEC have appropriately recognized that all companies are not the same, and smaller companies should be exempt from certain regulations. This amendment asks that the SEC consider these costs on smaller companies.

If companies are priced out of being able to go public, it restricts capital formation and job creation. For those companies that still choose to go public, resources that could otherwise be used to hire and grow are being sucked away by unproductive compliance costs.

Madam Chair, Synergy Pharmaceuticals is a New York-based company that does their entire R&D in Doylestown Borough in my district. They have 10 employees in their Doylestown research facility and 10 employees in New York. These are good-paying jobs, but by most definitions, this is a small company. In fact, their market capitalization exceeds even the increased threshold of $250 million that this bill references, which is why some have advocated exempting companies with a public float as high as $500 million or $1 billion.

I reached out to their chief scientific officer and their chief financial officer to discuss this issue with them, and their comments were very instructive. I heard that 404(b) was one of the most significant regulatory burdens they face. In their words, ''It hurts.''

It was not the direct costs of external audits or the person they had to hire internally to deal with these requirements but the time that was spent and the efforts that were wasted. According to them, hours and even days worth of time was spent finding ways to document and justify their procedures for something as menial as where the checkbook was kept.

What would they do with the extra money if they didn't have to spend it on compliance? The answer I got was that there is no question it would go directly into research and development.

I ask my colleagues, where is this money more productively used: in documenting how the checkbook is stored at night or hiring research assistants in communities like Doylestown and in New York?

Madam Chairman, entrepreneurial companies like Synergy are those we are counting on to create wealth and jobs and restore America's vibrant economy. Their story is not unique, particularly in industries like biotechnology. This Congress recognized the importance of decreasing the regulatory burden on small and emerging companies in a strong bipartisan manner just a few months ago with the JOBS Act. This amendment is an extension of that effort, and I encourage my colleagues to support it.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. I rise in opposition, Madam Chair.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

□ 2100

Mr. FRANK of Massachusetts. Madam Chair, I yield myself 3 minutes.

This is an effort to exempt companies under $250 million. Now the JOBS Act, which was recently passed with broad support, said that a start-up company for its first 5 years would be exempt from this. This now would do away with that 5-year restriction without having had the kind of committee consideration that it seems to me it ought to have. It does it in this way, and I differ with my colleague from Pennsylvania when he says that it doesn't change the law. If it didn't change the law, they wouldn't offer it. He's not up here at 9 p.m. just to get exercise. It changes the law in a very significant way and sets a very bad precedent.

The underlying legislation to which this would be an amendment requires a cost-benefit analysis. This cooks the books. This is not content to let it be an unbiased cost-benefit analysis; but it says, it instructs the SEC to take into account the heavy burdens—and let me get the exact words—the large burden of such regulation. In other words, it's an effort to tip the scales of the very cost-benefit analysis.

And we know that, by the way, as to intent because the original version of this amendment was just a straight exemption of 250. But for parliamentary reasons, because that's not this committee's jurisdiction, it had to be redone. So if the gentleman really wanted to just exempt everybody under 250 from Sarbanes Oxley forever, as opposed to a 5-year exemption for a start-up, he had to amend it.

So he amended it in a way, as I said, that unfortunately impugns the integrity of the cost-benefit analysis because it puts a thumb on the scales. It says, oh, the cost-benefit analysis here should take into account the large burden. Well, it is already supposed to do it. Adding this is an instruction to the SEC essentially to find that they should be exempt.

We have had a rash of Chinese companies buying small American companies and converting them and people investing in them and getting taken. And the problem is that Chinese accounting is very opaque. What this bill would do is to prevent the United States authorities from applying Sarbanes Oxley to protect those investors.

I don't doubt that there is a very good company—I agree there is a very good company in his district, although he says it is above the limit. But you can't legislate for just one good company. This is part of this nostalgia for a time when we had no regulation.

Sarbanes Oxley has improved the integrity of our capital markets. It has improved the confidence of investors. We did exempt small start-ups, so for the first 5 years as a start-up, up to $250 million, they didn't have to do this. This says, in effect, by instructing the SEC to find that the cost outweighs the benefit no matter what, this gives a permanent exemption de facto for companies up to 250, which would include people who might be scamming, in the case of the Chinese companies. And as I said, it sets a bad precedent.

If we are going to have cost-benefit analysis, and I think that can be overdone, let's have it in an honest and open way. Let's not put the thumb in the scales, as this does, by instructing the SEC, in effect, to find that the cost always outweighs it.

I reserve the balance of my time.

Mr. FITZPATRICK. Madam Chair, I yield the balance of my time to the gentleman from Tennessee (Mr. FINCHER).

Mr. FINCHER. Madam Chair, I rise in strong support of Mr. FITZPATRICK's amendment.

Madam Chair, unemployed Americans are crying out for more jobs, urging Congress to review rules and regulations that stifle innovation, economic growth, and job creation. Overly burdensome regulations are hurting business expansion, which is why we are debating this bill this evening. Overly burdensome regulations is also why I introduced H.R. 3213, the Small Company Job Growth and Regulatory Relief Act, to expand Sarbanes Oxley 404(b) exemptions for companies with a public float of less than $350 million.

Supporters of increasing the current $75 million exemptions from Sarbanes Oxley 404(b) for small companies would save duplicative audit costs, which hinder many companies from going public. Going public provides opportunities for companies to raise needed capital in order to expand, reinvest, and create jobs.

Providing a permanent exemption for Sarbanes Oxley for companies with a public float of $250 million or less just makes good sense. I strongly encourage my colleagues to support this amendment.

Mr. FRANK of Massachusetts. I guess I am in a position of being disagreeable to some of my friends on the committee. The gentleman from Tennessee cited the company that's about to go public, but they're already exempted.

The jobs bill that we passed and was signed into law exempts start-ups for the first 5 years until they go public, so this has no relevance to the start-ups.

It has relevance to companies that have been in existence for more than 5 years as public companies. Again, we have got an exemption already for the first 5 years. And it says, in effect, don't give us this unbiased cost-benefit analysis. We'll tell you what cost-benefit analysis does.

And as to IPOs, I will insert into the RECORD an article by Mr. Davidoff in the The New York Times talking about the advantages we have in IPOs these days; how the soccer team from England came here to do an IPO because our corporate governance laws are more favorable to them in allowing different classes of stock.

I'm sorry to see this continuing repudiation of the legacy of George W. Bush. I know he's not going to come to the convention. But, gee, everything's being torn down. George Bush signed Sarbanes Oxley. Oxley, by the way, is Mike Oxley, my predecessor as chairman of our committee. George Bush was very proud of Sarbanes Oxley. It's an accounting requirement, and what this does is to take another chunk out of that regulation.

Now, maybe we hear different people. My friends say the American people are crying out for an end of regulation. Every indication I have of public opinion is that people are tired of irresponsibility by a few, not everybody, but they are tired of people being scammed. And, in fact, the notion that what we need in the financial area is less regulation is an odd one. It comes from people, I guess, who just slept through the last few years, didn't see the crisis we had because Sarbanes Oxley, of course, itself came about after Enron.

So I would align myself with President Bush. I think he got this one right. I think Mike Oxley got this one right. Yes, for start-ups and for people about to go public, they have a $250 million exemption. But to give a permanent exemption to companies at $250 million and above is a mistake. And don't, please, start monkeying with cost-benefit analysis.

I yield back the balance of my time.

[From the New York Times, July 10, 2012]

IN MANCHESTER UNITED'S I.P.O., A PREFERENCE FOR AMERICAN RULES

(By Steven M. Davidoff)

Manchester United, the English soccer team with an adoring fan base in Europe and Asia, is filing to go public in the United States.

But the initial public offering is not a reflection of Americans' increasing love of soccer. Instead, it is a reflection of American regulators' light touch.

I'm not kidding. The United States, which has long been criticized for its harsh rules surrounding I.P.O.'s, is now the place where foreign companies go to avoid regulation.

Manchester United may be the world's most popular soccer club, with 659 million fans according to the team's own estimates. In 2005, the American businessman Malcolm Glazer and his family bought control of the team, loading it up with hundreds of millions of dollars in debt. Now, the company is selling shares to raise money and reduce its debt, which stands at about $655 million.

But the Glazers do not want to give up voting control since, among other reasons, Manchester United fans appear eager to buy back the team from the still-unpopular family. In 2010, a prominent group of Manchester United fans were said to have tried to form a consortium to repurchase the club. The Glazers have uniformly given the same response: the team is not for sale. Now, the Glazers are venue-shopping for their stock.

They passed over the Hong Kong Stock Exchange because it would not give the team a waiver to allow two classes of shares, with different voting rights. The London Stock Exchange also does not allow such share structures, perhaps the reason this natural home was skipped over by the Glazers.

Manchester United declined to comment for this article.

