Houghton	Molinari	Shuster
Hutchinson	Montgomery	Sisisky
Hyde	Moorhead	Skeen
Inglis	Morella	Skelton
Istook	Murtha	Smith (MI)
Johnson (CT)	Myers	Smith (NJ)
Johnson, Sam	Myrick	Smith (TX)
Jones	Nethercutt	Smith (WA)
Kasich	Neumann	Solomon
Kelly	Ney	Souder
Kim	Norwood	Spence
King	Nussle	Stearns
Kingston	Oxley	Stenholm
Klug	Packard	Stockman
Knollenberg	Parker	Stump
Kolbe	Paxon	Talent
LaHood	Peterson (MN)	Tate
Largent	Petri	Tauzin
Latham	Pickett	Taylor (MS)
LaTourette	Pombo	Taylor (NC)
Laughlin	Porter	Thomas
Lazio	Portman	Thornberry
Leach	Pryce	Tiahrt
Lewis (CA)	Quillen	Torkildsen
Lewis (KY)	Quinn	Torricelli
Lightfoot	Radanovich	Upton
Lincoln	Ramstad	Vucanovich
Linder	Regula	Waldholtz
Livingston	Riggs	Walker
LoBiondo	Roberts	Walsh
Longley	Rogers	Wamp
Lucas	Rohrabacher	Watts (OK)
Manzullo	Ros-Lehtinen	Weldon (FL)
Martini	Roth	Weldon (PA)
McCarthy	Royce	Weller
McCollum	Salmon	White
McCrery	Sanford	Whitfield
McDade	Saxton	Wicker
McHugh	Scarborough	Williams
McInnis	Schaefer	Wolf
McIntosh	Schiff	Young (AK)
McKeon	Seastrand	Young (FL)
Metcalf	Sensenbrenner	Zeliff
Meyers	Shadegg	Zimmer
Mica	Shaw	
Miller (FL)	Shays	

NAYS—165

Abercrombie	Gejdenson	Moakley
Ackerman	Gephardt	Mollohan
Baesler	Green	Moran
Baldacci	Gutierrez	Nadler
Barrett (WI)	Hall (OH)	Neal
Beilenson	Hamilton	Oberstar
Bentsen	Harman	Obey
Berman	Hastings (FL)	Olver
Bishop	Hayes	Ortiz
Bonior	Hefner	Orton
Borski	Hilliard	Owens
Boucher	Hinchey	Pallone
Brown (CA)	Holden	Pastor
Brown (FL)	Hoyer	Payne (NJ)
Brown (OH)	Jackson-Lee	Payne (VA)
Bryant (TX)	Jacobs	Pelosi
Cardin	Jefferson	Peterson (FL)
Clay	Johnson (SD)	Pomeroy
Clayton	Johnson, E. B.	Poshard
Clement	Johnston	Rangel
Clyburn	Kanjorski	Reed
Coleman	Kaptur	Reynolds
Collins (IL)	Kennedy (MA)	Richardson
Collins (MI)	Kennedy (RI)	Rivers
Conyers	Kennelly	Roemer
Costello	Kildee	Rose
Coyne	Kleczka	Roybal-Allard
Danner	Klink	Sabo
DeFazio	LaFalce	Sanders
DeLauro	Lantos	Sawyer
Dellums	Levin	Schroeder
Deutsch	Lewis (GA)	Schumer
Dicks	Lofgren	Scott
Dingell	Lowey	Serrano
Dixon	Luther	Skaggs
Doggett	Maloney	Slaughter
Dooley	Manton	Spratt
Doyle	Markey	Stark
Durbin	Martinez	Stokes
Engel	Mascara	Studds
Eshoo	Matsui	Stupak
Evans	McDermott	Tanner
Farr	McHale	Tejeda
Fattah	McNulty	Thompson
Fazio	Meehan	Thornton
Fields (LA)	Meek	Thurman
Filner	Menendez	Torres
Foglietta	Miller (CA)	Towns
Frank (MA)	Mineta	Traficant
Frost	Minge	Tucker
Furse	Mink	Velazquez
Vento	Waters	Woolsey
Visclosky	Watt (NC)	Wyden
Volkmer	Waxman	Wynn
Ward	Wise	Yates

NOT VOTING—16

Andrews	Gibbons	Rahall
Becerra	Gonzalez	Roukema
Chapman	Hunter	Rush
Flake	Lipinski	Wilson
Ford	McKinney	
Gallegly	Mfume	

□ 1814

Messrs. GENE GREEN of Texas, BALDACCI, and MATSUI changed their vote from ''yea'' to ''nay.''

Mr. FLANAGAN changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 926, REGULATORY RELIEF AND REFORM ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–52) on the resolution (H. Res. 100) providing for the consideration of the bill (H.R. 926) to promote regulatory flexibility and enhance public participation in Federal agency rulemaking and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION REQUESTING THE PRESIDENT TO SUBMIT INFORMATION CONCERNING ACTIONS TAKEN THROUGH THE EXCHANGE STABILIZATION FUND TO STRENGTHEN THE MEXICAN PESO AND STABILIZE THE ECONOMY OF MEXICO

Mr. LEACH, from the Committee on Banking and Financial Services, submitted a privileged report (Rept. No. 104–53) on the resolution (H. Res. 80) requesting the President to submit information to the House of Representatives concerning actions taken through the exchange stabilization fund to strengthen the Mexican peso and stabilize the Mexican economy, which was referred to the Union Calendar and ordered to be printed.

RISK ASSESSMENT AND COST-BENEFIT ACT OF 1995

The SPEAKER pro tempore (Mr. MCHUGH). Pursuant to House Resolution 96 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1022.

□ 1817

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 1022 is as follows:

H.R. 1022

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Risk Assessment and Cost-Benefit Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that:

(1) Environmental, health, and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

(2) The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner and so that the incremental costs of regulatory alternatives are reasonably related to the incremental benefits.

(3) To provide more cost-effective and cost-reasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

(4) Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

(5) The public stake holders must be fully involved in the risk-decision making process. They have the right-to-know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

(6) Although risk assessment is one important method to improve regulatory decision-making, other approaches to secure prompt relief from the burden of unnecessary and overly complex regulations will also be necessary.

SEC. 3. COVERAGE OF ACT.

This Act does not apply to any of the following:

(1) A situation that the head of an affected Federal agency determines to be an emergency. In such circumstance, the head of the agency shall comply with the provisions of this Act within as reasonable a time as is practical.

(2) Activities necessary to maintain military readiness.

(3) Any individual food, drug, or other product label, or to any risk characterization appearing on any such label, if the individual product label is required by law to be approved by a Federal department or agency prior to use.

(4) Approval of State programs or plans by Federal agencies.

SEC. 4. DEFINITIONS

For purposes of this Act:

(1) COSTS.—The term ''costs'' includes the direct and indirect costs to the United States Government, to State, local, and tribal governments, and to the private sector, wage earners, consumers, and the economy, of implementing and complying with a rule or alternative strategy.

(2) BENEFIT.—The term ''benefit'' means the reasonably identifiable significant health, safety, environmental, social and economic benefits that are expected to result directly or indirectly from implementation of a rule or alternative strategy.

(3) MAJOR RULE.—The term ''major rule'' means any regulation that is likely to result in an annual increase in costs of $25,000,000 or more. Such term does not include any regulation or other action taken by an agency to authorize or approve any individual substance or product.

(4) PROGRAM DESIGNED TO PROTECT HUMAN HEALTH.—The term ''program designed to protect human health'' does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

Title I—Risk Assessment and Communication

SEC. 101. SHORT TITLE.

This title may be cited as the ''Risk Assessment and Communication Act of 1995''.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

SEC. 103. EFFECTIVE DATE; APPLICABILITY; SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this title, the provisions of this title shall take effect 18 months after the date of enactment of this title.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), this title applies to all significant risk assessment documents and significant risk characterization documents, as defined in paragraph (2).

(2) SIGNIFICANT RISK ASSESSMENT DOCUMENT OR SIGNIFICANT RISK CHARACTERIZATION DOCUMENT.—(A) As used in this title, the terms ''significant risk assessment document'' and ''significant risk characterization document'' include, at a minimum, risk assessment documents or risk characterization documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, used as a basis for one of the items referred to in subparagraph (B), and—

(i) included by the agency in that item; or

(ii) inserted by the agency in the administrative record for that item.

(B) The items referred to in subparagraph (A) are the following:

(i) Any proposed or final major rule, including any analysis or certification under title II, promulgated as part of any Federal regulatory program designed to protect human health, safety, or the environment.

(ii) Any proposed or final environmental clean-up plan for a facility or Federal guidelines for the issuance of any such plan. As used in this clause, the term ''environmental clean-up'' means a corrective action under the Solid Waste Disposal Act, a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a covered Federal agency with respect to any substance other than municipal waste.

(iii) Any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior.

(iv) Any report to Congress.

(v) Any regulatory action to place a substance on any official list of carcinogens or toxic or hazardous substances or to place a new health effects value on such list, including the Integrated Risk Information System Database maintained by the Environmental Protection Agency.

(vi) Any guidance, including protocols of general applicability, establishing policy regarding risk assessment or risk characterization.

(C) The terms ''significant risk assessment document'' and ''significant risk characterization document'' shall also include the following:

(i) Any such risk assessment and risk characterization documents provided by a covered Federal agency to the public and which are likely to result in an annual increase in costs of $25,000,000 or more.

(ii) Environmental restoration and waste management carried out by or on behalf of the Department of Defense with respect to any substance other than municipal waste.

(D) Within 15 months after the date of the enactment of this Act, each covered Federal agency administering a regulatory program designed to protect human health, safety, or the environment shall promulgate a rule establishing those additional categories, if any, of risk assessment and risk characterization documents prepared by or on behalf of the covered Federal agency that the agency will consider significant risk assessment documents or significant risk characterization documents for purposes of this title. In establishing such categories, the head of the agency shall consider each of the following:

(i) The benefits of consistent compliance by documents of the covered Federal agency in the categories.

(ii) The administrative burdens of including documents in the categories.

(iii) The need to make expeditious administrative decisions regarding documents in the categories.

(iv) The possible use of a risk assessment or risk characterization in any compilation of risk hazards or health or environmental effects prepared by an agency and commonly made available to, or used by, any Federal, State, or local government agency.

(v) Such other factors as may be appropriate.

(E)(i) Not later than 18 months after the date of the enactment of this Act, the President, acting through the Director of the Office of Management and Budget, shall determine whether any other Federal agencies should be considered covered Federal agencies for purposes of this title. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

(I) regulatory programs administered by that agency; and

(II) the communication of risk information by that agency to the public.

The effective date of such a determination shall be no later than 6 months after the date of the determination.

(ii) Not later than 15 months after the President, acting through the Director of the Office of Management and Budget, determines pursuant to clause (i) that a Federal agency should be considered a covered Federal agency for purposes of this title, the head of that agency shall promulgate a rule pursuant to subparagraph (D) to establish additional categories of risk assessment and risk characterization documents described in that subparagraph.

(3) EXCEPTIONS.—(A) This title does not apply to risk assessment or risk characterization documents containing risk assessments or risk characterizations performed with respect to the following:

(i) A screening analysis, where appropriately labeled as such, including a screening analysis for purposes of product regulation or premanufacturing notices.

(ii) Any health, safety, or environmental inspections.

(iii) The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analysis are used as the basis for imposing restrictions on substances or activities.

(C) The risk assessment principle set forth in section 104(b)(1) need not apply to any risk assessment or risk characterization document described in clause (iii) of paragraph (2)(B). The risk characterization and communication principle set forth in section 105(4) need not apply to any risk assessment or risk characterization document described in clause (v) or (vi) of paragraph (2)(B).

(c) SAVINGS PROVISIONS.—The provisions of this title shall be supplemental to any other provisions of law relating to risk assessments and risk characterizations, except that nothing in this title shall be construed to modify any statutory standard or statutory requirement designed to protect health, safety, or the environment. Nothing in this title shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this title shall be construed to require the disclosure of any trade secret or other confidential information.

SEC. 104. PRINCIPLES FOR RISK ASSESSMENT.

(a) IN GENERAL.—The head of each covered Federal agency shall apply the principles set forth in subsection (b) in order to assure that significant risk assessment documents and all of their components distinguish scientific findings from other considerations and are, to the extent feasible, scientifically objective, unbiased, and inclusive of all relevant data and rely, to the extent available and practicable, on scientific findings. Discussions or explanations required under this

section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document which is available to the public.

(b) PRINCIPLES.—The principles to be applied are as follows:

(1) When discussing human health risks, a significant risk assessment document shall contain a discussion of both relevant laboratory and relevant epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the significant risk assessment document shall, to the extent feasible and appropriate, include discussion of possible reconciliation of conflicting information, and as relevant, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the sufficiency of basic data for review. The discussion of possible reconciliation should indicate whether there is a biological basis to assume a resulting harm in humans. Animal data shall be reviewed with regard to its relevancy to humans.

(2) Where a significant risk assessment document involves selection of any significant assumption, inference, or model, the document shall, to the extent feasible—

(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

(B) explain the basis for any choices;

(C) identify any policy or value judgments;

(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

SEC. 105. PRINCIPLES FOR RISK CHARACTERIZATION AND COMMUNICATION.

Each significant risk characterization document shall meet each of the following requirements:

(1) ESTIMATES OF RISK.—The risk characterization shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible, provide—

(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the Federal agency); and

(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower bounds estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendant uncertainties.

(2) EXPOSURE SCENARIOS.—The risk characterization document shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

(3) COMPARISONS.—The document shall contain a statement that places the nature and magnitude of risks to human health, safety, or the environment in context. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) SUBSTITUTION RISKS.—Each significant risk assessment or risk characterization document shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

(A) a commenter provides a covered Federal agency with a relevant risk assessment document or a risk characterization document, and a summary thereof, during a public comment provided by the agency for a significant risk assessment document or a significant risk characterization document, or, where no comment period is provided but a commenter provides the covered Federal agency with the relevant risk assessment document or risk characterization document, and a summary thereof, in a timely fashion, and

(B) the risk assessment document or risk characterization document is consistent with the principles and the guidance provided under this title,

the agency shall, to the extent feasible, present such summary in connection with the presentation of the agency's significant risk assessment document or significant risk characterization document. Nothing in this paragraph shall be construed to limit the inclusion of any comments or material supplied by any person to the administrative record of any proceeding. A document may satisfy the requirements of paragraph (3), (4) or (5) by reference to information or material otherwise available to the public if the document provides a brief summary of such information or material.

SEC. 106. RECOMMENDATIONS OR CLASSIFICATIONS BY A NON-UNITED STATES-BASED ENTITY.

No covered Federal agency shall automatically incorporate or adopt any recommendation or classification made by a non-United States-based entity concerning the health effects value of a substance without an opportunity for notice and comment, and any risk assessment document or risk characterization document adopted by a covered Federal agency on the basis of such a recommendation or classification shall comply with the provisions of this title.

SEC. 107. GUIDELINES AND REPORT.

(a) GUIDELINES.—Within 15 months after the date of enactment of this title, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 104 and 105 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

(b) REPORT.—Within 3 years after the enactment of this title, each covered Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 104(b)(2).

(c) PUBLIC COMMENT AND CONSULTATION.—The guidelines and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

(d) REVIEW.—The President shall review and, where appropriate, revise the guidelines published under this section at least every 4 years.

SEC. 108. RESEARCH AND TRAINING IN RISK ASSESSMENT.

(a) EVALUATION.—The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

(b) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection (a) and the strategy and schedule developed under subsection (b). The head of each covered agency shall report to the Congress periodically on the evaluations, strategy, and schedule.

SEC. 109. STUDY OF COMPARATIVE RISK ANALYSIS.

(a) IN GENERAL.—(1) The Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall conduct, or provide for the conduct of, a study using comparative risk analysis to rank health, safety, and environmental risks and to provide a common basis for evaluating strategies for reducing or preventing those risks. The goal of the study shall be to improve methods of comparative risk analysis.

(2) Not later than 90 days after the date of the enactment of this Act, the Director, in collaboration with the heads of appropriate Federal agencies, shall enter into a contract with the National Research Council to provide technical guidance on approaches to

using comparative risk analysis and other considerations in setting health, safety, and environmental risk reduction priorities.

(b) SCOPE OF STUDY.—The study shall have sufficient scope and breadth to evaluate comparative risk analysis and to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk reduction. The study shall compare and evaluate a range of diverse health, safety, and environmental risks.

(c) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

(d) DURATION.—The study shall begin within 180 days after the date of the enactment of this Act and terminate within 2 years after the date on which it began.

(e) RECOMMENDATIONS FOR IMPROVING COMPARATIVE RISK ANALYSIS AND ITS USE.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress the report of the National Research Council with recommendations regarding the use of comparative risk analysis and ways to improve the use of comparative risk analysis for decision-making in appropriate Federal agencies.

SEC. 110. DEFINITIONS.

For purposes of this title:

(1) RISK ASSESSMENT DOCUMENT.—The term ''risk assessment document'' means a document containing the explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed. The term also includes a written statement accepting the findings of any such document.

(2) RISK CHARACTERIZATION DOCUMENT.—The term ''risk characterization document'' means a document quantifying or describing the degree of toxicity, exposure, or other risk posed by hazards associated with a substance, activity, or condition to which individuals, populations, or resources are exposed. The term also includes a written statement accepting the findings of any such document.

(3) BEST ESTIMATE.—The term ''best estimate'' means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

(4) SUBSTITUTION RISK.—The term ''substitution risk'' means a potential risk to human health, safety, or the environment from a regulatory alternative designed to decrease other risks.

(5) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Occupational Safety and Health Administration.

(C) The Department of Transportation (including the National Highway Transportation Safety Administration).

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration

(J) The United States Army Corps of Engineers.

(K) The Mine Safety and Health Administration.

(L) The Nuclear Regulatory Commission.

(M) Any other Federal agency considered a covered Federal agency pursuant to section 103(b)(2)(E)

(6) FEDERAL AGENCY.—The term ''Federal agency'' means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

(7) DOCUMENT.—The term ''document'' includes material stored in electronic or digital form.

Title II—Analysis of Risk Reduction Benefits and Costs

SEC. 201. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

(a) IN GENERAL.—The President shall require each Federal agency to prepare the following for each major rule within a program designed to protect human health, safety, or the environment that is proposed or promulgated by the agency after the date of enactment of this Act:

(1) An identification of reasonable alternative strategies, including strategies that—

(A) require no government action;

(B) will accommodate differences among geographic regions and among persons with different levels of resources with which to comply; and

(C) employ performance or other market-based mechanisms that permit the greatest flexibility in achieving the identified benefits of the rule.

The agency shall consider reasonable alternative strategies proposed during the comment period.

(2) An analysis of the incremental costs and incremental risk reduction or other benefits associated with each alternative strategy identified or considered by the agency. Costs and benefits shall be quantified to the extent feasible and appropriate and may otherwise be qualitatively described.

(3) A statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each alternative strategy identified or considered by the agency. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) For each final rule, an analysis of whether the identified benefits of the rule are likely to exceed the identified costs of the rule.

