the highest order. It is not timely yet. Vietnam has not earned recognition.

While the U.S. Constitution stipulates that the President is solely responsible for sending and receiving Ambassadors, Congress has the power of the purse. I fully support the able majority leader, Mr. DOLE, and the distinguished Senator from New Hampshire, Mr. SMITH, in their efforts to exercise that power by withholding funding for this normalization until all American POW's are fully accounted for.

Mr. President, Congress has the inescapable responsibility to weigh in on this decision if we believe President Clinton is wrong. And I believe him to be terribly wrong.

The President has not yet fulfilled his commitments to resolve the POW/MIA issue. The Vietnamese know much more than they are telling us about the fate of our missing American POW/MIA's. Yet, despite the $100 million we paid the Vietnamese Government each year to assist our Government in investigating those POW and MIA cases, the Vietnamese still renege on giving us a full accounting. Until the Vietnamese give us the full accounting of all missing American servicemen, it makes no sense whatsoever to confer upon them the honor of U.S. recognition.

The President insists that normalization of relations will result in the United States gaining more access to the Vietnamese Government—the more dialog, he argues, the faster they will move toward democracy. The trouble with this spurious argument is that it has been used in Washington to justify United States accommodation of Red China—and just take a look at where that policy has gotten us.

The Chinese have certainly moved toward a greater opening of their economy—foreigners can not invest fast enough, and China is taking in dollars hand over fist. But what has China sacrificed for all that Western hard currency? Has our policy of engagement persuaded the Chinese Communists to adopt any democratic reforms whatsoever?

No, to the contrary, the Chinese leadership is today more hard line and authoritarian than it has been since Mao's Cultural Revolution. Today, China is once again rounding up dissidents; they are using prison slave labor to create products for export abroad; they are executing prisoners on demand to sell their organs to wealthy foreigners; and they are enforcing a brutal forced abortion policy that has resulted in the mass execution of millions of Chinese children. Clearly United States recognition and engagement of Red China hasn't bought us any influence with the Communist thugs in Beijing. If anyone doubts this, just ask Harry Wu how much the Communist regime there values our opinion.

I think it is a disgrace that, at the same time this administration refuses to support the efforts of Taiwan—a friendly, free market democracy—to even gain admission to the United Nations, and practically had to be forced by Congress to issue a visa to Taiwan's democratically elected President for a private United States visit, they are enthusiastically conferring full diplomatic recognition on Vietnam's recalcitrant Communist dictatorship. What kind of message does that send about our Nation's priorities?

If the President insists on going through with the normalization of relations, I can only say this: as chairman of the committee that confirms ambassadorial nominations, it's going to be a tough road to confirmation for nay ambassadorial nominee to Vietnam before the Vietnamese have accounted for the unresolved POW–MIA cases.

As long as Vietnam remains an unrepentant Communist dictatorship, as long as they refuse to provide all information they have about missing American servicemen, the United States should not reward their leaders by welcoming them into the community of friendly nations.

The President's announcement today is just the first step of many. The administration will have to approach Congress to discuss the conferral of benefits such as MFN, GSP, or OPIC insurance. Those will be a matter of great debate here in Congress and there is no reason for us to move on those until the Vietnamese have earned it. We should take the Vietnamese Government for what it is: a Communist one. It should continue to be treated as such until it makes true political reform by establishing a legal code and respect for the general human rights of all Vietnamese citizens as individuals, rather than merely supporters of the State.

Vietnam has a long way to go if it wants to reestablish its position in the international community. We should not put the cart before the horse and extend them U.S. recognition before they have earned it.

I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Carolyn Clark, a fellow on Senator PAUL WELLSTONE's staff, be granted the privilege of the floor during the debate and vote on S. 334, regulatory reform bill.

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

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold? I think there is still some unfinished business with reference to the last amendment there, under the consent agreement.

AMENDMENT NO. 1492

The PRESIDING OFFICER. Under the previous order, amendment No. 1492 is agreed to.

The amendment (No. 1492) was agreed to.

AMENDMENTS NOS. 1494 AND 1495 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendments 1494 and 1495 are withdrawn.

The amendments (Nos. 1494 and 1495) were withdrawn.

AMENDMENT NO. 1496 TO AMENDMENT NO. 1487

(Purpose: To clarify that the bill does not contain a supermandate)

Mr. DOLE. Mr. President, on behalf of myself, Senator LEVIN, Senator HATCH, Senator ROTH, and Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. LEVIN, Mr. JOHNSTON, Mr. ROTH, and Mr. HATCH, proposes an amendment numbered 1496 to amendment No. 1487.

On page 35, line 10, delete lines 10–13 and insert in lieu thereof: ''(A) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law. Nothing in this section shall be construed to override any statutory requirement, including health, safety, and environmental requirements.''

Mr. DOLE. Mr. President, let me indicate to my colleagues, because I know a lot of people are wondering about the balance of the evening, we are trying to find an additional amendment or two we can bring up tonight and have votes on.

Again, let me indicate it is not very long to when the August recess is supposed to start. We would like to get some of this work done. So I think it is incumbent on all of us, if we can maybe have the Johnston amendment on thresholds offered and voted on tonight? The $50 to $100 million?

Mr. JOHNSTON. Yes. We have that ready. We can put that in.

Mr. DOLE. You will do that this evening?

Mr. JOHNSTON. We can do that.

Mr. DOLE. Mr. President, I think this amendment will be accepted. Let me just say for the record here, there is an effort to try to work these things out on a bipartisan basis. We have had some success in this area. I thank the Senator from Michigan for his cooperation. I think it does answer some of the questions that some have raised, legitimate questions. We have tried to address legitimate questions as we did in the last amendment, though I do not think the amendment was necessary—nor, for that matter, that this one is

necessary. But if it helps to move the bill along, obviously we are prepared to do that.

Mr. President, opponents of S. 343, the regulatory reform bill, have repeatedly expressed concern that it would override existing laws providing for protection of health, safety, and the environment. They have made this argument despite the fact that the bill clearly states that its requirements ''supplement and do not supersede'' requirements in existing law.

They have made this argument despite the fact that every sponsor of S. 343 has insisted that its provisions do not override requirements of existing law.

It is ironic that this language is similar to language in other statutes, and no one seems to have had difficulty understanding the plain meaning of the phrase before. As I stated yesterday, I do not for 1 minute really believe that Ralph Nader or President Clinton's staff are unaware of the language in our bill. But it apparently is inconvenient to focus on the facts—that tends to get in the way of demonizing the bill and its supporters.

Mr. President, I, and the Senator from Louisiana, Senator JOHNSTON, and every other supporter who has spoken has made crystal clear that what we seek to achieve with this legislation is that cost-benefit criteria are put on an equal footing with requirements of existing law, where that is permitted by existing law. We do not seek to trump health, safety, and environmental criteria.

Many opponents, in the guise of criticizing what they call a supermandate, really want a supermandate in the opposite direction. That is, they want any perceived conflict between an existing statute and considerations of cost resolved in a way that would effectively deprive a cost-benefit analysis of any real meaning. There are times, as I have said—and the bill says—that such a result is appropriate. But it cannot be appropriate in all instances. Otherwise, what the opponents are really saying is that the tremendous costs to the American family—about $6,000 a year—are an irrelevant consideration.

Well, I do not think it is an irrelevant consideration to the American family. I do not think it is irrelevant to the American small or medium-sized business struggling to survive.

And it should not be irrelevant to us.

So, I reject such an extreme approach. Other opponents however, insist that they want the same thing as we do—that is, a level playing field where considerations of cost are just one part of the agency decisionmaking process, no less and no more important than the requirements of existing law. Where Congress has already spoken and stated a policy judgment that considerations of cost are not appropriate, that policy judgment would stand. Our regulatory reform legislation does not seek to change that result.

For those who have suggested that we seek the same objective, it appears that the problem is one of interpreting the current language—they have suggested that it would be more clear to state clearly that S. 343 does not override existing laws.

In my view, there is no reason not to reemphasize as clearly as possible what the bill does not does not do. Therefore, Mr. President, I offer an amendment making clear that the requirements of S. 343 are not intended to ''override any express statutory requirements, including health, safety or environmental requirements.''

This is an effort to remove any perceived confusion or murkiness in the former language, and I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the majority leader was correct. We have checked on our side of the aisle. We will be glad to accept this amendment. I do not know whether there will be other amendments to perfect this same idea here a little bit further on or not, but I think this is acceptable. I would be glad to accept it on behalf of our side.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I think this is just another illustration of how we have been trying to work together to try to resolve any conflicts on this bill. There have been over a hundred changes in the bill that we have done through our negotiations with colleagues on both sides of the aisle. We just appreciate the cooperation of Senators on both sides in doing this.

We are prepared to accept the amendment as well.

The PRESIDING OFFICER. Is there further debate on the Dole amendment? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would simply like to thank Senator LEVIN, Senator BIDEN, Senator GLENN, and others who have taken part in debate on this. They have identified the problem in very specific terms. This amendment deals fully and completely, in my view, with the question of the supermandate which is now laid to rest.

There is no—N-O, none—supermandate in this bill. It is made absolutely crystal clear and repeated again in this amendment.

I congratulate all concerned for getting it worked out and making it clear.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, many observers and many of us have viewed this bill as having a serious problem, which is raising the possibility that there is an inconsistency between what this bill requires and what other laws require.

This amendment addresses one part of that issue and it does it, I believe, in a useful way. That is the reason why the amendment does make a contribution to further progress on the bill.

This amendment makes it clear that if, with respect to any action to be taken by a Federal agency, including actions to protect human health, safety, and the environment, it is not possible for the agency to comply with the decisional criteria of this section and the decisional criteria provisions of other law—as interpreted by court decisions—the provisions of this section shall not apply to the action.

I have expressed my concern about this issue to the sponsors for several weeks now. I am concerned that there may be situations where the statute which is the basis for the issuance of a regulation may conflict or be inconsistent with the requirements of the decisional criteria in section 624. The sponsors say they believe that is not possible because of the way section 624 is drafted. I have not shared their confidence in that belief, but this amendment makes that now clear. Where there is an inconsistency or a conflict between the lawful requirements of the statute that is the basis for the regulatory action and the requirements of this section, the requirements of the statute that is the basis for the regulatory action govern or control.

