schedule a time to consider bill S. 856 as soon as possible.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2425. An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, October 20, 1994, by the President pro tempore [Mr. THURMOND]:

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2425. An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 20, 1995, he had presented to the President of the United States, the following enrolled bills:

S. 227. An act to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes.

S. 268. An act to authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.

S. 1111. An act to amend title 35, United States Code, with respect to patents on biotechnological processes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 929. A bill to abolish the Department of Commerce (Rept. No. 104–164).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM (for himself, Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAIG, and Mr. KYL):

S. 1346. A bill to require the periodic review of Federal regulations; to the Committee on Governmental Affairs.

By Mr. COATS:

S. 1347. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Captain Daryl,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1348. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD:

S. 1350. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, and for other purposes; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN:

S. 1351. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1352. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. BUMPERS, Mr. DEWINE, and Mr. LAUTENBERG):

S. 1353. A bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD:

S. Res. 187. A resolution to express the sense of the Senate that Congress should vote on the deployment of U.S. Armed Forces in the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself, Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAIG, and Mr. KYL):

S. 1346. A bill to require the periodic review of Federal regulations; to the Committee on Governmental Affairs.

THE REGULATORY REVIEW ACT OF 1995

● Mr. ABRAHAM. Mr. President, I rise in support of the Regulatory Review Act of 1995, which I introduce today on behalf of myself and Senators HEFLIN, LOTT, NICKLES, HUTCHISON, CRAIG, and KYL.

It is only common sense that the utility of a rule may change as circumstances change. Under current law, however, a rule enjoys eternal life unless the agency that promulgated it takes affirmative steps to terminate it. And in fact agencies rarely choose to burden themselves with the task of reexamining the rules they have promulgated. As a result, our rulebooks are littered with rules that are obsolete, inconsistent with other rules, or just plain unnecessary.

The weight of this heap of outdated rules rests most heavily on the small businesses of this country. Unlike larger firms, small businesses cannot spread the costs of regulation over a large quantity of output. Nor can they pass their regulatory headaches on to an accounting department, legal counsel, or human resources division. Instead, in case after case the entrepreneur himself must spend innumerable hours attempting to comply with the mandates of Federal regulators. It comes as no surprise, then, that problems relating to regulation and Government paperwork were the fastest growing areas of concern in a recent survey conducted by the National Federation of Independent Businesses.

The Regulatory Review Act would solve the problems caused by unnecessary rules. Under the act, the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget would coordinate and supervise agency reviews of covered rules, which largely would be rules that impose annual costs of $100 million or more. Covered rules not reviewed by the end of their review period would terminate. The duration of review periods under the act would be up to 7 years, plus a possible extension of 6 months. Finally, the act itself would sunset after 10 years.

There are several reasons why OIRA should be given supervisory authority over the regulatory review process. Obviously, the review process will involve determinations as to whether the rules

of one agency conflict with or duplicate those of another agency. Those determinations will require a global, interagency perspective that comes much more naturally to OIRA than to the individual agencies themselves. Additionally, vesting this authority in OIRA, rather than scattering it among the various agencies, will provide a timely reaffirmation of what Alexander Hamilton called the unity of the executive in Federalist No. 70.

It is also worth noting that the act avoids two areas of contention that arose during debate on S. 343, the regulatory reform bill. First, the act contains no decisional criteria; instead, rules would be reviewed according to whatever criteria already exist under current law. Second, the act would not affect the availability of, or standards for, judicial review of final agency action. Thus, at bottom, the act stands for the commonsense principle that agencies should be required to review their rules periodically.

Mr. President, I urge the Senate to address this issue without delay. The small businesses represented by the National Federation of Independent Businesses, which strongly supports the Regulatory Review Act, demand no less.●

By Mr. COATS:

S. 1347. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Captain Daryl,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

● Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1347

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

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12105 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel CAPTAIN DARYL, United States official number 64320.●

By Mr. COATS:

S. 1348. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

● Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1348

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

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel ALPHA TANGO, United States official number 723340.●

By Mr. COATS:

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat,* and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

● Mr. COATS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1349

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

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the vessel OLD HAT, United States official number 508299.●

By Mr. FEINGOLD:

S. 1350. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, and for other purposes; to the Committee on Governmental Affairs.

