

blacks among the 2,000 agents in ATF, an arm of the Treasury Department.

Mr. LEVIN. Mr. President, again I commend Senator HATCH. I know he will find strong bipartisan support for this initiative he is taking. There is a bipartisan determination to go root out this kind of racism in America.

Again, I think he will find very strong support, both in the administration and in those agencies, to root it out, and, I am sure, on the part of both sides of the aisle.

Mr. HATCH. Mr. President, if I could just add one other thing. The Judiciary Committee is going to resolve that problem. But we are also working very hard on the Ruby Ridge situation and also the Waco situation. We are going to resolve those, too. But I want to do it with a full investigation and not halfcocked. I want to get into it and do what has to be done.

With regard to Waco, we also know the House is starting their hearings next week. They have asked us to defer our hearings until after theirs, in other words until September. We have agreed to do it, on Waco.

On Ruby Ridge we are looking at it very, very carefully. We intend to follow through on it. I know the Senators from Idaho have both talked to me many times about this, and I have assured them this is going to happen and it is going to be done thoroughly and it is going to be done well. I just want everybody to understand that aspect as well, but I do think we do need to do some more investigation.

On the ATF matter, or should I say the Tennessee matter that involves ATF, FBI and others, naturally we will not, by next Friday, have all of the investigation done. But next Friday is to make sure we have our top officials in Government come in and tell us what they are going to do about these racist activities and to chat with us on the Judiciary Committee about what we can do to help them.

I have to, preliminarily, tell you, I am very concerned. I think, currently, our leaders over at the ATF and FBI are as good as we can have. John Magaw and Louis Freeh, Judge Freeh, are excellent leaders. They both are jumping right on this. Both of them have done an awful lot to try to make sure there is no racism within their agencies, and Director Freeh in particular has been making sure that equal opportunity laws are abided by, outreach is being undertaken for African-Americans and other minorities to come into the FBI. And I commend him for it.

I commend him for it. He has been a breath of fresh air ever since he has been there. I feel sorry that he has had to inherit some of these problems. He has inherited Ruby Ridge, and some of the other problems. But nevertheless, I have confidence in him in helping to resolve these problems, and we are going to do everything we can to help him and the others to do the job, as well as our Secretary of the Treasury,

our Attorney General, and others to resolve some of these serious problems.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 1575 TO AMENDMENT NO. 1487

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 1575 to amendment No. 1487.

Mr. ROTH. 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:

Add a new section 637 to Subchapter III as follows:

SEC. 637. INTERAGENCY COORDINATION.

“(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy shall—

“(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

“(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

“(3) establish appropriate interagency mechanisms to promote—

“(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

“(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

“(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

“(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

“(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

Mr. ROTH. Mr. President, my amendment is to promote the use of risk assessment in a consistent manner across agencies because we believe it will clearly improve the intent of S. 343 and will further the bill's intent of improv-

ing risk assessment within the Federal Government.

It only makes sense to ensure that the conduct, application, and practice of risk assessment be done as uniformly as possible across agencies. A consistent approach will help to minimize unnecessary bureaucracy, overlap, and duplication, and will lead to a more efficient and effective process of performing risk assessment.

This amendment is pulled directly from the Glenn substitute, and shows our effort to continue this process in a truly bipartisan manner. This amendment would require the Director of OMB, in consultation with the Office of Science and Technology Policy to survey relevant agency risk assessment practices to determine the scope and adequacy of risk assessment practices used by the Federal Government.

The amendment also requires the establishment of interagency mechanisms to promote coordination among agencies' risk assessment practices, to promote the use of state-of-the-art risk assessment practices throughout the Federal Government, and establish mechanisms to communicate risk assessment practices between Federal and State agencies, as well as to promote Federal and State cooperation in the development and application of risk assessment.

In addition, the amendment requires national peer review panels every 3 years to review risk assessment practices across agencies for programs designed to protect human health, safety, and the environment.

This amendment will ensure that advances in science and technology are continuously incorporated in Federal risk assessment practices and ensure coordination of these practices among Federal and State agencies.

This amendment will, therefore, improve risk assessment practices in the Federal Government, and will result in a more effective and efficient risk assessment process—a process that is the foundation of effective health, safety, and environmental regulations.

Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER (Mr. KYL). Is there further debate on the amendment?

Mr. HATCH. Mr. President, we are prepared to accept the amendment on this side. We think it is a good amendment. I believe the other side is prepared to accept it.

Mr. LEVIN. Mr. President, we are not only prepared to accept the amendment but we are delighted that it is offered. It is language that actually comes from the Glenn-Chafee substitute. Needless to say, the more of that substitute that we can incorporate in the pending bill the happier we are. We are certainly pleased with this amendment.

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

The amendment (No. 1575) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1581 TO AMENDMENT NO. 1487

(Purpose: To reform regulatory procedures, and for other purposes)

Mr. LEVIN. Mr. President, I send to the desk now the so-called Glenn-Chafee substitute. This is on behalf of myself and Senators GLENN, CHAFEE, LIEBERMAN, COHEN, PRYOR, KERRY, LAUTENBERG, DASCHLE, BOXER, KOHL, SIMON, KENNEDY, DODD, MURRAY, AKAKA, JEFFORDS, BIDEN, DORGAN, BAUCUS, and KERREY, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. GLENN, for himself, Mr. CHAFEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. COHEN, Mr. PRYOR, Mr. KERRY, Mr. LAUTENBERG, Mr. DASCHLE, Mrs. BOXER, Mr. KOHL, Mr. SIMON, Mr. KENNEDY, Mr. DODD, Mrs. MURRAY, Mr. AKAKA, Mr. JEFFORDS, Mr. BIDEN, Mr. DORGAN, Mr. BAUCUS, and Mr. KERREY, proposes an amendment numbered 1581 to amendment numbered 1487.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LEVIN. Mr. President, we are going to begin the debate on this substitute today and then continue this on Monday.

This embodies a number of changes that are really significant from the bill that is before us. They are succinctly set forth in a statement of administration policy.

Mr. HATCH. Mr. President, will the Senator yield? I know the Senator is just beginning what really is a very important statement of his position and others on this bill. But could I ask a special favor of the Senator? Senator STEVENS is here. He just needs to speak for about 4 or 5 minutes. I would rather have him do that.