This amendment ensures that the requirements of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and other important environmental and health and safety laws are not altered by the decisional criteria contained in section 624. When push comes to shove, the underlying regulatory statutes are primary.

I welcome this amendment and think it does improve the bill, but I want to be clear that this is but one problem I have with the decisional criteria provisions of section 624. Other amendments are necessary in order to make this particular section acceptable, and we will be proposing those as the debate on this bill progresses.

Mr. President, let me also add on that note that I hope that the sponsors of the Dole-Johnston amendment would address the document which has now been submitted to them as of about 10 days ago, which specifies approximately 9 major issues and 23 smaller issues that a number of us have with particular language in the Dole-Johnston alternative. The Senator from Utah had requested that document when we were involved in discussions on the bill. It has been submitted as of about 10 days ago. I hope there could be a response, because, even though this amendment does address part of one of those issues, there are many other issues which I think a bipartisan effort could address and make some progress on.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if I could respond, we are, as far as I am concerned, going to continue ongoing negotiations and keep the door open to do what we can to resolve these problems.

On many of the points that were raised, I thought the Senator from Michigan was well aware that there are objections to a number of the provisions, on both sides. So we will just keep working together and see what we can do to continue to make headway like we have on this amendment.

If we can continue to do that, we will. And we will certainly mention—where we disagree, where we disagree. But we will keep working with the distinguished Senator from Michigan, the Senator from Massachusetts, and others who were very concerned about this matter.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1496) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think if we could now have a time agreement on the Johnston amendment, then that would let our Members know how much time they might have between now and the time of the vote.

Mr. DASCHLE. Mr. President, I have been consulting with the distinguished Senator from Louisiana. He is prepared—I will let him speak for himself—but on our side we would be satisfied with a very short timeframe, perhaps a half-hour, 45 minutes.

Mr. DOLE. An hour equally divided?

Mr. JOHNSTON. Mr. President, I would say 30 minutes, really, ought to do it. It is very straightforward. It is just a question of setting the threshold at $100 million.

I hope it is not controversial; 30 minutes would suit us fine, equally divided.

Mr. DOLE. Could we make that 40 minutes equally divided?

Mr. DASCHLE. Mr. President, 40 minutes.

Mr. DOLE. If there is no objection, when the Senator lays down his amendment, I ask unanimous consent there be 40 minutes equally divided on the amendment.

The PRESIDING OFFICER. Is there objection to the time agreement? Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 1497 TO AMENDMENT NO. 1487

(Purpose: To revise the threshold for a definition of a ''major rule'' to $100 million, to be adjusted periodically for inflation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1497 to amendment No. 1487.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 14, line 4, strike out subsection (5)(A) and insert in lieu thereof the following new subsection:

''(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at his sole discretion, to account for inflation); or''.

Mr. JOHNSTON. Mr. President, this amendment is very simple.

The PRESIDING OFFICER. Will Senators withhold? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment is very simple. It sets the definition of a major rule at $100 million and gives to the director, at his sole discretion, the ability to adjust that $100 million for inflation.

Mr. President, $100 million has been the threshold for triggering the review of proposed major rules since the Ford administration. The effect over the years has been that $100 million now is much less.

Mr. GLENN. Could we have order?

The PRESIDING OFFICER. The Senator from Ohio is correct. Could conversations on the floor be removed elsewhere?

Would the Senate be in order, in order that debate can be heard?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the trigger for a major rule reevaluation was begun in the Ford administration at $100 million. If we use that same amount today in value, $100 million in the Ford administration would now be worth $252 million, and in the Carter administration it would be $231 million, or in the Reagan administration it would be $154 million. In other words, this is only a fraction of the definition we have used since the Ford administration for triggering major rules.

The problem here, Mr. President, is simply one of agency overload. We are requiring these agencies any time they put out a new rule—and we think there will be probably over 135 major new rules that are in process right now at the $100 million threshold—they will have to do cost-benefit analysis, they will have to do risk assessment with peer review, and judicial review, all of those things for rules which the administration now has in process.

In addition to that, they are going to have to go back and review all rules which they select for review, all rules that cannot meet the present cost-benefit ratio, the cost-benefit test, and the risk assessment test. And the question again is what is a major rule? Is it $50 million or is it $100 million? In addition to that, you have a petition process so that any person who feels themselves aggrieved by a present rule will be able to petition to have that put on the schedule for review. It is an enormous amount of work.

So what we want to do is set this limit at $100 million for a major rule rather than at $50 million hopefully to make the amount of work to be done manageable. We do not want to kill these agencies with so much kindness or so much work that they are not able to do anything. What industry wants is to be able to get some of these rules that are burdensome and adopted without science and adopted without proper procedures. They want to get them reviewed. If you allow for a review of any rule at $50 million as opposed to $100 million, it may so overburden the agencies that they cannot do anything, that you will have gridlock, that you will not be able to do whatever one wants to do and which is to have good risk assessment, good cost-benefit analysis, good science brought into rulemaking. It is a very straightforward amendment. It simply ups it to $100 million.

I hope my colleagues are willing to accept this amendment.

I yield the floor.

Mr. ROTH. Mr. President I support the current amendment to raise the dollar threshold for major rules from $50 to $100 million. I support this amendment because it would help ensure that this bill will work for us, not against us.

The purpose of S. 343 is to ensure better, more rational regulations and to reduce the regulatory burden while still ensuring that important benefits are provided. S. 343 aims to restrain regulators from issuing ill-conceived regulations. It requires better analysis of costs, benefits, and risks, so that regulators will issue smarter, more cost-effective regulations. This is common sense reform, not rollback. We want agencies to work for the public's best interests, not against them.

But we cannot so overburden the agencies with analytical requirements that they cannot properly carry out their mission to serve the public. That is why we need a dollar threshold before requiring regulators to subject rules to detailed analysis—cost-benefit analysis and risk assessment. Costly rules, of course, merit detailed analysis. But less costly rules do not. The reason is simple. Cost-benefit analysis and risk assessment are themselves costly and time-consuming.

This is why, since cost-benefit analysis was first required by President Ford over 20 years ago, it only applied to major rules costing over $100 million. Every President since then, including Presidents Carter, Reagan, Bush, and Clinton, have used the $100 million threshold for required cost-benefit analysis. This same threshold had strong precedent in the Senate. S. 1080, supported by a vote of 94 to 0 in 1982,

had a $100 million threshold. In addition, S. 291, the Regulatory Reform Act of 1995, which I introduced in January and which received the unanimous support of the Governmental Affairs Committee, had a $100 million threshold. We also should keep in mind that the current value of this $100 million threshold, set in 1974, is actually far less than $50 million in 1974 dollars.

A $100 million threshold makes sense because those costly rules account for about 85 percent of all regulatory costs. Yet, there are a limited number of such rules—about 130 rules per year for nonindependent agencies.

This means that the vast bulk of the regulatory burden can be put under control with a roughly predictable, and more importantly, manageable analytical burden. There is no good reason to have a lower dollar threshold for major rules. A $50 million threshold would sweep in many more rules but make it all the more difficult for the agencies to handle the analytical burden. We just do not really know how many new rules a $50 million threshold would capture.

Even more troubling to me have been recent attempts to further burden the agencies—which would already be pressed hard by the requirements of S. 343—with more analytical requirements beyond those of the $50 million threshold. The recent Nunn-Coverdell amendment, for example, will dramatically increase the burdens imposed by S. 343. It would sweep into the definition of major rule all rules that have a significant impact on a substantial number of small businesses, as defined by the Regulatory Flexibility Act. This could add many hundreds of additional rules, including some very small rules, to the cost-benefit and petition process of S. 343. I am deeply concerned about the burdens imposed on small business. But the Nunn-Coverdell amendment threatens to sink an already heavily loaded ship.

Raising the major rule threshold to $100 million is not enough to cure the overload problem confronting S. 343, but it will help to lighten the load. It will help make this bill a more workable and more effective bill for the American public. It is good government. I urge my colleagues on both sides of the aisle to support this important amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Utah controls the time.

Mr. HATCH. I am obviously happy to yield 3 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in opposition to the amendment. I spent the better part of yesterday arguing the unique problems that small businesses have in our country. The vast majority of businesses in America are small. Ninety-four percent of the 5 million-plus businesses in America have 50 employees or less.

By elevating the threshold, I recognize that we still have the amendment that we adopted yesterday that would take rules that get swept under reg-flex, but nevertheless the broader application of the bill's threshold is being elevated by moving from $50 to $100 million and reducing the size of the sweep, and I think it is moving in the wrong direction.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. COVERDELL. I yield.

Mr. JOHNSTON. Actually, rules that affect small businesses—how many did we say there were, how many million in this country?

Mr. COVERDELL. About 5 million.

Mr. JOHNSTON. About 5 million. When they affect small business, they are likely to be a major rule. But we have that provided for in the Coverdell amendment of yesterday with the reg-flex, and I believe that solves that problem. What we do not want to do is get agency overload here so that those rules which are burdensome to small businesses would not then be able to get—you would not have time to get your petition done because the agency would be so overloaded with other rules. I suggest to my friend that going to $100 million is not going to be difficult for small business because you have already protected them under the Coverdell amendment, and they are likely to be $100 million rules if they have broad application to small business, in any event.

Mr. COVERDELL. In the time I have remaining, I would like to respond. I understand the point my good colleague from Louisiana is trying to make, and I do appreciate the work that the Senator has expended for many years, including this particular debate. It has been a major contribution to the country, and I commend the Senator for it.