THE SMALL BUSINESS FAIR TREATMENT ACT OF 1995

● Mr. FEINGOLD. Mr. President, I am pleased to introduce the Small Business Fair Treatment Act of 1995, a measure designed not only to afford regularly relief to our Nation's small businesses, but also to begin to change the attitude of Government regulators who are often viewed by small business as adversaries rather than as sources of help and guidance.

Mr. President, the regulatory structure that has developed over the years performs important safety, health, and consumer protection functions.

Just 2 years ago, a cryptosporidium outbreak in the city of Milwaukee's water supply left 104 people dead and over 400,000 people seriously ill.

That was a tragic reminder of how just one small crack in the regulatory process can have devastating consequences for a community that until then had never experienced any such problems.

The need for strong, effective regulations is undeniable.

At the same time, few would dispute that the current regulatory system needs meaningful reform.

Mr. President, I have held over 175 listening sessions in my home State of Wisconsin during the 2½ years that I have been a Member of this body.

Countless times I have had constituents stand up at these meetings and express their tremendous frustration and anger with a regulatory process that too often is impractical, impersonal, and needlessly burdensome.

This body debated a regulatory reform proposal earlier this summer that sought to respond to this widespread frustration and anger.

But many of the proposals that were offered on the floor of the Senate during that regulatory relief debate earlier this summer focused more on changes in the actual rulemaking process and featured solutions that if not entirely Washington-based at least took a Washington perspective in addressing the issue.

The central devices that evolved in that debate as the tools by which the regulatory process would be improved, such as judicial review and the petition process, were approaches to regulatory relief that reflected a large corporation, Washington lobbyist, Washington law firm based approach to solutions.

Mr. President, there certainly is a role for our Nation's larger corporate citizens to play in the regulatory climate of this country, but those interests do not always represent the interests of all businesses, and the solutions to the regulatory problems of large businesses are not always appropriate or effective for smaller businesses.

While a multinational corporation with substantial resources might find it reasonable to devote funds to an enhanced petition process, that kind of solution might mean little for a small, family owned business with a fraction of the resources of a large firm, and little working knowledge of the rulemaking process.

As well, Mr. President, solutions proposed during the regulatory relief debate did little to focus on the day-to-day, practical problems of regulation with which small businesses must contend.

By contrast, this legislation focuses on small business, and on the practical problems of dealing with Government agencies and regulations.

It contains a number of provisions that make it easier for small businesses to comply with Government regulations, including several that are similar to some excellent ideas offered as part of legislation sponsored by the chair of the Senate Small Business Committee, Mr. BOND, as well as others that have been implemented at the direction of President Clinton.

The bill requires agencies to publish compliance guides that provide a straightforward, plain language description of a rule or regulation with which a small business must comply.

These guides would be required to be published and disseminated by the agency before any enforcement action was brought.

Beyond the obvious help these guides could be for businesses affected by a Government regulation, requiring an agency to think out and describe a new regulation in a clear and understandable way will only enhance the ability of that agency to administer the regulation.

The bill also requires agencies to establish procedures for the use of so-called no action letters. These are letters issued by an agency in response to a specific request of clarification from a small business trying to comply with that agency's regulations.

The bill requires agencies to make a timely determination whether or not to issue such a no action letter, and if such a letter is issued, the bill establishes that the business could rely on it in an enforcement action related to matters laid out in the letter.

In addition to providing specific direction to a small business in dealing with subjective interpretations of agency regulations, a no action letter also establishes a record to which other businesses can turn in seeking guidance on how a particular regulation should be interpreted.

A body of no action letters also ensures consistency in the interpretation of regulations by an agency, something that can only further enhance compliance.