(5) An analysis of the effect of the rule—

(A) on small businesses with fewer than 100 employees;

(B) on net employment; and

(C) to the extent practicable, on the cumulative financial burden of compliance with the rule and other existing regulations on persons producing products.

(b) PUBLICATION.—For each major rule referred to in subsection (a) each Federal agency shall publish in a clear and concise manner in the Federal Register along with the proposed and final regulation, or otherwise make publicly available, the information required to be prepared under subsection (a).

SEC. 202. DECISION CRITERIA.

(a) IN GENERAL.—No final rule subject to the provisions of this title shall be promulgated unless the agency certifies the following:

(1) That the analyses under section 201 are based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the agency by interested parties relating to the costs, risks, and risk reduction and other benefits addressed by the rule.

(2) That the incremental risk reduction or other benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities.

(3) That other alternative strategies identified or considered by the agency were found either (A) to be less cost-effective at achieving a substantially equivalent reduction in risk, or (B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the regulation, along with a brief explanation of why alternative strategies that were identified or considered by the agency were found to be less cost-effective or less flexible.

(b) EFFECT OF DECISION CRITERIA.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

(2) SUBSTANTIAL EVIDENCE.—Notwithstanding any other provision of Federal law, no major rule shall be promulgated by any Federal agency pertaining to the protection of health, safety, or the environment unless the requirements of section 201 and subsection (a) are met and the certifications required therein are supported by substantial evidence of the rulemaking record.

(c) PUBLICATION.—The agency shall publish in the Federal Register, along with the final regulation, the certifications required by subsection (a).

(d) NOTICE.—Where the agency finds a conflict between the decision criteria of this section and the decision criteria of an otherwise applicable statute, the agency shall so notify the Congress in writing.

SEC. 203. OFFICE OF MANAGEMENT AND THE BUDGET GUIDANCE.

The Office of Management and Budget shall issue guidance consistent with this title—

(1) to assist the agencies, the public, and the regulated community in the implementation of this title, including any new requirements or procedures needed to supplement prior agency practice; and

(2) governing the development and preparation of analyses of risk reduction benefits and costs.

Title III—Peer Review

SEC. 301. PEER REVIEW PROGRAM.

(a) ESTABLISHMENT.—For regulatory programs designed to protect human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for independent and external peer review required by subsection (b). Such program shall be applicable across the agency and—

(1) shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to

the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations;

(2) may provide for differing levels of peer review and differing numbers of experts on peer review panels, depending on the significance or the complexity of the problems or the need for expeditiousness;

(3) shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

(4) may provide specific and reasonable deadlines for peer review panels to submit reports under subsection (c); and

(5) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

(b) REQUIREMENT FOR PEER REVIEW.—In connection with any rule that is likely to result in an annual increase in costs of $100,000,000 or more (other than any rule or other action taken by an agency to authorize or approve any individual substance or product), each Federal agency shall provide for peer review in accordance with this section of any risk assessment or cost analysis which forms the basis for such rule or of any analysis under section 201(a). In addition, the Director of the Office of Management and Budget may order that peer review be provided for any major risk assessment or cost assessment that is likely to have a significant impact on public policy decisions.

(c) CONTENTS.—Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and economic merit of data and methods used for the assessments and analyses.

(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record.

(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or method which has been previously subjected to peer review or for any component of any analysis or assessment previously subjected to peer review.

(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

Title IV—Judicial Review

SEC. 401. JUDICIAL REVIEW.

Compliance or noncompliance by a Federal agency with the requirements of this Act shall be reviewable pursuant to the statute granting the agency authority to act or, as applicable, that statute and the Administrative Procedure Act. The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act. When a significant risk assessment document or risk characterization document subject to title I is part of the administrative record in a final agency action, in addition to any other matters that the court may consider in deciding whether the agency's action was lawful, the court shall consider the agency action unlawful if such significant risk assessment document or significant risk characterization document does not substantially comply with the requirements of sections 104 and 105.

Title V—Plan

SEC. 501. PLAN FOR ASSESSING NEW INFORMATION.

(a) PLAN.—Within 18 months after the date of enactment of this Act, each covered Federal agency (as defined in title I) shall publish a plan to review and, where appropriate revise any significant risk assessment document or significant risk characterization document published prior to the expiration of such 18-month period if, based on information available at the time of such review, the agency head determines that the application of the principles set forth in sections 104 and 105 would be likely to significantly alter the results of the prior risk assessment or risk characterization. The plan shall provide procedures for receiving and considering new information and risk assessments from the public. The plan may set priorities and procedures for review and, where appropriate, revision of such risk assessment documents and risk characterization documents and of health or environmental effects values. The plan may also set priorities and procedures for review, and, where appropriate, revision or repeal of major rules promulgated prior to the expiration of such period. Such priorities and procedures shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors as such Federal agency considers appropriate.

(b) PUBLIC COMMENT AND CONSULTATION.—The plan under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

Title VI—Priorities

SEC. 601. PRIORITIES.

(a) IDENTIFICATION OF OPPORTUNITIES.—In order to assist in the public policy and regulation of risks to public health, the President shall identify opportunities to reflect priorities within existing Federal regulatory programs designed to protect human health in a cost-effective and cost-reasonable manner. The President shall identify each of the following:

(1) The likelihood and severity of public health risks addressed by current Federal programs.

(2) The number of individuals affected.

(3) The incremental costs and risk reduction benefits associated with regulatory or other strategies.

(4) The cost-effectiveness of regulatory or other strategies to reduce risks to public health.

(5) Intergovernmental relationships among Federal, State, and local governments among programs designed to protect public health.

(6) Statutory, regulatory, or administrative obstacles to allocating national economic resources based on the most cost-effective, cost-reasonable priorities considering Federal, State, and local programs.

(b) BIENNIAL REPORTS.—The President shall issue biennial reports to Congress, after notice and opportunity for public comment, to recommend priorities for modifications to, elimination of, or strategies for existing Federal regulatory programs designed to protect public health. Within 6 months after the issuance of the report, the President shall notify the Congress in writing of the recommendations which can be implemented without further legislative changes and the agency shall consider the priorities set forth in the report when preparing a budget or strategic plan for any such regulatory program.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

Are there any amendments to the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROWN of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Reform Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To direct the head of each covered agency to establish appropriate regulatory priorities among regulatory initiatives based on the seriousness of the risks to be addressed and available resources, and other appropriate factors.

(2) To require the head of each covered agency to conduct a risk assessment and cost benefit analysis for all major rules.

(3) To require the head of each covered agency to—

(A) oversee the development, periodic revision, and implementation of risk assessment guidelines throughout the covered agency, which reflect scientific advances;

(B) provide for appropriate scientific peer review of and public comment on risk assessment guidelines and for peer review of risk assessments and cost-benefit analyses throughout the process of development and implementation;

(C) develop risk characterization guidance and oversee its implementation in order to communicate an accurate description of the full range of risks and uncertainties; and

(D) identify, prioritize, and conduct research and training needed to advance the science and practice of risk assessment and cost-benefit analysis.

(4) To establish a study to improve comparative risk analysis and to direct the Office of Science and Technology Policy to establish an interagency coordinating process to promote more compatible risk assessment procedures across Federal agencies.

SEC. 3. ESTABLISHING AGENCY PRIORITIES.

(a) PRIORITIES FOR REGULATION.—Each covered agency shall establish, after notice and opportunity for comment, priorities for regulatory purposes among threats to human health, safety, and the environment according to—

(1) the seriousness of the risk they pose;

(2) the opportunities available to achieve the greatest overall net reduction in those risks with the public and private resources available; and

(3) other factors as appropriate.

(b) REPORT.—Each covered agency shall submit an annual report to Congress setting forth the agency's regulatory priorities. The report shall recommend priorities, consistent with otherwise applicable law, for the use of resources available to the agency to reduce those risks in accordance with the priorities established under subsection (a), including strategic planning and research activities of the agency. The report shall also explain any statutory priorities which are inconsistent with the priorities established according to the factors set forth in this section.

SEC. 4. ANALYSIS OF RISKS, BENEFITS, AND COSTS.

For all major rules protecting human health, safety, or the environment, the head of each covered agency shall—

(1) conduct a risk assessment and cost-benefit analysis that uses sound scientific, technical, economic, and other data. Such an analysis shall be conducted with as much specificity as practicable, of—

(A) the risk to human health, safety, or the environment, and any combination thereof, addressed by the rule, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive, including children, the elderly, and disabled individuals;

(B) the costs, including the incremental costs, associated with implementation of, and compliance with, the rule;

(C) the quantitative or qualitative benefits of the rule, including the incremental benefits, reduction or prevention of risk, or other benefits expected from the rule; and

(D) where appropriate and meaningful, a comparison of that risk relative to other similar risks, regulated by that Federal agency or another Federal agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, and the preventability and nonpreventability of risks); and

(2) include with the rule a statement that, to the extent consistent with otherwise applicable law—

(A) the rule will substantially advance the purpose of protecting against the risk referred to in paragraph (1)(A);

(B) the rule will produce benefits and reduce risks to human health, safety, or the environment, and any combination thereof, in a cost-effective manner taking into account the costs of the implementation of and compliance with the rule, by local, State, and Federal Government and other public and private entities;

(C) the benefits, quantitatively or qualitatively, will be likely to justify the costs; and

(D) the most cost-effective option allowed by the statute under which the rule is promulgated has been employed, or if such option has not been employed, the head of the agency shall include a summary of the analysis justifying why it is not employed.

SEC. 5. RISK ASSESSMENT GUIDELINES.

(a) FUNCTIONS OF THE AGENCY HEAD.—The head of each covered agency shall ensure that any risk assessments conducted by the agency are performed in accordance with risk assessment guidelines issued by the agency head under subsection (b) and use relevant, reliable, and reasonably available data.

(b) ISSUANCE OF RISK ASSESSMENT GUIDELINES.—

(1) IN GENERAL.—The head of each covered agency shall develop and publish in the Federal Register risk assessment guidelines that provide appropriate consistency and technical quality among risk assessments performed by the agency.

(2) PROCEDURES FOR PUBLISHING GUIDELINES.—Before issuing guidelines under this subsection, the head of a covered agency shall—

(A) publish notice of intent to revise as appropriate existing guidelines or to develop new guidelines and a list of the issues the agency head intends to address and upon which the agency head seeks public comment;

(B) publish all proposed guidelines for the purpose of seeking public comment; and

(C) conduct scientific peer review of such guidelines.

(3) REVIEW AND UPDATES.—Not less than once every 3 years, the head of a covered agency shall review and, as necessary, update guidelines issued under this subsection.

(4) PROCEDURES FOR REVIEW OF RISK ASSESSMENTS.—Within 1 year after the date of the enactment of this Act, the head of each covered agency shall develop and publish procedures for the review of significant new information made available to the agency relative to risk assessments performed by the agency that are (or if this Act had been in effect would have been) covered by section 4.

(c) USE OF GUIDELINES.—The agency head shall ensure—

(1) consistency in the use of such guidelines to the extent such consistency is appropriate;

(2) that risk assessments are scientifically supportable; and

(3) that significant uncertainties regarding facts, scientific knowledge, and the validity of analytical techniques, or numerical risk estimates are clearly disclosed in terms readily understandable to the public.

(d) CONTENTS.—Risk assessments conducted by the Agency should be carried out at a level of effort and accuracy appropriate to the decision being made and the need for accuracy of the risk estimate and should be conducted according to risk assessment guidelines that include:

(1) An explanation of the scope and applicability of the guidelines, including appropriate limitations or restrictions on their use.

(2) Criteria for accepting and evaluating data.

(3) A complete description of any mathematical models or other assumptions used in the risk assessment, including a discussion of their validation, limitations and plausibility.

(4) A description of the default options, the scientific justification supporting the default options, and an explicit statement of the rationale for selecting a particular default option, in the absence of adequate data, based on explicitly stated science policy choices and consideration of relevant scientific information.

(5) The technical justification for, and a description of the degree of conservatism each model selection, default option, or assumption imposes upon the risk assessment.

(6) Criteria for conducting uncertainty analysis during the course of the risk assessment, and an explanation of the data needs for such analysis.

(e) REGIONAL COMPLIANCE.—The regional offices of each agency shall comply with, and follow, the risk assessment guidelines and policies established by the head of the agency. Where credible information has been received from an affected party that a region is violating such guidelines, the head of the agency shall examine the information and resolve the matter.

SEC. 6. RISK CHARACTERIZATION.

(a) IN GENERAL.—The head of each covered agency shall ensure that all risk assessments required by section 4, and the risk characterizations that are components of such assessments, make apparent the distinction between data and policy assumptions to facilitate interpretation and appropriate use of the characterization by decisionmakers.

(b) CONTENTS.—

(1) IN GENERAL.—As scientifically appropriate, such risk characterizations shall contain the following:

(A) Relevant information on data selection and rejection in the risk assessment, including a specific rationale justifying the basis for the selection or rejection, and the influence of the selection or rejection on the risk estimate.

(B) Identification of significant limitations, assumptions, and default options included in the risk assessment and the rationale and extent of scientific support for their use.

(C) A discussion of significant uncertainties and data gaps and their influence upon the risk assessment.

(2) QUANTITATIVE ESTIMATES OF CERTAIN RISKS.—As scientifically appropriate, any such risk characterization that includes quantitative estimates of carcinogenic risk shall contain the following:

(A) The range and distribution of exposures derived from exposure scenarios used in the risk assessment of which the risk characterization is a component, including upper bound estimates and central estimates and, when appropriate and practicable, the identification of susceptible groups, species, and subpopulations, including children, the elderly, and disabled individuals, or groups whose exposure exceeds the general population.

(B) A description of appropriate statistical expressions of the range and variability of the risk estimate, including the population or populations addressed by any risk estimates, central estimates of risk for each such specific population, any appropriate upper bound estimates, the reasonable range, or other description of uncertainties in the risk characterization which is contained in the risk assessment.

To the extent the types of information referred to in subparagraphs (A) and (B) are scientifically appropriate for risk characterizations other than for carcinogenic risks, such characterizations shall include such information. As other scientifically appropriate methods are developed for quantitatively estimating carcinogenic risks, such methods may be used in lieu of the methods described in subparagraphs (A) and (B).

SEC. 7. PEER REVIEW.

(a) ESTABLISHMENT.—For regulatory programs addressing human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for peer review of risk assessments used by the agency. Such program shall be applicable across the agency and—

(1) shall provide for peer review by independent and well-qualified experts;

(2) to the extent a peer review panel is used, the panel shall be broadly representative and balanced to the extent feasible;

(3) may provide for differing levels of peer review depending on the significance or the complexity of the problems or the need for expeditiousness;

(4) shall exclude peer reviewers who are associated with entities that may have a financial interest in the outcome unless such interest is disclosed to the agency and the agency has determined that such interest will not reasonably be expected to create a bias in favor of obtaining an outcome that is consistent with such interest;

(5) shall result in the appointment of peer reviewers who are qualified on the basis of their professional training or expertise as reflected in their record of peer-reviewed publications or equivalent;

(6) may provide specific and reasonable deadlines for peer review comments; and

(7) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

(b) REQUIREMENT FOR PEER REVIEW.—Each Federal agency shall provide for appropriate peer review of scientific information used for purposes of any risk assessment required by section 4. For any such risk assessment, the head of a covered agency shall provide a written response to comments made by the peer reviewers. The response shall indicate that the agency head explicitly considered the comments, the degree to which such comments have been incorporated into the risk assessment guidelines or risk assessment, as applicable, and the reason why a comment has not been incorporated.

(c) AVAILABILITY TO PUBLIC.—For all peer review to which this section applies, a summary of all peer review comments or conclusions and any response of the agency shall be made available to the public.

(d) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or analysis which has been previously subjected to peer review or for any component of any evaluation or assessment previously subjected to peer review.

(e) REPORTS.—Not later than 180 days after the date of the enactment of this Act, the head of each covered agency shall submit to the Congress a report on a plan for conducting peer review under this section, and shall also report to the Congress whenever significant modifications are made to the plan.

SEC. 8. REVIEW OF AGENCY COMPLIANCE.

During the 3-year period beginning 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall annually conduct a review to determine the extent of compliance by each covered Federal agency with the provisions of this Act and shall annually submit to Congress a report on such review.

SEC. 9. RESEARCH AND TRAINING IN RISK ASSESSMENT.

(a) EVALUATION.—The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including the following:

(1) Research to reduce data gaps or redundancies, address modelling needs (including improved model sensitivity), and validate default options, particularly those common to multiple risk assessments.

(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability throughout risk assessment, and risk assessment reporting methods that clearly distinguish between uncertainty and variability.

(3) Research to examine the causes and extent of variability within and among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

(4) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

(5) Long-term needs to adequately train individuals in risk assessment and risk assessment applications. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training and recommendations on appropriate educational risk assessment curricula.

(b) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—The head of each covered agency shall develop a strategy, schedule, and delegation of responsibility for carrying out research and training to meet the needs identified in subsection (a) consistent with available resources.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection (a) and the strategy and schedule developed under subsection (b). The head of each covered agency shall report to the Congress whenever the evaluations, strategy, and schedule are updated or modified.

SEC. 10. STUDY OF COMPARATIVE RISK ANALYSIS.

(a) IN GENERAL.—The Director of the Office of Science and Technology Policy shall conduct, or provide for the conduct of, a study of the methods for conducting comparative risk analysis of health, safety, and environmental risks, and to provide a common basis for evaluating strategies for reducing, or preventing those risks. The goal of the study shall be to survey and rigorously evaluate methods of comparative risk analysis.

(b) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

(c) REPORT.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress a report on the results of the study referred to in subsection (a).

SEC. 11. INTERAGENCY COORDINATION.

To promote the conduct, application, and practice of risk assessment in a consistent manner under Federal and to identify risk assessment data needs common to more than one Federal agency, the Director of 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 the Congress based on the surveys conducted and determinations made under paragraph (1);

(3) establish appropriate interagency mechanisms to promote coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment and to promote 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-State cooperation in the development and application of risk assessment.

SEC. 12. SAVINGS PROVISION.

Nothing in this Act shall be construed to modify any statutory standard or requirement designed to protect health, safety, or the environment or shall delay any action required to meet a deadline imposed by a statute or a court.

SEC. 13. DEFINITIONS.

For the purposes of this Act:

(1) The term ''major rule'' means any rule (as that term is defined in section 551(4) of title 5, United States Code) that is likely to result in an annual effect on the economy of $100,000,000 or more.

(2) The term ''risk assessment'' means a process that uses a factual base to—

(A) identify, characterize, and to the extent practicable and appropriate, quantify or describe the potential adverse effects of exposure of individuals, populations, habitats, ecosystems, or materials to hazardous pollutants or other stressors; and

(B) to the extent practicable and appropriate, identify and characterize important uncertainties.

(3) The term ''risk characterization'' means the final component of a risk assessment, that qualitatively or quantitatively (or both) describes the magnitude and consequences of that risk in terms of the population exposed to the risk and the types of potential effects of exposure.

(4) The term ''covered agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Consumer Product Safety Commission.

(C) The Department of Labor (including the Occupational Health and Safety Administration).