I only assert that it is a move in the wrong direction. I agree that the amendment we adopted yesterday is a step in the right direction because it will sweep those rules that are affected by reg-flex into our system. But there can be no argument that by moving from a $50 million threshold to a $100 million threshold, we are removing protection from a class of businesses, and they will generally be smaller businesses that are affected by the full ramifications of the bill and not just reg-flex. And let me say, as I said yesterday, Mr. President, that if I am confronted with the issue of who suffers the overload or the burden, and the argument is between small businesses or medium-sized businesses or huge, mega agencies, Mr. President, I side on the equation of helping businesses that have been suffering and the ramifications that come from that suffering and not on the side of these huge agencies with millions and billions of dollars and attorneys, so many that you cannot even name them. We should be moving in the direction of protecting the people on Main Street America and not on being overly concerned about the burdens these big agencies face.

Mr. President, I yield back whatever time is left.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Texas?

Mr. HATCH. I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to just address a question to the Senator from Georgia on my time, and that is I wonder if we have even talked about the impact on other governments of Federal regulations, such as our small towns across America. Our small towns are reeling from regulations that require them to go into their water supply and test for items that do not even relate to their part of the country. I just wanted to ask the Senator from Georgia if he does not think that the lower threshold is also going to be a boon to the smaller towns that might not have the ability to have legal staffs that can come up and talk to Federal agencies?

Mr. COVERDELL. The Senator from Texas is exactly right. In fact, she admonishes me in a way, because yesterday in talking about the reg-flex, or the small businesses, I did not talk enough about small cities and towns, small government jurisdictions and nonprofits. And as I said in my earlier remarks, this is just moving in the wrong direction. This is removing these smaller jurisdictions, smaller businesses from the sweep of the intent of this bill. I do not think it devastates the bill, but it is moving in the wrong direction.

Mrs. HUTCHISON. Mr. President, I, like my colleague from Georgia, appreciate what the Senator from Louisiana has done in this bill. He has worked to try to make it a good bill. But I am concerned if we raise the threshold that there might be people in that $50 to $100 million category—cities, towns, maybe counties, maybe school districts or water districts, some of our smaller entities—that really might not have the protection of the good science, of the peer review, the ability to have cost-benefit analysis and risk analysis.

I think what this bill does is so important to provide the basis upon which people will know out in the open what the effects of these regulations are, and it will have the effect, of course, of making the regulators think very carefully before they do these regulations.

Passing this bill in itself is going to have an effect on regulators in making

sure that they know exactly what they are doing as they affect the small businesses of our country or, indeed, the local taxpayers of our country.

So I join with my colleagues in saying that I think it is very important that we not leave that $50 to $100 million range. In fact, I have to say if it were my choice, I would not have a range at all that was a floor. I would have from zero because I think no matter what the regulation is, if it affects your business or your small town or your water district, this is going to make a difference in the way you are able to provide jobs or serve your taxpayers.

So I do not think we should have any range that is excluded, but certainly I think the higher range is going to provide hardship for people who probably do not have the legal staffs to really have their viewpoints known as well as the people in the larger categories.

So I respectfully argue against this amendment as well, and hope that our colleagues will not have that group in the $50 to $100 million category that might not be covered by sound science, science in the sunshine, cost-benefit analysis, or risk analysis. And if it is a burden on the large agencies, then perhaps we will have the effect of fewer, more important, good regulations rather than so many regulations that do cause a hardship on our smaller entities.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I very much appreciate the contribution that the Senator from Texas has made to this effort, and I share with her completely her concern about small businesses and small towns and counties. I have been in towns in Louisiana which have been subjected to some of these incredible regulations that would fine them for doing things which just went contrary to common sense. I would sit there with the mayors of these various towns and wring my hands with them because it was so outrageous sometimes what these regulations provided. However, going from $50 to $100 million does not hurt the small towns or small businesses. It is not that by going down you exempt the smaller people. Rather, you make it possible or feasible for small counties, small towns, small businesses to have their regulations considered at all. In other words, the problem here is agency overload.

I have met at some length with Sally Katzen, the head of OIRA. She said

> You know, one of our problems here is peers. We have peer review, but how can we find enough peers to review hundreds and hundreds of regulations and have cost-benefit ratios and risk assessments, scientific determinations for these hundreds of rules which are going to be simultaneously reviewed?

And to do so by the way, in light of a budget which is now being cut in the appropriations process as we speak. It is going to be a formidable process.

So, I think that the best way to get this done is to go in the direction of where we started in the Ford administration that major rules defined in the Ford administration is $100 million. And, you know, that amounts to $300 million something—$252 million. So we have been coming down in that through the years.

I hope my colleagues will recognize this problem of overload. Look, if we are not overloaded on this process in a year or two the Senator can propose and I think the Senate would enact a lower threshold. I suspect what we are going to find is that we may be considering an upping of the threshold rather than a lowering of it simply because of the question of legislative overload. Really, if we can get this $100 million, I think it makes a better and more workable bill, one that will protect our small towns and counties and our small businesses. And I hope my colleagues will allow it to be done.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. HATCH. I will yield to the Senator.

Mrs. HUTCHISON. Mr. President, I would just like to respond briefly and say that I think it is a matter of where you err. And while the amendment of the Senator from Louisiana would err perhaps by saying that we could always lower the threshold if we found that we needed to because so many people were exempt, I would err the other way. I would say, let us set it at $50 million and make sure that every regulation that we can possibly make well thought out and well documented is, in fact, well thought out and well documented. And if we have to raise the threshold later I would rather have to do that than to have to come in and try to lower it because so many people are harassed with regulations that did not have the scientific basis and the risk analysis and the cost-benefit analysis.

So I think it is a matter of do we err on the side of doing too much or do we err on the side of doing too little? I would rather protect the people, the small business people of this country, the small towns of this country, the small water districts of this country, and then if it becomes an onerous burden on the Federal agencies I am sure we will hear about that and we can always up the threshold. But I want to make sure that every regulation that we can possibly make be well thought out, well documented in science, have a cost-benefit analysis, and in fact does have those criteria.

So, I do appreciate the position of the Senator from Louisiana. But I just think it is more important for us to err on the side of caution and protection of our small business people and our small towns than the opposite, so that people are in a threshold of $50 million than the $100 million and they do not have those well-thought-out regulations.

Mr. JOHNSTON. Mr. President, just very briefly. The reg-flex amendment which we adopted yesterday which was designed to take care of small business includes in its definition of small entity, small governmental jurisdiction, which goes on to mean government, cities, towns, townships, villages, school districts, special districts, with a population of less than 50,000, unless an agency establishes another amount. So we took care really in the reg-flex amendment of yesterday, I believe, of the concerns about small towns and cities. And frankly I had not realized that that definition was in reg-flex. But I believe that covers the Senator's concern for small towns and jurisdictions.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator from Utah has 9 minutes and 20 seconds remaining.

Mr. HATCH. How much on the other side?

The PRESIDING OFFICER. Six minutes and 32 seconds on the other side.

Mr. HATCH. Mr. President, I am not sure from the discussion of the distinguished Senator from Louisiana that is so, because as I recall the Coverdell amendment just mentioned entities of small businesses. But we will check on it. Be that as it may, the House has listed a threshold of $25 million. The threshold in this bill is $50 million. I ask the Senator, am I not wrong on that?

Mr. JOHNSTON. This bill is $50 million.

Mr. HATCH. This particular bill's threshold is $50 million. And I have to say that all of small business throughout this country is watching this particular vote. It is going to be the vote on small business, as was the Nunn-Coverdell amendment. I understand the arguments on both sides. But frankly, with the House at $25 million, us at $50 million, there seems little or no real justification for the $100 million. So I support the $50 million threshold in Dole-Johnston-Hatch.

This is a small business measure. The whole purpose of fighting this out on the floor is to try and do it for small business people. The issue here is whether or not small businesses are going to be treated the same as larger businesses. The reg-flex act may not cover all rules that affect small businesses. As you know, the standards in that act were adopted by the Coverdell amendment. And that amendment may not cover all situations affecting small business, or at least I have been led to believe that is the case. And I still have some concerns whether small towns are covered by that amendment, individuals, small nonbusiness associations, charities. Those are all not covered by the Coverdell amendment. And should they not be protected by S. 343? And by this regulatory reform bill? I think that is what we come down to.

I would prefer to keep the threshold at $50 million. I am not going to go and weep in the corner if this amendment goes down in defeat. But I have to say—I mean, if the amendment is adopted which the distinguished Senator from Louisiana is advocating, and I understand his reasons for doing so. But I believe that small business and individuals, small towns and cities, nonprofit corporations, I might add, nonbusiness associations, do deserve the protection and the care that a $50 million threshold would give. With that, I am really prepared to yield back any time we have, or I yield the floor. And I reserve the balance of my time.

Mr. JOHNSTON. Mr. President, I would be prepared to yield back the balance of my time. Can we have a vote at this time?

Mr. HATCH. I suggest the absence of a quorum.

Mr. JOHNSTON. Will the Senator withhold? As long as we have got to wait for this, let me say that, Mr. President, this amendment is viewed very, very seriously by an awful lot of people on our side and by the administration based on this question of agency overload. I really believe, as someone who has been involved in this risk assessment now from the very start, that this is a very legitimate concern of the administration. The American Bar Association gives this question of the definition of ''major rule''—it is the very first and most important criticism they have of S. 343. It is the most important criticism, or one of the most important, of the administration, one of the most important concerns over here.

Now, Mr. President, we very much need to pass this legislation. I hope my colleagues on the other side of the aisle will give us enough votes to let us pass it. This is one of those important amendments that does not in any way derogate from the importance and the central value of risk assessment, cost-benefit analysis. But it may have a lot to do with making it workable. I mean, the American Bar Association is not out to do in small businesses or small communities in our country. They are simply aware, as they say, it will sweep too broadly and, therefore, dilute the ultimate impact of the bill.

Quoting from the American Bar Association:

> This change is crucial for Association support.

That is, American Bar Association support.

We can pass a bill without the American Bar Association support, I understand that. But they are enthusiastic supporters of the concept, as I am the person who first proposed risk assessment here on the floor, but we have to make it workable. To go up to $100 million simply makes this more workable, Mr. President. Nothing could be worse than to have this vast plethora of regulations all of a sudden dumped on agencies unable to contend with them, unable to find the peer review, unable to have budgets that will cover the cost of cost-benefit, unable to hire the scientists to do the studies to do the risk assessment, and otherwise unable to meet deadlines. That is a formula for chaos. That is why the American Bar Association thinks we ought to go to $100 million. That is why the administration thinks so, and that is why I think so.

