

The EPA is reconsidering its proposal for lowering the federal standard for arsenic in drinking water. The 5ppb standard, for which EPA is seeking comment, is scientifically unjustifiable. Many experts believe that "given the available information EPA has provided, a final standard below 20 ppb can not be justified." This rule is anticipated to cost \$1.5 billion annually and require \$14 billion in capital investments—threatening to bankrupt small towns. EPA's own analysis reveals will impose net costs on users of drinking water systems. Unfortunately, this regulation is just another example of the EPA putting the policy ahead of the science—at the cost of the American people.

Mr. President, I could go on and on about these midnight regulations.

The Clinton/Gore administration is circumventing regulatory rulemaking due process.

A fundamental safeguard provided by the Administrative Procedure Act (the "APA") is to ensure that federal agencies provide an opportunity for informed and meaningful public participation as part of the regulatory rulemaking process.

As if midnight regulations were not bad enough, the Clinton/Gore administration attempts to short-cut APA safeguards by the issuance of interim final rules, guidance documents, and policy statements. These documents, which do not go through the notice and comment rulemaking process required by the APA, are not subject to review by the courts. Often, these documents suggest that regulated entities must comply with requirements beyond the requirements found in law or regulation. Though agencies deny the fact these documents are legally binding, it is clearly an attempt to make law outside the rulemaking process—in a way which tries to shield agencies from judicial review.

For example, on April 14, 2000, the U.S. Court of Appeals, in *Appalachian Power v. EPA*, struck down EPA's "Periodic Monitoring" Guidance. Among its findings, the Court found: (1) EPA was creating broad new authority through the guidance document; (2) EPA did intend the guidance document to have binding effect; and (3) the guidance was illegally issued outside the APA rulemaking procedures.

From 1992 to 1999, the Clinton/Gore EPA published over sixty-five interim final rules, guidance, and policy statements in the Federal Register. However, there are many more of these documents, which have never been published in the Federal Register—in violation of the Federal Register Act.

And the cycle continues . . . on August 28, 2000, EPA has just issued a guidance document on Environmental Justice. While I will reserve the policy discussion on environmental justice for another time, the process question arises again. Even though the Congress and many stakeholders urged EPA to

issue an Environmental Justice Rule, which would be subject to the APA's opportunity for notice and comment as well as judicial review, the EPA refused to do so. Instead, the EPA again created a binding regulation, albeit through a guidance document, which is not subject to judicial review.

Additionally, in the case of many of the 88 rules, EPA will argue that the regulation has been a work in progress for years. EPA's claim begs the question, "Then why cram through the final product when EPA is juggling so many balls at once." Though some of the regulations may have been proposed before, it does not mean that the proposal is still relevant—which we see with EPA's Proposed New Source Review Rule. In this and other cases, EPA should re-propose the rule rather than going final with its obsolete, out-dated proposed rule.

In conclusion, the Clinton/Gore Administration is in overdrive to make policy by administrative edict where it has failed to do so by the legislative process or by following the regular regulatory order. President Clinton and Vice President GORE can't really believe that the less the public participates the better—but they're acting like they do. The fact that the EPA is cramming through scores of rules and other regulatory decisions without public discourse is irresponsible. I call on the Administration to exercise regulatory restraint and stop exceeding its legal authority without undergoing appropriate rulemaking procedures.

Rushed and poor judgement and deliberate acts that exceed an agency's authority can cause serious disruptions in the course of American families' lives. Therefore, I, along with other Members of Congress, will explore the various options, which Congress could use to address this Administration's numerous egregious political and anti-democratic actions. Environmental protection is vitally important, but so is the integrity of our government.

STATE DEPARTMENT MEMORANDUM

Mr. MCCAIN. Mr. President, yesterday, we learned that a memorandum from the Inter-Agency Coordinator for the State Department instructed the Voice of America to refrain from broadcasting an editorial denouncing the terrorist act that took the lives of seventeen American sailors on the U.S.S. *Cole* and expressing the United States' resolute opposition to all terrorism. Apparently she perceived in the editorial an insensitivity to the fact that "the seventeen or so dead does not compare to the 100+ Palestinians who have died in recent weeks where we have remained silent."