Mr. LEVIN. I understand Senator CHAFEE is on the way to the airport. If the two of them could work out an order, it would be great.

Mr. HATCH. Senator CHAFEE first, and then Senator STEVENS.

Mr. LEVIN. That is fine.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I want to thank the Senator from Alaska very much for permitting me to proceed, and indeed giving me his podium.

Mr. President, I am pleased to join with Senator GLENN and Senator LEVIN and a bipartisan group of cosponsors to put this alternative before the Senate.

First, I want to say something about the pedigree of this amendment we are proposing. It is the bill which was re-

ported unanimously by the Governmental Affairs Committee 15 to nothing. There are other regulatory reform bills before this body. One was reported from a committee on a straight party line vote, Republicans voting one way, the Democrats voting the other. Another was discharged by unanimous consent when the committee could not agree on a procedure for a markup.

In other words, there is tremendous dissension within the committee. But this amendment that we are offering is based on the bill that has the support of all the Republicans, and all of the Democrats on the Governmental Affairs Committee.

There is another point to be made about the history of this amendment. Back in 1982, the Senate passed a regulatory reform bill on a vote of 94 to 0. It is pretty rare that you get a vote like that around here, 94 to 0. A regulatory reform bill was passed just 15 years ago.

Many of the issues that were discussed here on the floor over the past few days were all addressed by that bill; issues such as the role of cost-benefit analysis, judicial review, and setting agency priorities. I invite Members to go back and read that bill. They will find that it has more in common with the amendment that Senator GLENN and I are presenting than it has in common with the underlying substitute.

There was no supermandate in 1982. Cost-benefit analysis did not override other law. There was no prohibition on issuing a rule unless the agency could demonstrate that the benefits justified the cost. Cost-benefit studies were required. Yes; just as they are in this amendment that Senator GLENN and I are presenting. Agencies were asked to determine whether the benefits of a rule justified the cost. But the bill that the Senate adopted unanimously in 1982 did not set cost benefit as the ultimate test that a rule had to pass. That is one of the problems with the bill that we are amending here today.

On judicial review, the 1982 bill specifically precluded judicial review of the substance of cost-benefit studies. The agencies were required to perform them. Yes. They were. But the court challenges to the methods and the assumptions, or the underlying data, could not be used to overturn a rule. This is consistent with judicial review in the provisions we have in the Glenn-Chafee amendment.

Mr. President, the Senate has been down this road before. In 1982 it unanimously adopted a regulatory reform bill. Members ought to read that bill. They will find that the Glenn-Chafee amendment is cut from the same cloth. This year, one committee of the Senate unanimously reported a regulatory reform bill, and that is the Glenn-Chafee amendment.

In addition to the cost-benefit and judicial review benefits, there are other important differences that we will out-

line in the debate on Monday. I look forward to a spirited discussion.

I wish to thank the Chair and thank the managers of the bill for permitting me to proceed.

I thank the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank my good friend. I will take just a few minutes.

(The remarks of Mr. STEVENS pertaining to the submission of S. Con. Res. 21 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LEVIN. Mr. President, the substitute which we offer is basically the same bill as the Roth-Glenn bill, a bipartisan bill, a strong regulatory reform bill that passed Governmental Affairs unanimously.

Our substitute would fundamentally change the way that Federal regulatory agencies do business and would achieve meaningful, responsible regulatory reform.

The Glenn-Chafee substitute would help prevent regulatory agencies from issuing rules that are not based on good science or common sense and that impose costs that are not justified by the benefits of the rule. At the same time, the Glenn-Chafee substitute would not inhibit or prevent agencies from taking the necessary steps to protect public health, safety, and the environment.

The Glenn-Chafee substitute strikes a good balance between reducing the costs and the burdens of Federal regulation while ensuring that needed public protections and benefits are being provided. It would produce better informed decisions without bringing the regulatory process to a standstill or forcing outcomes which are harmful to health and to safety.

Under the Glenn-Chafee substitute, all Federal agencies would be required to perform and publish cost-benefit analyses before issuing major rules. The agencies must compare the costs and benefits of not only the proposed rule but of reasonable alternatives as well, including nonregulatory market-based approaches. The agency must explain whether the expected benefits of the rule justify the costs and whether the rule will achieve the benefits in a more cost-effective manner in the alternative. The cost-benefit analysis must be reviewed by a panel of independent experts and the agency must respond to peer reviewers' concerns.

Under Glenn-Chafee, the major regulatory agencies would be required to perform and issue risk assessments before issuing major rules. The risk assessments must be based on reliable scientific data and must disclose and explain any assumptions and value judgments. The risk assessment must be reviewed by a panel of independent experts and the agency must respond to peer reviewers' concerns.

Under Glenn-Chafee, Federal agencies are required to review all major regulations and eliminate all unnecessary regulations. If an agency had

failed to conduct a review within the time required by the schedule, it would be required to issue a notice of proposed rulemaking to repeal the rule rather than to have the rule automatically sunset.

Under Glenn-Chafee, Congress would have 45 days before issuance of any major rule to review the rule and prevent it from taking effect by passing with expedited procedures a joint resolution of disapproval. This would put elected representatives in a position to assure that agency rules are consistent with Congress' intent, a power that I have fought for since I first ran for the Senate.

Under Glenn-Chafee, agencies would be required to set regulatory priorities to address the risks that are most serious and can be addressed in a cost-effective manner. Agencies would be required to explain and reflect these priorities in their budget requests.

Under Glenn-Chafee, every 2 years the President would be required to report to Congress the costs and the benefits of all regulatory programs and recommendations for reform.

Under Glenn-Chafee, the Office of Management and Budget would be required by law to oversee compliance with the bill, would be required to review all major rules before issuance, and this would strengthen Presidential control over regulatory agencies, particularly the independent agencies.

Now, Mr. President, the substitute which we offer, the Glenn-Chafee substitute, is a strong and a powerful bill. It is an important reform measure which, again, just a few months ago had the unanimous, bipartisan support of Governmental Affairs.