So, Mr. President, this amendment will help pass—not only help pass and get signed into law—this legislation; it will make it workable. Everybody wants this legislation to work when and if we pass it, and I believe we are going to be able to pass it, because I think the spirit of the floor, and of the proponents, certainly the majority leader, Senator HATCH and others, has been to accommodate reasonable criticisms in the present draft of S. 343. I really believe that is true. I think the acceptance of that last amendment showed that kind of spirit, and I hope we can get that kind of spirit on this $100 million amendment. This is really a crucial amendment, as the American Bar Association has said, as the administration has said.

I have not gone along with all of the administration's criticisms of this bill. As a matter of fact, I have not gone along with most of the administration's criticisms of this bill. I think some of it may be previous versions that they are criticizing. I think some of it may be a fictitious bill that has never been offered and is not now on the floor that they are criticizing. But, Mr. President, this $100 million criticism—that is, the criticism of the $50 million being too low and the desire to go to $100 million—is right on target. It is what it takes to make this bill workable.

I beseech and implore my colleagues to let us get this limit to $100 million where the bill can be allowed to work.

Mr. President, if none of my colleagues has further debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield such time as the distinguished Senator may need.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Utah.

I wanted to answer one point of the Senator from Louisiana on his amendment, and that is the point that the small entities would be covered under the reg-flex amendment that we adopted yesterday. In fact, the reg-flex amendment covers cost-benefit analysis, but there are many small entities that would not get the risk analysis that is covered by this bill, and these are the entities that would be lost between the $50 million and $100 million threshold.

So it is very important to the small towns and the water districts and the small businesses that they have the availability of risk analysis for sound, good regulatory bases, just as the larger entities would, and perhaps they need it even more because they do not have the legal staffs that are available in the upper echelons.

I did want to make that one point so that it was clear that we need risk analysis and the sound basis that risk analysis would provide for the $50 to $100 million category that would be left out if we adopt this amendment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—53

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Hatfield	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Chafee	Johnston	Rockefeller
Cohen	Kennedy	Roth
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	

NAYS—45

Abraham	Burns	Coverdell
Ashcroft	Campbell	Craig
Bennett	Coats	D'Amato
Brown	Cochran	DeWine

Dole	Hutchison	Packwood
Domenici	Inhofe	Pressler
Faircloth	Kassebaum	Santorum
Frist	Kempthorne	Shelby
Gorton	Kyl	Simpson
Gramm	Lott	Smith
Grams	Lugar	Stevens
Grassley	Mack	Thomas
Gregg	McConnell	Thompson
Hatch	Murkowski	Thurmond
Helms	Nickles	Warner

NOT VOTING—2

Bond	McCain

So the amendment (No. 1497) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I want to make an inquiry now if there are any amendments on either side that can be offered so we can have another vote or two this evening?

As I understand, the Senator from Ohio indicates there are no amendments on that side.

Mr. GLENN. No amendments.

Mr. DOLE. We are looking at one from the distinguished minority leader. We have not had a chance to review that yet.

Mr. GLENN. That is correct. We thought there would be one, but you are looking at it. We will have another one ready in the morning.

Mr. DOLE. Does that mean you are about to run out?

Mr. GLENN. I would not say that exactly at this point.

Mr. DOLE. Are there any at this point?

Mr. JOHNSTON. Mr. President, if the majority leader will yield, I wonder if the majority leader would entertain an amendment at this point to make the bill not applicable to any notice of proposed rulemaking which would commence on July 1, 1995, or earlier? In other words, those on-going regulations which would still be subject to the petition process, so you would not have to go back and redo and replow all that same ground.

Do you want time to think about that?

Mr. HATCH. I think we need some time to think about that because we need to know what all the rules are that will be affected by it. But we will certainly look at that.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. If there are no——

Mr. GLENN. Will the majority leader yield? One point I would like to make, on June 28 we gave a list of 9 major concerns we had and 23 minor ones. We were told at that time that your side would get back to us as fast as possible.

We have been working through one or two—or a few of these things here today, but we have not had any answer to this. We were told that would be addressed. This is our blueprint for what we thought would make the thing acceptable. Until we can get back an answer to some of these things, I think it is going to be difficult to move ahead too fast.

Mr. HATCH. Mr. President, may I respond to the distinguished Senator? We have looked at that and we understand there are people on his side that do not like some of those suggestions. There are certainly a lot of people on our side. So what we have been trying to do is work out individual items as we can. But the vast bulk of those, we have had objections on one side or the other or both.

So, we will just keep working together with those who have submitted those to us, and see what we can do. We have made some headway almost each and every day that we have been debating this matter.

So, all I can do is pledge to keep working at it and see what can be done. But there are an awful lot of those suggestions that are not going to be acceptable.

Mr. DOLE. As I understand it, one of the nine dealt with an amendment we just disposed of.

Mr. GLENN. That is what I just said.

Mr. DOLE. There is some progress being made there, but I think it is fair to say there will be no more votes tonight.

Mr. GLENN. I would like to address this again. What we thought we were going to have is an answer to this whole package. That was the way it was originally presented. I know we dealt with a couple of these items here, but we would much prefer to see how many of these things we could get through as a package. If we could get an answer on some of these things, that will certainly help.

Mr. DOLE. Let me yield to the Senator from Utah to respond.

Mr. HATCH. I would have to say again, I thought the other side was aware of the matters that we felt we could work on and the matters we felt we could not, that there could be no agreement on. But we will endeavor to try to outline each and every item on that. But we are working with the other side. We are trying to accommodate. Today I think is good evidence of that.

We will work on it and try to get back on each and every item.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, as I understand it, there will be no further amendments offered but there will be debate on the bill. I think there are a number of colleagues on either side who wish to make statements on the bill. Hopefully, we can find some amendment that can be offered, laid down early in the morning, so we can get an early start.

Maybe in the meantime we can address some of the questions raised by the Senator from Ohio and get some response so we can move on. We would like to finish this bill tomorrow night if we could. Which we cannot.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I rise to comment on the regulatory reform bill, S. 343, that has occupied the attention of the Senate throughout the day. I watched a good portion of the debate from my office, on television, and occasionally here on the floor. I have been interested in my senior colleague from Utah and his list of the top 10 horror stories of regulatory excess. I have been unable to gather as many as 10. My resources are perhaps not as good as my colleague's, but I want to add another to the horror stories of regulatory excess from the State of Utah, and perhaps spend a little more time on this one than the list that my senior colleague went through earlier.

I am talking about a business called Rocky Mountain Fabrication, which is located in Salt Lake City, UT. It has been operating at a site in industrial north Salt Lake since the early 1980's. It needs to expand its operations to meet the demands of an improving economy. Rocky Mountain employs about 150 people.

Its business is steel fabrication which requires the use of an outdoor yard. They have to lay out large pieces of steel that are then moved by heavy equipment. Negotiations between Rocky Mountain and EPA have been going on since 1990, nearly 5 years. They have cost the company $100,000 in legal fees and other fees connected with this fight. At the moment, a conclusion is no closer than it was when it started. There is no resolution in sight.

Here are the facts. Rocky Mountain Fabrication acquired its 5-acre site in 1981 and developed approximately 3 acres of the site. At the time, all the land was dry. If you have been to Utah, you know that is the normal pattern of land in Utah. It is part of the great American desert. In 1983, we had unusual flooding in Utah. There was a combination of a bigger than normal snow pack, a late spring. It stayed in the mountains in snow, and then suddenly a very rapid drop; a rise in temperature, and immediate thawing of all the snow, and we had runoff.

You may recall, Mr. President, and some others may recall, that we had literally a river running down the principal street of downtown Salt Lake with sandbags on either side to keep damage out of the business stores. That happened in 1983.

If you are following the EPA, you know what is going to happen next. All of a sudden, this dry land on which Rocky Mountain Fabrication had been carrying on their business became a wetland because of the unusual nature of this spring runoff. It kept happening. In 1985–86, EPA began investigating the site. In 1990, they got serious with their investigation.

Approximately 1.3 acres of Rocky Mountain's property was filled. Oh, you cannot do that. You cannot take steps

to change the nature of your own property under Federal regulations. Rocky Mountain provided numerous proposals, technical studies, and other information to EPA to resolve this matter so that it can expand its business. These proposals included removing over half of the 1.3 acres filled together with mitigation in the form of a monetary donation to significant off-site projects around the Great Salt Lake, or enhancement of 30 to 50 acres of wetlands along the Great Salt Lake.

All of these proposals have been rejected by the EPA. Instead, the agency has demanded that Rocky Mountain remove 2.9 acres from its 5-acre site, which would far exceed the amount filled in 1985–86, effectively rendering the property unusable and putting the company out of business at its present location.

In response to Rocky Mountain's proposal to provide compensatory mitigation through a financial contribution to the $3.5 million offset wetland enhancement project contemplated by the Audubon Society around the Great Salt Lake, EPA officials verbally responded that any such proposal would require Rocky Mountain to contribute the entire $3.5 million cost of the project. Only that would be acceptable.

Well, $3.5 million for 1.3 acres in industrial north Salt Lake? Boy, I would love to be the landlord that got that kind of a price for selling that sort of land. It is unbelievable. But this is the best EPA can do after costs of over $100,000 to the citizen who did nothing beyond working on his own land for 5 years.

Mr. President, this is an example—we have had many of them here on this floor—of this kind of regulatory overkill.

I believe in this bill. I intend to vote for this bill, and I urge all of my colleagues to vote for this bill.

This bill will not get at the core of the problem. I hope it is a good first step towards the core of the problem, but it will not get at the core of the problem. The core of the problem, Mr. President, is this, as more and more regulators themselves are discovering: It has to do with the cultural attitude of a regulatory agency.

I ran a business. I know how important culture is to a business. The most important culture you can establish in a business is this one: The customer comes first. We exist to serve the customer. Whatever the customer asks for, whatever the customer needs, we will do everything we can to provide it. If you can get that culture in the minds of your employees and maintain it by the way you run your business, you are almost certain to have a successful business. In a regulatory agency, the culture is: The customer is lying; or, The customer is cheating; or, The customer must have done something wrong or I would not be here in this agency.