Mr. President, the bill also allows small businesses to request an audit from a regulator without the fear that the findings of such an audit would be used in any enforcement action.

The findings from such an audit would not be used in any enforcement action, if correction of any identified problem were made within 180 days, except if the basis of the enforcement action were a violation of criminal law, or if the voluntary audit was requested for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of the audit, was imminent or in progress.

In listening to small businessmen and women in Wisconsin, one of the most troubling complaints that is raised with respect to Government regulation is the feeling that Government agencies too often take a confrontational or adversarial approach in dealing with the business.

Whether or not this feeling is justified in every instance, in many instances, or in only a few, it is honestly felt and reveals a problem that needs fixing.

When the relationship between those who oversee and enforce regulations and those who must observe them deteriorates in this manner, it only hinders compliance.

By allowing businesses to request a review of their operations, without fear that the results would be used against them, we can begin to improve that relationship, and change the way business perceives regulators from adversaries to sources of help.

Mr. President, another provision in the bill allows small business a 6-month grace period to correct violations of Environmental Protection Agency regulations after they have been identified, unless there is imminent risk to public health or worker safety.

This proposal has already been implemented at the direction of President Clinton, and in my own State of Wisconsin, small businesses have informed me that this extra time has allowed them to work with EPA to develop a plan of action to deal with an identified problem.

We should codify this directive, and this bill does just that.

Another Presidential directive that we should codify is allowing regulators to waive up to 100 percent of the punitive fines on small businesses for first-time violations where the firm acts quickly and sincerely to correct the problem.

While as a general rule, we should ensure that rules and regulations are enforced uniformly, it makes sense to provide regulators some flexibility in addressing the first-time regulatory infractions of a small business.

Small businesses trying to comply with regulations should be allowed to devote scarce resources to correcting problems instead of paying fines.

Here again the target of this measure is not only to provide regulatory relief to small business, it is to improve and enhance the relationship between small businesses and Government agencies.

Though these last two provisions have been implemented by executive order, enacting them into law will give them permanence, and will prevent future Presidents from simply rescinding them through subsequent Executive order.

An additional directive of the President's that merits the full force of Federal law is a prohibition against using personnel practices that reward agency employees, directly or indirectly, based on the number of contacts made with small entities in pursuit of enforcement actions, or on the amount of fines levied against small entities to enforce agency regulations.

The section responds to comments made to my office by small business people who have reported that agency personnel have felt compelled to find something wrong, even if it is small, in order to justify their visit to the firm.

This goes to the heart of what the role of a regular is. Personnel practices based on these kinds of performance incentives may quite naturally provoke adversarial relationships. Regulators need to remain independent from the entities they oversee, but unnecessary antagonism can actually hinder efforts to ensure compliance with the rules.

Mr. President, I want to reiterate my sincere and spirited support for reforming the regulatory process that is currently in place.

The current system is not acceptable; the need for reform is clear and imperative.

And though the larger regulatory reform legislation has bogged down, I very much hope a compromise can be worked out and a meaningful reform package can be enacted into law.

But, Mr. President, even if a compromise can be hammered out, it is likely that it will still reflect a process-oriented approach that may provide large corporate interests with avenues for relief, but does little to address the day-to-day problems facing small business.

Nor does such legislation address the very real feeling of small businesses that Government regulators too often act as adversaries rather than to provide guidance in helping firms to comply with the law.

Mr. President, the provisions of this bill are designed to help do just that.

The provisions outlined in this measure both provide some practical regulatory relief and can improve the relationship between businesses and agencies. The process reforms of other regulatory reform measures merit our consideration, but I urge my colleagues not to allow that approach to dominate a debate which should rightly be focused on that portion of the business world that is most severely burdened by Government regulation—small business.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1350

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Fair Treatment Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMPLIANCE GUIDE.—The term ''compliance guide'' means a publication made by a covered agency under section 102(a).