The Singapore Exchange seemed more amenable to the Glazers' plan to list Manchester United and keep control through a dual-class structure. But after the exchange delayed final signoff on the dual-class shares and the Asian markets cooled, the Singapore plans were derailed, according to an article in Reuters.

The soccer team has recently found a home for its stock in the United States. Manchester United filed the papers this month for its initial public offering on the New York Stock Exchange, and the Glazers are taking advantage of the country's willingness to be more flexible when it comes to shareholder rights. Manchester United is proposing a corporate structure that would give the Glazers shares with 10 votes apiece. Public investors would receive one vote for each share.

While the Securities and Exchange Commission tried to ban this type of dual-class voting stock in the 1980s, a federal appeals court struck down the rules. Since then, the structure has become increasingly common. Facebook, LinkedIn and Google all have dual-class shares. The New York Times also has a dual-class voting structure. In 2011, 28 offerings featured dual-class structures that gave greater voting rights to certain shareholders, according to the research firm Dealogic.

The Manchester United offering is a case study in how the American markets have evolved toward deregulation in the past decade.

The company is a beneficiary of the newly enacted Jumpstart Our Business Start-Ups Act, known as the JOBS Act, designed to help private companies raise capital and go public. Although the team was founded in 1878, the JOBS Act classifies Manchester United as an emerging growth company since it has less than $1 billion in revenue. As such, the company, which is incorporated in the Cayman Islands, does not face the same hurdles as American businesses.

The JOBS Act builds on earlier efforts by the S.E.C. to loosen the rules governing I.P.O.'s of foreign companies. Under pressure from stock exchanges and other market players, the agency has exempted foreign issuers like Manchester United from large parts of American securities laws.

Manchester United will not need to file quarterly reports, report material events, file proxy statements or disclose extensive compensation information, all of which American companies must do. Under a different S.E.C. rule adopted in 2008, Manchester United also does not need to report financials under the generally accepted accounting principles used in the United States, but can instead rely on international financial reporting standards.

Because Manchester United will be a controlled company, it does not need to follow the New York Stock Exchange rules adopted in 2003 that require a public company to have a board composed mainly of independent directors. The board of Manchester United will have four directors, two of Malcolm Glazer's sons and two executives of the company.

The legal environment, which investment bankers and lawyers have long argued deterred I.P.O.'s, also appears to be more conducive. This may be because securities litigation reforms put in place by Congress and the Supreme Court have meant fewer cases in recent years. Even after the financial crisis, only 16 companies on the Standard & Poor's 500 were subject to this type of litigation in 2011, the lowest number since 2000, according to the Stanford Securities Class Action Clearinghouse.

It's all a bit unsettling.

After the enactment of the Sarbanes-Oxley Act in 2002, critics claimed that the new regulation was driving away foreign companies, although at least one academic study rebutted this claim. But as regulators have slowly loosened the rules, the American markets are attracting foreign issuers seeking watered-down rules.

This does not mean that this deregulation is wrongheaded.

The JOBS Act and other initiatives may not have been designed to attract the likes of Manchester United, but such I.P.O.'s do provide work for investment bankers, lawyers and the exchanges. They also build up American prestige by bringing well-known foreign companies to the United States.

At the same time, the deregulation effort means lower compliance costs for businesses. Presumably, that extra money can be invested, bolstering the economy.

The question is whether deregulation is worth the price.

I have little sympathy for investors who buy Manchester United shares. The risks are mainly disclosed.

The bigger question is whether lowering the bar for foreign issuers will come back to haunt the American markets.

Even before the JOBS Act, Chinese companies took advantage of new S.E.C. rules and started going public en masse in the United States. While some of the I.P.O.'s have worked out, there are now more than 100 newly public Chinese companies facing accusations of fraud by either investors or regulators.

The risk is that American exchanges will become more like London's Alternative Investment Market, a lightly regulated stock exchange that has fostered some spectacular flops. If so, investors may lose faith in American markets, and the United States may end up sacrificing long-term stature for short-term gain.

Either way, the next time someone calls the American markets overregulated, you might want to point them to the Manchester United I.P.O.—and remind them that the English soccer club came to the United States to avoid more burdensome foreign rules.

This post has been revised to reflect the following correction:

Correction: July 12, 2012.

The Deal Professor column on Wednesday, about the soccer team Manchester United's public offering in the United States, misstated the year that the Sarbanes-Oxley Act was enacted. It was 2002, not 2001.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. FITZPATRICK).

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

Mr. FRANK of Massachusetts. Madam Chair, I demand a recorded vote.

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

AMENDMENT NO. 20 OFFERED BY MR. POSEY

The Acting CHAIR. It is now in order to consider amendment No. 20 printed in part B of House Report 112–616.

Mr. POSEY. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end of title VI the following (and conform the table of contents accordingly):

SEC. 604. INTERPRETIVE GUIDANCE NULL AND VOID.

Notwithstanding any other provision of law, no interpretive guidance issued by the Securities and Exchange Commission on or after the effective date of this Act relating to ''Commission Guidance Regarding Disclosure Related to Climate Change'', affecting parts 211, 231, and 249 of title 17, Code of Federal Regulations (as described in Commission Release Nos. 33–9106; 34–61469; FR–82), or any successor thereto, may take effect, and such guidance shall have no force or effect with respect to any person on or after February 2, 2010.

SEC. 605. OTHER SEC ACTION PROHIBITED.

(a) FURTHER GUIDANCE RELATED TO CLIMATE CHANGE.—The Commission may not issue any interpretive guidance with respect to disclosures related to climate change on or after the effective date of this Act.

(b) VOLUNTARY SUBMISSIONS.—The Commission may not issue any interpretive guidance that would establish any requirements with respect to the content of or format for any disclosures related to climate change voluntarily submitted by any entity to the Commission on or after the effective date of this Act.

(c) CIVIL AND ADMINISTRATIVE ACTIONS.—No civil or administrative action or proceeding pertaining to disclosures related to climate change may be initiated by the Commission on or after the date of the enactment of this Act and any such actions or proceedings pending on such date shall be terminated.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as to—

(1) prohibit the Commission from issuing interpretive guidance with respect to disclosures related to non-anthropogenic or natural climate variability observed over comparable time periods; or

(2) terminate an administrative action or proceeding pertaining to such disclosures.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Florida (Mr. POSEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. POSEY. Madam Chair, I yield myself such time as I may consume.

Madam Chair, my amendment stops the Securities and Exchange Commission from pursuing an agenda on climate change and keeps its focus, instead, on its core mission of protecting investors.

In recent years, we've seen the Madoff and Stanford Ponzi schemes bilk people out of over $70 billion. Many of these victims live in our districts. They are shocked and outraged that such a travesty could happen.

One would think that after such embarrassments, the SEC would do whatever it could to focus its finite resources on stopping the next Ponzi scheme. At the very minimum, it would make sense for the SEC to appear to get serious in safeguarding the public from fraud and corruption.

However, early in 2010, the SEC issued an interpretative guidance for companies to disclose the impact global climate change might have on their businesses. The SEC published this controversial guidance over the objections of dissenting commissioners. This

was done without direction from Congress and outside the traditional rulemaking process.

There are no laws in the United States explicitly addressing climate change. The guidance is inappropriate considering the SEC has bigger priorities.

I don't have to tell my colleagues that climate change is a controversial and an unresolved issue. From a securities perspective especially, climate change information on a disclosure is highly speculative, and dubious at best. If allowed to proceed, it invites all kinds of compliance costs and confusion down the road. And guess who will ultimately pay all those costs? Our constituents, the American public.

□ 2110

Importantly, my amendment does not stop companies from mentioning bona fide weather and environmental risks in disclosures. And if a company really wants to weigh in climate change for some reason, they're free to volunteer that information. It just keeps the SEC focused on what they're supposed to be doing, and that is protecting people and not forcing unrelated agendas down their throats.

I urge my colleagues to support the amendment and reserve the balance of my time.

Mr. CUMMINGS. Madam Chairman, I rise to claim time in opposition.

The Acting CHAIR. The gentleman from Maryland is recognized for 5 minutes.

Mr. CUMMINGS. I yield myself such time as I may consume.

Madam Chairman, Federal securities law requires financial disclosures by public companies for the benefit of shareholders and investors. The Securities and Exchange Commission provides detailed guidance on how to interpret and comply with these disclosure requirements, which are intended to ensure that potential investors fully understand a security before they purchase it.

The SEC recently provided guidance on existing rules that require companies to disclose the impact that business or legal developments related to climate change could have on a company's bottom line. They want investors to know about this.

These disclosures help investors understand how climate change affects a company's operations and their potential investments in the company. This amendment seeks to prevent this guidance from taking place. It seeks to keep investors in the dark.