I have never dealt with a regulatory agency who came in with the notion: ''I am going to conduct an investigation, and I accept as one of the possibilities the possibility that you have not done anything wrong.'' No, that is not in the regulatory culture.

If we could get that notion in the culture of regulatory agencies, that alone would take care of most of these horror stories, if the person doing the regulating were to say, ''OK, somebody is complaining. Someone has suggested there is something wrong here. But I am here to find out the facts. That is the culture of my regulatory agency, and I come in with the understanding that you may not have done anything wrong. I am here to find out the facts.''

I do not know how we pass legislation to change culture in an agency. I do not know how we accomplish this goal. But I do know that we do not get the goal accomplished if we do not start talking about it.

So that is why I have decided to add to this horror story that particular conversation. I intend, Mr. President, whenever a regulatory agency comes before any subcommittee on the Appropriations Committee on which I sit to raise this issue with them. What is the culture in your agency? Is it a culture of let us go find the facts, or is it a culture of if I am here, there must be something wrong?

Indeed, some agencies are afraid to come back from an investigation and say, ''There was nothing wrong,'' for fear the culture in the management of the agency will say, ''Well, if you could not find anything wrong with that circumstance, there must be something wrong with you as an investigator. Now go back and find something that you can fine them for. Find something you can attack them for.''

In that kind of a culture, of course, you get the sense of us versus them that seems to dominate the regulatory field in this country.

So, Mr. President, as I say, I intend to vote for this bill. I urge all of my colleagues to vote for this bill. I raise horror stories like the one that I have recited, but I think the long-term solution with which all of us must be concerned must be geared at changing the corporate culture, if you will, in regulatory agencies and getting people who are working for the Government to begin to understand that taxpayers must be treated like customers. There must be a presumption that the taxpayer, that the individual citizen, that the person being investigated may just be completely innocent of any wrongdoing. That possibility must be clearly in the minds of regulators when they go out. They must not be punished if they find that that is, indeed, the case. If they come back and say, ''We have conducted this investigation, and this company, this individual, we discovered has done nothing wrong,'' there must be no cultural opprobrium attached to that result on the part of the management of the regulatory agency. That is the most ephemeral kind of change, the most subtle kind of change, the one most difficult to accomplish but ultimately the one that must take place.

Mr. President, S. 343 will not accomplish that. We need a lot more conversation and a lot more change of attitudes throughout the entire Federal establishment to accomplish that. But S. 343 will at least send a message throughout the Federal establishment that we here in the Congress are aware of the need for those kinds of changes and we are willing to pass legislation that will move in that direction. It is for that reason I support the legislation and urge its passage.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. INHOFE. I have two announcements. First, I announce that, if I had been present and voting yesterday on rollcall vote No. 297 to this bill, I would have voted ''yea.'' Second, if present and voting on vote No. 298, I would have voted ''yea.''

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. INHOFE. Mr. President, what we have been talking about today is a very significant thing. It is something that we are concerned about to the extent that those of us who ran for reelection last time can tell you that this is on the minds of the American people, not just large and small businesses but individuals as well. This issue is probably the most critical issue to come before the Congress in the minds of the American public. It will redesign the regulatory process of the Federal Government.

One of the distinctions, for those of us who have served in both bodies, that is most noticeable is that over here on this side you only run every 6 years. The drawback to that is you sometimes lose contact with what people are thinking. For those of us who went through an election, Mr. President, this last time, I can assure you there are two mandates that went with that election which have to be ranked No. 1 and No. 2, and I am not sure in which order they would be.

One, of course, is doing something about the deficit, and the other is doing something about the abusive bureaucracy and the overregulation that we find in our lives. I have had this fortified since the election in that I have had 77 townhall meetings since January, and it always comes up.

The Senator from Utah was talking about the horror stories. Let me assure you there are a lot of horror stories. We have heard a lot today, and we will have heard a lot more. But I have categorized about six things that have come out of these townhall meetings which were prominent in the minds of Americans during the last elections.

They are: First, the American public wants a smaller Federal Government. Second, the public demands fewer Government regulations. Third, people

want regulations that are cost effective. Fourth, they want Federal bureaucracies to quit invading their lives. Fifth, small businesses need regulatory relief to survive and create jobs. Sixth, people want the Government to use common sense in developing new regulations.

When debating and discussing this issue, most people focus on the direct cost of regulations on businesses and on the general public, which is enormous. Over $6,000 is the cost each year for each American family because of the cost of regulation. For each senseless and burdensome regulation, we have Government bureaucracies and agencies proposing, writing, enacting, and enforcing these needless regulations, and this actually drives up the national debt.

This is something that has not been discussed, and I wish to give credit to a professor from Clemson University, Prof. Bruce Yandle, who made quite a discovery. He discovered that there is a direct relationship between the deficit each year and the number of regulations.

Our Federal Register is the document in which we find the listing of the regulations. The discovery that Professor Yandle made is portrayed on this chart. This is kind of interesting because the red line designates the number of pages in the Federal Register. In other words, we are talking about the red line which goes up like this. And this out here is the peak of the Carter administration when we were trying to get as many regulations on the books before they changed guard after Ronald Reagan was the designee for President of the United States.

Now, the yellow columns here designate in billions of dollars the Federal deficit for that given year. Now, look at this; it is really remarkable. You have this line that is trailing this line going across almost exactly at the same rate. In other words, in those years when we have a higher Federal deficit, we also have more pages of regulations.

And so I would contend to you that the best way we can address the deficit problem is to do something about the overregulation, do something to cut down the number of regulations in our society.

The bill under consideration today, the Comprehensive Regulatory Reform Act of 1995, will go a long way to meeting the concerns of the American public on needless and burdensome Federal regulations. And, as the Senator from Utah said, I would like to have this bill stronger. I think it should be stronger. But this is a compromise bill. This is one that many people on the other side of the aisle who really do not feel we are overburdened with regulation think is probably a good compromise. I would prefer to have it stronger, but it is a compromise, and it is the best we could hope for now.

I would like to outline a few of the key components of the bill, because I think we have kind of lost track of what it actually does, and then give some examples of the types of regulations that we are exposed to. As the Senator from Utah, I spent 35 years of my life in the private sector so I have been on the receiving end of these regulations. I know the costs of these regulations.

An economist the other day said, with all this talk about Japan, if you want to be competitive with Japan, export our regulations to Japan and we will be competitive.

One section of the bill is cost-benefit analysis. The bill will require the use of cost-benefit analysis for major rules, those which have gross annual effects on the economy of $50 million or more, requiring that the benefits of the rule justify the costs of the rule.

This is not the more stringent language we talked about at one time back in January of the benefits outweighing the costs, which I would prefer, but a much more neutral compromise. This is a commonsense approach to costs and benefits. If you are going to buy something for yourself at the store, you do not want to pay more than the benefits you receive from it. It is like buying a 32 cent stamp for 50 cents. You just do not do it. It is like throwing away your laptop computer at the end of each day. Smart shoppers want their money's worth, and I think the American public is entitled to get their money's worth by having some way to measure the value of these regulations.

The second area that is addressed is risk assessment. The bill would require a standardized risk assessment process for all rules which protect human health, safety, or the environment. It will require ''rational and informed risk management decisions and informed public input into the process of making agency decisions.'' I do not see how anyone can be against making informed decisions.

This section will require the ''best reasonably available scientific data'' to be used and the risk involved to be characterized in a descriptive manner, and the final risk assessment will be reviewed by a panel of peers.

These are not outrageous requirements but basic justifications which should be met by the Government before it imposes costly regulations on businesses costing them millions of dollars and on American families costing them thousands of dollars.

The third area is that of the regulatory review and petition process. The bill will require each agency to review its regulations every 5 years to determine if the rule is still necessary. You know, there are a lot of agencies that are not necessary.

I can remember a very famous speech that was made one time by a man back in 1965 who later on became President of the United States. He observed in that speech, which I think should be in the textbooks of Americans today— it was called A Rendezvous With Destiny—he said there is nothing closer to immortality on the face of the Earth than a government agency. That is the way it is with regulations. They impose the regulations. Maybe the problem goes away or someone takes away that problem, but the regulations stay in. So this would require that every 5 years they look and review to see if they are still needed. If the agency decides not to rewrite a particular regulation, then members of the regulated community—those are the people that are paying taxes for all this fun we are having up here—can petition the agency to have the rule reconsidered.

Now, this will allow the public to draw attention to the needless regulations that help put government back in the hands of the American people. Nothing unreasonable about that at all.

Then the fourth area is that of judicial review. The bill will also allow for judicial review of these new regulatory requirements. This is important because the regulated community must have some redress for poorly designed or arbitrary regulations. It is no good to require regulatory agencies to change their process if there is no one watching over to make sure that they comply with this.

I realize President Clinton and his regulatory agency heads are dead set against the provision. They did not mind that they look over everybody else's shoulders enforcing the regulatory nightmares on private citizens and the companies that are paying for all these taxes, but they do not want the judicial process to oversee them. So overall the bill will go a long way toward preventing needless and overly burdensome regulations from taking effect.

Unfortunately, there are many examples of existing regulations which have not followed this new process to help stop stupid regulation from being enacted. I would like to just highlight a couple of these, one having to do with the wetlands regulations.

The EPA and the Army Corps of Engineers have promulgated regulations which broadly define the definition of what constitutes a wetland. Under the 1989 definition, land could be dry for 350 days a year and still be classified as wetlands. And to add to some of the examples that have been made here on the floor today:

Mr. Wayne Hage, a Nevada rancher, hired someone to clear scrub brush from irrigation ditches along his property and faces up to a 5-year sentence under the Clean Water Act because it redirected streams.

Another example: Mr. John Pozsgai, a 60-year-old truck mechanic in Philadelphia, filled in an old dump on his property that contained abandoned tires, rusty cars, and had to serve nearly 2 years in jail because he did not get a wetlands permit.