(2) COVERED AGENCY.—The term ''covered agency'' means any agency that, on the date of enactment of this Act, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of enactment of this Act.

(3) NO ACTION LETTER.—The term ''no action letter'' means a written determination from a covered agency stating that, based on a no action request submitted to the agency by a small entity, the agency will not take enforcement action against the small entity under the rules of the covered agency.

(4) NO ACTION REQUEST.—The term ''no action request'' means a written correspondence submitted by a small entity to a covered agency—

(A) stating a set of facts; and

(B) requesting a determination by the agency of whether the agency would take an enforcement action against the small entity based on such facts and the application of any rule of the agency.

(5) RULE.—The term ''rule'' has the same meaning as in section 601(2) of title 5, United States Code.

(6) SMALL ENTITY.—The term ''small entity'' has the same meaning as in section 601(6) of title 5, United States Code.

(7) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the same meaning as in section 3 of the Small Business Act.

(8) VOLUNTARY SELF-AUDIT.—The term ''voluntary self-audit'' means an audit, assessment, or review of any operation, practice, or condition of a small entity that—

(A) is initiated by an officer, employee, or agent of the small entity; and

(B) is not required by law.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—

(1) PUBLICATION.—If a covered agency is required to prepare a regulatory flexibility analysis for a rule or group of related rules under section 603 of title 5, United States Code, the agency shall publish a compliance guide for such rule or group of related rules.

(2) REQUIREMENTS.—Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules;

(B) contain a citation to the location of the complete rule or group of related rules in the Federal Register;

(C) provide notice to small entities of the requirements under the rule or group of related rules and explain the actions that a small entity is required to take to comply with the rule or group of related rules;

(D) be written in a manner to be understood by the average owner or manager of a small entity; and

(E) be updated as required to reflect changes in the rule.

(b) DISSEMINATION.—

(1) IN GENERAL.—Each covered agency shall establish a system to ensure that compliance guides required under this section are published, disseminated, and made easily available to small entities.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—In carrying out this subsection, each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses concerns.

(c) LIMITATION ON ENFORCEMENT.—

(1) IN GENERAL.—No covered agency may bring an enforcement action in any Federal court or in any Federal administrative proceeding against a small entity to enforce a rule for which a compliance guide is not published and disseminated by the covered agency as required under this section.

(2) EFFECTIVE DATES.—This subsection shall take effect—

(A) 1 year after the date of the enactment of this Act with regard to a final regulation in effect on the date of the enactment of this Act; and

(B) on the date of the enactment of this Act with regard to a regulation that takes effect as a final regulation after such date of enactment.

SEC. 103. NO ACTION LETTER.

(a) APPLICATION.—This section applies to all covered agencies, except—

(1) the Federal Trade Commission;

(2) the Equal Employment Opportunity Commission; and

(3) the Consumer Product Safety Commission.

(b) ISSUANCE OF NO ACTION LETTER.—Not later than 90 days after the date on which a covered agency receives a no action request, the agency shall—

(1) make a determination regarding whether to grant the no action request, deny the no action request, or seek further information regarding the no action request; and

(2) if the agency makes a determination under paragraph (1) to grant the no action request, issue a no action letter and transmit the letter to the requesting small entity.

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE.—In any enforcement action brought by a covered agency in any Federal court or Federal administrative proceeding against a small entity, the small entity shall have a complete defense to any allegation of noncompliance or violation of a rule if the small entity affirmatively pleads and proves by a preponderance of the evidence that the act or omission constituting the alleged noncompliance or violation was taken in good faith with and in reliance on—

(1) a no action letter from that agency; or

(2) a compliance guide of the applicable rule published by the agency under section 102(a).

SEC. 104. VOLUNTARY SELF-AUDITS.

(a) PROCEDURES.—Each agency shall establish voluntary self-audit procedures for small entities regulated by the agency.