Rules discussed in the SEC's guidance are clearly needed, and the SEC's guidance will help publicly traded companies understand how key areas of climate change—such as new legislation or international accords—could affect what they need to disclose to the public. This guidance is also intended to help companies explain how the physical impacts of climate change could affect their performance.

In issuing this guidance, the SEC did not opine on the science of climate change. The guidance seeks to help companies assess the possibility that events related to climate change may materially affect their bottom lines and trigger public disclosure requirements. This guidance is prudent and serves to benefit both the investor and the company.

Ironically, with this amendment, my friends on the other side of the aisle who proclaim the value of transparency are acting to hurt investors by denying them important information. This amendment would also harm Wall Street by preventing the SEC from issuing clear guidance to help publicly traded firms understand what they need to disclose on this topic to ensure full compliance with the law. It provides them certainty.

So I urge my colleagues to oppose this amendment, and I reserve the balance of my time.

Mr. POSEY. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman from Florida has 3 minutes remaining.

Mr. POSEY. The gentleman's points about disclosure are on point. They simply don't apply to what this amendment does. It does not deny required disclosure of risks. Let me be clear, thousands and thousands of American families were devastated by Madoff, by Stanford, MF Global and the like. People lost their homes, people lost their cars, people lost their children's education funds, and people lost their lifelong retirement savings. I could go on and on forever, but we have a limited amount of time.

The job of the SEC is to protect those people. The job of the SEC is to protect honest people from dishonest corporations and persons. It's not to impose other agendas on the American public. It's not to talk about the environmental stewardship of corporations. If a corporation dealing with securities does not disclose a significant environmental risk, then they're going to be liable for that failure to disclose. But it's not the SEC's job to talk about their stewardship.

The SEC knew for a decade—a decade—a full 10 years—over 10 years—that Madoff was stealing from people; and they refused to take any action for over a decade, and over $70 billion evaporated. People's lives were devastated. People died. People died. There are dead people because of what Madoff did. And the SEC didn't lift a finger. They were too busy doing other things.

Now, here we intend to put SEC back on the job and focus on what they're supposed to do: protect honest people from dishonest people.

I reserve the balance of my time.

Mr. CUMMINGS. When we had the SEC come before our committee, I made it very clear that I thought more could have been done with regard to Madoff, and I think it was extremely unfortunate what happened. But, again, that does not mean that we shouldn't provide clarity over all subjects which may affect investors. And that's what we're talking about here.

I'm going to rely on my argument, but I'm going to also yield to my good friend, Mr. FRANK from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

The gentleman says the SEC wasn't on the Madoff thing for many years. That's true. I have to say that, while I supported the Bush administration on Sarbanes Oxley, I am critical of their administration of the SEC. For almost all of that time, we had an SEC that was not inclined to enforce. And I do not think the current SEC, under a very good chairman, Mary Schapiro, with a much more vigorous approach ought to be taxed for the failures that were ideologically driven by the previous SEC.

So I don't think it is valid to say, well, because they didn't catch Madoff—the SEC during the Bush administration reflected an unfortunate philosophy of non-regulation, of ceding to the company more autonomy than they should have, and it is not a good basis on which to legislate going forward.

I thank the gentleman for yielding.

Mr. CUMMINGS. I reserve the balance of my time.

Mr. POSEY. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman from Florida has 1 minute remaining.

Mr. POSEY. I have endured about all I care to, and I think a large percentage of the people in this Chamber and a lot of people in this country have endured about all the finger-pointing and blame that they can endure. I don't care who shot John. I don't care who was in charge of the SEC before. The point of this bill is to keep the SEC focused on protecting investors.

I reserve the balance of my time.

Mr. CUMMINGS. Madam Chair, how much do I have remaining?

The Acting CHAIR. The gentleman from Maryland has 1 minute remaining.

Mr. CUMMINGS. I yield 30 seconds to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. First of all, a large percentage of the people in this room would be too; but, secondly, the fact is that the gentleman from Florida is who started pointing fingers. When I talked about who was in charge of the SEC, all of a sudden he is above any criticism. But he's the one who impugned the SEC. He's the one who said that the SEC sat and did nothing under Madoff. So, if you're going to accuse the agency, then it becomes relevant as to who was running it. I didn't raise the issue of who was to blame and who was at fault. I was simply responding to my committee colleague from Florida.

I thank the gentleman.

Mr. POSEY. Very poetic, but it's off point.

The amendment wants SEC to focus on protecting honest people from dishonest corporations and people, nothing more, nothing less, and nothing else.

I reserve the balance of my time.

Mr. CUMMINGS. Let me be clear, the SEC has the responsibility to disclose the information that investors need, and this is one of those areas. We want to protect investors with everything we have. I think this amendment flies in the face of that, and I would hope that the body would vote against the amendment.

I yield back the balance of my time.

Mr. POSEY. Madam Chairman, I appreciate the comments; and, once again, I implore my colleagues to support this good amendment to keep the SEC on task.

Their job is to protect investors from dishonest people and dishonest corporations; and with the passage of this amendment, we will do that.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. POSEY).

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

Mr. CUMMINGS. Madam Chair, I demand a recorded vote.

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

□ 2120

AMENDMENT NO. 21 OFFERED BY MRS. MALONEY

The Acting CHAIR. It is now in order to consider amendment No. 21 printed in part B of House Report 112–616.

Mrs. MALONEY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 76, after line 14, insert the following new section (and conform the table of contents accordingly):

SEC. 604. EFFECTIVE DATE.

This title, and the amendments made by this title, shall not take effect until the date on which the Chairman of the Securities and Exchange Commission certifies to the Congress that implementing the provisions of this title, and the amendments made by this title, will not divert resources from the Commission's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from New York (Mrs. MALONEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. MALONEY. Madam Chair, I yield myself such time as I may consume.

My amendment concerns title VI of the bill and the enhanced cost-benefit analysis that it requires. The amendment very simply requires that title VI of the underlying bill needs to basically get in line behind all the critical and previously assigned responsibilities Congress has given to the SEC to keep consumers, investors, and our financial system safe.

My amendment would require the Chair of the SEC to certify that the Commission can perform its core mission of protecting investors and do the job it was created to do—safely maintain efficient markets and promote access to capital—before it diverts any of its resources to carry out the new requirements of title VI in this bill.

The financial reforms we enacted 2 years ago gave the SEC critical new tools to oversee a multitrillion-dollar market and to help ensure that we do not get ourselves into another financial crisis. And the reforms we previously enacted require the SEC to conduct extensive rulemakings and to complete a number of critical reports.

Unfortunately, this Congress has chosen to underfund the SEC and hamper its ability to provide the required oversight of the financial industry. The SEC is now facing a $195 million shortfall this year alone. They are also operating on a budget that is a 12 percent cut from what the President requested.

The SEC needs every dollar it now gets just to carry out its core mission: to protect investors, to implement Dodd-Frank, and to provide enforcement. I do not believe that it would be responsible on the part of this Congress to require that already strained resources be diverted from the SEC's core mission in order to comply with the new burdens of this title.

The Congressional Budget Office has made it quite clear that additional resources would have to be used to carry out the provisions of this title. Imposing these new and severe burdens on the SEC's cost-benefit analysis process would ensure that the SEC would be hard-pressed to carry out its fundamental regulatory functions. The SEC would have difficulty protecting investors even when it has identified harmful practices.

The SEC is already required to conduct a cost-benefit analysis, and recent court cases prove that, if the process has been insufficient, the SEC must start over.

Last year, for example, the SEC proposed a rule on proxy access to give shareholders more of a say into the activities of companies. The Court of Appeals for the District of Columbia very directly stated that their cost-benefit analysis had been inadequate. That represents a very real and a very effective existing check on the SEC's authority. But title VI of this bill will effectively shut down the SEC's rulemaking process altogether by requiring significant resources be directed to burdensome new requirements.

So I believe that before we hobble an agency that keeps consumers, investors, and our financial sector safe, it would be wise to require that the Chair of the SEC must certify that it will still be able to carry out its core mission before this provision can go into effect—also, because we already have a cost-benefit analysis.

In the wake of all the cost, the pain, and the dislocation of the Great Recession, we should not now cripple the SEC's ability to do its real job, that of protecting investors and our financial markets.

I urge my colleagues to support this amendment, and I reserve the balance of my time.

Mr. SCHWEIKERT. Madam Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Arizona is recognized for 5 minutes.

Mr. SCHWEIKERT. To my friend from New York, this is sometimes one of those amusing moments you get where we're both referring to the same litigation as part of our arguments against my side and for her amendment and somewhat making the point that, in that proxy rule litigation, demonstrating that the SEC actually didn't do the proper job. And actually, that's what the court stood up and told them.