James and Mary Mills of Broad Channel, NY, were fined $30,000 for building a deck on their house which cast a shadow on a wetland.

Endangered species. The Endangered Species Act has infringed upon the property rights of property owners all over the country. When 14-year-old Eagle Scout Robert Graham was lost for 2 days in the New Mexico Santa Fe National Forest, the Forest Service denied a rescue helicopter to land and pick up the Scout where he was spotted from the air because it was a wilderness area.

Mr. Michael Rowe of California wanted to use his land to build on, but it was located in a known habitat of the Kangaroo rat. In order to build, he was told—keep in mind this is his land that he owns—he was told to hire a biologist for $5,000 to survey the land. If no rats were found, he could then build only if he paid the Government $1,950 an acre in development mitigation fees. If even one rat was found, he could not build at all. This is his property, property he bought long before this thing was in effect.

Here we have the Constitution with the 5th amendment and the 14th amendment that are supposed to protect property rights without due process.

Here is Marj and Roger Krueger who spent $53,000 on a lot for their dreamhouse in the Texas hill country. But they could not build on the land because the golden-cheeked warbler had been found in the canyon adjacent to their lands.

And OSHA regulations. I remember when OSHA regulations first came out. At that time I was in business. Of course, I was a part-time legislator in the State of Oklahoma. I was in the State Senate. I used to make speeches and take the manual that is about that thick, the OSHA Manual of Regulations to which all manufacturers had to comply, and I would speak to manufacturers' organizations. And I said, ''I can close anybody in the room down.'' I would be challenged. ''No. We run a good clean shop. You cannot close us.'' I would find regulations that if you were the type of inspector that would walk in, if you wanted to, you could close someone down.

You know, Mr. President, this is one of the problems we have. Years ago I was mayor of the city of Tulsa. We had about 5,000 uniformed police officers. Most of them were great. Now, you have someone who cannot handle the authority that is vested in them by law. The same is true when you get out in the field. It can happen in any bureaucracy, whether it is the EPA, the OSHA regulators, inspectors, or FAA, anyone else, certainly IRS and FDA, and the rest of them.

Anyway, the Occupational Safety and Health Administration is supposed to protect safety and health for workers. But too often the regulators at OSHA have gone overboard, costing jobs and imposing fines.

For example, OSHA regulations have put the tooth fairy out of business, requiring dentists to dispose of teeth in the same manner as human tissue in a closed container for disposal.

In Florida, the owner of a three-person silk-screening company was fined by OSHA for not having a hazardous communications program for his two employees.

Two employees of DeBest, Inc., a plumbing company in Idaho, jumped into the trench to save the life of a coworker who had been buried alive. The company was fined $7,875 because the two workers were not wearing the proper head gear when they jumped into the trench.

Mr. President, I could just go on and on as they have today with example after example of abuses that have taken place. And they are abusing the very people who are paying the taxes.

Last, let me reemphasize, this chart speaks for itself because there is a direct relationship between the deficits that we have experienced every year and the number of pages in the Federal Register which indicates the number of regulations that are in effect.

I thank the President for his time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of S. 343, and appreciate the comments of my friend from Oklahoma who talked a lot about the details that are very important here, the reason for this bill. We have talked about it now for a good long time, as almost is always the case here. Nearly everything has been said, I suppose, in terms of the detail, in terms of the bill. But I would like to talk just a little bit about the fact that it is so important for us to deal with this question of regulation, overregulation.

Clearly, at least in my constituency in Wyoming, the notion of regulation and the overregulation, and the cost of regulation and the interference of regulation, is the item most often mentioned by constituents that I talk to. There is no question, of course, that we need regulation. There will continue to be regulation. And, indeed, there should be regulation. Obviously that is one of the functions of government.

The question is not whether we have regulation or not. And I wish to comment a little, one of our associates this afternoon rose and indicated that in his view the idea of having some kind of cost-benefit analysis meant that we would no longer have clean water, that we would no longer have clean air. I disagree with that thoroughly.

I do not even think that is the issue. The issue of regulation, the issue of laws, the issue of having a clean environment, a safe workplace is not the issue. Too often we get off on that notion that somehow this bill will do away with regulation. Not so at all. We had an amendment today that said it would be a supplement to the laws and the statutes that exist and the regulations that exist.

It is designed to work in process. It deals with the process of the things that are taken into account as the regulations are developed and as the regulations are applied. So the notion that somehow the good things that have come about as a result of regulation—and, indeed, there have been and our friend cited the idea that we have a cleaner environment in many areas, that we have better water than we have had in years. That is true. That is not the issue. We are not talking about doing away with those regulations.

So I think, Mr. President, we really ought to examine what we are doing here, and the fact is we are looking for a way to apply regulations with more common sense. We are looking for a way to apply regulations with less cost. We are looking for a way to accomplish what regulations are designed to accomplish more efficiently. That is what it is all about.

I understand that there are different views. I understand that there are those who do not choose to take issues like cost-benefit ratios into account. There are those, of course, as has been the case in almost all the issues we have undertaken this year, who prefer the status quo.

But I suggest to you, if there was anything that was loudly spoken in November of 1994 it was that the Federal Government is too big, it costs too much, and there is too much regulation in our lives, intrusive in our lives, that it has to do with economy, it has to do with cost.

We already mentioned cost. Some say it ranges from $400 billion a year, more than all of the personal income tax combined, and I believe that is the case.

But we need to concentrate on what we are seeking to do, and we are seeking to make regulation a more efficient, a more useful tool.

There is a notion from time to time that those who seek the status quo are more compassionate, are more caring than those who want change. I suggest that is not the slightest bit in keeping with the flavor of this bill; that, indeed, we are seeking to find a way to do it better.

So, Mr. President, the 1994 elections were about change. The American people, I think, are demanding a change, demanding a regulatory system that works for us as citizens and not against us. I think there is a message that the status quo is not good enough.

For the first time in many years, frankly, the first time in years I observed Congress, certainly in the 6 years I was in the House, we have not really taken a look at the programs that are there. If programs seemed not to be effective, if they were not accomplishing much, what did we do? We put more money into it or increased the bureaucracy. We did not really take a look at ways to improve the outcome, to improve the effect to see if, indeed, there is a better way to do it. So we need meaningful and enforceable regulatory reform.

There has been a great deal of misinformation about this bill, some of it on

purpose, some of it just as a matter of not fully understanding. Most of it you see on TV and talk shows, that it does not have the regulatory protection. Not true, not true. Clean water, clean air, and safe food are not negotiable. That is not the issue. This bill specifically exempts potential emergency situations from cost-benefit, and it will strengthen sound regulations by allocating the resources more wisely.

I cannot imagine anything that makes more sense, that makes more common sense than as a regulation is developed that you take a look at what you are seeking to do, how you do it, what it will cost, and what the benefits will be and seek the alternatives that are there. That is what it is all about.

It also provides an opportunity for this body, for the Congress to take a look at regulations as they are prepared by the agencies. We did this in our Wyoming Legislature. It was a routine: The statutes were passed, the agencies developed regulations to carry them out, and there was an oversight function before those regulations were put into place to see if, indeed, they carried out the spirit of the statute, to see if, indeed, they were doing what they were designed to do. Unfortunately, there, too, we did not have a real analysis of the cost-benefit ratio, and I think that is terribly important.

So we talk about compassion, and sometimes those who want to leave things as they are accuse those who want change of not caring. It seems to me that when overregulation puts someone out of work, that is not very compassionate. When we put a lid on the growth of the economy, that is not very compassionate. When we take people's property without proper remuneration, that is not very compassionate.

So we are designed here to do some of those things. It seems to me we have particular interest in the West where 50 percent of our State, for example, is managed and owned by the Federal Government. So we find ourselves in nearly everything we do, whether it be recreation, whether it be grazing, whether it be mining and oil, with a great deal of regulation that comes with Federal ownership.

Much of it is not simply oriented in business. We talked a lot about business because I suppose, on balance, they are the largest recipients of overregulation. Let me tell you, the small towns are also very much affected. We had several instances recently in the town of Buffalo, WY, where they are seeking to develop a water system, in one instance, on forest lands. So they have to deal with the Forest Service to begin with, and then they have to deal with the EPA, and then they have to deal with the Corps of Engineers and finally are turned down entirely and have to start over—millions of dollars of costs to a small town.

It has nothing to do with whether they are going to have a clean water supply. It has to do with whether or not there can be a cost-benefit ratio of what is going on, whether there is a risk assessment, and that is what this is designed to do.

So, Mr. President, our effort here, I think, is a laudable one. I am excited about it. I think we can finally do some things that have needed to be done for a very long time and, I think, do them in a sensible way and preserve the reason for regulation, preserve the environment, preserve the water quality, and do it in a way that is more effective, more cost-effective, more user friendly than in the past.

I rise in strong support of this bill and, frankly, hope we can move to a speedy, successful conclusion.

Mrs. BOXER. Mr. President, one of the primary functions of government is to protect the public's health and safety. The purpose of the Federal regulatory process is to improve and protect the high quality of life that we enjoy in our country. Every day, the people of our Nation enjoy the benefits of almost a century of progress in Federal laws and regulations that reduce the threat of illness, injury, and death from consumer products, workplace hazards, and environmental toxins.

As the year 2000 approaches, Americans can look back with immense pride in the progress we have achieved in protections of our health and safety.

The economic benefits derived from Federal safeguards such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA], the Food, Drug and Cosmetic Act, and the National Highway and Traffic Safety Act, are incalculable.

The National Highway and Traffic Safety Administration and the Federal Highway Administration estimate that Federal safety rules have resulted in a net gain to the economy of $412 billion between 1966 and 1990. According to the Department of Labor, workerplace safety regulations have saved at least 140,000 lives since 1970. The Consumer Product Safety Commission estimates that standards in four product categories alone save at least $2.5 billion a year in emergency room visits.

While I recognize the tremendous benefits and value of our health and safety laws, I also recognize many instances where Federal agencies have ignored the costs of regulation on businesses, State and local governments, and individuals, who as a result feel that they are being put upon—and rightly so.