(b) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY.—If action to address a violation is taken not later than 180 days after the date on which a voluntary self-audit is concluded, the evidence described in subsection (c)—

(1) shall not be admissible, unless agreed to by the small entity, in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding; and

(2) may not be the subject of discovery in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding.

(c) APPLICATION.—For purposes of subsection (b), the evidence described in this subsection is—

(1) a voluntary self-audit made in good faith; and

(2) any report, finding, opinion, or any other oral or written communication made in good faith relating to such voluntary self-audit.

(d) EXCEPTIONS.—Subsection (b) shall not apply if—

(1) the act or omission that forms the basis of the enforcement action is a violation of criminal law; or

(2) the voluntary self-audit or the report, finding, opinion, or other oral or written communication was prepared for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of preparation, was imminent or in progress.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. PERFORMANCE MEASURES.

No covered agency shall establish or enforce agency personnel practices that reward agency employees, directly or indirectly, based on the number of contacts made with small entities in pursuit of enforcement actions or on the amount of fines levied against small entities to enforce agency regulations.

SEC. 202. GRACE PERIOD FOR CORRECTION OF VIOLATIONS OF ENVIRONMENTAL PROTECTION AGENCY REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), for violations of regulations identified on or after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall afford small entities 180 days after the date on which the violation is identified to correct such violation.

(b) EXCEPTION.—Subsection (a) shall not apply—

(1) if the Administrator of the Environmental Protection Agency determines that there is an imminent risk to public health or worker safety; or

(2) to a violation of a regulation for which criminal liability may be imposed.

SEC. 203. WAIVER OF PUNITIVE FINES FOR SMALL ENTITIES.

Notwithstanding any other law, policy, or practice, a covered agency may waive all or part of a punitive fine that would otherwise be imposed on a small entity if—

(1) the fine is for a first time violation of a law or regulation; and

(2) the small entity acts quickly and in good faith to correct the violation.●

By Ms. MOSELEY-BRAUN:

S. 1351. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes; to the Committee on the Judiciary.

THE CHARITABLE MEDICAL CARE ACT OF 1995

● Ms. MOSELEY-BRAUN. Mr. President, I am pleased to introduce the Charitable Medical Care Act of 1995. This legislation is designed to ensure that licensed providers, who, in good faith, provide medical treatment without compensation, are not sued. Currently, because of malpractice concerns, health care professionals have a disincentive to volunteer their services. This act does not apply in situations of gross negligence or willful misconduct.

Protection from liability for voluntarily providing uncompensated care is not a new idea. Currently, eight States, including my home State of Illinois, have laws in place that free doctors, who practice voluntarily and in good faith, from at least some part of malpractice liability. These States include: Virginia, Utah, North Carolina, Florida, Kentucky, South Carolina, Iowa, and Washington, DC.

My legislation builds upon existing Good Samaritan laws. Good Samaritan laws prevent an individual who acted

in good faith from liability in the event a mishap occurs. In 1959, California enacted the Nation's first Good Samaritan statute. Today, all 50 States, and Washington, DC, have adopted some form of a Good Samaritan statute. These statutes exempt the volunteers from tort liability for ordinary negligence in rendering emergency aid to an individual. The rationale for these laws is to encourage health professionals to aid persons in need of assistance.

The need for free clinics and voluntarism by health professionals has never been more striking. There were 41 million uninsured Americans in this country last year. Voluntarism by health care professionals has been instrumental in providing health care to the uninsured. Free clinics have a preventative and primary care focus. They offer an alternative to emergency rooms, which have become family doctors to far too many. They also represent an enormous savings to the entire health care system. In the tradition of family doctors, these clinics offer a primary care continuum.

Free clinics supplement community clinics that provide care to those without insurance as well as those on Medicaid. Together these clinics provide the majority of care in underserved communities. More than 1,500 free and community clinics serve over 10 million individuals each year in this country. In my State of Illinois last year, 17,350 people were served and over $600,000 worth of care was provided. The potential impact of charitable care is not insignificant. It is estimated that charitable medical care provides care to 30 percent of the currently uninsured population.