One of the reasons—and maybe this is just the classic fundamental different view of what the Agency should be doing to ultimately protect investors and the economy and working towards capital formation—is you would think the Chairman of the SEC, instead of moving this to the bottom of the ranking, it would be at the very, very top. You would think, actually, in many ways you'd want to rewrite this amendment, at least from my view, flip it, saying one of the very first things the Chairman of the SEC does is come in and say, Hey, we did an appropriate, detailed cost-benefit analysis for this new rule and regulation, and here's the impact it has on the economy; here's the impact it has on job creation.

If we stand here repeatedly and say how much we care about jobs and economic growth, I would think that would be the order you would want to be pursuing. In many ways, this amendment—actually, not in many ways, it's what the amendment does—it actually does just the reverse. It lowers that to the bottom of that ranking.

With that, Madam Chairman, I reserve the balance of my time.

Mrs. MALONEY. May I inquire how much time remains on both sides?

The Acting CHAIR. Each side has 30 seconds remaining.

Mrs. MALONEY. In response to my friend on the other side of the aisle, regulations did not cause the Great Recession; it did not cause the loss of jobs. What caused the loss of jobs was the lack of regulation and the lack of enforcement, and certainly large swaths of the economy that were not regulated at all that brought on the Great Recession.

It was the regulations that Dodd-Frank has put in place, and restoring

the strength to the SEC to protect investors and to protect our economy, and putting hurdles and additional expenses in front of the SEC when they don't even have the money to enforce the new laws and things they have to do. They're very overburdened. So this is a reasonable amendment, and I urge its passage.

I yield back the balance of my time.

Mr. SCHWEIKERT. Madam Chairwoman, just one quick comment I'll throw in there.

I'm part of the belief system that one of the great burdens right now in economic growth and to sort of that next generation of what's the next world of jobs that will be coming into our economy—how are we going to form the capital, how are we going to see what our future looks like—is actually, in many ways, what we're debating here. I do believe the massive growth in the regulatory environment over the last couple of years is stymying that next generation.

There is one point I also want to make. Think of the last decade. I'm doing this somewhat from memory, but I think a decade ago the SEC's budget was about $300 million. Today, I believe it's $1.35 billion. So it's up $1.05 billion in 10 years, to give you some sense of how much massive increase has been moved into the regulatory body.

With that, Madam Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

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

Mrs. MALONEY. Madam Chairman, I demand a recorded vote.

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

AMENDMENT NO. 22 OFFERED BY MR. MANZULLO

The Acting CHAIR. It is now in order to consider amendment No. 22 printed in part B of House Report 112–616.

Mr. MANZULLO. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end of the bill the following:

TITLE VIII—ENSURING HIGH STANDARDS FOR AGENCY USE OF SCIENTIFIC INFORMATION

SEC. 801. REQUIREMENT FOR FINAL GUIDELINES.

(a) IN GENERAL.—Not later than January 1, 2013, each Federal agency shall have in effect guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of scientific information relied upon by such agency.

(b) CONTENT OF GUIDELINES.—The guidelines described in subsection (a), with respect to a Federal agency, shall ensure that—

(1) when scientific information is considered by the agency in policy decisions—

(A) the information is subject to well-established scientific processes, including peer review where appropriate;

(B) the agency appropriately applies the scientific information to the policy decision;

(C) except for information that is protected from disclosure by law or administrative practice, the agency makes available to the public the scientific information considered by the agency;

(D) the agency gives greatest weight to information that is based on experimental, empirical, quantifiable, and reproducible data that is developed in accordance with well-established scientific processes; and

(E) with respect to any proposed rule issued by the agency, such agency follows procedures that include, to the extent feasible and permitted by law, an opportunity for public comment on all relevant scientific findings;

(2) the agency has procedures in place to make policy decisions only on the basis of the best reasonably obtainable scientific, technical, economic, and other evidence and information concerning the need for, consequences of, and alternatives to the decision; and

(3) the agency has in place procedures to identify and address instances in which the integrity of scientific information considered by the agency may have been compromised, including instances in which such information may have been the product of a scientific process that was compromised.

(c) APPROVAL NEEDED FOR POLICY DECISIONS TO TAKE EFFECT.—No policy decision issued after January 1, 2013, by an agency subject to this section may take effect prior to such date that the agency has in effect guidelines under subsection (a) that have been approved by the Director of the Office of Science and Technology Policy.

(d) POLICY DECISIONS NOT IN COMPLIANCE.—A policy decision of an agency that does not comply with guidelines approved under subsection (c) shall be deemed to be arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

(e) DEFINITIONS.—For purposes of this section:

(1) AGENCY.—The term ''agency'' has the meaning given such term in section 551(1) of title 5, United States Code.

(2) POLICY DECISION.—The term ''policy decision'' means, with respect to an agency, an agency action as defined in section 551(13) of title 5, United States Code, (other than an adjudication, as defined in section 551(7) of such title), and includes—

(A) the listing, labeling, or other identification of a substance, product, or activity as hazardous or creating risk to human health, safety, or the environment; and

(B) agency guidance.

(3) AGENCY GUIDANCE.—The term ''agency guidance'' means an agency statement of general applicability and future effect, other than a regulatory action, that sets forth a policy on a statutory, regulatory, or technical issue or on an interpretation of a statutory or regulatory issue.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Illinois (Mr. MANZULLO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

□ 2130

Mr. MANZULLO. Madam Chair, I yield myself 2 minutes.

Today I'm offering a commonsense, bipartisan amendment to H.R. 4078 with my good friend from North Carolina, MIKE MCINTYRE. This amendment would codify some of the administration's own policies regarding scientific integrity.

In March of 2009, President Obama announced a new policy on scientific integrity. This amendment requires agencies to follow their own scientific integrity guidelines.

It's important to consider that the nature of Federal regulations has been changing, with more and more decisions being made without developing formal, final agency actions. Instead, we see more and more major policy changes being made through the issuance of guidelines of the development of agency listings. The agencies will tell affected private parties that these guidelines or listings are not really regulations because they're not final actions. But the impact in the marketplace sure can be pretty final.

The Manzullo-McIntyre amendment codifies the requirement that the Director of OSTP require each agency to develop guidelines to maximize the quality, objectivity, utility, and integrity of scientific information used by Federal agencies.

The amendment requires appropriate peer preview, the disclosure of scientific studies used in making decisions, and an opportunity for stakeholder input. It also requires Federal agencies to give the greatest weight to information based upon reproducible data that is developed in accordance with the scientific method.

Further, it deems agency actions that do not follow such procedures to be arbitrary and subject to challenge by affected stakeholders. I would hope that my colleagues consider this amendment as an objective, bipartisan attempt at improving the regulatory process.

I reserve the balance of my time.

Mr. CUMMINGS. I rise to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from Maryland is recognized for 5 minutes.

Mr. CUMMINGS. On first read, Madam Chair, this amendment may sound like a good idea. However, it's true effect would be to put the Director of the Office of Science and Technology Policy in charge of deciding whether any agency in the entire executive branch can make policy decisions.

The amendment says that no policy decision issued by any agency after the end of this year can take effect until that agency's guidelines on scientific integrity have been approved by the Director of the Office of Science and Technology Policy.

I agree that agencies should have strong guidelines on scientific integrity. In fact, agencies are already required to have such guidelines in place under a memo issued by President Obama. However, it's not realistic to expect that the Office of Science and Technology Policy could approve guidelines for every agency by January 1, 2013.

The amendment would undermine the integrity of science in the Federal Government by jeopardizing the ability of agencies to use our best science to

protect Americans' health and safety. Specifically, the amendment would block any ''listing, labeling, or other identification of a substance, product, or activity as hazardous, or creating risk to human health, safety or the environment.''

Under this amendment, for example, the FDA could not alert the public about a defective drug, the Department of Homeland Security could not implement safety measures to screen for terrorists, and the Nuclear Regulatory Commission could not recommend an evacuation zone if there was a nuclear accident.

This amendment, I'm sure, is well-intentioned, but the way it has been drafted makes it dangerous. I urge my colleagues to vote against it.

I reserve the balance of my time.

Mr. MANZULLO. I yield 2 minutes to the gentleman from North Carolina (Mr. MCINTYRE).

Mr. MCINTYRE. Madam Chairman, I rise to speak in favor of the amendment that Congressman MANZULLO and I have introduced to improve H.R. 4078, the Red Tape Reduction and Small Business Job Creation Act.

Our amendment would make a sensible and needed adjustment to our Nation's regulatory policy by requiring that Federal agencies develop guidelines to maximize the quality and integrity of scientific information used in the regulatory process. This is a goal not only supported by many Members of Congress from both sides of the aisle, but also by the administration.

In March of 2009, the President issued a memorandum directing the Office of Science and Technology to require Federal departments and agencies to develop procedures for restoring scientific integrity to government decision-making.