(D) The Department of Transportation.

(E) The Department of Energy.

(F) The Department of Agriculture.

(G) The Department of the Interior.

(H) The Food and Drug Administration.

SEC. 14. EXCEPTIONS.

This Act does not apply to risk assessments or risk characterizations performed with respect to either of the following:

(1) A situation that the head of the agency considers to be an emergency.

(2) A situation the head of the agency considers to be reasonably expected to cause death or serious injury or illness to humans, or substantial endangerment to private property or the environment unless prompt action is taken to avoid death or to avoid or mitigate serious injury or illness to humans, or substantial endangerment to private property or the environment.

SEC. 15. JUDICIAL REVIEW.

Nothing in this Act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action, but statements and information prepared pursuant to this Act which are otherwise part of the record, may be considered as part of the record for the judicial or administrative review conducted under such other provision of law.

SEC. 16. UNFUNDED MANDATES.

Nothing in this Act shall create an obligation or burden on any State or local government or otherwise impose any financial burden any State or local government. Nothing in this Act shall force a State to change its laws.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be

considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I will use a very brief portion of the time and then yield to my cosponsor, the gentleman from Ohio [Mr. BROWN].

Mr. Chairman, this amendment was drafted after considerable discussion of the major problems of this bill which have been pointed out during general debate. It seeks to reflect the views of those who have expressed concerns about the workability of the bill, including Members on both sides, and we believe that the substitute is a considerable improvement over the original bill, and we elaborate on that during further debate.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield the remainder of my time to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I rise in strong support of the Brown-Brown substitute amendment to H.R. 1022. This substitute provides a common sense approach to risk assessment without creating a lawyers' paradise. It ensures that public health and safety will continue to be protected. At the same time it enhances the decision-making process to ensure that our resources are spent on our most critical prioritized needs.

Risk assessment and management provide valuable tools with which we can identify the most critical threats to health and safety of Americans and establish a system of priorities to address these problems. In time of scarce resources, it is essential that we plan appropriately and demand sufficient information to make decisions based on sound science. Risk assessment can help us do that.

Risk assessment practices, however, must not in and of themselves become a burdensome process. This bill as currently drafted is loaded with unintended consequences and will effectively derail the last 25 years of accomplishments in protecting the public's health and safety.

I remember when parts of Lake Erie were dead. Today my daughter can swim in Lake Erie. I remember when the Cuyahoga River was on fire. Today it is an essential water route for interstate commerce.

We have in this country the cleanest air, the safest drinking water, the purest food, the safest consumer products in the world. It is not an accident we were able to do that by working together with Government and business and regulations and making sure that those products were safe, the water was clean, the food was pure and the air was clean. Citizens of northeast Ohio continue to be concerned about the high rates of breast and prostate cancer in that part of the State. They believe the cause could be the pollutants of a previous day. Did we address the most serious concerns when we cleaned up Lake Erie or cleaned up the Cuyahoga River? We do not know. We should find out. Risk assessment and analysis can help us do that without it becoming the lawyers' for employment act.

Listen to some of the comments, Mr. Chairman, that have been made about this legislation. A former Republican chairman of the Senate Environment and Public Works Committee said this legislation would shift the financial, legal and moral burden of dealing with pollution from the polluters to the victims.

A former Republican EPA Administrator under Presidents Bush and Reagan said the proposal would render the Nation's environmental laws by and large unworkable and unpredictable by creating a procedural nightmare and endless litigation. More bureaucracy, more lawyers, more government.

The Natural Resources Defense Council report said the bill would dismantle laws that have worked, would block improvements to public health, would pay polluters to bloat the deficit and would dramatically increase bureaucracy and litigation.

Mr. Chairman, the evidence is overwhelming that this legislation would have enormous unintended consequences for the public health and safety of all Americans. Twenty-four Members of the House, a dozen Republicans and a dozen Democrats signed a ''Dear Colleague'' letter to urge Members to think this legislation through and to address three major concerns about the bill. Our substitute addresses these concerns in a way that does not diminish the science of risk assessment, which I support, or create endless bureaucracies or litigation.

Our substitute is patterned after a Republican proposal of 2 years ago. It is a reasonable alternative. It is a strong risk assessment bill without bureaucracy, without more lawyers, without more government, and without the unintended consequences that the authors of this bill have not foreseen because of the quick way in which it passed the committee.

Mr. Chairman, I ask Members of the House to look carefully at the substitute. The substitute makes sense. It is a reasonable middle-of-the-road, down-the-middle approach. I ask support for the Brown-Brown substitute.

Mr. WALKER. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I am glad we got this amendment out here first because it is a good way of kind of delineating the debate.

This is the status quo amendment. This is keep things as they are, do not change regulations.

The gentleman from Ohio has just given Members this explanation. He thinks the things that have been done in the name of regulation have in fact been beneficial to the country. In fact, there are some things that have been done in the name of regulation have in fact been beneficial to the country. In fact, there are some things that have been beneficial, but the fact is that we have regulations run amok at the present time too that need to have some handle on them, and we need to get the good science, and we need to have common sense prevail.

Under the Brown substitute what we have is an opportunity for the regulators to continue to do exactly what they have been doing. Since we had such a discussion about process out here a few minutes ago with the gentleman from Michigan and the gentleman from California criticizing the process, I must say we have not had much of a chance to review this substitute, since I only got it at 6 o'clock, which means about 25 minutes ago we actually got a chance to see this amendment in the nature of a substitute. In other words, this is the whole bill, folks. We are trying to take one whole bill and substitute it. At least even under their scenario we gave them a couple of hours. We got 25 minutes.

But let me say that we have had a chance to look at a few things here, and it does give one a little bit of cause to be suspicious if in fact we had had the idea that we were going to really change regulations. For example, it changes a major rule from an annual impact of $25 to $100 million. Guess what that does? That wipes out virtually all of the business of finding regulation. One hundred dollars' worth of impact means you have $100 million dollars' worth of impact in the economy. No small business is likely to have something that is 100 million dollars' worth of impact. Service station operators, dry cleaners, all of these folks across the country that have been hit hard by Federal regulation would not even qualify under this bill. All the big businesses like General Motors and so on, yes, they might come under, and their lobbyists will not be all that unhappy with all of that by the big lobbying community. But the little guy, the little guy is going to be affected by this.

So guess what? This bill that they have brought before us now is the big guys versus the little guys, and the little guys come down on the side of our amendment that says $25 million worth of impact.

I also was interested to look at the language that dealt with how we were going to compare risk. In other words, what our bill says is you ought to compare risk to the thing that the general public has knowledge of, drinking a glass of orange juice, riding in a car, things that the public really understands, you ought to compare that.

Here is the language they substitute though for that kind of thing, listen to this language, Members will love it. If

this is not a regulator's dream or a litigator's dream, I do not know what is. Listen to this:

> Where appropriate and meaningful, a comparison of that risk relative to other similar risks, regulated by that Federal agency or another Federal agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, and the preventability and nonpreventability of risks).

Now what the devil does that mean? I do not know. No one knows. It is just one more way of making certain that regulation stays right where it is.

□ 1830

You know, you put in a bill risk ought to be compared to that that the public knows. Then they come up with that kind of junk.

Now, it seems to me that what you want to do is just turn down this substitute flat.

The other thing that is does is it says that we are not going to have any judicial or administrative review. Now, what that means is that if in fact you have a regulation issued that the Department thinks is fine, you have no appeal after that. The Department issues the regulation, and nothing can be done about it because, in their substitute, they wipe out the ability to have any kind of administrative or judicial review.

You know, even under the Administrative Procedures Act at the present time there is at least a process for doing this. They wipe that out. Here is the language. They say, ''Nothing in the title creates any right to judicial or administrative review.'' You cannot even do what people can do now in terms of going back to the agencies under what they have created here. This is really a bad bill. This is the kind of thing that says, ''Regulators, do whatever you want. If you have been down there regulating an industry and so on, if you have been regulating people out of business, you go right ahead and keep doing it.''

All of this talk that we heard during the general debate, ''We agree with the intent of this legislation, and we would love to do something that would help,'' this is their idea of what it is. This is their substitute. This substitute makes the situation worse. It does not help the situation. This destroys exactly what we are attempting to do with the bill here on the floor.

So I would suggest that if ever you wanted to cast a big ''no'' vote, if ever you wanted to stand up and say, ''Let us stop regulation from batting down the American people,'' vote ''no'' on this substitute. This substitute is really bad news.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I would just note for the benefit of the last speaker that this bill was gotten to the House more quickly than any of the various and sundry substitutes which the gentleman was presenting to us after moonlight discussions with other Members on that side of the aisle. So if you are concerned about the time that we have had in terms of having this available to us, we have done better than has the gentleman from Pennsylvania.

Now, the gentleman complains about the language he read. That is language out of legislation that passed the House last year relative to exactly the kind of thing we are trying to do, and that is to set in place risk assessment. It also is language which is very close to the language that is in the bill that the gentleman has submitted to us, and I can understand, with the haste that the gentleman from Pennsylvania has crafted these different sundry substitutes that we have been confronting over time without opportunity to read them, that he may not have had full enough time to read his own bill so he really does not understand what is there.

Having said that, the effects of the basic legislation will be seen in many ways. One is with regard to a final rule which is anticipated by December 1995 with regard to safety on commuter airlines. As we all know, commuter airline safety is open to question, and that a fatal commuter accident in North Carolina caused the Secretary of Transportation to announce a commuter safety program would be fast-tracked. The fast-tracking of that commuter safety airline legislation or, rather, regulation which will address very specifically pilot training and crew rest requirements would be sidetracked by the language of the bill but not by the amendment which is put forward.

FAA has plenary authority to take actions necessary for airline safety. But that plenary authority will be effectively delayed by this matter.

Having said those things, the airline safety rule will exceed the $100 million cost threshold established in title III. FAA will have to peer review any risk or cost analysis which forms the basis for action under this.

Never before have we had risk assessment or cost-benefit in rules of these kinds, and the reason was very important. FAA exists to assure that there be safety of the American airline traveling public. That safety will be substantially denigrated and severely jeopardized by the bill unless the amendment is adopted.

Similar situations with regard to PCB control regulations, those which are actively sought by legislation, will be sidetracked and will cost industry and the American economy billions of dollars in additional disposable costs and will rob industry of flexibility and opportunity to become more competitive through relaxation of current situations which they find unacceptable.

H.R. 1022 is a very simple thing. It is a political campaign statement which is now being turned into bad law, and it is being done so in the most extraordinary of haste, the idea being to meet some curious 100-day deadline which relates not to the well-being of the American people but to simply the keeping of some kind of political statement.

The amendment should be adopted, or the bill should be rejected, and the safety and the well-being of the American people, the protection of their environment will, indeed, be better served by that course.

I urge my colleagues to adopt the amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I ask the gentleman from Michigan [Mr. DINGELL], did I understand you correctly that the language on comparative risk assessment is the same language that passed the House and Senate and was signed into law last year in the Agricultural Reorganization Act?

Mr. DINGELL. The gentleman is correct in that statement.

Mr. BROWN of California. And the $100 million cap the gentleman from Pennsylvania [Mr. WALKER] referred to is the same in the Reagan and Bush Executive orders?

Mr. DINGELL. That is also correct. The $100 million is exactly the same as was in the Executive orders brought forward by Presidents Bush and Reagan.

Mr. OXLEY. Mr. Chairman, I move to strike the last word.

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

Mr. Chairman, I am particularly concerned about providing a double standard, one for the regulators and another for everybody else.

Let me read to you and the Members the language on compliance in the Brown squared substitute. It says:

> During a 3-year period beginning 1 year after the date of enactment of this act, the Comptroller General of the United States shall annually conduct a review to determine the extent of compliance by each covered Federal agency with the provision of this act and shall annually submit to Congress a report on such review.

Essentially what we are saying is that the regulators can have their usual run at regulating with only apparently a drive-by windshield effort by the Comptroller to do that. That double standard, coupled with the lack of judicial review in the Brown squared substitute, would indicate that this is a very weak provision at best.

Judicial review in the Brown substitute:

> Nothing in this act creates any right to judicial or administrative review or creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies

or instrumentalities, its officers or employees or any other person. The adequacy of any document prepared pursuant to this act, and any alleged failure to comply with this act may not be used as grounds for affecting or invalidating such agency action.

It is business as usual, folks, with all the regulators. They are just free and wild.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman makes an excellent point. If you go down and look in the contents section on page 7 of the substitute, you find exactly the same thing the gentleman is talking about. It says here,

Risk assessments conducted by the agency should be carried out on a level of effort and accuracy appropriate to the decision being made and the need for accuracy of the risk assessment and should be conducted according to risk-assessment guidelines.

What that means is the bureaucrats are going to decide whether or not the bureaucrats are right. The regulators are going to decide whether or not the regulators are right. You know, it is really an attempt here to say whatever the regulators want, the regulators get.

Mr. OXLEY. I thank the gentleman for his comments, because that is exactly right, and it is the same old story, and the same old game, and the regulators will continue to regulate, and nobody is going to be able to check them unless we defeat this substitute.

Now, Mr. Chairman, I have a list here of the Alliance for Reasonable Regulation, and I have a list of 35 organizations and companies throughout this country, everybody from Goodyear all the way down to small operations, and this includes the National Federation of Independent Business, NFIB. that supports our legislation and opposes any weakening efforts like the Brown substitute.

I want to make certain that the Members understand that it is not just the major companies but small businesses throughout this country that are finally coming to realize that they are being put upon by these massive regulatory burdens that have cost us jobs and our competitiveness throughout the world, and that is really important to understand.

I also want to point out, Mr. Chairman, that we want to maintain the $25 million threshold. We think that one of the major weaknesses in the Brown provision is to raise this threshold to $100 million.

Now, I do not know about the Members on the other side of the aisle, but I know to a lot of people that we represent in small businesses and the like, $25 million is an awful lot of money, and while we may spill that much before breakfast around here in Washington, the fact is that is an important threshold that we want to maintain in the legislation that came out of our committee as well as came out of the committee of the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. If the gentleman will yield further, I was interested to hear the discussion on the other side that the Executive orders of the Bush and Reagan administrations were at the $100 million level. I wonder if there is anybody who in this Chamber believes that the Bush and Reagan administrations got the regulatory process under control. I mean, the fact is the $100 million did not work. It did not result in the regulatory process being gotten under control.

In fact, we had a discussion out here earlier today about the mess that was made during the 1980's of the asbestos policy, and that was done under the Reagan administration, and it may, in fact, be a perfect example of why the $100 million limit of those executive orders was the wrong limit.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I do not want to impose on the gentleman's time. I can get someone on our side to do it. If the gentleman would like to have me comment as he proceeds, I would like to do it.

I wanted to point out that the $100 million figure which exists in all past Executive orders captures 97 percent of all the economic impact of regulations on the American public.

Mr. OXLEY. Reclaiming my time, the gentleman from Pennsylvania had it right, that is, it just did not get the job done. One hundred million dollars is not going to get the job done. There are a lot of people in my district and other districts around here who are very concerned about $100 million. They think $25 million makes a lot of sense and so do I.

Mr. MANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Brown substitute.

Mr. Chairman, the Brown substitute offers Members a chance to vote for meaningful regulatory reform without endangering the public's health and safety. Furthermore, unlike H.R. 1022, this substitute would not expand judicial review of agency decisionmaking.

My colleagues who historically have expressed concerns that legislation passed by this Congress is ill-suited to real world applications should be troubled that H.R. 1022 would implement a one-size fits all risk assessment scheme. By contrast, the Brown substitute would require each agency to issue scientifically sound risk assessment guidelines with criteria specifically tailored to fit the agency's area of expertise. Thus, in contrast to H.R. 1022, the Brown substitute would require federal agencies to use the most useful scientific data available to complete risk assessment.

I strongly believe we should establish a balanced approach to environmental concerns. I have tried to represent the views of my constituents who have told me they want a clean environment but also less government regulation. I also share the frustration of many of my colleagues about ill-conceived and unduly burdensome regulations which have been issued by the EPA as well as other agencies. It is therefore tempting to support this bill because it will slow down the regulatory process and perhaps lead to less regulation.

However, simply reducing the amount of regulations promulgated by the Government is not the answer to our current problems.

We need a regulatory process that better reflects simple common sense and that is carefully targeted to protect public health and promote free market competition.

That is why I believe risk assessment and cost benefit analysis can play a meaningful and useful role in developing environmental regulations.

Finally, I want to inform my colleagues who may be considering voting for H.R. 1022 because they support the general concept of risk assessment that this bill is dangerously overbroad.

H.R. 1022 would impact many federal regulations designed to protect health and safety. The Brown substitute cures this defect in the registration by specifying that no existing health, safety or environmental laws may be overridden through passage of H.R. 1022.

While certain Federal regulations designed to protect safety or public health are counterproductive, the vast majority are not.

A scattershot approach is not the way to correct this problem.

As children, most of us were told that ''it is better to be safe than sorry.''

Our parents who gave us this advice were trying to pass along the wisdom of their years. It is good advice that we in the House should consider today.

I urge my colleagues to support scientifically sound cost benefit and risk assessment analysis, and support the Brown amendment.

☐ 1845

Mr. BILBRAY. Mr. Chairman, I speak in opposition to the substitute motion. I am sure my colleagues on the other side of the aisle are really well intentioned in thinking that environmental and regulatory mandates from the Federal Government somehow always protect the public, always defend the little guy. I am here, though, representing a district which has been severely impacted by Federal regulations. The public health of my citizens has been severely impacted by government and Federal regulations.

Mr. Chairman, I happened to have the privilege of going back to my district and being able to enjoy the beautiful southern California climate. I was able to take my 8- and 9-year-olds to the beach, and this is what we were greeted with, Mr. Chairman. ''Contaminated'' signs that have been there for

so long that they are not made out of paper, they are made out of weather-resistant plastic because the contaminated beaches of southern California have been allowed to perpetuate for a long time.

My colleague from Ohio [Mr. BROWN] continually points out how great the successes have been on Lake Erie. I appreciate that his children can swim in their water. My children cannot. My children cannot or should not be swimming in our water, not because of some business or because the government has not done its job under the existing rules, but because under the existing rules our government regulations have done a job on the environment. I point out the fact, Mr. Chairman, that there have actually been environmental rules interpreted by bureaucracies to state that because the area has been polluted for so long that there is a possibility that a sewage-based ecology has been created and thus is protected under environmental regulations. And that may stand in the way of diverting sewage away from this area and into a sewage treatment system as we all know it should be.

At the same time, this same problem has been going on, the same area has a mandate coming down from EPA to treat our sewage in a manner that both Scripps Institute of Oceanography and the Academy of Sciences say are inappropriate and actually damaging to the environment. But these regulations are taking precedence over the environment, Mr. Chairman.

What the substitute will say is that those of us who are the victims of inappropriate government regulation will not be able to go to court, will not be able to use the justice system to be able to straighten out the insensitivity of the bureaucracy.

I stand here as somebody who has worked almost two decades trying to take care of the pollution problems in my neighborhoods and in my district, and at the same time trying to keep the EPA from requiring us to spend over $3 billion to $6 billion on so-called improvements that will not benefit the environment or the public health.