This is why we need regulatory reform.

WE NEED REGULATORY REFORM

Mr. President, I firmly believe we need regulatory reform. I believe that all Senators on both sides of the aisle feel very strongly about the need for regulatory reform. Not one of us in the Senate wants the status quo. Regulatory reform is not a partisan issue. At issue this week will be what kind of reform we achieve. We need regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. We need regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State and local governments, and individuals. We need regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

Mr. President, I am committed to the goal of purging regulations that have outlined their usefulness, that are unnecessarily burdensome, or that create needless redtape and bureaucracy.

I believe that Federal agencies should issue only those rules that will protect or improve the well-being of the American people and I am committed to regulatory reform that will ensure this.

For these reasons I am an original cosponsor of the Glenn-Chaffee bill S. 1001, the Regulatory Procedures Reform Act of 1995.

EXAMPLES OF THE KIND OF REGULATORY REFORM WE NEED

Last year, I pushed a bill through the Senate to allow the city of San Diego to apply for a waiver from certain Clean Water Act regulations.

Scientists at the National Academy of Sciences and the Scripps Institute of Oceanography informed us that the regulations mandating that the city treat its sewage to full secondary level were unnecessary to protect the city's coastal waters.

Compliance with those regulations, put in place to protect inland lakes, rivers, and streams, would do little to protect the marine environment but would cost San Diego over $1 billion.

My bill allowed the city to seek a waiver which is not available under current law, giving San Diego the flexibility it needs to protect the marine environment and to focus its resources on other environmental priorities.

The Environment and Public Works Committee, of which I am a member, is currently working on the reauthorization of the Safe Drinking Water Act, the Clean Water Act, other environmental statutes and we are very aware that we need to be mindful of situations like San Diego's—situations where a regulation that makes sense in one place makes little or no sense in another.

For example, under the current Safe Drinking Water Act, EPA may have to issue a rule on radon in drinking water. Radon is a known carcinogen and should be regulated. But in the case of a city like Fresno, CA, the costs of compliance with such a regulation could be staggering. Unlike many cities which have a single drinking water treatment plant, Fresno relies on water from over 200 wells, each of which would require its own Radon treatment facility.

Meeting the EPA's proposed Radon rule could cost the city of Fresno several times what it would cost other

cities—over $300 million, an amount the city tells me is simply not available. We will therefore work to come up with a solution that protects public health, but doesn't drive cities like Fresno to bankruptcy.

Mr. President, it is our job to fix these problems, to make changes to eliminate the unintended consequences of good laws. The best way to avoid unnecessary, costly and burdensome regulations is to ensure that the agency analysis of the proposed regulation is based on sound science and reasonable policy assumptions. An agency must consider the costs and the benefits of a regulation, and the possibility for alternative regulatory solutions or no regulation at all.

With this in mind, President Clinton issued Executive order 12866 in September 1993. The Executive order emphasizes that while regulation plays an important role in protecting the health safety and environment of the American people, the Federal Government has a basic responsibility to govern wisely and carefully, regulating only when necessary and only in the most cost effective manner.

Can risk assessment and cost-benefit analysis be useful tools to make our regulations more efficient and less burdensome? Yes, and under President Clinton's September 1993 Executive order on regulatory planning and review, the Federal Government is using these tools appropriately and responsibly. Unlike the Dole bill, the President's Executive order does not mistake a sometimes useful tool for the whole tool-box.

As former Senator Robert Stafford—the chairman of the Environment and Public Works Committee when Republicans controlled the Senate in the 1980's—put it:

> We did not abolish slavery after a cost-benefit analysis, nor prohibit child labor after a risk assessment. We did those things because money was only one way of expressing value—and sometimes it is the least important.

When money becomes the only measure of value—as it would under the Dole bill—we are in danger of losing the things in life that really matter. You can't put a price on saving lives, preventing birth defects, avoiding learning disabilities, preserving national parks or saving the ozone layer. Under the Dole-Johnston bill, the ability of our laws to protect public health and safety would depend upon a bureaucrat's estimate of the dollar value of a child's learning disability, the pain of cancer, or the loss of a life in an aircraft accident.

Mr. President, ultimately our responsibility as legislators is to improve the lives of all the American people, not just the bottom line of the corporations.

THE DOLE BILL IS NOT A RESPONSIBLE REGULATORY REFORM BILL

Republicans know they can't risk the potential political consequences of an open attack on our environmental health and safety laws. One of their own pollsters, Luntz Research and Strategic Services, recently completed a poll on regulatory reform that asked: Which should be Congress' higher priority: cut regulations or do more to protect the environment? Twenty-nine percent said cut regulations. Sixty-two percent said protect the environment. The pollster goes on to comment:

> This question is here as a warning . . . The public may not like or admire regulations, may not think more are necessary, but puts environmental protection as a higher priority than cutting regulations.

They have come up with an ideal back-door solution: This week we will spend many hours debating the proposal forwarded to the Senate by the majority leader Senator DOLE, that will, in the name of regulatory reform, seriously undermine existing health, safety and environmental laws and seriously weaken our ability to respond to current and future health, safety and environmental problems. Supporters of the Dole-Johnston bill are clearly not listening to the American people.

Unfortunately Mr. President, the Republican proposal before us today is unashamedly aimed at our public health and safety and environmental laws in the name of special interests.

It is a direct attack by the Republican majority on the laws and regulations that protect America's natural resources including those we take most for granted—laws that protect our clean air and water and safe drinking water. It is a direct attack on the laws and regulations that protect the health and safety of the food and the medicines we buy every day, the toys we give to our children, the cars we drive, the places where we work.

Supporters of Dole-Johnston will claim again and again over the course of this week, that it is only aimed at stopping regulatory excesses and at making the Federal Government justify the costs of the regulations it imposes. They will say that the Dole-Johnston bill is aimed at restoring common sense to the regulatory process. All this bill does, they will say, is make the Government responsible by making agencies consider the costs as well as the benefits of regulations. To be opposed to this bill they will say is to defend inefficient, irrational agency decisions.

Mr. President, the Dole-Johnston bill is not regulatory reform in the name of efficiency and good government, it is regulatory gridlock in the name of special interests and corporate polluters.

Republicans insist this bill is revolutionary regulatory reform. The title of the Dole/Johnston bill is the Regulatory Reform Act of 1995. I think we should rename it for what it is—the Lets Put Special Interest Profits Before Health and Safety Act, or The Regulatory Gridlock Act, or The Polluters Protection Act, or The Special Interest Litigation Act.

I support regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. I support regulatory reform that provides reasonable, logical and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, state and local governments and individuals. I support regulatory reform that maintains our federal government's ability to protect the health and safety of the American people.

Unfortunately, the Dole/Johnston bill does not achieve these goals.

The Dole/Johnston bill's definition of major rule to mean a rule—or a group of closely related rules—that is likely to have a gross annual effect on the economy of $50 million or more in reasonably qualitifiable direct or indirect costs will greatly increase the burden of our agencies. Just about any rule can be made out to have a $50 million gross effect on the economy in reasonably qualitifiable—direct and indirect—increased costs. I seriously question whether the enormous number of regulations that could be swept in under this standard will benefit, and whether resources spent on the cost-benefit analysis will be well spent. Perhaps we should subject the provisions of the Dole bill to a cost benefit analysis.

With its petition process and look back provisions, the Dole bill will allow any well financed bad actor to paralyze an agency by flooding it with petitions. This would prevent the agency from spending resources on developing new rules, and from reviewing old rules—forcing a stay on enforcement and the eventual sunset of rules.

Its provisions on so called supplemental decision criteria create a supermandate. Supporters of Dole/Johnston deny this claim. They insist that the intent is not to supersede but to supplement the decisional criteria in other statutes. However, the bill clearly overrides other statutes including our health, safety and environmental laws because the supplementary standards would still have to be met. The Dole bill goes well beyond sensible reform by establishing a goal that is absolutely at odds with our responsibility to improve the well-being of all the American people. It says that we should protect only those values that can be measured in dollars and cents—it is a corporate bean-counter's dream. Forget about saving lives, forget about getting poison out of our air and water, forget about preventing birth defects, infertility and cancer—if it you can't put a price tag on it, it doesn't count.

Its provisions on the toxic release inventory will significantly undermine a community's right to know who is polluting and what kind of toxics are being released into the air. TRI is an effective cost-saving tool: Public scrutiny as a result of the information released under the 1986 Emergency Planning and Community Right to Know

Act has often prompted industry to lower pollution levels without the need for new Government regulations.

All in all, Mr. President, the Dole/Johnston bill is a prescription for no Government protection. It does exactly the opposite of what's advertised.

Another key aspect of the Dole/Johnston bill is how it will affect our ability to respond quickly to public health, safety and the environment.

The Dole bill will further delay the rulemaking procedures of the agencies of the Department of Transportation, particularly their ability to respond promptly with new safety requirements.

Many of the safety rules, particularly at FAA, already take too long. As the FAA clearly knows, I have been concerned about air cabin safety since a 1991 crash at Los Angeles airport when 21 passengers died in a fire while trying to exit the aircraft. We urged the FAA to require that the seat rows at the overwing exist be widened. The agency had known since a 1985 crash in England that this was a problem, but it was not until 1992, 7 years after the crash in England and nearly a year and a half following the Los Angeles tragedy did the agency issue a final rule.

If these bills had been in law then, I would not be surprised to still be waiting for the completion of the risk assessment and cost benefit analysis for this rulemaking. And the families of 21 passengers who died in the Los Angeles crash would still be waiting to know if any good had come out of their tragedy.

Mr. President, we currently have critically important regulations on e-coli, cryptosporidium and mammograms that will grant the American people much needed health and safety protection. The Dole/Johnston bill would delay and possibly prevent the issuance of these regulations.

As the bill now stands, only those rules which represent an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources would be exempt from the new requirements.

There is no definition of the terms significant or likely in the bill, making it unclear whether existing environmental and health regulations qualify for an exemption.

The Dole/Johnston bill has an exemption for health and safety regulations that protect the public from significant harm, but it does not define the term significant.