Glenn-Chafee also avoids some problems that are present in the so-called Dole-Johnston bill. And that is why it represents a balance between reform, which we need, because we have all seen excessive regulatory burdens placed on Americans; we need reform, but we also need clean air and clean water, environmental protection, safe workplaces, safe food, and the other things which a regulatory process produces. We have to have both, and we can have both.

There are a number of problems, as I have said, in the Dole-Johnston bill. These problems are quite succinctly set forth in a document which has been produced by the OMB with a large number of agencies who are involved in the regulatory process.

I am going to read briefly from that document and just take a couple of examples from it and then put the remainder of the document in the RECORD.

It is called, from the Executive Office of the President, "Statement of Administration Policy":

The Administration strongly supports the enactment of cost-benefit analysis and risk assessment legislation that would improve the regulatory system. S. 343, however, is not such a bill. Because the cumulative effect of its provisions would burden the regulatory

system with additional paperwork, unnecessary costs, significant delay, and excessive litigation, the Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, the Treasury, and the Interior, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget would recommend that the President veto S. 343 in its present form.

This letter is dated, by the way, July 10.

The Administration is particularly concerned that S. 343 could lead to:

And then they list many of the problems with the so-called Dole-Johnston bill. First:

Unsound Regulatory Decisions. A regulatory reform bill should promote the development of more sensible regulations. S. 343, however, could require agencies to issue unsound regulations. It would force agencies to choose the least costly regulatory alternative available to them, even if spending a few more dollars would yield substantially greater benefits.

I want to stop there and just use an example of what that document is referring to. The language in the bill requires that the rule adopt the least-cost alternative of the reasonable alternatives that are available. That may sound good at first blush. The problem is we do not always want to buy a Yugo. A Yugo may get you to where you are going, but it may be that you want airbags or it may be that you have five kids or it may be that you want other kinds of features that are not available on a Yugo. That is why Yugos are not selling that well, because even though it may be classified as a car, it still does not do what we want to be done, which we need to have done in a cost-efficient way.

I have a chart behind me which gives an example of what I am referring to. Let us assume that we pass a statute which says that we want a certain toxic substance in the air to be reduced to no more than 10 parts per million. That is what our instruction is to the agency. We decide as a Congress no more than 10 parts per million of a certain substance. We also authorize the agency, based on a cost-benefit analysis, waiving the cost of the benefits of going further, that they can be more restrictive than 10, should that cost-benefit analysis indicate to them that it makes common sense and it is cost-effective to do so.

So the agency makes a study, and that study is that for \$200 million, you get to 10; for \$400 million, you can get to 7. And from that point on, the line becomes kind of flat and you are not going to be really achieving an awful lot more, although you are going to be spending an awful lot more money.

If you can get to 7 parts per million of a toxic substance, the agency may decide that you are going to quadruple the number of lives that you are going to save—not the agency deciding, but it could be a cost-benefit analysis decides—that for the extra dollars you are going to have a huge return.

Do we have to go with the cheapest, even though it might be the statutory requirement? Or could we, for some additional dollars if there is a huge return, allow the agency to impose the additional dollars? If the cost-benefit analysis tells us that for a relatively few percentage points of additional expenditures, we can gain a huge increase in safety or reduce the loss of human lives by a huge percentage, are we going to say, "You can't do that, you have to go with the cheapest alternative"? Is that what we want to do?

The sponsors of the amendment say there is an escape clause from that. The sponsors of the amendment say that if nonquantifiable benefits to health and safety are such that you can make significant additional gains in health and safety, then you are allowed to go with something more than the least-cost alternative. You are not limited to the cheapest. You do not have to buy the Yugo if the nonquantifiable benefits to health, safety, and the environment make a more costly alternative that achieves the objectives of the statute appropriately.

The problem with that is what happens if the benefits are quantifiable, like on this chart? In my hypothesis, these are not nonquantifiable benefits, these are quantifiable benefits that make it appropriate to go to a more—or might make it more appropriate—to go to a more costly alternative that achieves the objectives of the statute.

Why preclude an agency from using a slightly more expensive alternative if there is a huge benefit? What is cost-benefit all about, except to do that, to analyze cost and benefits? Why are we putting agencies to this requirement, except that we will allow them some flexibility to use the results of the cost-benefit analysis? And if the results of that analysis are that for a relatively small increase in cost we get a relatively large gain, why are we going to say, "Sorry, you can't do that unless the benefits are nonquantifiable"?

We have urged the sponsors of this amendment to make the change to where the benefits are either quantifiable or nonquantifiable. We ought to allow the cost-benefit analysis to be considered, and where a more costly approach will give us a significant gain, we ought to do so.

But we have not been successful in getting an agreement to make that change.

The administration document says that S. 343:

... would also prevent agencies responsible for protecting public health, safety, or the environment from issuing regulations unless they can demonstrate a "significant" reduction in risk . . .

Now, if the cost-benefit analysis that we are requiring, that everybody, I think, in this Chamber wants to require to be done, demonstrates that there is a reduction in the risk for almost no cost, why do we want to put in law that you cannot do that? The reduction has to be significant before it

is allowed. Why are we precluding reductions in risk to health, safety, and the environment if the cost-benefit analysis, which we, in both versions of the bill, are requiring to be made indicate that it is worthwhile doing?

Why preclude reductions in risks to our health, our children's health, our children's safety, and our environment unless it rises up to the level of significant if the cost of reduction is minute? I do not see any logic in insisting on the word "significant," once we have a cost-benefit analysis requirement. I think that word should be stricken. We have proposed that it be stricken. In our version, there is no such limitation.

Mr. President, at this point, I ask unanimous consent that the remainder of the statement of administration policy which sets forth many of the problems in the Dole-Johnston bill, be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY
S. 343—COMPREHENSIVE REGULATORY REFORM
ACT OF 1995

The Administration strongly supports the enactment of cost-benefit analysis and risk assessment legislation that would improve the regulatory system. S. 343, however, is not such a bill. Because the cumulative effect of its provisions would burden the regulatory system with additional paperwork, unnecessary costs, significant delay, and excessive litigation, the Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, the Treasury, and the Interior, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget would recommend that the President veto S. 343 in its present form.