Mr. Chairman, I stand in opposition to this amendment because it will not allow the citizens of my district to stand up and demand that they get preferable and fair treatment from the Federal Government and that government regulations will not continue to constitute one of the greatest public health risks southern California has seen, not the lack of environmental regulations but the inappropriate application thereof. That is why I stand in opposition to this substitute motion.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Brown substitute. I have some serious concerns about H.R. 1022, which is before us today. It started out with the best of intentions: reforming the Federal regulatory system. We all agree that change is needed in this system and change is starting to occur, in the Clinton Executive Order No. 12866, in the Reinventing Government work, and on a number of fronts in individual agencies.

I think that most of us agree that any legislative measure to speed this change in a constructive direction is welcome. What is not welcome is the bill that has emerged from Committee consideration. Somewhere between the original intent of this bill, something has gone wrong. The problems with this bill are so extensive that only a substitute measure can correct them, and for that reason I am supporting the Brown Substitute.

Let me give you a single example of the problems with H.R. 1022. The bill, in Section 201(b)(1) states:

> Notwithstanding any other provision of Federal law, the decision criteria of section (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking other wise applicable under the statute pursuant to which the rule is promulgated.

This single sentence overrides every existing statute and imposes the risk analysis and benefits calculation process outlined in this bill. Where is the list of these statutes that are being overridden? It does not exist. During committee markup, the comprehensive list of statutes was requested, but was not available. The report accompanying H.R. 9, the original legislation from which this bill was derived, has a simple table outlining some of the statutes overridden. But it is not complete, nor do we know today what the impact of approving this sentence will be.

And this is not a partisan concern. Republican Members of the Science Committee observed in the report on H.R. 9, which contains this same preemptive language:

> (T)itle III may undermine landmark laws that were enacted only after years of work and discussion to create a delicate balance of interested and affected parties—laws that range from protection of food and drinking water quality, to aviation safety, to hazardous waste management, and preservation of wildlife. (Supplemental Views, Report # 103–33, Part 2.)

The Brown substitute contains a savings clause that makes its provisions in addition to and not in place of the provisions of existing law. That is the sane way to legislate. I urge my colleagues to support this substitute.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important for us to understand precisely what this debate is about. The legislation we are discussing today would require that under the existing Federal system of law under which the regulations are now implemented, that we look at whether what we are doing is cost-beneficial. It requires first that we assess the risks which our regulations seek to reduce and then we assess the cost of what the regulations are requiring us as a society to pay in order to reduce those risks.

If it is determined that we are getting only a very minute increase in the reduction of the risk at a very expensive cost, then it is expected that the agency will say that this is not a cost-beneficial decision and we as a society can better spend our limited resources in another way.

Yet there are previous statutes that often set absolute requirements that the Federal agency will then say they must meet. The central debate here is: If we determine after a cost-benefit analysis that moneys can be expended, better for the environment, better for our health, better for our safety in another way, should we let a prior statute tell us that that cannot be done? Should we let a prior set of laws tell us that we cannot conduct a cost-benefit analysis, that we cannot find a better way, that we cannot go forward and use common sense in application of Federal regulations and must continue to follow old approaches?

No. This legislation does not change by itself any previous law; this legislation says we are going to look at the regulations that come out and we are going to see what new efforts by the agencies do and compare what the costs of those regulations, whether it is justified by this benefit.

The current costs of our Federal regulatory programs are estimated to be between $430 billion and $700 billion every year, and are increasing every day.

Yet Congress has never in a significant way reformed our regulatory program to consider meaningful risk assessment and incremental cost-benefit analysis. We have to reform the way our Federal Government operates and take the burden of unreasonable regulations off the backs of the American people.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, and I think he went to the heart of the problem when he suggested that we are in fact trying to make certain new regulations written even under old rules actually make sense and are based upon good science.

What amazes me is to hear the opposition to this bill suggest we do not want to do that. If in fact there is no benefit to the costs being incurred under the Clean Air Act, should we not know that? Is it not something that should be evaluated?

The point is, if there is a benefit, then we go ahead and do it, even under this bill. But to suggest, as they are suggesting, that you should not even do the cost-benefit analysis to find out what the case is, is, I think, a monument to the position that they are taking: That the status quo works just fine.

The other point I would like to make to the gentleman is we are having a chance more and more to review the

substitute that we had not seen heretofore.

But it strikes me very odd, for instance, that the substitute drops out the Corps of Engineers from coverage, which is covered under our bill.

Now, I do not know any Federal agency that has had more of an impact on the country, and some adverse environmental impact, than the Corps of Engineers. And yet, under their substitute, the Corps of Engineers is specifically dropped from coverage.

One has to wonder who got to them. Why in the world would you drop out this huge agency, which has this massive environmental impact, from a bill that is forcing us to look at cost-benefits? If there is any place we ought to look at cost-benefits analysis, it is some of the work that the Corps of Engineers have done over the years.

I am just puzzled as to why that particular agency is one that is dropped from coverage under this bill.

I thank the gentleman for yielding.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. CRAPO. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I do want to clarify for my friend from Pennsylvania [Mr. WALKER], the way the Clean Air Act works. The Clean Air Act has health-based standards so that people can breathe the air and know that their health is not going to be damaged. Then we have to figure out the strategies to achieve that.

This bill would take the health-based standards and weaken it because they would have a cost-benefit analysis of what the health standards are. Otherwise, in the Clean Air Act we have technology standards on toxic air pollutants, and those technology standards are important. If you want to go through the risk assessment, you can go on for years and years and years. We ought to at least use the best technology we have to reduce the pollutants that cause cancer, birth defects, and environmental damage.

I did want to clarify that for the gentleman.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. CRAPO was allowed to proceed for 2 additional minutes.)

Mr. CRAPO. I yield further to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman.

Mr. Chairman, I understand full well what the case is. But the fact is that some of the things that have been done under the bill have proven to have absolutely no benefit. Now, in fact, if they meet health standards that have some benefit, then they will certainly be able to go forward under this bill, But if, in fact, they cannot meet the cost-benefit analysis under the bill, then they would not go forward.

It seems to me that even under the health standard, we ought to be assured people are actually going to be benefited from the costs. That is what the gentleman cannot stand. He cannot stand the idea that we would actually have to have a benefit at the end of all of this and that the costs should justify the benefits.

Mr. CRAPO. I thank the gentleman for his comments. The point is very clearly made. This bill does not change any standard. It requires us to look at what is done under existing statues and any new regulations that seek to impose further requirements under that statute we must first assess under that statute what kind of a risk, how big is that risk, and what benefit will it give us and at what cost to society to get to that point?

Mr. BURR. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from North Carolina.

Mr. BURR. I thank the gentleman for yielding to me.

Mr. Chairman, if I understand it, we could go through a cost-benefit analysis and judge something as not worthy of the attention of the Federal agency and in fact there might be something else that is prioritized out there that actually is in the best benefit of the American people.

Mr. CRAPO. That is exactly right. The point is we have limited resources in this society, and we must place them and use them most effectively.

If we are spending the last 80 percent of our money on a very minor increase in the safety to our people when we could use that money for significant safety and environmental and health increases, we need to know that and we need to function in that way.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, the issue is not whether you are going to look at a cost-benefit analysis or risk assessment or supersede all existing laws.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has again expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. CRAPO was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. If the gentleman would yield further, I would like to finish my statement on this issue because we do cost-benefit analysis when we develop the strategies to achieve health standards.

But what this bill would do is to supersede the Clean Air Act completely and not even have health standards that would be required to be met.

I think that is offensive because it weakens the exact purpose of the law, which is to protect the public health from pollutions.

Mr. CRAPO. This bill does not eliminate any health standard.

Mr. WAXMAN. The gentleman is incorrect.

Mr. CRAPO. What it says is: If the health benefit standard is not beneficial, then we must find a more cost-beneficial use for the funds.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from California.

Mr. BILBRAY. I thank the gentleman for yielding.

Mr. Chairman, I think I want to point out the gentleman from California is aware of the fact that we are not talking about static standards here. The fact is there are conflicts that have not been addressed when we go to decommission a fuel tank. But the public health exposure of the air pollution created by that regulation is never fully considered under the existing system. In areas where you may have a saltwater aquifer, implementing the Federal law may actually expose the public to more than not doing anything.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. CRAPO was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Pennsylvania.

☐ 1900

I think one of the things that needs to be looked at here is the fact that under the clean air standards one of the tests that many industries have had to meet is an opacity standard even though the smokestack was cleaned up to a point that there was no health risk. EPA went on and suggested that they had to achieve an opacity standard which then says that it has to be completely clean coming out of the stack.

Well, what we are suggesting is that maybe the cost-benefit of achieving the opacity standard, which has nothing to do with health, is too great, and it ought to be looked at as a part of doing the work.

Mr. CRAPO. Mr. Chairman, I thank the gentleman. Let me just make one example, and then I will yield back my time.

I think that maybe we could look at an example. Right now we have a Federal standard, the Delaney clause, that basically has been interpreted to say that we must, in that particular health area, reach a zero tolerance, a zero risk standard. That is what the law says, as the gentlemen over here have said, and we had significant agreement last year in this Congress that we should address that so that we can use our resources

more intelligently. This act would allow us to do that.

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. CRAPO was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, in the committee report on page 36, Mr. WALKER's Committee on Science talks about the Clean Air Act as superseded, the Resource Conservation Recovery Act, RCRA, superseded. One issue, after another, after another. I say, If you don't like the Clean Air Act, let's debate the Clean Air Act. It passed this Chamber overwhelmingly, passed the Senate overwhelmingly. If we want to dismantle clean air, as apparently people on the other side of the aisle do, let's debate it. Let's not try a back door approach where people don't really quite understand exactly what's happening when you supersede these laws. Let's come out. Let's have hearings. Let's have longer hearings than we had in committees on this legislation where both sides come out, both sides can talk about it. We can hear what the issues are and really decide.

Does the public want us to undo the Clean Air Act? I do not really believe that.

Mr. CRAPO. Reclaiming my time, I think it is very important to point out this act does not eliminate the Clean Air Act, and any impression, indication, of that is wrong.

What this act says is that a cost-benefit analysis must be done and that if a cost-benefit analysis done by the very agency that manages the Clean Air Act shows that what we are doing is costing us much more than the benefits that it is yielding, then we have got to look at that law and find a better way to approach it.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from California.

Mr. BILBRAY. I do not know why everybody is so scared of just bringing some reasonable application to law.

I say to my colleagues, you're not destroying the law by making sure that it's applied reasonably. You're reinforcing it. You're making sure that the intention is finally executed.

The frustration out there is the fact that the reasonable application of the law has been lost, and this brings back a dose of reality, a little reality in the application of these regulations which will fulfill the law, not destroy it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. When the cost-benefit displaces clean air, when the cost-benefit displaces—when those calculations displace public health issues, public health standards, when my area of Ohio has some of the highest breast cancer rates in the country and we do not know why, and we only are going to look for cost-benefit analysis, and yet it is superseded by this law, it simply does not make sense.

Let us get out and debate these issues so we know what we are really doing——

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. CRAPO was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield to me?

Mr. CRAPO. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman referred to a chart in our committee report. The gentleman, I think, ought to read beyond just the chart because when the word ''supersede'' is used, it is used when existing legislation does not permit risk assessment cost analysis or peer review.

In other words, they passed this legislation, it passed, and the gentleman just admitted now we do not know. We have a lot of stuff we do not know as a result of, as a result of, a lot of this legislation. He made the statement himself.

What we are saying is that we are now putting in place a mechanism whereby we can have cost-benefit analysis and we can have risk assessment, and they do not wipe out the present law. They simply add on a case-by-case basis an ability to do these kinds of assessments in the future as new regulations come forward.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield for an explanation?

Mr. CRAPO. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. If I could ask the gentleman from Pennsylvania to explain on page 29 of the bill, notwithstanding any other provision of Federal law, the decision criteria of subsection A shall supplement and, to the extent there is a conflict, supersede——

The CHAIRMAN. The time of the gentleman from Idaho [Mr. CRAPO] has expired.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I worked on the clean air law for 10 years before it was adopted in 1990, and let me tell all my colleagues that this bill that is before us today would supersede the clean air law, and it would supersede it in terms of the health base standards. That is exactly what is intended, and what would happen when it says that this bill will supersede the rulemaking under any other existing law. This legislation would take laws like clean air, clean water, safe drinking water and supersede them, take the guts out of the bill, of the laws, that are in there to protect the public health, and they take away the flexibility on the parts of the States to make them work. They do not add a streamlining or cost-benefit analysis that we never had before. They put in so many roadblocks that the laws just will not work.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. BROWN of California. Would the gentleman concur with me that the Brown substitute remedies this defect?

Mr. WAXMAN. Absolutely.

Mr. BROWN of California. And that it would allow us then to go ahead and conduct the cost-benefit analysis and the risk assessments that the gentlemen are so happy to see?

Mr. WAXMAN. I do not think anyone disagrees with the idea of doing a cost-benefit analysis, a risk assessment, trying to get the information that will help us make the right decision when we adopt regulations to enforce the laws, but there were some laws that were designed to protect the public health, and to say to protect the public health is really not going to be the objective any longer because this bill is going to supersede it, and we are going to look at whether the standard ought to be subject to some kind of analysis, which would mean it is a weakened standard, and then the strategy to develop that standard is also weakened as well, what we have is a mush. What we have is a rejection of laws that have been on the books since 1970; in the case of the Clean Air Act, signed by President Nixon, with a great deal of pride by Members of the Congress on both sides of the aisle, that we would try to protect the public health from pollutants that injure, and to a great extent millions of people now live in areas where they can breathe safer air because of all this work.

Mr. CRAPO. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Idaho.

Mr. CRAPO. I think that the point that we are trying to make is that the only circumstances in which this statute would supersede any other statute is in that case where an agency has made a cost-benefit analysis and a risk assessment and has determined that the increment of increased safety, or increased health or increased environmental protection that is obtained is not justified by the cost.

Mr. WAXMAN. If that were true, if I can reclaim my time, we would not be arguing about it, but that is not the way I read the law because the way I read the law that is being proposed is it will subject existing laws to a whole new analysis to redo them again, and not only that, the elevation of the least cost-effective way to achieve the results would mean that other factors could not be taken into consideration.

Let me give my colleagues an example of what that would mean: Carol

Browner, the head of the Environmental Protection Agency, testified before our committee, and she said that, if this were the law, she would have to put an inspection and maintenance program on automobiles all over the country. Why? Because that is a very cost-effective way to reduce pollutants from cars. But it is not the best political way to do it. The better way would be to have new cars to reduce pollutants by being made to pollute less. That means that the auto industry would bear the cost rather than the individual consumers having to spend a lot of money to get their cars inspected, to have the changes in the way the cars work, to achieve those standards for many years thereafter.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, does the gentleman realize what he just said?

Mr. WAXMAN. I think so.

Mr. BILBRAY. We are talking public health, and now the gentleman is talking the fact that it is the political answer that he wants to make sure is still on the table.

That is fine, but let me just say we for 20 years—the gentleman has worked on this; I understand that. I administered it. I say to the gentleman, ''You got to understand for 20 years we were pushing people towards the use of diesel. We thought that that was a great health standard. The fact is diesel has a toxicity above benzene.''

But what we are saying is, ''Let's go back and check. Let's look at these things from reality.''

Mr. Chairman, I know when they passed these laws they meant them to be health based, but, God forbid, let us not make the health based strategy somehow subservient to some kind of political whim.

What we are saying is that environmental protection is a science, not a religion and not politics, and what we are trying to talk about is, ''Let's put science ahead of politics when it comes to environmental protection.''

Mr. WAXMAN. I do not disagree with that statement at all, but what this bill says is, ''You have to, no matter what, take the least cost-effective way to achieve the result.'' That sounds fine except when we get into the reality that some States would like to have flexibility.

I asked Governor Wilson from my State when he testified before our committee would he favor a bill that would repeal the clean air standards as ambient standards based on health, and he said, ''Absolutely not.''

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the substitute amendment.

Mr. Chairman, I strongly support the Brown substitute because I do believe it achieves the basic purpose of risk assessment, which is to safeguard public health and the environment without wasting limited resources.

The laws Congress has passed to protect public health and safety are on the books for a reason. United States citizens deserve to know that the food they eat, the air and water in the surrounding environment and the power plants they live alongside are safe, and I believe that H.R. 1022 in its current form will do more harm than good.

First and foremost, I have serious doubts about the bill's approach to regulating different types of risks. While the legislation was conceived with the EPA in mind, it has been expanded to apply to nearly all Federal agencies with health and safety responsibilities. At best this approach may solve problems that do not actually exist; at worst it may undermine effective agency programs already in place.

If I could take a bit from the gentleman from Pennsylvania [Mr. WALKER] in what he was saying before, part of the problem I see with the legislation and why I prefer the substitute is because I believe that the substitute allows more flexibility. There are certain agencies which are included under the rubric of the bill but which are exempted in the substitute, and I believe the reason for that is because many of those agencies that are exempt from the substitute are already carrying out valid risk assessment cost-benefit analysis, and I am fearful that with the bill in its current form it will simply be superseded by a new, more rigorous procedure. I think we need flexibility with these agencies. A lot of them are already carrying out good risk assessment.

If I could give an example with the NRC, the Nuclear Regulatory Commission: The Nuclear Regulatory Commission for years has conducted cost-benefit analyses of all proposals to upgrade nuclear reactor safety under the so-called backfit rule. This standard has been in effect since 1985, and has been upheld by the courts and is familiar to all those who come before the agency. It is not clear to me to what, if any, safety gain would be achieved by making the NRC adapt to H.R. 1022's new cost-benefit approach. The Brown substitute exempts the NRC because the agency already performs risk assessment tailored to its specific needs.

I would argue that the same is true in a different way for the Army Corps of Engineers which the gentleman from Pennsylvania [Mr. WALKER] mentioned. The Army Corps of Engineers conducts very extensive cost-benefit analyses before any water project begins.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I should point out that the reason we have left the Corps of Engineers out, at least I am informed by the staff, is because they modeled after the H.R. 9, which had left it out, which was part of the contract that we thought, ''Well, at least here's part of the contract we can follow,'' so we left it out also.

Mr. PALLONE. Mr. Chairman, my point is that many agencies are already carrying out good risk assessment, good cost-benefit analysis, and I think that is the type of flexibility we need. There may be some instances where we need to do it, but we do not want to supersede the risk assessment that is valid and is already being done.

Second, I am also worried about the burdens H.R. 1022 in its current form may impose in terms of money and delay, whether they fall on the Government, industry or the public. I fear that this will only intensify regulatory gridlock since it will spawn new layers of bureaucracy to carry its prescriptive procedural requirements. As we all know, more bureaucracy slows the pace of agency action, and, while this may sound attractive to some, delay for its own sake will neither improve Government efficiency nor help the average citizen.

Now, if we look at the Brown substitute, I believe it is preferable because it allows each agency more flexibility in the way it performs risk assessment, and I believe it will result in less cost and less bureaucracy.