If one child dies as a result of eating contaminated meat, does that pose a significant harm to the public? It's certainly significant to the child's parents and to others who ate at the same restaurant or bought meat at the same grocery store.

If a person with a weakened immune system—for example a cancer patient, an organ transplant recipient, an individual born with genetic immune deficiencies, or a person infected with HIV becomes ill and dies from drinking water infected with cryptosporidium. Will the Dole bill let our agencies determine that cryptosporidium poses a significant harm, to the public? What if 104 die as they did in 1993 in Milwaukee?

If a woman has her mammogram read by someone who is poorly trained in mammography, is it of significant harm to the public? It's certainly significant to the woman if that person fails to detect a cancerous lump and to other women who have mammograms at that facility.

E-COLI

According to the Centers for Disease Control, E-coli in food makes 20,000 people severely ill every year and causes 500 deaths; that's more than one death every day. Young children and the elderly are particularly vulnerable. There is clearly an urgent need for additional protection.

In January 1995, the U.S. Department of Agriculture proposed a new rule that will modernize our food safety inspection system for the first time since 1906 by requiring the use of scientific testing to directly target and reduce harmful bacteria.

Currently, meat inspectors do just as they did in 1906 to check for bad meat—they poke and sniff. No scientific sampling is required. Handling meat safely once we purchase it is not enough.

The proposed regulation would require keeping meat refrigerated at more steps during its processing, better procedures to prevent fecal contamination, and testing to be sure that pathogens like e-coli are controlled.

What are the estimated benefits of this legislation? The preliminary impact analysis by the USDA concluded that health benefits to the public would total $1 billion to $3.7 billion. The estimated cost of implementation of the regulation would be $250 million per year for the first 3 years. I am aware of the concerns of small business about the potential impact of this regulation and I would urge the USDA to do everything possible to mitigate the potential impact as effectively as possible rather than delay the rule.

The USDA held 11 public meetings, two 3-day conferences and received detailed comments from the National Advisory Group for Microbiological Criteria in Food.

The Dole/Johnston bill would among other things require a new peer review process which would cause a 6 month delay. Add to this that fact that the Dole/Johnston peer review panel would not exclude individuals who have a conflict of interest.

CRYPTOSPORIDIUM—SAFE DRINKING WATER

We have to ensure that one of the most fundamental needs of any society—safe drinking water—is available to all Americans.

Public health continues to be threatened by contaminated drinking water. Under the current law that is being criticized as overly costly and burdensome—a law approved by a Republican controlled EPW Committee, passed by a vote of 94–0 on the Senate floor and signed into law by President Ronald Reagan—people all across America have been getting sick and even dying from drinking tap water.

In 1987, 13,000 people became ill in Carrollton, GA as a result of bacterial contamination in their drinking water. In 1990, 243 people became ill and 4 died as a result of E-coli bacteria in the drinking water in Cabool, MO. In 1992, 15,000 people were sickened by contaminated drinking water in Jackson County, OR. And a year ago, 400,000 people in Milwaukee became ill and 104 died as a result of drinking the water from their taps which was infected with cryptosporidium.

A recent study completed by the Natural Resources Defense Council ''You Are What You Drink'' found that from a sampling of fewer than 100 utilities that responded to their inquiries, over 45 million Americans drank water supplied by systems that found the unregulated contaminant Cryptosporidium in their raw or treated water.

The solution? According to a Wall Street Journal article by Tim Ferguson on June 27th titled ''Drinking-Water Option Comes in a Bottle'', the solution is for the American people to drink bottled water. He says:

> Sellers (of bottled water) * * * have taken water quality to a new level in a far more efficient manner than a Washington bureaucracy is likely to do. Let us unscrew our bottle caps and drink to the refreshment of choice.

On June 15th, 1995, two federal agencies, the Environmental Protection Agency and the Centers for Disease Control and Prevention [CDC] warned that drinking tap water could be fatal to Americans with weakened immune systems and suggested that they take the precaution of boiling water before consuming it.

Dennis Juranek, associate director of the division of parasitic diseases at the Centers for Disease Control and Prevention said: ''We don't know if the level of (cryptosporidium) in the water poses a public health threat, but we cannot rule out that there will be low level transmission of the bacteria'' to people who consume the water directly from the tap.

The CDC estimates that up to 6 million Americans could be affected because they have weakened immune systems: 3 to 5 million cancer patients, organ transplant recipients and individuals born with genetic immune deficiencies, and 1 million persons infected with HIV.

EPA is working on new regulations called the Enhanced Surface Water Treatment Rule to better protect the public's drinking water against cryptosporidium.

The Dole/Johnston bill would delay and possible prevent the issuance of the Enhanced Surface Water Treatment rule—it would restrict risk assessment to consideration of a best estimate of risk, defined as the average

impacts on the population. It would ignore the potential health effects of drinking water contaminants upon children, infants, pregnant women, the elderly, chronically ill people, and other persons who have particularly high susceptibility to drinking water contaminants.

According to the EPA, the Dole bill could preclude the timely data-gathering necessary to support the new proposed regulation. It could force EPA into a catch-22, in which data gathering cannot proceed without a cost-benefit analysis that in the Dole bill requires up-front, the very data the EPA would need to collect. Even if the EPA was allowed to proceed with data collection, the Dole bill's elaborate, inflexible, time consuming risk assessment and cost-benefit analysis procedures would further hamper the EPA from taking effective and timely action with which the regulated community concurs, through negotiated rulemaking, to address the emergent threats of newly recognized waterborne diseases.

MAMMOGRAPHY REGULATIONS

The Mammography Quality Standards Act [MQSA] is an example of a good and necessary regulation which would be seriously delayed and undermined by the Dole bill.

MQSA establishes national quality standards for mammography facilities, including the quality of films produced, training for clinic personnel, record-keeping and equipment.

The law was passed to address a wide range of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, false representation of accreditation, and the lack of inspections or governmental oversight.

One in nine women are at risk of being diagnosed with breast cancer in her lifetime. Breast cancer is the most common form of cancer in American women and the leading killer of women between the ages of 35 and 52. In 1995, an estimated 182,000 new cases of breast cancer will be diagnosed, and 46,000 women will die of the disease. Breast self-examination and mammography are the only tools women have to detect breast cancer early, when it can be treated with the least disfigurement and when chances for survival are highest.

The quality of a mammogram can mean the difference between life or death. If the procedure is done incorrectly, and a bad picture is taken, then a radiologist reading the x-ray may miss seeing potentially cancerous lumps. Conversely, a bad picture can show lumps where none exist and a women will have to undergo the trauma of being told she may have cancer—a situation known as a false positive.

To get a good quality mammogram you need the right film and the proper equipment. To protect women undergoing the procedure, you also need the correct radiation dose.

In 1992, Congress passed the Mammography Quality Standards Act in order to establish national quality standards for mammography facilities. At the time, both the GAO and the American College of Radiology testified before Congress that the former patchwork of Federal, State, and private standards were inadequate to protect women.

There were a number of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, a lack of regular inspections, and facilities which told women they were accredited when in fact they were not.

The Mammography Quality Standards Act was passed to address these serious problems. Women's health and lives are at stake with this procedure. Quality standards are needed to ensure that they are getting the best care possible. Final regulations for the Mammography Quality Standards Act are expected in October. If the Dole bill passes, such regulations could be delayed for years. Women would see their health care diminished. Ten years ago a survey by the Food and Drug Administration found that over one-third of the x-ray machines used for mammography produced substandard results. We cannot go back. It is time for national quality standards.

CONCLUSION

Mr. President, I would like to conclude my remarks by saying again that supporters of the Dole/Johnston bill are clearly not listening to the American people. The Dole/Johnston bill is a back door attack on our existing health, safety and environmental laws and will seriously weaken our ability to respond to current and future health, safety and environmental problems.

The American people want regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. The American people want regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State, and local governments and individuals. The American people want regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

In summary Mr. President, the American people want the passage of the Glenn/Chafee regulatory reform bill.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask there now be a period for routine morning business with Members permitted to speak for not more than 10 minutes each.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be allowed 12 minutes in morning business.

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

THE FALL OF SREBRENICA

Mr. BIDEN. Mr. President, I rise tonight to deplore the fall of the Bosnian City of Srebrenica.

Almost 2 years ago, when Srebrenica was under siege in the despicable policy of ethnic cleansing, instigated by President Milosevic of Serbia and executed by General Silajdzic and the leader of the Bosnian Serbs, Mr. Karadzic, I met with Mr. Milosevic to attempt to get into Srebrenica. I was unable to do that and went on up to Tuzla where hundreds, eventually thousands, of Bosnian Serbs and Croats were fleeing for their lives with all of their possessions on their back and their families in tow.

I met in Tuzla with a man and a woman in their early forties who told me they had to make a very difficult decision as they fled over the mountains into Tuzla from Srebrenica, because they could not get back in. And I was wondering what that terrible decision was they were about to tell me. They pointed out they had left to die on the mountain top in the snow the man's elderly mother who was 81. They had to choose between taking their kids or the mother-in-law, or the wife, who could make it, or no one making it.

The Bosnian Serb aggression and Serbian aggression—I know I sound like a broken record, I have been speaking about this for 2 years—seems to cause very little concern in this country and the world.

Mr. President, I think it is time for an immediate and fundamental change in our policy in the former Yugoslavia. Mr. President, the news this morning that the Bosnian Serbs have overrun, finally, Srebrenica, one of the United Nations' so-called safe areas, puts the final nail in the coffin of a bankrupt policy in the former Yugoslavia, begun by the Bush administration and continued with only minor adjustments by the Clinton administration.

Given the feckless performance of the United Nations in Bosnia, it is no surprise that the Bosnian Serbs continue to violate several United Nations resolutions, and do it with impunity, and then thumb their nose at the entire world and the peacekeeping force there.

In Srebrenica, the United Nations first disarmed the Bosnian Government military. I want to remind everybody of that. The Bosnian Government military was in Srebrenica, as in other safe areas, fighting the onslaught of Serbs with heavy artillery. The solution put forward by the United Nations, after having imposed an embargo on the