Mr. President, I was not aware that the United States had remained silent about the loss of life, both Israeli and Palestinian, in the current conflicts threatening the prospects for peace in the Middle East. Indeed, I believe the

President and a good many members of Congress have been quite outspoken on the subject. Moreover, the losses incurred in that conflict and our responsibility to do what we can to help bring violence there to an end, does not preclude the United States from strongly, unequivocally addressing the first responsibility of any U.S. Government: the safety of American lives.

I understand that the State Department spokesman has issued a statement calling the official's extraordinarily "offensive" memorandum "wrong," "not approved through appropriate channels" and assuring that it in "no way reflects the views of the Secretary or the Department." Fine, we can let the matter rest there.

Let me add a thought, though. It's a free country, but the official in question is not free to represent her own controversial priorities as official U.S. policy. Should she be unable to meet this basic professional and civic responsibility, perhaps she should seek a place of employment that is more compatible with her views.

TREASURY-POSTAL/LEGISLATIVE BRANCH APPROPRIATIONS—CONFERENCE REPORT

Mr. JOHNSON. Mr. President, last week, the Senate passed a conference report which contained the Treasury-Postal appropriations bill, the legislative branch appropriations bill, and a repeal of the century-old telephone excise tax. This package was the first of the several "mini-omnibus" packages we will likely consider in the waning days of this Congress, and unfortunately, it demonstrates the fundamental problems associated with this type of legislating.

I voted against this mini-omnibus for several reasons. The Senate never had the opportunity to even consider the Treasury-Postal bill on the floor. Many issues that are critical to Senators could not receive deliberation because of the unwillingness of the leaders to allow the Senate to fulfill its constitutional directive of deliberating on the crucial issues facing the nation. I will not review the entire list of neglected issues again. That recitation has occurred elsewhere, and I am confident we will hear more about them in the coming days.

Suffice it to say, I deplore the procedure that permits unpassed appropriations bills to go right to conference. Other than the procedural irregularity, I opposed this conference report because it did not contain language to strike the congressional pay raise. It is unfathomable to me that at a time we cannot raise the minimum wage to bring a full-time worker above the poverty line, we once again raise salaries for Members of Congress. I have opposed any effort to raise congressional salaries in every year since 1994. I, and similarly-minded colleagues, were denied the opportunity to fully debate this issue. I cannot support this increase, especially under the current

circumstances with so much unfinished business.

Unfortunately, many initiatives I support were also included in this package. Among them is the repeal of the telephone excise tax, a revenue used originally to help fund the Spanish-American war. This three percent surcharge is among the most regressive taxes, and I was proud to be an early cosponsor of the effort to repeal it. In addition to cosponsoring the original legislation, I voted to repeal this tax when the repeal was offered as an amendment to the estate tax repeal.

In a time of unprecedented surpluses, we must fix some of the inequities in the tax code. I am disappointed we have not managed to accomplish more. Once again, this is indicative of the overly partisan nature of Senate activity, and this partisanship has blocked fair tax reform. Nonetheless, I am pleased we have at least resolved the federal telephone excise tax, a reform which will save all Americans \$51 billion over the next decade. I commend the major telephone providers for committing to pass fully these savings to consumers, and I once again regret that the unique and deplorable manner in which this Congress is fulfilling its responsibilities forced me to vote against this package.

CONGRATULATIONS TO KIM DAE-JUNG

Mrs. BOXER. Mr. President, I would like to congratulate Kim Dae-jung, the President of South Korea, on receiving the Nobel Peace Prize for 2000. This award is well-earned for a great leader whom many call the "Nelson Mandela of Asia." President Kim's life-long dedication to peace and reconciliation is evident in the fact that he had been nominated for this award on 14 different occasions. Last Friday's announcement made President Kim his nation's first Nobel laureate, a source of great pride for the people of South Korea.

Kim Dae-jung has led an extraordinary life, highlighted by an unwavering commitment to democracy. In fact, throughout his career, President Kim has been willing to risk his own life in standing up for the principles that allow South Korea to be the great nation it is today.

President Kim has indeed paid a heavy price for speaking out against totalitarian rule. Shortly after his first run for President in 1971, Kim was nearly killed in a car accident that many believed to be an assassination attempt. Two years later, he was kidnapped by South Korean agents, ostensibly because he was perceived as a threat to the status quo. He would have been killed, had the United States not intervened. In the years that followed, President Kim survived jailings, house arrest, exile and numerous beatings.