The Administration is particularly concerned that S. 343 could lead to:

Unsound Regulatory Decisions. A regulatory reform bill should promote the development of more sensible regulations. S. 343, however, could require agencies to issue unsound regulations. It would force agencies to choose the least costly regulatory alternative available to them, even if spending a few more dollars would yield substantially greater benefits. It would also prevent agencies responsible for protecting public health, safety, or the environment from issuing regulations unless they can demonstrate a "significant" reduction in risk—even if the benefits from a small reduction in risk exceed the costs. Both of these features would hinder, rather than promote, the development of cost-beneficial, cost-effective regulations. In addition, S. 343 could be construed to constitute a supermandate that would override existing statutory requirements indiscriminately.

Excessive Litigation. While it is appropriate for courts to review final agency action to determine whether, taken as a whole, the action meets the requisite standards, S. 343 would increase opportunities for lawsuits and allow challenges to agency action that is not yet final. Further, by needlessly altering numerous features of the Administrative Procedure Act, S. 343 could engender a substantial number of lawsuits concerning the meaning of changes to well-established law.

A Backdoor Regulatory Moratorium. S. 343 would take effect immediately upon enact-

ment, consequently leading to an unnecessary and time-consuming disruption of the rulemaking process. It would require proposed regulations that have already been through notice and comment, and are based on cost-benefit analysis, to begin the process all over again because of an agency's unknowing failure to follow one of the many new procedures in the bill.

The Unproductive Use of Analytic Resources in Issuing New Rules. Since the mid-1970s, Presidents of both parties have selected \$100 million as the line of demarcation between that which warrants full-blown regulatory analysis and that which does not. Because cost-benefit and risk analyses can be costly and time-consuming, the Administration believes that \$100 million continues to be the appropriate threshold. S. 343, however, has as its threshold \$50 million—a decision that would require agencies to use their resources unproductively and that therefore cannot itself withstand cost-benefit scrutiny.

Agencies Overwhelmed with Petitions and the Lapsing of Effective Regulations. S. 343 creates numerous, often highly-convoluted petition processes that, taken together, could create opportunities for special interests to tie up an agency in additional paperwork and, in the process, waste valuable resources. Several of these processes allow agencies inadequate time to conduct the required analyses and prepare the required responses to petitions; contain inadequate standards against which the adequacy of petitions can be judged; contain inadequate limitations on who may properly file petitions; and contain inadequate safeguards against an agency becoming overwhelmed by large numbers of petitions. These problems are exacerbated by provisions providing for the sunset of regulations according to arbitrary deadlines, which could cause effective regulations to lapse without going through the notice and comment process.

Inappropriate Use of Risk Assessment and Peer Review. S. 343's risk assessment and peer review provisions are overly broad in scope and would introduce unnecessary delays into the regulatory process. They would inappropriately subject all health, safety, and environmental regulations to risk assessment and peer review, regardless of whether such regulations are designed to reduce risk or whether a risk assessment and a peer review would, from a scientific perspective, be useful or appropriate.

Slowed Environmental Cleanups. S. 343 could needlessly slow ongoing and planned environmental cleanup activities, including those at military installations necessary to make the installations being made available for productive non-military use. It would also invite attempts to renegotiate cleanup agreements, thereby hampering enforcement efforts and increasing public and private transaction costs.

A Less Accountable and Less Transparent Regulatory Process. Any regulatory reform bill should bring "sunshine" to the regulatory review process. Executive Order No. 12866, "Regulatory Planning and Review," provides both for centralized Executive branch review of proposed regulations and for the disclosure of communications concerning pending rulemakings between persons outside the Executive branch and centralized reviewers. S. 343, however, contains no such sunshine provision and could consequently remove accountability and transparency from the regulatory process.

An Unduly Lengthy Congressional Layover. S. 343 includes a provision for a congressional layover of 60 days that goes beyond the provisions of S. 219, which provided for a 45-day layover. S. 219 passed the Senate

by a vote of 100-0, with Administration support.

Unrealistic, Unmanageable Studies. S. 343 would require a comprehensive study of and report on all risks to health, safety, and the environment addressed by all federal agencies. It would also require the President to produce annually a highly detailed estimate of and report on the costs, benefits, and effects of virtually all existing regulatory programs. Such studies would not only be unmanageable to conduct and costly to produce, but would require scientific and economic analytical techniques that go beyond the state of the art.

Unnecessarily Hindered Enforcement of Regulations and Out of Court Settlements. S. 343 could create disincentives for regulated entities to bring potentially conflicting regulations to the appropriate agencies' attention. It could also make it unnecessarily difficult for agencies to settle litigation out of court.

Significant Changes in Substantive Law Without Proper Consideration. S. 343 goes beyond attempting to reform the regulatory process by making changes in substantive law—altering, for example, the Delaney Clause and the Community Right-to-Know Act. Whether such changes are appropriate should be decided only after full hearings in the committees of jurisdiction and full debate on the merits.

The Administration is as concerned with the cumulative effect of S. 343 as with its particular features. The Administration remains committed, however, to improving the regulatory process, both administratively and through legislation.

Mr. LEVIN. Mr. President, there are major problems in judicial review. It appears as though there are as many as 140 additional items which can be litigated under S. 343 because of some of the language in it beyond items which can be litigated today.

Now, we want to try to fix this thing. We do not want to make it worse. We have a regulatory system which needs to be repaired. We do not want to make it more cumbersome, more confusing, more difficult to operate under. And one of the difficulties with the bill is that it opens the door to so many—indeed over 100, probably—areas of reviewable issues to be litigated. It may be a lawyer's dream, but it is a business person's nightmare, and I think it is a nightmare for the country.

So we have significant problems in the judicial review area, which are also partly set forth in the letter of the administration.

Finally, let me say this: We have worked about a week on this bill. I think we have made some progress this week, and I commend Senator HATCH and others. So many have worked on this during this week, and I thank them for the progress which has been made in the bill.