□ 1915

My third and final overriding concern is that this bill may undermine safety protections embodied by current law because the bill contains a supermandate which would override existing law. While there certainly may be some problems associated with some of the regulations issued pursuant to such laws, should we really be using a supermandate to revise our major health, safety and environmental laws overnight? I do not think so. I do not think so. The Brown substitute basically eliminates the mandate and declares that nothing in this legislation is intended to modify existing health, safety, or environmental laws. I believe that this legislation in its current form rushed through two committees in a lot of haste. It shows. We can see the haste. I urge my colleagues to reject it and adopt the Brown substitute.

Mr. BURR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what we have had is a continuation of the rhetoric that we heard already in committee. The reason that there is so strong opposition to this bill is the fact that many of the rules that are on the books today, if they were to go through a cost-benefit analysis, would not pass. They would be judged not in the best benefit of the American people.

It is time that we speak up for what is in the best interests and benefit for not only the health, but for the taxpayers out there. It is this bill that will allow the risk analysis, that risk

assessment to be done, and a cost-benefit analysis to be performed on it.

The fact is that we should go back and we should look at things that are already on the books to determine are they in the best interests of the American people. But if we do not pass this legislation, that will not happen.

Mr. CRAPO. Mr. Chairman, will the gentleman yield?

Mr. BURR. I yield to the gentleman from Idaho.

Mr. CRAPO. Mr. Chairman, I would like to respond to some of the points that were made earlier with regard to whether this statute supersedes all other health codes or requirements and requires us to look at only cost. In the statute itself, under decisional criteria, it talks about the fact that the agencies promulgating rules subject to this statute must certify, and then in subsection 3 on page 29, that they are to be the less cost-effective at achieving a substantially equivalent reduction in risk, or B, to provide less flexibility to state, local, and tribal governments or regulated entities in achieving the otherwise applicable objectives of the regulation.

What it says is flexibility at state and local level as well as cost effectiveness are written into the statute. The point I make is as we address the question of the Federal regulatory burden that faces this country, this statute says let us look at what benefits these regulations are giving us and what the cost of those benefits is.

The point is that every time we take a societal resource and allocate it to one benefit, that means we cannot use it on another benefit. If we find that we can save one or two lives by spending a million dollars here and save 100 lives by spending it over here, this statute says let us find that out and let us put our money where it will do us the best good.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. BURR. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, my concern is, when you talk about flexibility, that the bill in its current form is not more flexible. I understand what the gentleman is saying. You are saying you think there is going to be more flexibility for the States or whatever. But when you establish one set of procedures about how you are going to go about risk assessment, and essentially ask agencies that are already doing risk assessment, such as the NRC, that they have to retool and go through a new procedure, the danger I think is that you have good risk assessment procedures on the books that are being used by some of these agencies that are going to actually be eliminated, and they are going to be asked to retool and come up with a new way of doing the risk assessment or the cost-benefit analysis that may not be as flexible and as good for those things that come under the rubric of their agency. So I see less flexibility, and that is one of my concerns.

Mr. CRAPO. Mr. Chairman, if the gentleman will yield further, the whole point of the purpose behind this statute is, and I am willing to work with everybody in this body, is to find the most effective and best way to conduct risk assessment and cost-benefit analysis. If we need to refine this over the years and make sure it works the best, that is fine. But the problem we face now is that many of the regulators say to us, let us go back to the Delaney clause, the Delaney clause standards make us do this, regardless of what our risk assessment says. Regardless of whether this is cost beneficial, the previous statutory standards make us do this.

When they say they will make us do this, they say we under our own risk analysis or own cost-benefit analysis, we believe there is a better way we can spend our resources. But the regulations and the statutes that we are dealing with have a requirement in them that we cannot ignore because of our own approach to the statute. The point here is that the sole time that this statute would supersede something that has been developed previously by this Congress is when the agency determines that the increase in benefit that it provides to society is not justified by the cost of society. I do not see how you can object to having that kind of common sense put into our law.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. BURR. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, my colleague from California pointed out the inspection and maintenance of the vehicles as being an issue. But I think if you look at page 29, section 3, you will see right in there is a vehicle to be able to carry this kind of reasonable application.

In California we got into this issue and a major conflict between the State of California and the 30 million people thereof and the U.S. Government over what is the best way to go. What we were able to do is not abandon the cost-effective aspect, but prove that we had a better, more cost-effective, more socially acceptable way to be able to address it.

We run into these conflicts all the time, to where you have unique situations in certain areas, and that part of reality is not allowed to be included; where you will have the Federal Government requiring that we talk about reducing pollution by maybe 3 percent by requiring ride sharing, and then at the same time the same Federal Government is allowing foreign commuters to come in that constitute 14 percent of the pollution. But that is ignored.

Through this process we will be able to have a give-and-take to develop these rules, rather than what we had in California, which was a major conflict.

Ms. RIVERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, throughout the course of today we have heard a lot of criticism of H.R. 1022. Unfortunately, the way that criticism has been met is with the accusation that the only way anyone could possibly oppose this particular piece of legislation is if they support entirely the regulation climate as it stands right now.

This is just not true. Most of the people in this Chamber, Members of this body, want to see a change in the regulatory climate in this country. What we are disagreeing over is how to do it.

I think a good way to explain the differences is to recognize this overregulation for what it is, which is a cancer which has spread across the face of this Nation. When we have a cancer patient, there are lots of ways you can treat this individual. If your only focus is on killing the cancer, probably the most simple, easy way to do that is to kill the patient and the cancer dies with the patient.

If, however, you are hoping to have a healthy, safe, productive patient at the end, you need a skillful surgeon who will come in and cut only that which needs to be cut, to leave the healthy systems intact, to leave the important organs available to do their work. That is the difference between the approaches that are going on here.

Our side of the aisle is not arguing that the status quo should remain. Our side of the aisle is not arguing that we like regulations. It appears that the other side of the aisle has chosen to use the best defense is a good offense as their strategy, and I resent it. I want to see a system put in place that makes sense legislatively, that works practically, and that will allow us to have clean water, clean air, safe food, safe cosmetics, and all of those things that we take for granted.

Frankly, the bill that is being proposed does not meet that criteria. We need to reject it.

Mr. DOGGETT. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Texas.

Mr. DOGGETT. Really, I think it is confession time. I think that we need to confess on this side of the aisle that an error has been made, that really the distinguished Member from California has committed a grave sin with this substitute. The sin, of course, of moderation. The sin of reasonableness. The sin of balance. The sin of gentlemanliness in trying to fashion good public policy.

There was a time in this House when the idea of balance, when the idea of reason, when the idea of trying to reach some agreement between conflicting interests, when that was of value. But no longer. Because we have had the Gingrich revolution, and revolutionaries do not have time for working out the differences between conflicts in public policy. Revolutionaries

do not have time for reason. They have only quick fixes. And that is what we have before us tonight. Not an attempt to get through risk true risk-benefit analysis. Rather, an attempt to put the risk as far as public health and safety, to put all that risk on the backs of the American working families and to take all the benefits and give the benefits to the special vested interests who want the authority to do whatever they please without any oversight from public authorities.

That is the problem with this risk-benefit. Some might say it is balanced, but the only balance is to balance that burden on the backs of families across this country. And I think that is an imbalance.

The problem with this whole risk-benefit assessment is that it is the American people who are being assessed with all the risk of threats to their health and safety under this piece of legislation, and the distinguished gentleman from California [Mr. BROWN] has erred, has sinned, because what he suggested is that we need to reason together and work out reasoned, balanced public policy. But that is out the door now. Now we have to have a revolution.

At least there are some Republicans who speak up against this. In fact, I think the most effective and specific comment on this piece of legislation that we are debating tonight has come not from the Democratic side of the aisle, but has come from the Republican side, in fact on the other side of the Capitol, when the distinguished Senator from Rhode Island, a Republican Member, Senator CHAFEE, has described this very piece of legislation as ''a prescription for gridlock.'' Because what is at stake here is not risk-benefit analysis, but a piece of legislation time.

The CHAIRMAN. The time of the gentlewoman from Michigan [Ms. RIVERS] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Ms. RIVERS was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Texas.

Mr. DOGGETT. What is at stake here is not cost-benefit analysis, but a weird kind of system to gum up the whole regulatory process, not to analyze the cost or benefits, but to ensure that no regulation on the public health and safety will ever get out of a regulatory agency unless it has been so watered-down until we have the least of the least of the common denominators and something is put out in the name of protecting the public health and safety, which probably only serves to protect the vested interests that want it in there in the first place.

Let me give you an example of just one provision in this bill which the wise gentleman from California had the bad judgment to try to reason with. And that is the provision concerning conflict of interest. Because perhaps for the first time in the history of this country, instead of trying to prevent conflict of interest, this piece of legislation that we debate tonight does not prevent it; it says we have got to have it.

It says we need conflict of interest. We have got to mandate that when we have peer review of each of these new regulations, that the people who have an economic interest, that have a financial interest, they are not excluded. No, if they have got an ax to grind, the regulatory agency cannot exclude them. They have got to be included.

Think about what that means. It means if we are trying to do something, as another distinguished Member of this body from California has struggled so ably to deal with, the problem of tobacco, that when an issue concerning tobacco is before a regulatory agency it is essential that they have tobacco company scientists, people bought and paid for by the tobacco companies, to be there, to advise on whether it is good science.

This is not putting science ahead of politics. It is putting lobbyists and people who are bought and paid for by vested interests ahead of both. And that is wrong.

The CHAIRMAN. The time of the gentlewoman from Michigan [Ms. RIVERS] has expired.

(At the request of Mr. WAXMAN and by unanimous consent, Ms. RIVERS was allowed to proceed for 5 additional minutes.)

Mr. DOGGETT. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, when I have always heard the term ''peer review'' before this bill, I guess as a former judge I have always thought about a jury of one's peers, a jury of one's equals. Well, what kind of scientific equals, what type of scientific peers are included under the bill without the Brown substitute?

Well, it is just about like the jury that we see right now in the O.J. Simpson trial. If we took O.J.'s lawyers and put them on the jury, we would have the kind of peer review that is proposed under this piece of legislation. Because it mandates those who have an economic interest in the matter, that they be the jury. And that is just one of many provisions that is wrong with this bill. It is not about good science, it is about good lobbying, it is about good vested interests, it is about ensuring that we do not protect the public health and safety unless we turn it over to the people that created the problem and the threat and the danger to the people of this country in the first place.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from California.

Mr. WAXMAN. This bill is one of the most poorly drafted, thought through pieces of legislation I have ever seen.

☐ 1930

It is being rushed through this House without due consideration. We had a hearing for a day or two, a markup that went on for 10 hours. We had to do it with 1 day for only one purpose, because it is in the Contract for America.

This bill is going to pass because a lot of Members figure, well, they will vote for it and the Senate will clean it up or the President will veto it.

But it is an irresponsible piece of legislation. It supersedes existing law. If we wanted to supersede laws, the gentleman made reference to tobacco, there is nothing that is a greater risk than tobacco. When we look at the actual causes of death, according to the Centers for Disease Control, tobacco is No. 1. Then you get poor diet or exercise, alcohol, infectious agents, pollutants, and toxics way down there. They should have superseded the laws that prevent agencies doing anything to protect kids from tobacco. Tobacco companies are pushing their products on these kids. People who breathe in secondhand smoke suffer a health risk. But they did not supersede that.

They superseded the laws that are on the books to protect public health like the Clean Air Act, the drinking water law, and the others. I think that the American people ought to know really what is involved here. This is a pretty cynical bill. It is not well thought out and certainly does not do what it is claimed to do.

Mr. DOGGETT. Mr. Chairman, to be entirely fair about it, I cannot exactly say that this bill was rushed through our committee, because as the distinguished chairman indicated, we had a whole 2 hours, a whole 2 hours to consider the substitute. So there was time to reason about risk benefit. In fact, there was so much reasoning that during much of the questioning of the general counsel of our committee to explain this bill, he had to continue to turn around and whisper and talk to the lobbyist that were behind him to provide the answers to answer the members of the committee.

That is the problem with these peer review committees, as we have set them up, because we are going to have those agencies turning around and whispering to whatever special interest is out there that wants to block the protection of the public health and welfare.

The American people may not understand very much about this bill. It is a lot of gobbledygook about risk benefit and science this and that. But there is one thing they can understand. That is that this bill mandates a conflict of interest, and I say it is a pretty sad time in the history of this country, a tragic time, at a time that there are a lot of things going on around this House and around this city about conflict of interest, about ethics problems, and this is

part of a broader pattern where we come in under a rushed piece of legislation and we mandate and demand a conflict of interest be included in the way our regulations are set.

I say to the gentleman from California, I appreciate the fact that he is on this matter and he continues to demand that we approach things in moderation instead of giving in to the special interests that think they can write everything up here.

Ms. RIVERS. Mr. Speaker, reclaiming my time to finish my remarks, I said that we are all interested in eradicating the cancer that is found in overregulation. This side of the aisle, however, wants the patient, the American public, to survive healthy, safe, and productive. Under 1022, they will not.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

In case my colleagues on the other side of the aisle have not seen, our country is being strangled by overregulation. This is coming not from the actions of people who have just now achieved some sort of influence because of the last election but because of actions that have taken place over the last 20 years when Members on that side of that aisle had all the time in the world to act, and the Members on the other side of the aisle did not act.

People have been thrown out of work. We have seen billions of dollars of resources wasted. We have seen fundamental concepts of freedom that were always part of the American system just totally negated by this rush for regulation that we have seen in the last two decades.

My liberal colleagues have given such power to the bureaucracy to regulate that it has become a major threat not only to the freedom but to the well-being of this country. That is why in the last election, in November, the people turned away from those who had been making the rules before, the people who are making the arguments tonight.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me, because he was a part of the process that we went through in the committee that the gentleman from Texas rather cavalierly noted lacked integrity. But I think that the gentleman from Texas ought to probably read the bill before he makes statements that are completely erroneous with regard to any mandate for people with financial interests to be a part of peer review.

The fact is there is no such thing in the legislation. The gentleman knows that and yet misrepresented it.

Let me read the language which is in the bill. Let me suggest that the language in the bill that creates the peer review panel says this:

> Shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to the extend relevant and appropriate, may include representatives of state, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations and organizations.

That does not sound like a mandate for special interests to me. That is the language that creates the peer review panels. The gentleman from Texas had it absolutely wrong.

Mr. ROHRABACHER. Mr. Chairman, reclaiming my time, what that is is a formula for including the public. What was created by the liberal Democrats when they controlled both Houses of Congress was a regulatory dictatorship. And the reason power has shifted in this House is because the American people have felt oppressed, and they see that their standard of living is declining because there has been no balance to the regulatory process. And their rights have been trampled upon by unelected officials.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. Mr. Chairman, the reason I will not yield is because we were very, very gracious in providing the gentleman the extra time he needed. But at a time when we wanted to ask him questions, he was not gracious, even after we had granted him extra time to open up for questions.

If I might finish my statement, I will move forward.

What we have in the United States today is far from the freedom that we had years ago and the American people understand that by granting the bureaucracy the powers that the liberal Democrats granted, it has not made us appreciably better off and, in fact, is detracting from our economic well-being

Certainly, some lakes were polluted and they have been corrected. There were problems in the past. But what we went on in this regulatory power grab in the last few decades was a situation where the regulators, who were given power to solve some problems, expanded and expanded and expanded their authority to the point that it, indeed, threatened the freedom and well-being of the country.

We plan to turn that around. That is what this is all about.

When we talk about peer review, as my colleague from Pennsylvania demonstrated, we are talking about opening up the process so that the American people will be able to effect the regulations that are heaped upon them by unelected officials.

Our bill has judicial review, which is also a protection of our citizens. Their substitute has no judicial review. We talk about a new way of doing things, because it is necessary now to change the way this government has been acting in order to ensure the well-being of our people. That is what this bill is all about. That is what this substitute is against.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Brown substitute.

Mr. Chairman, I appreciate the poetry of the last speaker. I do, my colleague from California, but now maybe it is time for a little prose.

Over the past 2 years, many of us on this side of the aisle have supported legislation to reform the federal regulatory process. Last month this Member voted for the unfunded mandates bill to help reduce the burden of federal regulations on state and local governments, and last week this member voted to simplify and declare a moratorium on regulatory action. I support the concept of risk assessment and last year I joined with you, I believe, to vote against the rule on elevating EPA to cabinet level status because risk assessment and cost-benefit amendments were not even allowed to be considered.

I also supported the bipartisan Committee on Science risk assessment bill that was proposed by Members ZIMMER and Klein in the last Congress.

But, Mr. Chairman, to me the issue is not whether risk assessment legislation must be enacted. It is what is a responsible way to achieve a risk assessment program?

I have a number of concerns about H.R. 1022. First, I am worried that the bill's judicial review provisions will cause a litigation explosion in federal courts and could turn into the full employment for lawyers act. Any special interest group, including environmentalists and businesses alike, would be able to cause regulatory gridlock by subjecting interim agency processes to judicial scrutiny.

Second, like many Members on both sides of the aisle, I am concerned about H.R. 1022's provisions which would override any conflicting substantive requirement in federal law.

I agree that many existing environmental health and safety laws are broken. However, to fix these problems, we must address these issues head on through a statute by statute examination.

And finally, while H.R. 1022 purports to ease the sting of federal regulations, I am concerned that the legislation will create too much new federal bureaucracy and red tape.

The bill would create a regulatory maze that could end up wasting hard-earned taxpayer dollars.

Mr. Chairman, the Brown substitute is a strong risk assessment and cost-benefit bill without the problems in H.R. 1022.

I urge the House to accept the Brown substitute and, therefore, to adopt a responsible risk assessment cost benefit bill.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the substitute.

Mr. Chairman, I think Members should pay attention to page 16 of the bill in which it says the document shall

contain a statement that places the nature and magnitude of risk to human health, safety and the environment in context, in context. Such statements shall, to the extent feasible, provide comparisons with estimates of great or lesser and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks.

The reason I bring that up is this. Several speakers have indicated we are rushing to judgment. For 14 years and even years before that, the gentleman from California [Mr. BROWN] and I have served on the sometimes powerful House Committee on Agriculture in an effort to ride this animal called FIFRA out of the chute and finally get some legislation with regard to food safety and finally repeal the clause called the Delaney clause that called for zero risk. Everybody agrees that has to be done.

We have tried and tried and tried to forge a coalition between industry, agriculture, and the environmental groups, all to no avail.

Part of the problem is the climate that we have had in reference to the whole pesticide issue and the whole business of risk assessment. That is what this bill is all about.

The gentleman from California, and his knowledge about this issue is second to none of anybody in the Congress, referred to the alar situation and the fact that it was concerned about children that led to that dispute. It is my recollection that the 60 Minutes story on alar just did not happen.

In fact, it was carefully planned by the Natural Resources Defense Council with the aid of a very savvy public relations firm called Fenton Communications.

In fact, in a memo published by the Wall Street Journal it was indicated as that report was being finalized, Fenton began contacting the media all throughout the country and that agreement was made with 60 Minutes to break the story. And later in that memo Mr. Fenton stated, a modest investment by NRDC repaid itself many fold in tremendous media exposure and submitted his campaign was a model for other such efforts.