At the beginning of last year, the President issued Executive Order 13563, which stated that each agency ''shall ensure the objectivity of any scientific and technological information and process used to support the agency's regulatory actions.''

Our amendment, which is based on bipartisan legislation that Congressman MANZULLO and I introduced earlier this year, builds on the President's action, has bipartisan support, and codifies the requirement that the Director of the Office of Science and Technology compel each Federal agency to develop guidelines regarding the scientific information used by Federal agencies.

Additionally, this amendment would clarify that scientific information be supported by peer review, when appropriate, ensure that scientific studies used in decision-making be disclosed to the public, and require an opportunity for stakeholder input. This is just common sense.

It requires Federal agencies to give the greatest weight to information based on reproducible data that is developed in accordance with the scientific method.

Finally, this would provide grounds for any agency's actions that violate these integrity guidelines, that they have to be deemed arbitrary and subject to challenge by the affected stakeholders. This commonsense amendment requires maximizing the quality and integrity of scientific information used in the regulatory process, and I encourage my colleagues to adopt this bipartisan amendment.

Mr. CUMMINGS. I continue to reserve the balance of my time.

Mr. MANZULLO. How much time do I have?

The Acting CHAIR. The gentleman has 1 minute remaining.

Mr. MANZULLO. I yield that 1 minute to the gentleman from Tennessee (Mr. FINCHER).

Mr. FINCHER. Madam Chairman, I rise in strong support of Mr. MANZULLO's amendment, which urges the Federal Government to develop scientific integrity policies when a Federal agency implements a rule or regulation. Science should be at the heart of Federal agency decision-making.

Right now, the pork producers in my State and others in agriculture are fighting the FDA's concerns regarding antibiotic use in animals when there is no scientific evidence behind those concerns. This is why I had originally introduced House Resolution 98 last year, which would send a bipartisan, commonsense message to the Food and Drug Administration to rely on scientific fact in its development of rules and regulations.

Mr. MANZULLO's amendment goes further, guiding all agencies on a path towards scientific integrity, not just the FDA.

I would like to remind my colleagues that Americans are constantly facing the challenge of widespread and needless interventions in their life. Why let this continue through our agencies' misuse of science?

I urge my colleagues to support the Manzullo amendment.

Mr. CUMMINGS. Madam Chairman, after hearing the arguments of the other side, I'm going to rest on what I've already said. I think I've made it abundantly clear why this is not an appropriate amendment.

With that, I hope that the House will vote against it. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

AMENDMENT NO. 23 OFFERED BY MRS. LUMMIS

The Acting CHAIR. It is now in order to consider amendment No. 23 printed in part B of House Report 112–616.

Mrs. LUMMIS. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add after title VII the following new title (and conform the table of contents accordingly):

TITLE VIII—TRACKING THE COST TO TAXPAYERS OF FEDERAL LITIGATION

SEC. 801. SHORT TITLE.

This title may be cited as the ''Tracking the Cost to Taxpayers of Federal Litigation Act''.

SEC. 802. MODIFICATION OF EQUAL ACCESS TO JUSTICE PROVISIONS.

(a) AGENCY PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(1) in subsection (c)(1), by striking '', United States Code''; and

(2) by striking subsections (e) and (f) and inserting the following:

''(e)(1) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman in a timely manner all information necessary for the Chairman to comply with the requirements of this subsection. The report shall be made available to the public online.

''(2)(A) The report required by paragraph (1) shall account for all payments of fees and other expenses awarded under this section that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is sealed or otherwise subject to nondisclosure provisions, except that any version of the report made available to the public may not reveal any information the disclosure of which is contrary to the national security of the United States.

''(B) The disclosure of fees and other expenses required under subparagraph (A) does not affect any other information that is subject to nondisclosure provisions in the settlement agreement.

''(f) The Chairman of the Administrative Conference shall create and maintain online a searchable database containing the following information with respect to each award of fees and other expenses under this section:

''(1) The name of each party to whom the award was made.

''(2) The name of each counsel of record representing each party to whom the award was made.

''(3) The agency to which the application for the award was made.

''(4) The name of each counsel of record representing the agency to which the application for the award was made.

''(5) The name of each administrative law judge, and the name of any other agency employee serving in an adjudicative role, in the adversary adjudication that is the subject of the application for the award.

''(6) The amount of the award.

''(7) The names and hourly rates of each expert witness for whose services the award was made under the application.

''(8) The basis for the finding that the position of the agency concerned was not substantially justified.

''(g) The online searchable database described in subsection (f) may not reveal any information the disclosure of which is prohibited by law or court order, or the disclosure of which is contrary to the national security of the United States.''.

(b) COURT CASES.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

''(5)(A) The Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount

of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in each controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this paragraph. The report shall be made available to the public online.

''(B)(i) The report required by subparagraph (A) shall account for all payments of fees and other expenses awarded under this subsection that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is sealed or otherwise subject to nondisclosure provisions, except that any version of the report made available to the public may not reveal any information the disclosure of which is contrary to the national security of the United States.

''(ii) The disclosure of fees and other expenses required under clause (i) does not affect any other information that is subject to nondisclosure provisions in the settlement agreement.

''(C) The Chairman of the Administrative Conference shall include and clearly identify in the annual report under subparagraph (A), for each case in which an award of fees and other expenses is included in the report—

''(i) any amounts paid from section 1304 of title 31 for a judgment in the case;

''(ii) the amount of the award of fees and other expenses; and

''(iii) the statute under which the plaintiff filed suit.

''(6) The Chairman of the Administrative Conference shall create and maintain online a searchable database containing the following information with respect to each award of fees and other expenses under this subsection:

''(A) The name of each party to whom the award was made.

''(B) The name of each counsel of record representing each party to whom the award was made.

''(C) The agency involved in the case.

''(D) The name of each counsel of record representing the agency involved in the case.

''(E) The name of each judge in the case, and the court in which the case was heard.

''(F) The amount of the award.

''(G) The names and hourly rates of each expert witness for whose services the award was made.

''(H) The basis for the finding that the position of the agency concerned was not substantially justified.

''(7) The online searchable database described in paragraph (6) may not reveal any information the disclosure of which is prohibited by law or court order, or the disclosure of which is contrary to the national security of the United States.

''(8) The Attorney General of the United States shall provide to the Chairman of the Administrative Conference of the United States in a timely manner all information necessary for the Chairman to carry out the Chairman's responsibilities under this subsection.''.

(c) CLERICAL AMENDMENT.—Section 2412(e) of title 28, United States Code, is amended by striking ''of section 2412 of title 28, United States Code,'' and inserting ''of this section''.

The Acting CHAIR. Pursuant to House Resolution 738, the gentlewoman from Wyoming (Mrs. LUMMIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Wyoming.

□ 2140

Mrs. LUMMIS. Madam Chairman, I have two amendments made in order under this rule. I will offer this amendment. However, thanks to those I've been working with across the aisle, I intend not to offer my second amendment.

Thank you, Mrs. MALONEY.

The Equal Access to Justice Act, or EAJA, was originally passed in 1980 by a Congress concerned that everyday citizens could not afford to challenge the Federal Government in court when they had been wronged by government regulations. As originally designed, EAJA would reimburse small businesses, seniors and veterans for successfully challenging the Federal Government in court when no other law provided for that reimbursement.

It was a good idea then, and it remains a good idea today. For 15 years, the law has worked mostly as intended; but over time, cracks in the system have formed. In updating EAJA, it has become necessary to repair those cracks and to ensure EAJA's viability into the future. Three issues need to be resolved:

First, we need to ensure that our Nation's veterans, seniors, and small businesses have access to qualified attorneys. Right now, EAJA puts up unnecessary roadblocks to these legitimate users;

Second, we need to close loopholes that have allowed EAJA to be exploited by those dissatisfied with the reimbursements provided for them in the Nation's environmental laws;

Finally, we must reinstate tracking and reporting requirements so that Congress and every American has an accurate accounting of how much taxpayer money we spend to reimburse attorneys.

All three of those issues are addressed in H.R. 1996, the Government Litigation Savings Act; but this amendment, the one we are debating right now, only addresses the third issue—the transparency gap in EAJA.

As the recently released GAO report made clear, there is a severe lack of information on these payments. While we don't need that data to know exactly what has been happening with EAJA in recent years, going forward we need robust tracking as a management tool to ensure that EAJA works as intended. The tracking and reporting of EAJA payments is the part of the Government Litigation Savings Act that has broad agreement.

I greatly appreciate the work that the chairman of the Judiciary Committee and the ranking member of the Judiciary Committee have put into this issue. We've come a long way on this, and the bill has benefited from constructive input from both sides of the aisle. We must continue to work together on providing a fair market rate for lawyers who represent veterans, seniors and small businesses, as well as on instituting a reasonable eligibility standard. Both of these issues require further deliberation, and I am hopeful that the chairman and ranking member will commit to working with me to further update EAJA as I am committed to working with them.