For instance, in one of the decisional criteria areas, I think we made progress. We added sunshine last night, so that we now have in the underlying Dole-Johnston bill requirements that the process, right up to the OMB, be open, so that when a rule that is going to affect your business or your life is being reviewed in the White House, there is notice in the public file that that is where the review is taking

place. It no longer is in the agency; now it is in the White House. An awful lot of people are affected by these rules, and the public has a right to know when it is no longer the agency making the decisions that affect their lives or pocketbooks; it is now the White House and OMB.

Under the sunshine provision, now incorporated in Dole-Johnston and which was part of the Glenn-Chafee bill, we are going to have that kind of sunshine. There have been other improvements in this bill. We have been working on them one by one. This has been time, I think, usefully spent. It is a very serious effort which affects the air we breathe and the water that we drink and commerce and business and everybody's pocketbook. It affects the safety of our children. It affects almost everything that we do. The costs can be immense. We have to try to keep them down. But the losses will be immense to life and safety if we do this thing wrong.

So we have taken some time. It has been time well spent. I thank my friend from Utah and all of the others who have been involved in the last few weeks in trying to work through this process to come up with a bill, if possible, on which there can be a broad consensus and, if not, to at least come up with two alternatives which reflect differences which can be readily understood and voted on profitably by the Members of the body.

(At the request of Mr. LEVIN, the following statement was ordered to be printed in the RECORD.)

• Mr. GLENN. Mr. President, we have talked for many days on the very real need for regulatory reform. While I recognize the tremendous value of many rules in protecting public health, safety, and the environment, I also understand that Federal agencies too often ignore the costs of regulation on businesses, State, and local governments, and individuals. Through sensible, balanced reform, we can restore common sense to government decisions and thereby improve the quality and reduce the burdens of Federal regulations.

Over the past few weeks, and the past few days, we have worked in good faith to explain why we think S. 343 as currently drafted is not the kind of regulatory reform we can support. The majority leader has offered amendments that have indeed made some improvements in his own bill. The threshold for a major rule is now \$100 million. We have added in a statement clarifying that the cost-benefit test shall not be construed to override any statutory requirements, including health, safety, and environmental regulations. The provision covering environmental management activities has been dropped.

But these changes alone do not make for balanced regulatory reform. We are still faced with a bill loaded with petitions that would let interested parties tie up agencies in knots. We are still faced with a bill that is a dream for lawyers and special interests. We have

stated all of these and other concerns very clearly to the proponents of S. 343. We have worked in good faith to make this a workable bill. In the end, we still feel that there are too many problems with the bill before us. And clearly the proponents of S. 343 also realize the problems with their bill, as shown by the amendments they have been offering themselves to improve their own bill. That is why I am offering the Glenn-Chafee amendment as a substitute for S. 343.

This substitute is based on the bill reported out of the Governmental Affairs Committee on a bipartisan basis, 15 to 0. Like the Governmental Affairs bill, the amendment I am offering to S. 343 has bipartisan support. I am offering the amendment on behalf of myself, Senators CHAFEЕ, LEVIN, LIEBERMAN, COHEN, PRYOR, KERRY, LAUTENBERG, DASCHLE, BOXER, KOHL, SIMON, KENNEDY, DODD, MURRAY, AKAKA, JEFFORDS, BIDEN, DORGAN, BAUCUS, and KERREY.

I am offering this legislation because I believe the reforms contained in the Dole-Johnston bill are outweighed by the creation of new opportunities to stop environmental and health and safety protections for the American people. It is time to directly compare these proposals and to ask which proposal better fulfills the dual tasks of eliminating unnecessary regulatory burdens on business and individuals while at the same time providing no diminution in the ability of Government to protect the health, safety, and environment of the American people.

I believe that our substitute provides the best answer. It is a very strong reform proposal. It requires cost-benefit analysis, risk assessment, peer review, congressional review of significant rules, and review of existing rules. It provides much-needed reform without paralyzing agencies. Issues—such as how much judicial review is needed and how we should handle existing rules—are critical in this debate.

Our principles for regulatory reform are the following:

First, cost-benefit and risk assessment requirements should apply to only major rules, which has been set at \$100 million for executive branch review since President Reagan's time. While S. 343 has increased its threshold to \$100 million, it also contains an amendment that was accepted on Monday that would include any rules subject to Regulatory Flexibility analysis as a "major" rule. What we have improved on the one hand by increasing the threshold to \$100 million, we have taken away with the other hand by increasing the number of rules that would fall under the requirements of this bill by up to 500 rules. It's too much.

Second, regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our amendment limits judicial review to determinations of: First,

whether a rule is major; and second, whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

S. 343 will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It allows interlocutory judicial review for the first time—letting lawyers sue before the final rulemaking. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seems to limit agency discretion in ways that will lead inevitably to challenges in court.

Third, this legislation should focus on regulatory procedures and not be a vehicle for special interests seeking to alter specific laws dealing with health, safety, the environment, or other matters.

Our amendment focuses on the fundamentals of regulatory reform and contains no special interest provisions.

S. 343 provides relief to specific business interests that should not be considered in the context of regulatory reform. I am referring to provisions, for example, where the bill restricts the toxic release inventory [TRI], limits the Delaney Clause. Yesterday, the proponents of S. 343 voted once again for the special interests and against the public interest in refusing to protect the TRI.

Fourth, regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our amendment requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

S. 343 covers a much broader scope of rules and has several convoluted petition processes for "interested parties"—for example, to amend or rescind a major rule, and to review politics or guidance. These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

Fifth, regulatory reform legislation should improve analysis and allow the agencies to exercise common sense when issuing regulations.

Our amendment requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives.

S. 343 has two separate decisional criteria that control agency decisions—for cost-benefit determinations and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria.

And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

Sixth, there should be sunshine in the regulatory review process.

I am pleased that my colleagues have accepted my amendment to S. 343 to ensure sunshine in the regulatory review process. I am only sorry that it took so long for the proponents of S. 343 to accept it. We offered it several times in the negotiations, and they rejected it each time. At least now, there will be sunshine.

As I have said before, the text of this alternative bill is almost identical to S. 291, except in three main areas. First, it limits the definition of major rule to \$100 million impact this, there is no narrative definition, such as "substantial increase in wages"; second, we have changed the review of rules in a way that makes more sense and that does not automatically sunset rules that have not been reviewed; and, third, it covers only particular programs and agencies for risk assessment requirements and it makes other technical changes in line with the National Academy of Science approach to risk assessment.