What we had was a proven formula for really raising controversy and manipulating the public opinion. And it sure was not sound science. This was a strategy of manipulation that had serious implications for agriculture. In the food safety policy arena, the Congress was left out. The EPA, as a regulator, was left out. The scientific community in its research function was left out. Everybody in agriculture was left out, except the apple producer and they lost $400 million.

□ 1945

What we need is an approach to have risk assessment put in a common language that everybody can understand. Accurate science today lies in the eyes of the beholder, and today we have reached the point where risk assessment, based on so-called accurate science, is a shotgun marriage between science and politics. We have in chemical detection technology today the resources to detect parts per trillion, parts per trillion, so we can find a little bit of chemical everywhere we look. Almost everything is contaminated by something else.

Mr. Chairman, let us put this issue into perspective. The cancer risk in regard to aflatoxin, what we find in peanut butter sandwiches we feed our children that is 75 times greater than the dietary risk from minute amounts of the chemical EDB that has already been banned as a grain fumigant.

The reason I brought that up is I can remember in past debates on this issue, when people were worried about the amount of daminozide, which is the same thing, in peanut butter, and what was safe for our kids.

We come to find out that if everybody in this body had to consume the same amount of peanut butter and aflatoxin that the poor lab rat did before he went legs up, everybody here would have to consume 600 pounds of peanut butter a day.

Judging from the debate, I know some people over there that I would like to feed 600 pounds of peanut butter a day to, and it would certainly gum up the debate, or at least maybe shed a little bit of light.

A swimming pool, a child swimming in a swimming pool for an hour may be exposed to chloroform, that is a by-product of the chlorination we have, at levels that exceed the risk by EDB, which again was a grain fumigant that was banned, I am not for bringing it back, but we chlorinate the pool because the risk of disease and infection from bacteria is much greater than the risk in regard to the chloroform. That is what risk-benefit is all about.

We have a pesticide law, I mentioned it before, FIFRA, and we have the Federal Food and Drug and Cosmetic Act.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. ROBERTS was allowed to proceed for 2 additional minutes.)

Mr. ROBERTS. Basically what this law says is that these products should only be used when the benefits really exceed the risk. If they do not, if the risks are greater, then the EPA should and does have the authority to ban the use of any kind of product on an emergency basis.

In regard to risk-benefit, and I will sum up, and this is the whole issue, my word, when we talk about gridlock, when we talk about time consumed on this issue, 14 years; more than that, 15 or 20 years? People crawl out of train wrecks faster than we handle the food safety laws around here.

We have a good bill, H.R. 1627. We need to move on it. I think we have good bipartisan support. However, this bill will, at least by peer review, describe risk assessment so the American public knows what the real risk is.

I think common sense would tell us and the American people should understand that in this debate what we are in far greater danger of, harm in regard to these kinds of risks, are from lightning, dog bites, drowning, falling down, too much sunshine, certainly smoking, certainly if we get into the smart juice; or getting in our cars to drive to the grocery store to eliminate the products that some say are unsafe, you are in greater danger of having a car wreck going down to the grocery store in regards to the products. I find it incredible that some in our country would legalize drugs and ban apples.

The whole point is I think if we had a cost-benefit yardstick here, or a description that every American could understand, we could put the food safety debate in proper perspective. We could get to risk assessment that would not endanger the apple industry or anybody else that would be in the barrel in regards to these unmitigated attacks on agriculture, and the risk-benefit or the risk assessment would be based, certainly, on sound public opinion.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would simply ask the question as to whether or not we are listening to each other. It is good to engage in eloquent prose and poetry and debate, which it seems we have been doing. I wonder whether or not we are hearing. What we are saying on both sides of the aisle, Democrats and Republicans, is that we believe in risk assessment and cost-benefit analysis.

I rise to support the Brown-Brown substitute to H.R. 1022. Because we are saying the same thing, I would hope that we would be able to listen to what is actually the best way to do what we are all trying to do. I prefer to accomplish that reform in an open and honest way that does not overreach and cause more problems than the existing system.

Banning apples, making drugs legal, none of that reaches the point. The point is if we want cost-benefit analysis and risk assessment to work, we must make it work in an open and fair way so that the States and local jurisdictions can work along with us.

H.R. 1022 envisions a complicated and detailed system of actions, all set out in statute and without a judicial review disclaimer, all reviewable in the courts. The reform process in this bill will add another $250 billion to the Federal cost of regulation.

We are all talking about reinventing government, bringing down the cost of government, and yet this legislation adds $250 billion to that cost. In addition, the provisions of this bill will cost industry millions more in the cost of developing the data that this bill requires.

Finally, which is a point that is very important, State governments will be saddled with these costs as well, since these provisions apply to State permitting decisions made under Federal laws, such as the Clean Water Act permits.

If the State and local agency that tries to modify this process to better suit their jurisdictional needs does this, remember that they can be taken to court by anyone and made to comply with every phrase and sentence in the bill.

Mr. Chairman, I would like to just speak about this for a moment. Coming from local government, making every effort to comply with Federal regulations under State guidance, the idea that we would be susceptible at every turn to judicial review is overwhelming. The costs would be burdensome. It would be unimagineable.

If we are trying to emphasize unfunded mandates, why would we have legislation that would then ultimately impact negatively the State, counties, and cities?

If this is such good regulatory process, why is it so costly and convoluted? The supporters of H.R. 1022 claim that the existing system is convoluted and costs many millions of dollars, and that the cost of H.R. 1022 is justified when the reduction of the burden on the private sector is factored in.

I do not think that washes. I want to reemphasize the impact it would have on States who would try to be creative and comply with the regulations, and then be hauled into court. We all agree that the existing system needs to be changed. Most of us would agree that the existing system is convoluted and inflexible.

Again I emphasize, we are saying the same thing. Let us have effective legislation. Therefore, the Brown-Brown substitute amendment indicates we can do this in a fair manner. It would force major Federal health, safety and environmental regulations, those with an impact of $100 million or more, to comply with a revised system of regulation, providing for independent peer review, cost-benefit analysis, worst-first regulatory priority setting, and a host of other reforms; again, an honest and open process.

These major rules account for 97 percent of the costs imposed on industry by Federal regulations, so these provisions represent a significant reform. Is that not what we are asking for? Is that not what we are talking about, Republicans and Democrats alike? We are talking about positive reform in order to make this country work.

Mr. Chairman, the Brown substitute does not expand judicial review. It does not frighten me, as someone who had been in local government and State government, that at every turn I would be subject to costly litigation.

It does not contain a broad override of existing law, and explicitly states there would be no unfunded mandate imposed on the States in the substitute, for counties and cities as well.

Mr. Chairman, I support sane regulatory reform, and therefore support the Brown substitute, so we can do this in an honest and fair manner, but more importantly, to listen to each other and to provide the kind of legislation that will make this reform work.

Mr. FIELDS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the debate over the last number of years has revealed strong differences among some Members about the role of the Federal Government and risk assessment and cost-benefit analysis. The view from outside the Washington Beltway, from Governors, mayors, school boards and small and large businesses, is that there is a serious problem concerning the credibility and impact of Federal regulatory programs.

A number of Members, however, believe that rules which increase annual costs between $25 and $100 million should not be subject to cost-benefit requirements. Many of these same Members advocate that risk and cost-benefit legislation should essentially be unenforceable. In my view, such an approach would shield the Federal bureaucracy from real accountability and effectively neuter the legislation.

I am further reminded of how those who oppose judicial review for the Federal bureaucrats were eagerly prepared to impose penalties under the Toxic Substances Control Act on ordinary homeowners during real estate transactions. Last year I opposed radon legislation which placed requirements on ordinary home sellers and even those who rented out rooms. Republicans argued that such an approach intruded on State law and would swamp the Federal courts with millions of violations during ordinary real estate transactions.

We asked EPA to justify its support when the possible penalties were as high as $10,000 for failing to hand out a hazard information pamphlet. An amendment to remove this provision was offered, but the administration and the Democratic leadership prevailed. Moreover, the League of Conservation Voters scored the amendment as an anti-environmental vote.

I think I can guarantee that such an approach to expand the Federal regulatory octopus to ordinary homeowners will not occur this Congress.

I am struck, however, by the double standard and the passionate defense of the Federal bureaucracy by the same Members who are so willing to impose Federal penalties and litigation on ordinary homeowners. Congress has simply added new regulatory program upon new regulatory program. America is long overdue for real change.

I strongly support H.R. 1022, the Risk Assessment and Cost-Benefit Act. The bill provides a strong, enforceable system of accountability, disclosure, peer review, and careful analysis of regulatory alternatives. This is a critical building block for Federal regulatory programs to ensure that our national resources reduce real risks and set realistic priorities.

Mr. Chairman, I urge my colleagues to support the bill.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I listened to the debate, like the gentlewoman from California who spoke a few moments ago, I would like to remind my colleagues on the other side of the aisle, I joined many of them in voting against the rule that would make EPA a Cabinet-level position, because we did not have the opportunity to take a vote on any amendments that had to do with risk-cost assessment. I think risk assessment is a good idea.

However, that said, I think 1022 is a bad bill, and I think the process that brought us to this point is a bad process. Mr. Chairman, I was elected not for 100 days but for 2 years. We have time to do this bill and do it correctly. I think that the Brown substitute takes us one huge step in that direction.

The OMB reports that 97 percent of the total cost of Government regulation occurs as a result of regulations with an economic impact of $100 million or more.

We need to do risk assessment on H.R. 1022, because what are we spending? How many millions of dollars are we spending to go back and get a portion of that remaining 3 percent, and to take that figure from $100 million down to $25 million?

The substitute that is offered by the gentleman from California [Mr. BROWN] and the gentleman from Ohio [Mr. BROWN] sets the limit of major rule at $100 million. I think that is a very important step.

Under H.R. 1022, hundreds of Federal employees would have to be hired to do risk assessment, cost-benefit analysis, and arrange for peer review of regulations that have a financial impact of as little as $500,000 for each State. That is the level that is set in the current H.R. 1022 language, going back to the $25 million figure.

Mr. Chairman, we have to wonder, as we put all of this legislation in, the kind of order that we are passing it. First of all, we come out here after only being in town for 3 weeks and we pass a Balanced Budget Amendment. Then we come in and we want to talk about risk assessment that CBO says could cost the Federal Government a minimum of $250 million per year.

We are in the process of trying to cut down on the size of Federal Government. The reinventing government that has been headed up by Vice President GORE is designed to cut 252,000 Federal workers out of the Government.

□ 2000

Yet we understand, Mr. Chairman, that under this bill we might have to

hire as many as 5,000 additional Federal workers to do risk assessment and cost-benefit analysis.

Mr. Chairman, again I have to wonder about the consensus. That as we are passing legislation that says unfunded mandates, how much of an unfunded mandate is this bill going to pass on to the States and to the cities as they are our partners in handling these regulations? I think the Brown and Brown substitute makes a huge step in that direction.

I think that the gentleman from Ohio [Mr. BROWN] also in a Dear Colleague that he put out talking about his substitute made a great point when he said:

> This amendment was drafted based on the very language that was included in the majority Science Committee report. It would expand section 3 to eliminate the 23-step risk assessment process for those situations where prompt action is necessary to avoid death, illness or serious injury.

I think that we have to take a very serious look at this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield.?

Mr. KLINK. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman from Pennsylvania [Mr. KLINK] for yielding.

May I inquire of the other side, because of time constraints on the total time we are allowed to debate, how many more Members are planning to speak on the other side? I would ask the gentleman from Pennsylvania [Mr. WALKER] if someone can let us know how many Members are speaking.

We have several other amendments to offer. I imagine your side has a few. We would like to bring this to a close as quickly as possible if I can inquire how many Members you have. We have 2 or 3 left on this side.

Mr. WALKER. If the gentleman will yield, I have 2 that I know of on my side.

Mr. BROWN of Ohio. Can we make an agreement of no more than 3 on each side so that we can bring this to a vote?

Mr. Chairman, I ask unanimous consent to end all debate at 8:30 on this substitute. We have debated the substitute for 2-plus hours already and in the total of 10 hours to consume, we have about seven or eight more amendments on our side.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Reserving the right to object, Mr. Chairman, as I understand what the gentleman is proposing here, we would have a half-hour more of debate, that we would go until 8:30 and we would divide the time equally between the two sides?

Mr. BROWN of Ohio. If the gentleman will yield, sure. That is fine.

Mr. WALKER. And that would include any amendment to this amendment, is that correct?

Mr. BROWN of Ohio. We do not plan any. That is correct.

Mr. WALKER. Mr. Chairman, I have no objection to that.

Mr. KLINK. Reclaiming my time, and I will end with this, Mr. Chairman.

Mr. CHAIRMAN. The gentleman will suspend.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the debate be concluded by 8:30 and both sides share equally in the time between now and 8:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio.

Mr. WALKER. Mr. Chairman, reserving the right to object, is the time of the gentleman from Pennsylvania [Mr. KLINK] going to be included in this now?

Mr. KLINK. Reclaiming my time, Mr. Chairman, I have about 30 seconds and I will be done.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KLINK] is recognized.

Mr. KLINK. Mr. Chairman, I will wrap up very quickly. I just want to make the final point on the peer review.

The CHAIRMAN. If the gentleman would suspend, in order to settle this unanimous-consent request, is it the Chair's understanding that the time limit covers any amendments thereto?

Mr. BROWN of Ohio. Mr. Chairman, I withdraw the request until the gentleman from Pennsylvania [Mr. KLINK] has concluded his remarks.

The CHAIRMAN. The gentleman from Pennsylvania has 90 seconds remaining.

Mr. KLINK. Mr. Chairman, I will not take all of it. I just wanted to make one mention. That is, as I said earlier on, the process is what has bothered me. It is the process not only where we have come with drawing up this legislation but the period of time that we are dealing with in moving this legislation forward. It also relates to the peer review panel and it has been talked about. I just want to go to page 31 of the bill and item 3 at the bottom.

It says the peer review panel ''shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency.''

So we are not talking about excluding anybody but we are talking about the fact that these people most likely are going to be taking part in the peer review panels, they have helped to draft the legislation, they have helped to draft the Contract for America and I think that that is up to the Members of Congress, not up to special interests and lobbyists.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that each side have 3 more speakers for 5 minutes each.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Chairman, reserving the right to object, that was not what we agreed to. We agreed to the fact that we would have a half-hour more of time controlled equally on each side, 15 minutes on each side. That is the agreement.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, is he proposing, I ask the gentleman from Pennsylvania [Mr. WALKER] that each side control 15 minutes?

Mr. WALKER. That is right.

Mr. BROWN of Ohio. Fine.

Mr. WALKER. And that includes all amendments thereto.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that debate be concluded on this amendment and all amendments thereto at 8:35.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. BROWN] will have 15 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will have 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to answer some very interesting statements that were made earlier by the gentleman from Texas on the other side of the aisle. When I hear him talk about the sin of reasonableness, the sin of balance, the sin of moderation, I have to ask, where has reasonableness, balance and moderation been over the last 14 years when that side of the aisle controlled this Congress?

We are here today basically to discuss not just cost analysis. When we hear the other side speak, we really hear only of cost analysis. We are here to allow and ask Federal agencies to do a cost-benefit analysis. We, too, want them to look at the benefit for the American people in terms of safety and health.

The problem is, you take situations that have occurred over and over in this country like the example where the EPA forced Columbia, Mississippi to clean an 81-acre piece of land that was contaminated with small amounts of hazardous chemicals. Who can be against that if a risk assessment is done? We all want those chemicals cleaned up if need be.

But what does the EPA do? They order the removal of 12,500 tons of dirt. Why could they not simply have just covered over that hazardous chemical with other dirt? Because the EPA based its cleanup standard on a theoretical child by eating half a teaspoon of dirt per month for 7 years?

The standard is based on a child eating more than half a gallon of dirt, so we spend $20 million to remove that dirt rather than covering it over for the cost of $1 million?

That is what is driving the American people crazy out there. They know we owe $5 trillion. They know we are borrowing a half a trillion dollars every 2 years. Yet we continue to allow a Federal agency to pass down rules and regulations that have absolutely no conflict of interest.

I notice that the gentleman from Texas talks about conflict of interest. He cannot believe that people with an economic interest could actually be invited to the table to discuss the problem.

I find that unbelievable that people who have been done to over the years with rules and regulations that are not necessarily reasonable cannot be invited to the table of the Federal agencies that are not elected to office to discuss the right and wrong of every regulation.

I know that the American people must not understand this bill, because I have been told that. But I am absolutely certain that the American people understand what has been done to them over the last 5 and 10 years in terms of excessive rules and regulations where so many are not necessary, where every time they lose another freedom.

I ask you all to please support our bill and vote against this amendment.

Mr. GANSKE. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Iowa.

Mr. GANSKE. I really think that we ought to talk about the substantial differences between the Brown-Brown substitute and the bill. Really the substitute is full of language such as reasonable, and reasonable, and reasonable. But the real difference is in whether there is judicial review. It is as simple as that. Do you want to have the Federal agencies judicially reviewed, or do you not?

The Federal agencies I think for a long time have reviewed the actions of private citizens and would require them to submit to their regulations. I personally think it is time for the Federal agencies to have to justify, create a paper trail and to be under this realm of judicial review.

If we look at the Brown substitute, in section 15 under judicial review, ''Nothing in this Act creates any right to judicial or administrative review.''

A distinct difference between the substitute and the bill itself which in section 401 says, ''The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act.''

It is a distinct difference and that is what we have been talking about. We all agree, for instance, that cost-benefit analysis and risk assessment are important things. It is simply a matter of whether you want to go further and require the agencies to be under judicial review among other things. I do. I think that that is a good provision.

Mr. BROWN of Ohio. Mr. Chairman, I yield 6 minutes to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Here we go again, Mr. Chairman. We have got a new little wrinkle here this evening, today and tomorrow. Something that has not happened before again. I will have to admit that the majority have come up with a way to get around some rules.

As has been mentioned before in debate here, this bill will cost by CBO a minimum of $250 million. We have in our budget act under present law a provision called pay-as-you-go, or pay-go. And you are supposed to pay for that. But I do not see any paying for that. And how do you get around it? It was a pretty cute move.

You now have before you a bill that has never been reported by a committee. You have before you a bill that was introduced and brought out of thin air, put in the Committee on Rules and sent to the floor in order to get around pay-go. That is all it is.

I have heard the gentleman from Pennsylvania many times, his time here, as long as I have been here yell and holler about waiving the budget. He did not waive the budget. He just circumvented the budget act, snuck around it. That is all he did.

Where are we going? We are going to spend $250 million to do this? To bring this about? Where does the money come from? It is not in here. Not in here at all.

It appears to me by looking at this bill that is before us and the substitute, I find some things that—is the gentleman from California not on the floor?

We had a big time passing legislation, and I had hoped that the gentleman from Kansas who is the chairman of the committee would have yielded to me because I wanted to talk to him a little bit about it, but he did not.

If the gentleman from California could come up here for a few minutes, I want to do a little colloquy if I could. While we were passing legislation, we worked through the Committee on Agriculture, the House and the Senate, spent well over a year working on reorganization, restructuring the USDA. We put a provision in there for a cost-benefit analysis for all regulations in the future by USDA. Is that not correct, I ask the gentleman from California [Mr. BROWN]?