Free clinics have served a valuable service and will continue to provide vital access to health care to the poor. While I am a firm supporter of universal coverage, it appears that, at least for a while, millions of Americans will remain uncovered. The number of uninsured Americans increased from 37.4 million in 1993 to 41 million in 1994, an increase of nearly 4 million individuals. Proposed changes in Medicaid and Medicare will most certainly increase this number.

The role of free clinics and voluntarism by professionals is, and will remain, an important part of the health care delivery system. This is particularly true in urban and rural underserved areas. Thus far, free clinics have been very successful in serving the community. Their success is due to their broad-based community support and the voluntarism of the medical community. Medical liability suits are very rare.

Doctors and other medical personnel who voluntarily provide quality medical care to the poor are an essential component of free/community clinics. Free clinics can not provide services, however, if barriers to voluntarism remain. One of the best ways to increase voluntarism is through some protection from liability. It is critical that we encourage doctors to volunteer their services to those who cannot afford such care. I believe the legislation I am introducing today will go a long way toward achieving this goal.

I urge my colleagues to join me in support of this important legislation.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1352. A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

COASTAL BARRIER RESOURCES SYSTEM LEGISLATION

● Mr. D'AMATO. Mr. President, I introduce legislation with my friend and colleague, Senator MOYNIHAN, which would correct a technical error that has prevented certain residents of my State from participating in the National Flood Insurance Program. Specifically, this bill would direct the Secretary of the Interior to make technical corrections in the current maps of the Coastal Barrier Resources System [COBRA]. A companion to this bill, H.R. 2005, was introduced in the House of Representatives by Congressman MICHAEL FORBES on July 11, 1995 and was approved by the House Committee on Resources on September 27, 1995. This necessary legislation is supported by the administration.

In 1990, the Department of the Interior's Fish and Wildlife Service made a technical error when it designated part of the Point O'Woods community on Fire Island in New York as part of an otherwise protected area [OPA]. As a result of this technical error, homeowners in this part of the country are restricted from protecting their properties through the purchase of Federal flood insurance.

Mr. President, the Fish and Wildlife Service concedes that the designation of these residences as part of an OPA was erroneous. The administration testified in support of the House version of this legislation before the Oceans, Fisheries, and Wildlife Subcommittee of the House Committee on Resources. The inadvertent error in the COBRA map has greatly complicated community efforts to relocate houses away from high erosion zones and otherwise practice effective coastal barrier management. This legislation would allow the Point O'Woods community the opportunity, which other American homeowners in similar areas currently have, to participate in the Federal Flood Insurance Program. The Federal Government actively encourages participation in this important program in order to minimize taxpayer costs in the event of a natural disaster.

Mr. President, I ask unanimous consent that a copy of a letter written to me by the U.S. Fish and Wildlife Service in support of this correction and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1352

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

SECTION 1. CORRECTION TO MAP.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the map described in subsection (b) as are necessary—

(1) to move on that map the eastern boundary of the excluded area covering Ocean Beach, Seaview, Ocean Bay Park, and part of Point O'Woods to the western boundary of the Sunken Forest Preserve; and

(2) to ensure that on that map the depiction of areas as ''otherwise protected areas'' does not include any area that is owned by the Point O'Woods Association (a privately held corporation under the laws of the State of New York).

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, that relates to the unit of the Coastal Barrier Resources System entitled Fire Island Unit NY–59P.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, October 20, 1995.

Senator ALFONSE M. D'AMATO
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO, At the request of staff on the Senate Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs, I am writing to inform you of the position of the Department of the Interior on legislation to modify unit NY59P of the Coastal Barrier Resources System. This letter is consistent with testimony before the House Committee on Resources, which I have enclosed.