In addition, our substitute reflects positive changes that have been arrived at through negotiations on the underlying bill.

I believe this is a very strong and balanced approach to regulatory reform. It passes the two tests I believe any regulatory reform legislation must achieve: First, it will provide regulatory relief for business, State and local governments, and individuals. And, second, at the same time, it protects the health, safety and environment of the American people.

Let me conclude by saying that same progress has been made over the past few weeks in improving S. 343. But let us not leave the impression that the bill is close to being acceptable. This is not the case. There remain substantial issues, which we have communicated on numerous occasions to the proponents of this bill and on which no agreement has been forthcoming. These issues are satisfactorily addressed in the Glenn-Chafee substitute amendment. Accordingly, I urge my colleagues to vote for this amendment as a substitute to S. 343.●

Mr. HATCH. Mr. President, let me spend a few minutes addressing the merits of S. 343 and the Glenn amendment. Let me say that, in our opinion, the Glenn amendment is reg lite. It is a somewhat weaker version of S. 291, which was the compromise bill, and for that reason voted out of the Governmental Affairs Committee under my close friend, BILL ROTH, my comanager on this bill. As Chairman ROTH pointed out, S. 343 is a truly superior vehicle for achieving meaningful and effective regulatory reform than either S. 291 or the Glenn-Chafee substitute.

S. 343, unlike the Glenn bill, is a product of the collective wisdom of three committees—Judiciary, Govern-

mental Affairs, and Energy and Natural Resources—and many Senators, including Senators JOHNSTON, HEFLIN, DOLE, and others in addition. It has undergone 100 substantive and technical changes over the last 4 months. We have tried to cooperate with the White House. Many of the changes have been requested by them, and we have to say we have been very cooperative in the process.

I know that just the Judiciary Committee version of S. 343 encompassed helpful changes suggested by the majority and minority staffs of the committee working as a task force, the administration, and various representatives of Federal agencies after lengthy meetings lasting days. These changes are reflected in the final version of S. 343 that is before this body. So, too, are modifications made to the bill before the July 4 recess, which were the product of fruitful negotiations among Senators KERRY, LEVIN, BIDEN, JOHNSTON, ROTH, NICKLES, MURKOWSKI, BOND, DOLE, and myself.

S. 343, you see, represents the aggregate acumen of many viewpoints. It is a workable, balanced, and fair approach to the nettlesome issue of regulatory reform, and it is far preferable to the Glenn substitute.

Here are just some of the principal reasons why. Both bills contain various elements that are important for effective regulatory reform. S. 343 contains cost-benefit requirements that have substantial effect as to which agencies can be held accountable through an effective decisional requirement section enforced through judicial review.

The Glenn substitute's cost-benefit provision is much weaker, and its judicial review provision is ambiguous at best. The Glenn substitute requires "that the benefits of the rule justify the costs of the rule." And that "the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking."

However, unlike the Glenn substitute, S. 343 contains a decisional criteria section that is far more sophisticated and efficacious. First of all, the decisional criteria section mandates that no rule shall be promulgated unless the rule complies with this section. That requirement will act as a hammer to assure agency compliance with the standards set forth in the decisional criteria section 624 of S. 343.

Now, some will say that this is overkill, that agencies will abide by cost-benefit standards without section 624's hammer. Yet, President Clinton's Executive order on regulations contains a hammerless cost-benefit analysis requirement which is routinely ignored by agencies and OMB—very similar to what the Glenn substitute is. According to an April 1995 study by the Institute for Regulatory Policy, of the 222 major EPA rules issued from April to September 1994, only 6 passed cost-benefit analysis muster. The rest were promulgated anyway. In other words, the

President's own Executive order is ignored by OMB and other agencies, and the EPA in this particular case.

Of the 510 regulatory actions published during this period, 465 were not even reviewed by OMB, and of the 45 rules that were reviewed, not one was returned to the agency having failed the obligatory cost-benefit analysis test.

They call this regulatory reform? That is what we would get with the Glenn substitute.

Moreover, section 624 not only requires, like the Glenn substitute, "the benefits of the rule justify the costs of the rule;" but unlike Glenn, it also requires that the rule must achieve the "least cost alternative," of any of the reasonable alternatives facing the agency. Or if the "public interest" requires it, the lowest cost alternative, taking into consideration scientific or economic uncertainty or unquantifiable benefits.

This does two things. First, it assures that the least burdensome rule will be promulgated; Second, that agencies are not straight jacketed when facing scientific or economic uncertainties, or benefits that cannot be quantified into promulgating a rule based on an option that is only the least costly in the short term.

In the latter situation, agencies may explicitly take these factors into account when considering the least cost alternative when promulgating the rule.

What about the effect on existing law? Section 624 of S. 343 provides that its cost-benefit decisional criteria supplement the decisional criteria for rulemaking applicable under the statute, granting the rulemaking authority, except when such an underlying statute requires that a rule to protect health, safety, or the environment should be promulgated, and the agency cannot apply the standard in the text of the statute, satisfy the cost-benefit criteria.

In such a case, under S. 343, the agency taking action may promulgate the rule but must choose the regulatory alternative meeting the requirements of the underlying statute that imposes the lowest cost.

In this way, agencies are given great latitude in promulgating cost effective rules. Thus, S. 343 strongly supplements existing law but does not embody a supermandate. This was made absolutely clear in a bipartisan amendment adopted just a few days ago.

In contrast, the Glenn amendment only requires agencies to justify costs in those situations where such requirement is not expressly or implicitly "inconsistent with the underlying statute." This allows agencies to select any costly or burdensome option allowable under the underlying statute.

What about judicial review? Could not it be argued that the Glenn bill's judicial review provision assures that agencies will comply with that bill's albeit weak cost-benefit analysis requirement?

While both S. 343 and the Glenn bill basically only allow for APA, the Administrative Procedure Act "arbitrary and capricious" review of the rule, and not independent review of the cost-benefit analysis and a risk assessment.

The Glenn judicial review section contains a provision that could be construed to prohibit a court from considering a faulty cost-benefit analysis or risk assessment in determining if a rule passes arbitrary and capricious muster.