Mr. BROWN of California. If the gentleman will yield, that is correct.

Mr. VOLKMER. And the substitute that you now have before us basically follows the language that we incorporated, this House unanimously passed, both Republicans and Democrats just last year? Is that correct?

□ 2015

Mr. BROWN of California. That is correct.

Mr. VOLKMER. Now, what has gotten so bad with it all of a sudden? All of a sudden that substitute is not any good anymore. People who overwhelmingly voted for it now condemn it, say it is terrible, say it does not do anything. Yet last year they were praising it. They were saying what a great thing it was.

Mr. BROWN of California. If the gentleman will yield further, this bill is somewhat more comprehensive than the one we passed last year, but the language, as the gentleman points out, is identical on subjects like comparative risk assessment, for example.

Mr. VOLKMER. I admit this bill goes further and your substitute goes further. But basically it is.

Mr. BROWN of California. Yes.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, now, the other thing that I find in the principal legislation that is ironical to make is that just recently we are moving things here so fast I cannot remember, we did a moratorium on regulations, if I remember right, that passed.

I would like to perhaps make a parliamentary inquiry to the Chair. Maybe the Chair can enlighten me a little bit. I think I know the answer to the question I am going to propose, and maybe the Chair can, if it is not a parliamentary inquiry, can say so, and then I will give the answer, and if they disagree with it, they can disagree with it.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. We passed a moratorium-on-regulations bill. Let us assume that that bill is passed by the Senate day after tomorrow and goes into conference, and in the meantime the Senate takes this bill, which is going to pass this House by tomorrow, they take this bill up and pass it and send it directly the way it is to the President. the President signs it. It becomes law. The moratorium bill 2 weeks from now comes out of conference, passes the House and Senate, goes to the President, becomes law.

Is it not true that the moratorium legislation on all regulations would affect the proposed regulations under this bill?

The CHAIRMAN. The Chair cannot interpret what the enactment of that legislation would do.

Mr. VOLKMER. I did not think the Chair would know the answer. I agree.

Just one quick move to prove, to show, the point that if that happens, you cannot do what is proposed to be done in this bill in the 15 or 18 months, folks. It cannot be done, because you have a moratorium on all regulations including these regulations that are to implement the pay-as-you-go.

Mr. WALKER. Mr. Chairman, I yield 5 minutes to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Chairman, judicial review, what a radical idea that the regulatory bureaucracy should be accountable. My district was one of the first districts in the country to adopt, to implement, the enhanced air emissions testing under the Clean Air Act, and did so with a good spirit and the intention of hopefully being able to clean the air.

It did not take the people of my district more than 6 weeks to figure out the program was flawed and, frankly, was not based on science, and as we dug into it, we found out that not only had the EPA forced, threatened, sanctions on the State's economy, the adoption of this system, but that agency itself had not even complied with the Federal law requiring scientific studies that were supposed to be done.

So we had seven counties and 600,000 men and women who again attempted to comply with this and took all of 6 weeks to decide that the program should be canned. It was not only suspended, but we had a petition campaign in my State that will probably lead to its ultimate repeal.

But what about the actions that have been taken by the State? As we speak this evening, the Maine senate and the legislature in Augusta is debating what to do about a $15 million contract that was entered into in good faith with a testing service that was the mandatory choice under the EPA's plan, and at the same time that we are doing this, in the last 4 months, in fact, barely 2 weeks ago, the EPA on its own volition came in and said, ''Surprise, surprise, we don't really need to test in four of the seven counties, that, in fact, they are now in attainment whereas, before, they were in nonattainment.''

If you go back into the RECORD, you are going to discover the EPA cannot as of this date even verify where the pollution was coming from that they were requiring the people in my State to test for. In fact, there were two different versions offered by different officials within the bureaucracy. One official testified that if we took every car in the State and drove it into Casco Bay that the State of Maine could still be in noncompliance with the Clean Air Act. Another official said that the estimate of pollution coming from out of State and anywhere between 30 percent and 70 percent, and again, coming back to the fundamental requirement of the law, the EPA did not conduct the scientific studies it was required to conduct so there was any scientific basis whatsoever for the actions that were forced onto my State.

And as if that were not enough, many of the towns and cities in my State, in my district, are evaluating compliance with the sewer overflow requirement under the Clean Water Act, and I met with officials of the city of Augusta barely 10 days ago who are now staring in the face of a $30 million expenditure based on the scientific determination, or regulatory determination, by the EPA that water overflow as a result of a once-a-year rain event or the spring melt were creating bacteria counts that were excessively high, and so based on the fact that the Kennebec River is not swimmable during a heavy downpour or during spring melt, the citizens of the city of Augusta are going to be faced with the expenditure of $30 million. I do not know anyone in this city, but I know that the citizens of Augusta are smart enough to know they do not need to swim in the Kennebec River during a downpour, let alone during spring melt, at least in Maine.

Not only that, other towns and cities, the town of Bridgton water district is now going from testing routinely for 10 to 20 contaminants that, in their professional opinion, were scientifically appropriate to testing for over 280 different contaminants, most of which have no known presence in my State.

I think the provisions of our legislation providing judicial review, providing for a scientific assessment of the need and making sure that the costs are appropriate to the benefits that we can obtain are entirely consistent with what the citizens in my district expect us to do as their representatives.

Mr. BROWN of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MINETA].

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Chairman, H.R. 1022 mandates a uniform set of regulatory procedures for Federal agencies without flexibility.

Now, while the model used to develop the risk-assessment principles and guidelines included in the bill may fit some cancer risks, it is entirely inappropriate for regulating highway safety, and yet the Department of Transportation is required to follow the same rigid and appropriate procedure to evaluate risks as at EPA, and that simply does not make sense to me.

What I see is that the bill is sacrificing the Federal Government's ability to protect human health and safety or the environment for the sake of maintaining regulatory uniformity. It will produce bad regulations and will create an inflexible process that produces nothing but extra paperwork.

Mr. Chairman, I rise in support of the Brown squared substitute to H.R. 1022. The Brown substitute proposes a reasoned regulatory reform that expands the use of risk assessment and cost-benefit analysis to all major rules with an impact of $100 million or larger.

Now, those rules account for 97 percent of the compliance costs for Federal regulations. So nearly all of the Federal regulatory problem is brought under these reforms.

In addition, the Brown substitute does not expand the right of judicial review, preventing long litigious process to further delay regulatory reform. The substitute establishes a worst-first regulatory priority system so that the highest risks are the focus of regulatory action, not minor risks.

The Brown substitute was worked out between the Commerce and Science Committees and represents a rational approach to reform.

H.R. 1022, on the other hand, moves us in directions we should not be going if our goal is true regulatory reform. The scope of this bill is unknown. It sweeps in so many statutes and programs that even the sponsors of this bill cannot detail all of the current Federal statutes that will be affected or superseded. It allows expanded judicial review of the provisions of this bill and permits anyone with the money to hire a lawyer to take the Federal Government to court for noncompliance with the detailed processes described in the underlying bill.

Worst of all, H.R. 1022 actually adds hundreds of millions of dollars in costs to Federal regulatory efforts. The Federal Government pays more, State governments issuing permits under Federal laws will pay more, and industry will pay more as they have to develop more data to feed the reformed system described in H.R. 1022.

The Brown substitute does not add these costs and specifically states that there will be no unfunded mandate contained in this bill.

And it is my hope that my colleagues will join me in supporting the Brown squared substitute and the real regulatory reform that it proposes.

Mr. WALKER. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MICA].

(Mr. MICA asked and was given permission to revise and extend his remarks.)

Mr. MICA. Mr. Chairman and my colleagues, I have been slightly involved in this issue during the past year, and again we hear the whines and complaints from the other side.

We had an opportunity last year. We begged, we pleaded, we requested politely to bring this issue before the Congress, and at every juncture our pleas were not heard, and here tonight we have an opportunity to make some of these changes.

They did not hear us on the other side, but the Amercian people heard us, and they said they are tired of being tied up in regulations that make no sense, that put our people out of jobs, that do not address the risks to life, health, safety, and welfare of our people. We want to protect the environment, and we can do a better job protecting the environment, and the money we spend can be spent wisely if we adopt this bill.

I urge you, let us try something new around here. Try something new. Take a minute and read the bill. The bill is a good, well-thought-out measure, and it will protect us. It will do a better job in protecting the environment, and I urge the defeat of the Brown substitute.

We had a chance for that last year, and no one spoke to that. No one gave us that opportunity.

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, while we were discussing these issues in here this evening, it was interesting to observe some of the newscasts tonight. Airline regulation on icing, 68 people dead, going over what needs to be done. People on television saying, ''Oh, if we only had the regulations, and after the experiments are over, we will do the regulations.''

Pesticides for home use, causing cancer in children. We need to have the regulations. It is on the news right now. It is not abstract, the way we are speaking here this evening. It is not anecdotal. These are things happening in our Nation.

Carpal tunnel syndrome, back injuries, ergonomics, the science of physical mechanics: How are we going to prevent increased workers' compensation, increased costs to business, hurting our people, our health care? These are the kinds of things that will be addressed if we taken up the Brown—Brown substitute.

This is what was happening realistically in our world tonight, not the overblown hyperbole that some of which was on the floor tonight.

I want to say I respect the admonitions of my old friend, the gentleman from Pennsylvania [Mr. WALKER], earlier today about speaking about the little guy, and my new friend, the gentleman from Georgia [Mr. NORWOOD]. who said he came here to fight and issued some of the anecdotal examples.

□ 2030

I can have those as well in Hawaii. We have an absolute intolerance in Hawaii for contamination of our water supply. We cannot afford it. Where I live any contamination of the water supply has immediate disastrous consequences for us. So, these are issues that have to be addressed at the very time when we are supposedly diminishing regulations.

I believe that H.R. 1022 will hurt the little guy, will not address some of the issues that have been presented by some of our good friends on the other side. Now is the time to move toward the kind of regulatory reform as embodied in the Brown substitute and address the real world, the real world of icing on airplanes, pesticides for home use, carpal tunnel syndrome in the work force that exists today, and the kind of regulations for health and safety we have to provide for them.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BROWN].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, one final point:

I try not to be too sensitive, but my good friend, the gentleman from Pennsylvania [Mr. WALKER]. read some language earlier in the day having to do with comparative risk analysis which I will quote in which he said:

* * * where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

As I recall, he kind of ridiculed that language, and I would not mention it except that is the same identical language contained in his bill, and it is the language essentially that was passed by the House last year, and I would hope that he would not use his superior debating skills, which we all acknowledge, to take advantage of a poor old guy like me.

Now, having said that, Mr. Chairman, it seems to me that our amendment is much more consistent than H.R. 1022 with some themes heard with some frequency around here, cutting redtape, et cetera.

Over the last hour or so, we have tried to explain some of the problems that many of us on this side of the aisle have with H.R. 1022. As we have said before, there is a bipartisan consensus that regulatory reform is needed and that risk assessment and cost-benefit analysis are two critical tools that can lead to more reasonable regulations.

Unfortunately, we were not given the time to try to perfect H.R. 1022. Members on both committees had little opportunity to review the bill before markup. The bill itself is a moving target, changing at every new iteration, making it even more difficult for Members to understand what is in it.

But it is clear that H.R. 1022 is fundamentally flawed. If this amendment is defeated, we will be offering other amendments to try to correct some of the more egregious problems in H.R. 1022. No one should be misled into believing, however, that those amendments, if adopted, would cure the faults of H.R. 1022. For that reason, we are offering this substitute to attempt to illustrate what a rational regulatory reform bill could look like.

Make no mistake: This amendment does represent real regulatory reform. It incorporates the best of ideas from a number of bills, including H.R. 650, introduced earlier this year by Mr. ZIMMER. Like H.R. 1022, the amendment would require agencies issuing major rules to conduct risk assessments and cost-benefit analyses. Unlike H.R. 1022, we define major rules as those rules that are likely to result in $100 million or more in annual effects on the U.S. economy—the same threshold chosen by President Reagan over 10 years ago. According to OMB, that threshold captures 97 percent of the economic impact of all Federal rules.

Like H.R. 1022, the amendment also directs each of the major regulatory agencies to: Set regulatory priorities based on the seriousness of the risk and availability of resources, consistent with law; publish peer-reviewed guidelines for conducting scientifically sound risk assessments throughout the agency and ensure regional compliance with those guidelines; provide for independent peer review of the scientific information in risk assessments used in major rules; and describe fully and accurately the range of risks, with disclosure of important assumptions and limitations.

But more important is what this amendment does not do.

It does not override existing health, environment, and safety laws. Congress passed those laws after due consideration and debate. If any changes are to be made, Congress should make them directly to those laws, not through a back-door procedural gimmick.

Unlike H.R. 1022, the amendment does not expand judicial review, leading to endless and wasteful litigation. Courts will be able to review risk assessments and cost-benefit analysis relied on by the agencies in their rules.

Unlike H.R. 1022, the amendment is focused on the rules that truly impact the economy, and will not cost the taxpayers hundreds of millions of dollars every year to do studies on hundreds of regulations that have little impact. We won't need an army of new bureaucrats to carry out the requirements of this amendment.

Unlike H.R. 1022, the amendment does not purport to tell scientists how to do science. Phrases like ''central estimates'' and ''most plausible and unbiased assumptions'' may sound logical, but I can assure you that they have no agreed-upon scientific meaning. After an exhaustive review of EPA risk assessment practices, a congressionally mandated study released last year by the National Research Council of the National Academy of Sciences concluded that EPA's use of conservative default assumptions was sound. At the same time, the NAS encouraged EPA to disclose a range of risks and the limitations and assumptions used. That is precisely what this amendment does. It does not tell scientists how to do risk assessments, but rather requires them to disclose more openly and completely what they have done so that decisionmakers and the public can more easily understand the limits of risk assessments. It is also consistent with the recommendations of the National Commission on Risk Assessment, the congressionally appointed panel preparing recommendations on risk assessment practices.

The amendment would achieve real regulatory reform, but without the costly regulatory morass that would be created by H.R. 1022, and without overriding existing health, environment, and safety laws.

It seems to me that this amendment is much more consistent than H.R. 1022 with some themes heard with some frequency around here these days: cutting redtape, ending unfunded Federal mandates, reducing burdens on industry, cutting the size of the bureaucracy, improving the scientific basis of regulation, and limiting unnecessary litigation.

I urge my colleagues to join me and my distinguished colleague from Ohio, the other Mr. BROWN, in supporting this amendment.

I yield back the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania is recognized to close debate with 4 minutes remaining.

Mr. WALKER. Mr. Chairman, I thank the gentleman from California [Mr. BROWN] for pointing out the language in our bill, but he left out the most important point which is the point I was

making, and that is that under our bill we say, ''You have to use the risk assessment based upon those things which are familiar to and routinely encountered by the general public.'' That is what he left out, and that is the point. It is that one gets bureaucratic gobbledegook instead of things which are routinely available to the public and which they understand.

Now I was interested a little while ago when the gentleman from Missouri lectured us on the business of the budget. The fact is that the gentleman would check a little bit further on the rules, what he would find out is that there are no Budget Act requirements for discretionary spending. PAYGO does not apply to discretionary spending. We are talking about discretionary spending here. We solve this problem by having less regulations.

I say, ''You wouldn't have $250 million of expenditures if you simply did less regulation; problem solved.''

Now the thing is, the problem for the other side, that they are absolutely right with regard to the brown amendment. The Brown amendment would incur absolutely no additional costs. As a matter of fact, my guess is that the CBO would not even bother to score the Brown amendment because all of the agencies are going to be able to go on doing exactly what they are doing now under the Brown amendment.

For example, the hundred million dollar rule means that EPA, which in 1993 issued about 170 regulations, only about 1 or 2 percent of those would be covered under the Brown amendment. In other words, practically nothing would be done under the Brown amendment. We would end up with the situation just as it is now.

What does that mean? Well, we have heard about $250 million in costs. Two hundred fifty million dollars in costs has to be compared to $490 billion in costs that are being incurred by the economy as a result of regulation, $490 billion being imposed upon middle-class Americans by what the Government does. That is 2,000 times more than what they are talking about in terms of costs of this amendment.

Now, my colleagues, it seems to be that what the American people are worried about is 2,000 times more being done to them than what we do here. They are worried about $490 billion worth of costs that are destroying our ability to compete in the world. We look at global competition, and those regulations are undermining and destroying our ability to compete.

What does the Brown amendment say to $490 billion worth of regulatory costs?

''Keep it, just keep it. Don't do anything. Stop. Status quo. Do what we have done for 40 years, do nothing.''

Defeat the Brown amendment and make certain that as we go toward regulatory reform we do it for real.

Mr. FAZIO of California. Mr. Chairman, I rise in support of the Brown-Brown substitute. The substitute perfects the bill by recognizing the need to incorporate the concepts of risk assessment and cost-benefit analysis into the regulatory rulemaking process.

Regulations must be made in a commonsense manner that recognizes our limited financial resources. Put another way, we cannot implement regulations as if we have an unlimited pot of money to deal with these problems. We have to recognize our fiscal limitations and prioritize the hazards facing us.

The measure requires agencies to set priorities based on the seriousness of the risk and the viability of resources. Using a ''worst first'' approach, the substitute directs each agency to establish regulatory priorities based on the seriousness of the risks to human health, safety, and the environment.

The substitute requires assessments and cost-benefit analysis for all major rules. It requires agencies to compare risks to other comparable risks. It also specifically calls on agencies to state that benefits are likely to justify the costs and that the remedies chosen are cost-effective.

Peer review is essential to the public's faith in agency action. The substitute requires agencies to publish peer-reviewed guidelines for conducting risk assessments and sets forth a mechanism to ensure that the guidelines are enforced uniformly in each region.

Section 7 of the substitute requires each agency to establish a systematic program for independent peer review of risk assessment and economic impact projections of each agency. The agencies are required to respond to this independent peer review. To maintain the integrity of the peer review process, peer reviewers with direct conflicts of interest are excluded.

Finally, the substitute ensures that the right to judicial review is not expanded. It provides much needed certainty by reiterating existing law and emphasizing that it does not give new right to judicial review.

Mr. Chairman, I am proud to support this measure that represents true reform to the regulatory process.

Mr. VENTO. Mr. Chairman, I rise in support of the substitute offered by the gentlemen from California and Ohio.

The substitute amendment before the House is a rational well reasoned response to the need to better judge the efficiency of Federal Rules and Regulations. Frankly, the basic bill H.R. 1022 is a poorly conceived measure which would paralyze the Federal Government's ability to implement a host of environmental, health, safety and energy laws.

Rules and regulations are the wheels that laws are put into effect and H.R. 1022 as presented proposes to slash the tires and immobilize the laws as vehicles to implement the basic policy objectives inherent in the measure passed by the Congress and signed into laws by numerous Presidents.

The measure H.R. 1022 actually increases the complexity of the regulatory process by adding risk assessment and cost benefit analysis. These concepts and models are not some off the shelf material that can be applied in a cook book fashion to the problem at hand a proposed regulatory framework for action to implement a law.