The House Resources Committee is in the process of reviewing H.R. 2005, a bill introduced by Congressman Forbes making technical corrections to maps relating to the Coastal Barrier Resources System. The U.S. Fish & Wildlife Service supports passage of H.R. 2005 in its current form and agrees with the removal of a portion of unit NY59P from the Coastal Barrier System to correct a technical error. However, we would oppose the addition of other provisions dealing with any other units to this bill without full opportunity for Service review.

H.R. 2005 seeks to remove a portion of unit NY59P, Fire Island, New York, from the Coastal Barrier System. This unit is part of the Fire Island National seashore and is mapped as an otherwise protected area. Otherwise protected areas are defined by the CBRA as coastal barriers which are ''included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in Section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.'' The Department of the Interior recommended to Congress that otherwise protected areas not be included in the System and therefore no further refinement of the mapped boundaries were made. However, with the passage of the 1990 legislation, Congress prohibited the sale of Federal flood insurance within otherwise protected areas thus retaining these units in the System. The property owned by the Point O'Woods Association in unit NY59P is not part of this otherwise protected area and therefore, was mistakenly included in the System.

The Service recommends that the boundary of NY59P be modified to remove the Point O'Woods property from within the boundary of NY59P, and we support H.R. 2005 in its current form. Please feel free to contact me or our Office of Congressional and Legislative Services if you have questions or require further information.

Sincerely,

_____,

Assistant Director, External Affairs.●

By Mr. DORGAN (for himself, Mr. BUMPERS, Mr. DEWINE, and Mr. LAUTENBERG):

S. 1353. A bill to amend title 23, United States Code, to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL DRUNK DRIVING PREVENTION ACT

● Mr. DORGAN. Mr. President, I rise today to offer the National Drunk Driving Prevention Act which will put an end to our Nation' s policy of tolerating open alcoholic containers in vehicles. I am pleased that a strong bipartisan group of my colleagues are joining me in this effort as original cosponsors: Senator BOXER, Senator BUMPERS, Senator CHAFEE, Senator DEWINE, Senator LAUTENBERG, and Senator MURRAY.

According to the National Highway Traffic Safety Administration, it is still legal in 26 States in this country for passengers in a vehicle to have open containers of alcoholic beverages in vehicles while the vehicle is in operation. In six States it is perfectly legal for a driver of a car to put one hand on the steering wheel and with the other, grab a bottle of whisky and drive off drinking. In my judgment, this is unacceptable.

It seems to me that we should make it a matter of national policy that there ought to be a strict separation between drinking and driving. By tolerating drinking of alcoholic beverages in cars we are ignoring one of the most deadly causes of traffic deaths in this country—people drinking while they drive.

During the period 1982 through 1993, approximately 266,000 persons lost their lives in alcohol-related traffic accidents. In 1993, over 17,000 people died on our Nation's roads in alcohol-related accidents—that's an average of 1 every 30 minutes. That figure is about 40 percent of the total number of traffic fatalities in the United States in 1993. The National Highway Transportation Safety Administration [NHTSA], estimates that over 1 million persons a year are injured in alcohol-related crashes—an average of 1 person every 26 seconds.

Especially disturbing is the fact that drunk driving is a major killer of youths. According to the National Commission Against Drunk Driving, alcohol-related traffic fatalities hit the youth more than any other group. In 1993, youths were killed at a rate of 11 alcohol-related traffic fatalities per 100,000 license drivers compared to 8 per 100,000 for adult drivers. Traffic crashes are the greatest single cause of death for every age between the ages of 6 and 32—almost half of these crashes are alcohol-related.

This legislation would make the roads throughout the Nation safer by requiring all States to enact open container laws. If a State does not comply within 4 years, 1.5 percent of its Federal highway construction funds would be transferred to its Federal allocation of highway safety funds.

The 1991 ISTEA legislation—Intermodal Surface Transportation and Efficiency Act—authorized incentive grants to States which would allow States a 5-percent increase in highway traffic safety allocations if that State has enacted legislation prohibiting open containers. The fact is that incentive grants have not worked—over half of the States continue to permit open containers in vehicles. I think the results speak for themselves.