That provision states "If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conforms to the particular requirements of this chapter."

This literally means that a poorly or sloppily done cost-benefit analysis or risk assessment could avoid judicial scrutiny even if material to the outcome of the rule, because the Glenn requirements for analysis and assessments are not reviewable.

A significant reform contained in S. 343, missing in the Glenn bill, is the petition process. While critics of S. 343 contend that the bill's petition processes are too many and overlapping, I believe that the bill's petition provisions are workable, not at all burdensome, and empower that part of the American public effected by existing burdensome regulation, to challenge rules that have not been subject to S. 343's cost-benefit analysis and risk assessment requirements.

For instance, in section 623, the requirement for agency review of existing rules, the petition provision allows for either placing a rule on the agency's schedule for review, or in effect to accelerate agency review of rules already on the agency scheduled for review.

The petitioner has a significant burden to justify that the requested relief is necessary. I might add that this provision was a product of negotiations among Senators KERRY, LEVIN, BIDEN, JOHNSTON, ROTH, NICKLES, MURKOWSKI, BOND, DOLE, and myself.

One other provision that I want to mention is section 629, which allows for the petitioner to seek alternative means to comply with the requirements of the rule. This allows for needed flexibility and will save industry untold amounts of money in having to comply with sometimes irrational requirements, without weakening the protections for health, safety, or the environment.

In this way, agencies are given great latitude in promulgating cost-effective rules. In this way, agencies are given great latitude that they need to have.

Moreover, the following provisions of S. 343 are much better than their counterpart provisions in Senator GLENN's, the risk assessment provisions. S. 343 applies its risk assessment and risk characterization principles to all agency major rules. The Glenn amendment limits the applicability of risk assessment and risk characterization prin-

ciples to major rules promulgated by certain listed agencies, contains no decisional requirements for risk assessments.

Definition of cost of benefits. S. 343 makes absolutely clear that the definition of cost of benefits includes nonquantifiable factors such as health, safety, social, and environmental concerns.

This is extremely important because not all benefits are quantifiable. You may not be able to place numbers on good health or the beauty of a national park, for instance. The Glenn bill, on the other hand, does not make this clear. When a cost-benefit analysis is done under Glenn, these benefits may be undervalued.

Emergency provisions. The Dole-Johnston bill contains exemptions for imposition of the notice and comments, cost-benefit analysis and risk assessment requirements. When an emergency arises or a threat to public health and safety arises, these provisions will allow for a rule that addresses these concerns to promptly go into effect. There is no delay. The Glenn substitute, on the other hand, only contains one exemption for risk assessments.

Is this not ironic? The supporters of the Glenn measure complained endlessly how S. 343 would prevent the agencies from protecting the public for *E. coli* bacteria present in bad meat, or cryptosporidium in drinking water, and have screamed that rules addressing these problems be exempt from S. 343. Of course, S. 343's emergency provisions adequately deal with these problems. But Glenn does not.

Where are the equivalent provisions in Glenn? Does Glenn exempt these types of rules from cost-benefit analysis? No.

I find it almost disingenuous, the arguments that were made by many on the other side, about how they were trying to protect the health of the public from *E. coli* and from cryptosporidium, when their own bill did not even provide a means to do so, and our bill does, and has from the beginning.

All of that rhetoric that was used was what we call bull corn in Utah. This bill takes care of it. It is apparent, Mr. President, that the Dole-Johnston measure is a superior vehicle for regulatory reform. I also want to say that I am one who does not spend a lot of time finding fault with the media, although I have from time to time. Naturally all of us have done that, as Senators. But I have to say that there have been some major media presentations this week that have been so scurrilous they do not belong in regular journalism.

One of our networks has put out two of the most scurrilous, indefensible, factually lacking segments that have maligned my colleague, Senator DOLE, in an unjustifiable way that I consider to be despicable.

Talking about despicability, the July 6 Public Citizen news conference in

Washington, DC—we are used to the Ralph Nader gang being out of line and using poor judgment and using bludgeoning tactics, and misrepresenting, and not telling the truth, and using the Ethics Committee to malign people. But even they, as low as they stoop all the time, have stooped to one of the lowest points in the history of legislation when, at a news conference, Joan Claybrook said that cost-benefit analysis was akin to what the Nazis did to prisoners in concentration camps during World War II.

Both parties ought to be outraged at this type of irresponsibility. This group of people has been given much too much consideration by the press through the years.

Joan Claybrook said at that conference:

Recently, in the New York Times, there was a very interesting letter to the editor commenting on this issue of cost and benefit analysis. And it is taken from a table of profits per prisoner that the SS (Nazi Storm Troopers) created in concentration camps, trying to decide whether or not the holding of the prisoners, the use of prisoners, the renting out of the prisoners, and the killing of the prisoners, was cost beneficial to the SS.

Joan Claybrook went on to say:

That is what I think of cost-benefit analysis, because you never can have the benefits fully developed in terms of the impact on human life, the trauma and the enjoyment of life.

Maybe it was a mistake. I like Miss Claybrook and I know she is very sincere, albeit radical. And I like her personally. But that type of language just does not belong in this debate.

Unfortunately, some of us have been putting up with this for years from this group of people. I just cannot allow it to stand. It has been a matter of, I think, just total bad taste and really a matter of great irritation to anybody who is a fair-thinking person.

With that, I will reserve the remainder of my remarks until we get into this debate on Monday. But it is clear that we have, still, with all the work we have done—and I want to compliment my friend from Michigan, and certainly Senator GLENN, on the other side of this issue, and Senator KERRY has worked on it, Senator BAUCUS has worked on this matter, and others—I want to compliment them for trying to see that we can get together and have a bill that everybody can support. Unfortunately, I do not think we are going to be able to do that, but we have come a long way in trying to accommodate the other side on this bill.

I have worked very long and hard to do that, as have others. I hope we can continue that spirit of bipartisanship up through—hopefully we will have final passage of this bill on Tuesday. And hopefully we will vote sometime, on the substitute, on Monday or early Tuesday. But I have to say I want to compliment the intelligence of my colleagues on the other side of this issue. They know what they are talking about. Even though we differ on some

of these points, I have to say it has been very interesting working with them and I appreciate the good faith that they have put forth.