Three years ago, President Kim campaigned on an innovative, open approach to reconciliation with North

Korea, which he called the "sunshine policy." This policy of building ties with the North is on a scale that has not been seen in the history of postwar Korea. After winning the election, President Kim, a forgiving and religious man above all, pardoned the former military rulers who tried to kill him as his first act in office. He has also been a positive force for South Korea's economy which was at a low point when President Kim was elected. The South Korean economy grew by 10.2 percent in 1999 and is projected to grow by 6 percent in 2000.

President Kim's "sunshine policy" culminated in a June summit between the leaders of North Korea and South Korea. The summit was a success, and set a tremendous precedent for the relationship between the two countries. Speaking of the meeting, President Kim said, "the Korean people are one; we have a common fate. There is nothing we cannot do if we make steady efforts with good faith and patience." The possibility for continued conversation between North and South gives me great hope that the two sides have taken the first steps to a true and lasting peace.

The rebuilding process between the Koreas has been enhanced by several small but meaningful achievements. North Korea and South Korea have pledged to work on rebuilding roads and rail lines between the two countries. Earlier this summer, a brief reunion occurred of families separated by the Korean war 50 years ago. Just last month, the entire world was moved when the North Korean and South Korean teams marched together in the opening ceremonies of the Sydney Olympics.

I had the opportunity to meet President Kim in 1986 when he was under house arrest. I was very moved by his courage and faith and thought that he would some day lead his beloved nation. It is with great happiness that I take this opportunity to congratulate Kim Dae-jung and the people of South Korea on this historic occasion.

A SALUTE TO THE SAILORS OF THE U.S.S. "COLE"

Ms. LANDRIEU. Mr. President, I am deeply saddened by the loss of the brave men and women of the U.S.S. *Cole*. October 12, 2000 will long be remembered as a day of heavy emotions for our armed forces and all American people. All of our hearts have been consumed with anger and sorrow at the senseless act of terrorism that, on that day, left seventeen United States sailors dead, and thirty-nine injured. All young, all promising, all dedicated to defending America's values and way of life.

But my heart is also filled with pride in these men and women. Our sailors served in the finest traditions of the Navy, selflessly dedicating themselves to serving our country with bravery and integrity. And I rise today to

honor those who gave their lives in the line of duty. We will not forget your superb service and ultimate sacrifice.

As I extend my heartfelt sympathy to the families of the *Cole* Sailors, let me also say to the world that the United States will not rest until those responsible for this attack are held accountable for this atrocious destruction of innocent American life. Let there be no mistake. We will use every tool in our arsenal to track down and charge our adversaries for this cowardly act.

The British poet A.E. Housman wrote, "The troubles of our proud and angry dust are from eternity and shall not fail. Bear them we can, and if we can, we must." Housman's poem speaks to our strong tradition of persistence and moral courage to stand up for our values. Let our resilience signal to the world that no terrorist attack can encroach our resolve. We will not shrink to defeat, but grow stronger in our commitment to securing peace and stability throughout this nation's areas of interest. Seventeen U.S.S. *Cole* sailors did not suffer tragic deaths in vain. They died protecting freedom, and defending the greatest nation on Earth.

So now, I join my colleagues and the families of the U.S.S. *Cole* crew in solemn prayer for these brave sailors, the protectors of America's great democracy. God bless you and God bless America.

FEDERAL PRISONER HEALTH CARE COPAYMENT ACT

Mr. JOHNSON. Mr. President, I am pleased the President recently signed into law the Federal Prisoner Health Care Copayment Act. As you know, Senator JON KYL and I introduced last year a bill to require Federal prisoners to pay a nominal fee when they initiate certain visits for medical attention. Fees collected from prisoners will either be paid as restitution to victims or be deposited into the Federal Crime Victims' Fund. My State of South Dakota is one of 38 States that have implemented State-wide prisoner health care copayment programs. The Department of Justice supported extending this prisoner health care copayment program to Federal prisoners in an attempt to reduce unnecessary medical procedures and ensure that adequate health care services are available for prisoners who need them.

My interest in the prisoner health care copayment issue came from discussions I had in South Dakota with a number of law enforcement officials and US Marshal Lyle Swenson about the equitable treatment between pre-sentencing Federal prisoners housed in county jails and the county prisoners residing in those same facilities. Currently, county prisoners in South Dakota are subject to State and local laws allowing the collection of a health care copayment, while Marshals Service prisoners are not, thereby allowing Federal prisoners to abuse health care