In the meantime, let's pass this transparency amendment, which is the third leg of the three-pronged need to address the EAJA issues. This is the one on which we all agree, this third issue of transparency.

Madam Chairman, I reserve the balance of my time.

Mrs. MALONEY. I rise in support of the gentlelady's amendment.

The Acting CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Mrs. MALONEY. Thank you, Madam Chair.

This is one of two amendments that Mrs. LUMMIS has submitted. She has indicated that she will not be offering her other amendment, and we are very pleased as we had some serious concerns about that amendment.

This amendment I am supporting, though, would require Federal agencies to gather valuable data, and it would require the Administrative Conference of the United States to issue a report based on that data. This report would help taxpayers and Congress determine where taxpayer funds flow under the Equal Access to Justice Act.

This amendment has merit. We should have mechanisms in place to track where taxpayer money goes, and the reports this amendment requires will help Congress conduct more thorough oversight over Federal agencies.

There are still some concerns that some have raised about the extent to which the data will be made public. This data could include names of Social Security claimants and veterans who bring claims under EAJA, and this may have a chilling effect on those claimants.

We are willing to work with Mrs. LUMMIS to address these concerns. Mrs. LUMMIS, herself, has raised more specific concerns with how EAJA has been used and urges Congress to amend the act. The committee held a hearing and marked up her bill. The reported bill contained several needed improvements to address many of our concerns on this side of the aisle. We thank her for working with us on these changes. The bill still needs some more work, and we will continue to work with her to address all of our concerns. I urge my colleagues to support this amendment.

I yield back the balance of my time.

Mrs. LUMMIS. I thank the gentlelady from New York.

Madam Chairman, I wish to yield the balance of my time to the gentleman from Oklahoma (Mr. LANKFORD).

Mr. LANKFORD. I rise in support of this amendment as well. I am grateful for the bipartisan cooperation and for

getting a chance to find more transparency as well as how the Equal Access to Justice Act of 1980 is being implemented. Unfortunately, it seems that some special interest groups, particularly some environmental groups, of late are abusing EAJA. They're financing lawsuits to advance a special agenda.

This amendment does shine light on who is receiving attorneys' fees under EAJA by revising and improving EAJA's reporting requirements, which have not been revised in many years. American taxpayers do deserve to know how their money is being spent by the Federal Government, regardless of what the interest group is and where it is coming from, and to know to what extent the financing is being used to advance any kind of ideology.

For these reasons, I do support this amendment, and I am grateful for the bipartisan support.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Wyoming (Mrs. LUMMIS).

The amendment was agreed to.

The Acting CHAIR. The Chair understands that amendment No. 24 will not be offered.

AMENDMENT NO. 25 OFFERED BY MR. POSEY

The Acting CHAIR. It is now in order to consider amendment No. 25 printed in part B of House Report 112–616.

Mr. POSEY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 10, after the period insert the following:

If meeting that definition, such term includes any requirement by the Secretary of the Treasury, except to the extent provided in Treasury Regulations as in effect on February 21, 2011, that a payor of interest make an information return in the case of interest—

(1) which is described in section 871(i)(2)(A) of the Internal Revenue Code of 1986, and

(2) which is paid—

(A) to a nonresident alien, and

(B) on a deposit maintained at an office within the United States.

The Acting CHAIR. Pursuant to House Resolution 738, the gentleman from Florida (Mr. POSEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. POSEY. Madam Chair, I yield myself such time as I may consume.

The Florida International Bankers Association has reported to me that, over the past several months, they have seen as much as $300 million leaving United States banks for overseas banks.

Why is this money leaving the United States, and what can we do to stop the hemorrhaging?

The adoption of this amendment will stop the hemorrhaging of hundreds of millions of dollars—soon to be billions of dollars if this amendment is not adopted. This is according to the studies on earlier, scaled-back proposals by the Internal Revenue Service.

For nearly 100 years, the United States has had in place a policy that encourages foreigners to put their money in our banks in the United States. We have told them that the United States is a welcoming and safe place for their deposits. Earlier this year, apparently clueless about the financial conditions we were in as a Nation, the IRS finalized a new rule to take effect in January 2013 that basically sends the message to law-abiding foreign depositors that U.S. banks don't want their money. Under this rule, the United States would no longer provide these law-abiding depositors with the confidentiality that they've had and that they need.

The new IRS rules would impose cumbersome new reporting requirements for law-abiding foreign depositors and for foreign depositors who live in nations where corruption is rampant. They will simply withdraw their money from the United States institutions and put their money to work in other nations around the world. This is bad for the United States economy.

There has been strong bipartisan opposition to the IRS proposal. The entire Florida delegation—all 25 members, every Republican and every Democrat—wrote the Treasury last year, asking them to withdraw the regulation. Bipartisan letters have gone to the Internal Revenue Service urging them to withdraw the regulation, and bipartisan legislation has been filed in the House and in the Senate to stop the regulation.

Each day Congress refuses to act, deposits are leaving the United States for Singapore, Panama, the Bahamas, the Cayman Islands, and elsewhere. This money will not return to the United States once it leaves. Most importantly for our communities, this capital will not be available to our small businesses and families when they need it to build in America. The new regulation will harm the U.S. economy, and we must stop its implementation.

□ 2150

Ironically, this same regulation from the IRS was rejected about 8 years ago when the bureaucrats at the IRS thought it was a good idea then. A strong bipartisan effort in Congress led to the IRS withdrawal of the rule, and we must do that again today.

If you share my commitment to economic recovery and believe that the United States should be a welcoming place for foreign depositors who want to put their money to work in the United States, then I urge you to join in support of this amendment. Please vote ''yes.''

I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chair, I rise to oppose the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Madam Chair, I yield myself 2 minutes.

I understand that the banks in America don't like this because they would like to continue to be a place where people can come from other countries or send their money from other countries and not have it reported back home. The problem is that in America, we suffer a much greater loss right now from Americans who evade their taxes. Most Americans don't. But taxes being parked in the Cayman Islands, which was just mentioned and elsewhere, are a problem. We passed in 2010 a bill to try and get money owed to the United States paid to the United States. That requires the cooperation of other governments.

Members are aware of the negotiations with Switzerland and other tax havens. What this says is: we the United States want you to help us collect taxes owed to us, but we won't do the same. It is the tax evaders' bill of rights. The gentleman from Florida says they're law abiding citizens. Most of them probably are. How does he know they all are? Why do people in the Cayman Islands want to put money in American banks? Maybe they are perfectly good reasons. Maybe they want to come visit their money some day.

The fact is that people who send money to other countries include people who evade taxes. What this says to the United States is we basically are going to have to abandon the effort to collect taxes owed to us in foreign countries because we are telling the foreign countries we will not cooperate with them. We have tax treaties that we're pursuing. This basically aborts that.

Americans who want to send their money elsewhere and not pay taxes, they like this idea. With regard to the American banks, people have said they'll send their money elsewhere. The notion that we should compete in a race to the bottom, the notion that we should match other countries in an absence of rules is a philosophy that gets us in trouble. I believe that if we work hard, we will get a number of countries that will work with us on this. That's the essential point.

If Members favor a vigorous effort by the United States Government to recover taxes owed to us from elsewhere, they should reject this amendment.

I reserve the balance of my time.

Mr. POSEY. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman from Florida has 2 minutes remaining.

Mr. POSEY. This is not just about banks. This is about jobs, this is about mortgages, this is about the economy, and this is about our communities prospering. Information can be shared today on a case-by-case basis. If the IRS suggests to you otherwise, it's just not true.

There's a common misperception. Let's not forget how fortunate we are to live in the United States of America.

Too often, too many people forget this, it seems. We live under a stable government and a relatively stable economy compared to some of the other countries we receive deposits from. Many nonresident deposits come from countries where the governments themselves are very unstable, where their personal security or their property are major concerns. It's very probable that the depositor's personal bank account information could be leaked to unauthorized persons in their home country—to governments, criminals, or terrorist groups—which could make the depositors and their families targets of extortion, kidnappings, and other potentially fatal criminal activities. Imagine living with that over your shoulder every day.

Assurance from the IRS bureaucrats that your information is safe won't calm those fears. Our Pentagon has been hacked. I asked the Secretary of the Treasury if we would stand personally liable for any breaches that would cause a loss of life or harm to people whose information was betrayed. They said they would not be willing to do that.

With that, I reserve the balance of my time.

Mr. FRANK of Massachusetts. I yield myself the balance of my time.

The Acting CHAIR. The gentleman is recognized for 3 minutes.