Mr. President, I would like to change the subject if I can. Hopefully that will end the debate. As soon as we can, I would like to wrap up and let everybody go for the day.

I understand Senator MURKOWSKI will be coming over. I assure the other side we are not going to talk any more on this, unless Senator MURKOWSKI is. I do not know. But if he is, it will only be another statement or so.

JUDICIARY HEARING ON THE EVENTS IN TENNESSEE

Mr. HATCH. Mr. President, I informed everybody that I was going to make a statement on the Tennessee situation.

Mr. President, ours is a Nation of laws. We are a Nation that guarantees liberty and justice to all people. Our Nation is only as strong as our commitment to justice is strong. When the public's faith in the arm of Government responsible for safeguarding our liberty and our democratic Government is threatened, then we have to do something about it.

So I rise to announce that 1 week from today, on Friday of next week, the Senate Judiciary Committee will convene a hearing on the appalling events which took place in Tennessee, the so-called "Good Ol' Boys Roundup."

If newspaper reports are accurate, several Federal law enforcement agents from among other agencies, the ATF, FBI, DEA, Secret Service, and Customs participated in a so-called Good Ol' Boys Roundup, an event that is alleged to have involved hateful, racist, ugly conduct.

After consultation with the Judiciary Committee's ranking member, Senator BIDEN, and fellow committee members—especially Senator THOMPSON, who wants to make sure the great State of Tennessee plays a role in resolving this matter—I have decided it would be best for the Senate to move expeditiously on this matter.

Accordingly, I have informed the Directors of the ATF, FBI, and Deputy Attorney General Gorelick—I have personally informed them of my plan to hold a hearing next Friday. Witnesses I plan to call include the Attorney General of the United States, the Secretary of the Treasury, the Directors of the FBI, ATF, DEA, and others. I can only express my outrage and anger that Federal law enforcement officials would allow themselves to be compromised in such a way, and to participate in such conduct. I am sure that the Clinton administration officials that I have mentioned share my contempt for what has gone on. I expect this hearing will provide the American people with an opportunity to hear from our top law enforcement leaders,

the plans they have to root out this racism.

Those who engaged in this conduct, who have stood by, knowing of it, and did nothing, must be held accountable. When a person who is clothed with the authority of the people engages in hateful conduct, that conduct must be condemned by the people. I condemn this conduct. The Senate condemns it.

This hearing will, hopefully, provide the American people with an explanation, detailing what the Clinton administration plans to do about it.

Attorney General Reno, Director Louis Freeh, and others have made great strides in improving the efficiency, fairness, and operation of our law enforcement agencies. These acts of prejudice, if true, and I have been led to believe that many of them are true, threaten to undermine the strides they have made to date.

It is in their interests, the interests of African Americans and other people of color, and the public, that we hold these hearings. In fact, it is in the interest of all Americans that we hold these hearings.

We must not stand by while Government officials betray the public's trust. These events, if true, disgraced Federal law enforcement and the United States. It is Congress' obligation. After all, I have to say all of us are directly accountable to the people. But it is Congress' obligation to hold the executive branch accountable. And I intend to do so.

Now, I have to say in conclusion that these leaders have all expressed a desire to clear up this matter and to stop it and to make sure that this never happens again. These are fine people who lead these organizations. They have made strides in some of these areas and I want to continue those strides and we want to stop this type of offensive, racist, despicable conduct now and we intend to do so, and we hope these hearings will be efficacious in helping us to get there. Having said that, we look forward to those hearings next Friday and I hope all of our Judiciary members will be able to participate.

I see the Senator from Alaska is here.

THE PRESIDING OFFICER. The Senator from Alaska.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI. Mr. President, I thank my friend from Utah and wish the Chair a good day. I know it is late in the afternoon. I just wanted to make a few remarks with regard to the status of our regulatory reform debate that has been going on for an extended period of time.

There is no question, Mr. President, that we all want to see regulatory reform legislation passed by this Congress for two very, very important rea-

sons. They are simply fairness and common sense.

As chairman of the Energy and Natural Resources Committee, we passed out a bill that would accomplish fairness and common sense, and in so doing address corrections needed in our regulatory process. We passed a bill that was easily understood. And, as a consequence, we find ourselves immersed now in almost a legal discussion of various types of binding conditions associated with what was generally understood to be a high degree of frustration among the public, a public which was frustrated over policies of the Environmental Protection Agency such as the one that occurred in the largest city of Alaska, Anchorage, AK, where the city was notified that the water that accumulated after rains in the drains that ordinarily went out in Cook Inlet for disposal. Cook Inlet has some 30-foot tides twice a day.

Suddenly, the city was advised that they were in violation because, prior to discharging that water, 30 percent of the organic matter had to be removed. In testing the water they found there was no organic matter to be removed, and they appealed to the Environmental Protection Agency. Surprisingly enough, the EPA simply came back and said, "You are out of compliance and subject to fine." As a consequence, some enterprising member of the city council suggested that they add some fish guts to the drainage system so that they would have something to remove that was organic and, therefore, comply.

Finally, the issue got so much publicity, Mr. President, that the Environmental Protection Agency saw fit to, so-called, "clean their skirts." So they wrote a letter saying, "Yes, these were the circumstances, but they did not make the city of Anchorage put the organic matter, the fish guts, into the water system." People of Alaska understood that. They understood the lack of sense that such a mandate made.

We have these horror stories. We have heard them on the floor.

Another concern that was expressed from time to time was the realization that citizens will not be asked to pay huge amounts of money to have trace amounts of arsenic or radon or chloroform removed from their drinking water when there was absolutely no evidence of any adverse health affects, no scientific proof of any kind.

We heard cases where workers who have rushed to rescue a colleague from a collapsed ditch are subject to fines, subject to penalties for not having a hard hat on in the first place.

We had a situation in Fairbanks—where it does snow occasionally in Fairbanks, AK—where the city was in violation of a wetland permit because they moved the snow off one lot where the city barn is to the next lot which was classified as a wetlands.

These are things people understand. These are issues of frustration that