It seems to me that stronger efforts must be made. Since half the States have not enacted open container laws, the Congress must do something at the Federal level to urge States to take action. Incentive grants have been available for some time and we seem to have not made much progress under that approach.

Earlier this year, I offered an amendment to S. 440, the National Highways Systems Designation Act, which was very similar to this legislation. This bill differs in that it provides States with 2 more years to comply. Under this legislation, States would have until 1999 to enact laws prohibiting open containers in vehicles.

Drinking and driving cannot be seen as a personal moral decision. When someone decides to drink and drive, that person is not simply putting himself and others in danger. That person is a threat to innocent drivers, passengers, and pedestrians. The odds are that 2 out of every 5 Americans will be involved in an alcohol-related traffic accident, regardless of their drinking habits.

The fact is that every third drunk driving fatality is an innocent victim—a nondrinking driver, passenger, or pedestrian. Under the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Government is requiring States to enact laws requiring the use of seat belts and helmets, which are matters of personal safety, in the interest of traffic safety. Allowing individuals to mix drinking and driving is not just a matter of personal safety—it is a matter of public safety with serious public concerns. All the more reason, I believe, for the Congress to require States to address this concern.

This legislation takes a positive step and makes good public policy. This bill provides a strong incentive for States to enact laws prohibiting the insane behavior of drinking in a moving vehicle. If States fail to comply, States would not lose any Federal funds. Rather, States would have 1.5 percent—in fiscal year 1999—or 3 percent—in any fiscal years thereafter—transferred to its Federal allocation of highway safety funds.

I urge my colleagues to support this legislation and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1353

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Drunk Driving Prevention Act of 1995''.

SEC. 2. OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

§161. Open container requirements

''(a) PENALTY.—

''(1) GENERAL RULE.—

''(A) FISCAL YEAR 2000.—If, at any time in fiscal year 2000, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2001 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

''(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2000, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

''(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

''(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

''(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

''(1) the amount of funds transferred under subsection (a) to the apportionment of the

State under section 402 for the fiscal year; and

''(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

''(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

''(f) DEFINITIONS.—In this section:

''(1) ALOCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

''(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

''(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.''.

''(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following.

''161. Open container requirements''.●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the names of the Senator from Indiana [Mr. COATS] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 309

At the request of Mr. BENNETT, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 309, a bill to reform the concession policies of the National Park Service, and for other purposes.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1091

At the request of Mr. CRAIG, the names of the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1091, a bill to finance and implement a program of research, promotion, market development, and industry and consumer information to enhance demand for and increase the profitability of canola and rapeseed products in the United States, and for other purposes.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1135

At the request of Mr. CRAIG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1135, a bill to amend the Federal Crop Insurance Act to include seed crops among the list of crops specifically covered under the noninsured crop disaster assistance program, and for other purposes.

S. 1322

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 1322, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 187—RELATIVE TO A DEPLOYMENT OF TROOPS

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 187

Resolved: It is the sense of the Senate that Congress should vote on a measure regarding the deployment of U.S. Armed Forces in the Republic of Bosnia and Herzegovina as part of the Implementation Force of the North Atlantic Treaty Organization, prior to the United States entering into a commitment to carry out such deployment.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the information of the Senate and the public that the October 26, 1995, hearing which had been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources to receive testimony on S. 231, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; H.R. 562, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; S. 342, a bill to establish the Cache La Poudre River National Water Heritage area in the State of Colorado; S. 364, a bill to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado; S. 489, a bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; and S. 608, a bill to establish the New Bedford Whaling National Historic Park in New Bedford, MA, has been postponed.

The hearing will now take place on Thursday, November 9, 1995, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

H.R. 629, a bill to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado has been added to the hearing agenda.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, October 20, 1995, at 10 a.m. to hold a hearing on religious liberty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SECRETARY OF ENERGY

● Mr. BROWN. Mr. President, with the rise of democracy all over the world,