Mr. FRANK of Massachusetts. In fact, we suffer more from taxes evaded in the U.S., I believe, than the money we have here. The point, however, is—and I will submit the comments from the Department of the Treasury—we will not be sending this to countries with which we don't have a tax treaty. There are strong statutory and regulatory requirements that prevent this information from being sent to countries that abuse it.

Maybe Members think that's not strong enough. If the gentleman from Florida would like to submit legislation to strengthen those statutory requirements to make it clear that some countries qualify and some don't—for example, I'm informed Venezuela today would not qualify for obvious reasons, because of the brutal, corrupt nature of that government.

So the question is, because some governments would abuse it, should we protect every tax evader who wants to use the United States as a haven from having their money reported, at the price of not getting cooperation ourselves? That doesn't mean everybody puts their money here as a tax evader. If you're not a tax evader, then there's no problem with having this reported. As far as the Pentagon being hacked, yeah, people have been hacked. If the IRS was going to be hacked, a lot more would have happened.

The fact is that the security of tax returns in America is one of the best things about our government. Administrations of both parties from time immemorial have protected the security of tax returns. We have a very good record as a government. We shouldn't just denigrate it with no basis in protecting the integrity of tax returns. People have filed tax returns and have had great privacy in them. This is the central point, because some of the banks would like to get this money and not care whether people are tax evaders or not.

The gentleman says we can do it case by case. That's an impossible task, case by case to decide. Then the IRS becomes more intrusive. Do you want to do a frisk of each individual to decide whether he or she has his returns done? Case by case is the way you destroy privacy.

Here's the fundamental point. We are making efforts to collect taxes owed to us by people who have hidden the money elsewhere, and we know that's been a problem. This would make it impossible to do that with any efficiency. As I said, there are very clear statements of policy against sending this information to Venezuela, against sending it to other places where it wouldn't be secure. This is the question: Are we going to allow American standards, in trying to impose taxes that are legitimately owed here, to be eroded by other countries?

The gentleman mentioned the Cayman Islands. I don't want the Cayman Islands to set the standard for American tax collection. The gentleman mentioned that the Cayman Islanders are sending money here. I don't want the Cayman Islanders and their desire to get shelter to be setting the standard for American tax collection practices, for the need of America to do the right thing.

Those people who are lawfully investing money will not be frightened by this, and America's ability to get taxes owed to us would be destroyed by this amendment.

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Parts 1 and 31
[TD 9584]
RIN 1545—BJ01
Guidance on Reporting Interest Paid to Nonresident Aliens

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding the reporting requirements for interest that relates to deposits maintained at U.S. offices of certain financial institutions and is paid to certain nonresident alien individuals. These regulations will affect commercial banks, savings institutions, credit unions, securities brokerages, and insurance companies that pay interest on deposits.

Background

On January 7, 2011, the Treasury Department and the IRS published a notice of proposed rulemaking (REG 146097–09) (the 2011 proposed regulations) in the Federal Register (76 FR 1105, corrected by 76 FR 2852, 76 FR 20595, and 76 FR 22064) under section 6049 of the Internal Revenue Code (Code). The 2011 proposed regulations withdrew proposed regulations that had been issued on August 2, 2002 (67 FR 50386) (the 2002 proposed regulations). The 2002 proposed regulations would have required reporting of interest payments to nonresident alien individuals that are residents of certain specified countries. The 2011 proposed regulations provide that payments of interest aggregating $10 or more on a deposit maintained at a U.S. office of a financial institution and paid to any nonresident alien individual are subject to information reporting.

Written comments were received by the Treasury Department and the IRS response to the 2011 proposed regulations. A public hearing on the 2011 proposed regulations was held on May 18, 2011, at which further comments were received. All comments were considered and are available for public inspection at http://www.regulations.gov or upon request. After consideration of the written comments and the comments provided at the public hearing, the 2011 proposed regulations are adopted as revised by this Treasury decision.

Explanation and Summary of Comments

Objectives of This Regulatory Action

The reporting required by these regulations is essential to the U.S. Government's efforts to combat offshore tax evasion for several reasons. First it ensures that the IRS can, in appropriate circumstances, exchange information relating to tax enforcement with other jurisdictions. In order to ensure that U.S. taxpayers cannot evade U.S. tax by hiding income and assets offshore, the United States must be able to obtain information from other countries regarding income earned and assets held in those countries by U.S. taxpayers. Under present law, the measures available to assist the United States in obtaining this information include both treaty relationships and statutory provisions. The effectiveness of these measures depends significantly, however, on the United States' ability to reciprocate.

The United States has constructed an expansive network of international agreements, including income tax or other conventions and bilateral agreements relating to the exchange of tax information (collectively referred to as information exchange agreements), which provide for the exchange of information related to tax enforcement under appropriate circumstances. These information exchange relationships are based on cooperation and reciprocity. A jurisdiction's willingness to share information with the IRS to combat offshore tax evasion by U.S. taxpayers depends, in large part, on the ability of the IRS to exchange information that will assist that jurisdiction in combating offshore tax evasion by its own residents. These regulations, by requiring reporting of deposit interest to the IRS, will ensure that the IRS is in a position to exchange such information reciprocally with a treaty partner when it is appropriate to do so.

Second, in 2010, Congress supplemented the established network of information exchange agreements by enacting, as part of the Hiring Incentives to Restore Employment Act of 2010 (Pub. L. 111–147), provisions commonly known as the Foreign Account Tax Compliance Act (FATCA) that require overseas financial institutions to identify U.S. accounts and report information (including interest payments) about those accounts to the IRS. In many cases, however, the implementation of FATCA will require the cooperation of foreign governments in order to overcome legal impediments to reporting by their resident financial institutions. Like the United States, those foreign governments are keenly interested in addressing offshore tax evasion by their own residents and need tax information from other jurisdictions, including the United States, to support their efforts. These regulations will facilitate intergovernmental cooperation on

FATCA implementation by better enabling the IRS, in appropriate circumstances, to reciprocate by exchanging information with foreign governments for tax administration purposes.

Finally, the reporting of information required by these regulations will also directly enhance U.S. tax compliance by making it more difficult for U.S. taxpayers with U.S. deposits to falsely claim to be nonresidents in order to avoid U.S. taxation on their deposit interest income.

International Standard for Transparency and Information Exchange

Under the international standard for transparency and exchange of information, which is reflected in the Organisation for Economic Cooperation and Development (OECD) Model Agreement on Exchange of Information on Tax Matters, the OECD Model Tax Convention, and the United Nations Model Double Tax Convention between Developed and Developing Countries, exchange of tax information cannot be limited by domestic bank secrecy laws or the absence of a specific domestic tax interest in the information to be exchanged. Accordingly, under this global standard a country cannot refuse to share tax information based on domestic laws that do not require banks to share the information. In addition, under the global standard, a country cannot opt out of information exchange based on the fact that the country does not itself need the information to enforce its own tax rules. Thus, even countries that do not impose income taxes, and therefore do not have tax enforcement concerns, have entered into information exchange agreements to provide information about the accounts of nonresidents.

Comments Regarding Confidentiality and Improper Use of Information

Some comments on the 2011 proposed regulations expressed concerns that the information required to be reported under those regulations might be misused. For example, comments expressed concern that deposit interest information may be shared with a country that does not have laws in place to protect the confidentiality of the information exchanged or that would use the information for purposes other than the enforcement of its tax laws. These comments further suggested that these concerns could affect nonresident alien investors' decisions about the location of their deposits.

The Treasury Department and the IRS believe that the concerns raised by the comments are addressed by existing legal limitations and administrative safeguards governing tax information exchange. As discussed herein, information reported pursuant to these regulations will be exchanged only with foreign governments with which the United States has an agreement providing for the exchange and when certain additional requirements are satisfied. Even when such an agreement exists, the IRS is not compelled to exchange information, including information collected pursuant to these regulations, if there is concern regarding the use of the information or other factors exist that would make exchange inappropriate.

First, information reported pursuant to these regulations is return information under section 6103. Section 6103 imposes strict confidentiality rules with respect to all return information. Moreover, section 6103(k)(4) allows the IRS to exchange return information with a foreign government only to the extent provided in, and subject to the terms and conditions of an information exchange agreement. Thus, the IRS can share the information reported under these regulations only with foreign governments with which the United States has an information exchange agreement. Absent such an agreement, the IRS is statutorily barred from sharing return information with another country, and these regulations cannot and do not change that rule.

Second, consistent with established international standards, all of the information exchange agreements to which the United States is a party require that the information exchanged under the agreement be treated and protected as secret by the foreign government. In addition, information exchange agreements generally prohibit foreign governments from using any information exchanged under such an agreement for any purpose other than the purpose of administering, collection and enforcing the taxes covered by the agreement. Accordingly, under these agreements, neither country is permitted to release the information shared under the agreement or use it for any other law enforcement purposes.

Third, consistent with the international standard for information exchange and United States law, the United States will not enter into an information exchange agreement unless the Treasury Department and the IRS are satisfied that the foreign government has strict confidentiality protections. Specifically, prior to entering into an information exchange agreement with another jurisdiction, the Treasury Department and the IRS closely review the foreign jurisdiction's legal framework for maintaining the confidentiality of taxpayer information. In order to conclude an information exchange agreement with another country, the Treasury Department and the IRS must be satisfied that the foreign jurisdiction has the necessary legal safeguards in place to protect exchanged information and that adequate penalties apply to any breach of that confidentiality.

Finally, even if an information exchange agreement is in effect, the IRS will not exchange information on deposit interest or otherwise with a country if the IRS determines that the country is not complying with its obligations under the agreement to protect the confidentiality of information and to use the information solely for collecting and enforcing taxes covered by the agreement. The IRS also will not exchange any return information with a country that does not impose tax on the income being reported because the information could not be used for the enforcement of tax laws within that country.

In addition, the IRS has options regarding the appropriate form of exchange. For example, the IRS might exchange information with another jurisdiction only upon specific request. In the case of specific exchange requests, the IRS evaluates the requesting country's current practices with respect to information confidentiality. The IRS also requires the requesting country to explain the intended permitted use of the information and justify the relevance of that information to the permitted use. Alternatively, in appropriate circumstances, the IRS might exchange certain information on an automatic basis. The IRS currently exchanges deposit interest information on an automatic basis with only one jurisdiction (Canada). The IRS will not enter into a new automatic exchange relationship with a jurisdiction unless it has reviewed the country's policies and practices and has determined that such an exchange relationship is appropriate. Further, the IRS generally will not enter into an automatic exchange relationship with respect to the information collected under these regulations unless the other jurisdiction is willing and able to reciprocate effectively.

The Treasury Department and the IRS believe that the legal and administrative safeguards described in the preceding paragraphs regarding the use of information collected under these regulations should adequately address the concerns identified by the comments and, therefore, these regulations should not significantly impact the investment and savings decisions of the vast majority of nonresidents who are aware of and understand these safeguards and existing law and practice. Nevertheless, to enhance awareness and further address concerns, these final regulations revise the 2011 proposed regulations to require reporting only in the case of interest paid to a nonresident alien individual resident in a country with which the United States has in effect an information exchange agreement pursuant to which the United States agrees to provide, as well as receive, information and under which the competent authority is the Secretary of the Treasury or his delegate.

For this purpose, the Treasury Department and the IRS will publish a Revenue Procedure contemporaneously with these final regulations specifically identifying the countries with which the United States has in force such an information exchange agreement. The Revenue Procedure will be updated as appropriate. With respect to any calendar year, payors will only be required to report interest on deposits maintained at an office within the United States and paid to a nonresident alien individual who is a resident of a country identified in the Revenue Procedure as of December 31 of the prior calendar year as being a country with which the United States has in effect such an information exchange agreement. To address any potential burden associated with reporting on this basis, the final regulations provide that for any year for which the information return under §1.6049–4(b)(5) is required, a payor may elect to report interest payments to all nonresident alien individuals.

As previously discussed, the identification of a country as having an information exchange agreement with the United States does not necessarily mean that the information collected under these regulations will be reported to such foreign jurisdiction. As an additional measure to further increase awareness among concerned nonresidents regarding the IRS' use of information collected under these regulations, the Revenue Procedure also will include a second list identifying the countries with which the Treasury Department and the IRS have determined that it is appropriate to have an automatic exchange relationship with respect to the information collected under these regulations. This determination will be made only after further assessment of a country's confidentiality laws and practices and the extent to which the country is willing and able to reciprocate.

In addition, in response to comments, and given the information exchange practices described in the preceding paragraphs and the information that will be available in the Revenue Procedure, these final regulations eliminate the requirement in the 2011 proposed regulations for financial institutions to include in the information statement provided to nonresident alien individuals a statement informing the individual that the information may be furnished to the government of the country where the recipient resides. In addition, these final regulations clarify that a payor or middleman may rely on the permanent residence address provided on a valid Form W–8BEN, ''Beneficial Owners Certificate of Foreign Status for U.S. Tax Withholding'', for purposes of determining the country of residence of a nonresident alien to whom reportable interest is paid unless the payor or middleman knows or has reason to know that such documentation of the country of residence is unreliable or incorrect. The final regulations also modify

§31.3406(g)–1 of the proposed regulations to clarify that, consistent with the backup withholding rules generally, a payment of interest described in §1.6049–8(a) is not subject to withholding under section 3406 if the payor may treat the payee as a foreign person, without regard to whether the payor reported such interest (although a payor may be subject to penalties if it fails to report as required). As under the prior regulations requiring the reporting of interest paid to Canadian nonresident alien individuals, the final regulations define interest subject to reporting to mean interest paid on deposits as defined under section 871(i)(2)(A) (including deposits with persons carrying on a banking business deposits with certain savings institutions, and certain amounts held by insurance companies under agreements to pay interest thereon).

The Acting CHAIR. The time of the gentleman from Massachusetts has expired. The gentleman from Florida has 30 seconds remaining.

Mr. POSEY. I don't know how many deadbeat taxpayers are in Venezuela or Cuba or Iran, but I think it's ludicrous to think that we would want to put American investments in other countries. We're looking at, according to the Mercatus Center at George Mason, a possible capital flight of $88 billion, and this is opposed to maybe, at the high side estimating, we'll recover $800 million from tax cheats, hopefully. That's just not a good percentage. That's not a good investment. That's bad business in any sense of the word.

I urge my colleagues to vote in favor of a good commonsense bill that will help our economy recover and help America stay strong.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. POSEY).

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

Mr. FRANK of Massachusetts. Madam Chair, I demand a recorded vote.

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

□ 2200

Mr. LANKFORD. Madam Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. POSEY) having assumed the chair, Ms. HAYWORTH, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4078) to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 6.0 percent, had come to no resolution thereon.

OMISSION FROM THE CONGRESSIONAL RECORD OF TUESDAY, JULY 24, 2012, AT PAGE H5198

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON LEE of Texas (at the request of Ms. PELOSI) for today between 1 and 5 p.m. on account of attending a memorial service for her former chief of staff.

Mr. REYES (at the request of Ms. PELOSI) for today on account of medical reasons.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 710. An act to amend the solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system, Committee on Energy and Commerce.

ENROLLED BILL SIGNED

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. CANTOR) for today after 5 p.m. on account of a personal matter.

Ms. JACKSON LEE of Texas (at the request of Ms. PELOSI) for today after 1 p.m. through July 26 on account of completing her ongoing medical treatment in Houston, Texas.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 1335. An act to amend title 49, United States Code, to provide rights for pilots, and for other purposes.

ADJOURNMENT

Mr. LANKFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 26, 2012, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7069. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Pasteuria spp. (Rotylenchulus reniformis nematode)-Pr3; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2010-0805; FRL-9353-5] received July 3, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7070. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Synchronizing the Expiration Dates of the Pesticide Applicator Certificate with the Underlying State or Tribal Certificate [EPA-HQ-OPP-2011-0049; FRL-9334-4] (RIN: 2070-AJ00) received July 3, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7071. A letter from the Secretary, Department of Defense, transmitting the Department's report on the policies and practices of the Navy for naming vessels of the Navy; to the Committee on Armed Services.

7072. A letter from the Under Secretary, Department of Defense, transmitting request of an extension to deliver the report on the current and future military strategy of Iran; to the Committee on Armed Services.

7073. A letter from the Principal Deputy, Department of Defense, transmitting a letter authorizing Brigadier General Richard M. Clark, United States Air Force, to wear the insignia of the grade of major general; to the Committee on Armed Services.

7074. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Thomas J. Owen, United States Air Force, and his advancement on the retired list in the grade of lieutenant general; to the Committee on Armed Services.

7075. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the Socialist Republic of Vietnam pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

7076. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Extension of Interim Final Temporary Rule on Retail Foreign Exchange Transactions [Release No.: 34-67405; File No. S7-30-11] (RIN: 3235-AL19) received July 21, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7077. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's ''Major'' final rule — Further Definition of ''Swap'', ''Security-Based Swap'', and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordingkeeping [Release No.: 33-9338; 34-67453; File No. S7-16-11] (RIN: 3235-AK65) received July 20, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7078. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's ''Major'' final rule — Consolidated Audit Trail [Release No.: 34-67457; File No. S7-11-10] (RIN: 3235-AK51) received July 20, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7079. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Regional Haze State Implementation Plan [EPA-R03-OAR-2010-0002; FRL-9695-5] received July 3, 2012, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7080. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Illinois; Regional Haze [EPA-R05-OAR-2011-0598; FRL-9683-6] received July 3, 2012, pursuant to