Rather cost benefit and risk assessment exist in vague conceptual terms which will lend themselves to wide interpretation. The measure H.R. 1022 then subjects the entire regulatory process including these controversial new charges to judicial review. This is a formula for expense, controversy and gridlock.

I find it difficult to interpret this as a good faith attempt to deal effectively with red tape and the problems presented by the regulatory process. Rather this basic proposal seems designed to undercut the laws it embraces and to frustrate the implementation of sound policy. Certainly federal regulations and law are in numerous instances in need of change and sometimes counter productive, but this effort to circumvent the application and effectiveness of law is very troublesome.

The Brown-Brown substitute eliminates most of the defects of the basic bill, raising the threshold, making clear that this law is regulatory reform not a wholesale assault of environment, safety health and energy law. Furthermore the substitute eliminates the conflicts of interest on the peer review section by excluding special interests from drafting the studies and the rules themselves.

The substitute builds upon regulatory reform supported by and instituted by the past three administrations and enacted in the Department of Agriculture Reorganization Act of 1994. Judicial review is limited to the basic provisions of the Administrative Procedure Act making certain and predictable the flow of regulations rather than a rush for the court house when an interested party wants to delay a regulatory decision.

Many features of the substitute respond to the need for regulatory reform by setting rule making priorities, including risk assessment and cost benefit, but the substitute recognizes the difference between agencies and permits rules and analysis unique to such process. Most importantly the substitute permits the scientists to do science rather than super-imposing a political frame work and models upon the work that they are required to do by the law as is advanced in the basic measure H.R. 1022.

The basic measure H.R. 1022 is estimated to cost over 250 million dollars and frankly it would be taxpayer money poorly expended because it will be purchasing more red tape, more controversy and delay with regards to the implementation of law.

The basic measure seems a thinly veiled attempt to undercut a myriad of federal law that the proponents lack the overt support to achieve directly, but rather have chosen to put up a straw man argument of regulatory red tape and expense behind which they will achieve the gutting of basic environmental, safety, health, and energy policy which are in the public interest.

The Brown and Brown substitute answers the call for regulatory reform while preserving, not undercutting the basic laws; the existing problems that we face today are complex—certainly the environment, health, safety and energy laws must reflect that, we as a Congress must not sacrifice sound policy to the politically motivated that would undercut basic law. I urge my colleagues to support the substitute and oppose the basic bill, H.R. 1022.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. BROWN].

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

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 246, not voting 14, as follows:

[Roll No. 176]

AYES—174

Abercrombie	Gilchrest	Oberstar
Ackerman	Gilman	Obey
Andrews	Gordon	Olver
Baldacci	Green	Owens
Barcia	Gutierrez	Pallone
Barrett (WI)	Hall (OH)	Pastor
Beilenson	Hamilton	Payne (NJ)
Bentsen	Harman	Payne (VA)
Berman	Hastings (FL)	Pelosi
Bevill	Hefner	Peterson (FL)
Bishop	Hilliard	Pomeroy
Boehlert	Hinchey	Porter
Bonior	Holden	Reed
Borski	Hoyer	Reynolds
Boucher	Jackson-Lee	Richardson
Browder	Jacobs	Rivers
Brown (CA)	Jefferson	Roemer
Brown (FL)	Johnson (SD)	Rose
Brown (OH)	Johnson, E. B.	Roukema
Bryant (TX)	Johnston	Roybal-Allard
Cardin	Kanjorski	Sabo
Clay	Kaptur	Sanders
Clayton	Kennedy (MA)	Sanford
Clement	Kennedy (RI)	Sawyer
Clyburn	Kennelly	Schroeder
Coleman	Kildee	Schumer
Collins (IL)	Kleczka	Scott
Collins (MI)	Klink	Serrano
Conyers	LaFalce	Shays
Costello	Lantos	Skaggs
Coyne	Levin	Slaughter
Cramer	Lewis (GA)	Spratt
Danner	Lincoln	Stark
de la Garza	Lofgren	Stokes
DeFazio	Lowey	Studds
DeLauro	Luther	Stupak
Dellums	Maloney	Tanner
Deutsch	Manton	Thompson
Dingell	Markey	Thornton
Dixon	Martinez	Torres
Doggett	Mascara	Torricelli
Doyle	Matsui	Towns
Durbin	McCarthy	Traficant
Engel	McDermott	Tucker
Eshoo	McHale	Velazquez
Evans	Meehan	Vento
Farr	Meek	Visclosky
Fattah	Menendez	Volkmer
Fazio	Miller (CA)	Ward
Fields (LA)	Mineta	Waters
Filner	Minge	Watt (NC)
Foglietta	Mink	Waxman
Ford	Moakley	Wise
Frank (MA)	Moran	Woolsey
Frost	Morella	Wyden
Furse	Murtha	Wynn
Gejdenson	Nadler	Yates
Gephardt	Neal	Zimmer

NOES—246

Allard	Burr	Davis
Archer	Burton	Deal
Armey	Buyer	DeLay
Bachus	Callahan	Diaz-Balart
Baesler	Calvert	Dickey
Baker (CA)	Camp	Dooley
Baker (LA)	Canady	Doolittle
Ballenger	Castle	Dornan
Barr	Chabot	Dreier
Barrett (NE)	Chambliss	Duncan
Bartlett	Chapman	Dunn
Barton	Chenoweth	Edwards
Bass	Christensen	Ehlers
Bateman	Chrysler	Ehrlich
Bereuter	Clinger	Emerson
Bilbray	Coble	English
Bilirakis	Coburn	Ensign
Bliley	Collins (GA)	Everett
Blute	Combest	Ewing
Boehner	Condit	Fawell
Bonilla	Cooley	Fields (TX)
Bono	Cox	Flanagan
Brewster	Crane	Foley
Brownback	Crapo	Forbes
Bryant (TN)	Cremeans	Fowler
Bunn	Cubin	Fox
Bunning	Cunningham	Franks (CT)
Franks (NJ)	Lewis (KY)	Roth
Frelinghuysen	Lightfoot	Royce
Frisa	Linder	Salmon
Funderburk	Livingston	Saxton
Ganske	LoBiondo	Scarborough
Gekas	Longley	Schaefer
Geren	Lucas	Schiff
Gillmor	Manzullo	Seastrand
Goodlatte	Martini	Sensenbrenner
Goodling	McCollum	Shadegg
Goss	McCrery	Shaw
Graham	McDade	Shuster
Greenwood	McHugh	Sisisky
Gunderson	McInnis	Skeen
Gutknecht	McIntosh	Skelton
Hall (TX)	McKeon	Smith (MI)
Hancock	McNulty	Smith (NJ)
Hansen	Metcalf	Smith (TX)
Hastert	Meyers	Smith (WA)
Hastings (WA)	Mica	Solomon
Hayes	Miller (FL)	Souder
Hayworth	Molinari	Spence
Hefley	Mollohan	Stearns
Heineman	Montgomery	Stenholm
Herger	Moorhead	Stockman
Hilleary	Myers	Stump
Hobson	Myrick	Talent
Hoekstra	Nethercutt	Tate
Hoke	Neumann	Tauzin
Horn	Ney	Taylor (MS)
Hostettler	Norwood	Taylor (NC)
Houghton	Nussle	Tejeda
Hutchinson	Ortiz	Thomas
Hyde	Orton	Thornberry
Inglis	Oxley	Thurman
Istook	Packard	Tiahrt
Johnson (CT)	Parker	Torkildsen
Johnson, Sam	Paxon	Upton
Jones	Peterson (MN)	Vucanovich
Kasich	Petri	Waldholtz
Kelly	Pickett	Walker
Kim	Pombo	Walsh
King	Portman	Wamp
Kingston	Poshard	Watts (OK)
Klug	Pryce	Weldon (FL)
Knollenberg	Quillen	Weldon (PA)
Kolbe	Quinn	Weller
LaHood	Radanovich	White
Largent	Ramstad	Whitfield
Latham	Regula	Wicker
LaTourette	Riggs	Williams
Laughlin	Roberts	Wolf
Lazio	Rogers	Young (AK)
Leach	Rohrabacher	Young (FL)
Lewis (CA)	Ros-Lehtinen	Zeliff

NOT VOTING—14

Becerra	Gonzalez	Rahall
Dicks	Hunter	Rangel
Flake	Lipinski	Rush
Gallegly	McKinney	Wilson
Gibbons	Mfume	

□ 2053

Mr. HALL of Texas changed his vote from ''aye'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CRAPO

Mr. CRAPO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAPO: page 5, after line 18, insert:

(5) EMERGENCY.—As used in this Act, the term ''emergency'' means a situation that is immediately impending and extraordinary in nature, demanding attention due to a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

Mr. CRAPO. Mr. Chairman, we have just had a significant debate about the importance of cost-benefit analysis. But there is one concern with this legislation that I think needs to be addressed. The legislation provides that the requirements of this act do not apply if the director of any agency subject to the act or the head of any such agency declares an emergency to exist.

□ 2100

The problem is that there is no definition in the act of what constitutes an emergency. Those of us who have had experience, whether it be in the legislative arena or in a regulatory arena, with a declaration of an emergency, know that it is very easy to declare an emergency. This leaves a loophole in the act that is probably big enough to drive a truck through.

The purpose of this amendment, which is very short and straightforward, is to provide a very carefully crafted, tight definition of what an emergency is. It requires the head of an agency to determine that there is some situation that is immediately impending, extraordinary in nature, and that it demands attention due to a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

The purpose of this is to make it clear that agencies are not entitled under this legislation and under the emergency provisions of this legislation to simply declare an emergency without good, substantial justification.

In the committee report, on page 28, it says that ''The mere existence of the usual kind and level of risk which any statute subject to this title is designed to regulate does not constitute an emergency.''

Again, the purpose of this is to make it so that the requirements of this act in all cases except a true emergency, where there is an immediately impending danger, extraordinary in nature, demanding immediate attention, under the circumstances designated in this amendment. In only those circumstances can the head of an agency declare an emergency and avoid the application of this statute.

Mr. Chairman, I think it is very important that we impose this kind of control over the statute, and require that the agencies not use this provision as a loophole.

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have worked on this bill in both the Committee on Science and in the Committee on Commerce. The gentleman from Idaho, Mr. CRAPO, is absolutely correct, there is no definition of emergency.

I think the gentleman's definition is well within the spirit and the intent of the legislation. It is well crafted, it is tightly drawn, it is very concise. Any member who plans to support the legislation would certainly not go against any other option if they vote for this amendment. I would hope that we will adopt it.

In the interests of time, I would hope we would adopt it by a voice vote.

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment because it narrows the definition of ''emergency.'' During the hearings that we had, as brief as they may have been, as uncomplete as they were, we heard witness after witness come in front of the committee concerned about the lack of flexibility given to the agencies to be able to deal with an emergency. This narrows the language even more by constructing a very narrow definition of ''emergency.''

Let me give two or three examples. When the Centers for Disease Control receive information about severe outbreaks of illness related to chryptosporidia, it can act to ensure that the outbreak of the illness is limited.

Prompt action is essential; not more lawyers, not more bureaucracy, not more government, not more Rube Goldberg ways to stop these agencies from acting quickly in an emergency basis, in imminent endangerment of the public.

When contaminated blood, another example, can be removed from hospitals and blood banks before it is used, before it infects some unsuspecting victim with HIV, the public health is protected, people's safety is protected.

Mr. Chairman, let me give another example. When a local nuclear reactor is not running quite right, should the NRC have to wait for a meltdown before it can react? Obviously not. They ought to be able to anticipate prior to an emergency, again to protect the health and protect public safety. It simply makes sense.

This amendment takes away any flexibility, and is one more example of adding to bureaucracy, meaning more lawyers, more government, more litigation, going in the exact opposite direction that people in this country want.

I ask for a defeat of the amendment. Tomorrow there will be an amendment to make sure that they have the authority, that agencies have the flexibility, to act to prevent an emergency situation to protect people's public health and public safety.

Mr. SCHAEFER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Crapo amendment to the Risk and Cost-Benefit Act of 1995, and I would commend the gentleman from Idaho for offering it.

Mr. Chairman, the emergency situation provisions is an important part of this legislation. It provides flexibility for unforeseen threats to public health and safety. However, an ill-defined standard of what actually constitutes an emergency creates a gaping loophole for improperly opting out of the review requirements. Without a standard definition, agency heads could be confused as to when they can exercise their authority.

The emergency situation provision delegates a great deal of authority of the Federal agencies in carrying out the spirit of this important legislation. However, this delegated authority should not be misinterpreted by agencies as giving them wide latitude in applying the provision. Consequently, it is imperative that lawmakers make the definition of the emergency situations provision very clear. The Crapo amendment achieves this goal.

Mr. Chairman, this amendment provides a very reasonable gauge of an emergency situation for Federal agencies to know when they can abbreviate the risk assessment and cost-benefit analysis requirement. I urge my colleagues to support this well thought out modification to the bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Crapo amendment. Mr. Chairman, the argument is made that the Crapo amendment defining what an emergency is in the bill is too tightly drawn, perhaps too restrictive of the word ''emergency.''

Let me argue the contrary. The bill provides an exception to the act. It says that an agency that is undertaking a rulemaking does not necessarily have to do risk analysis, risk characterization, when an emergency exists in the making of a rule.

It does not say that risk analysis cost-benefit performance must be conducted on every agency action, carrying out an existing rule. To carry out a rule that already exists, the agency simply performs its function. It is in the new rulemaking, in the execution of new rulemaking decisions, that the act requires a risk assessment, risk characterization, and cost-benefit analysis.

It provides an exception even in that case. Even when it needs to move swiftly on a rule, if in fact it finds an emergency, it can avoid the very necessary requirements of looking at cost, looking at risk, and doing a relative analysis of the two.

The bill says that ''You can avoid this bill any time the agency head declares an emergency.'' I remember we had a rule in the sessions in Louisiana that you could only pass taxes in an off year, but the Governor wanted to pass it one year and it was not the right year.

He asked his advisor ''What can I do?'' He said ''You can declare an emergency.'' He said ''What is going to be the emergency?'' The emergency was that it was the wrong year to pass taxes, so he declared the emergency and proceeded. It was, of course, contested in court. Here the effort is to define ''emergency'' in a clear and concise way.

I want to call Members' attention to the words chosen by the gentleman from Idaho [Mr. CRAPO] in his amendment. If this amendment were restrictively written, we would probably see a lot of ''ands'' in it: ''you have to find this and that and this and that'' before you find an emergency.

However, look at the words. It says that ''It is immediately impending.'' What is an emergency if it is not immediately impending? It says it is extraordinary in nature. That indeed is the nature of an emergency. It says that it demands attention due a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

On the contrary, this amendment is drawn to cover all of the real emergencies that should be useful in avoiding the real necessities of risk assessment cost-benefit analysis, when there is a real impending emergency.

Without this language, Mr. Chairman, any agency head can use that term ''emergency'' to avoid this act. With this language, with all of the ''R''s in it, you have to find something real that is present, that is pending, that is extraordinary, and can in fact cause damage to health or environment or to humans or to private property or to the environment itself before the agency can avoid this bill.

If this bill is worth passing, this amendment is necessary to make sure that agency heads abide by it. Remember, we are talking about rulemaking, not agency action. We are talking about rulemaking, and to make a new rule, you ought to follow this bill. If you do not want to follow this bill, there ought to be a real, impending, extraordinary emergency why, to make a new rule, you will not follow this bill.

I urge adoption of the amendment offered by the gentleman from Idaho.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment.

Mr. CRAPO. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Idaho.

Mr. CRAPO. Mr. Chairman, I thank the gentleman from Virginia for yielding to me.

I would just like to respond on some of the issues that have been raised. It is very easy to raise the specter of a big problem that will occur if we do not have a very broad emergency language, but the examples given just do not fit it.

First of all, it says that serious illnesses that were considered would come under the jurisdiction of the Centers for Disease Control, which is not covered by this legislation; the same situation, at least to the contaminated blood issue; the nuclear reactor situation that was raised.

I would like to take each of these, whether we are talking about a threat to contamination of the blood supply, whether we are talking about a serious illness that is threatening the public,

or whether we are talking about a danger with a nuclear reactor.

What does this provision provide? It says that if you can find that there is a problem that is immediately pending, that is what we are talking about with those examples. It says it is extraordinary in nature; that is exactly what we are talking about, and that it presents a threat to the environment or is reasonably expected to cause death or serious illness, or severe injury to humans, substantial endangerment to private property or the environment. Any of those examples will trigger this.

As the gentleman from Louisiana [Mr. TAUZIN] has said, we have plenty of opportunity in here for an emergency to be declared in a real emergency. What we are trying to do is tighten that loophole so it is not so big that the exclusion eats the rule; so that this legislation, which is carefully crafted to address meaningful problems in our society, is not simply swept aside each time the agency head feels that there is a difficulty in facing the problem, and that they have to declare an emergency.

We have to put parameters on what constitutes an emergency. We have to make this bill mean it when we say we want to have real cost-benefit analysis.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment. I simply would point out that the language that the gentleman has offered tracks language on page 28 of the committee report. The committee report was very specific in not wanting to have emergencies defined as being something that is manufactured at the agencies, but that emergencies should be real emergencies, so the committee report language makes that clear.

The gentleman has tracked in his amendment that language in a very close fashion, and it is, therefore, acceptable to us.

Mr. BARTLETT of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this very common sense bill and this very common sense amendment. This is just the kind of legislation that the American people anticipated when they went to the polls last November 8.

There are a couple of axioms from our heritage that I think are applicable to situations like this.

□ 2115

It has oft been said by our fathers and grandfathers that the cure should not be worse than the disease.

If we look back at many of our regulations which are now in effect, the cure has very often been worse than the disease, and one can cite as a good example of this the asbestos cleanup in our schools, costing billions of dollars and creating more environmental hazard than if it had been contained and left alone.

There is another observation made by an old country sage that put into very few words what this institution has sometimes had difficulty in understanding. His remark when trying to express his concern that the effort was not justified by the results, he would say, ''The juice ain't worth the squeezing.''

I suggest that there are a great many of our regulations of which this could be said.

I think that the American people expect that in any of these regulations, that the juice should be worth the squeezing, and this very commonsense bill and this very commonsense amendment will make sure of that.

As a matter of fact, Mr. Chairman, it might be retitled, the cost-benefit analysis bill to assure that in all future regulations, the juice is going to be worth the squeezing.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an interesting amendment that my colleague makes because the presumption that you have to make is that somehow the administers, those at the executive branch of our Government somehow are not going to operate in good faith in terms of the emergency declaration. I suppose a further definition of that will help my colleagues so that we can be sure to get cost-benefit analysis and risk assessment.

I understand my colleagues want a lot more information with regards to these issues before we take action. I notice, though, Mr. Chairman, on page 12 of this bill, under the exceptions, this title does not apply to the risk assessment or risk characterization document containing risk assessment or risk characterization performed with respect to the following.

On page 12, what do we have? The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

Like what? Well, perhaps like mining receipts, or grazing receipts, or timber receipts, or oil receipts. In other words, a cost-benefit analysis and risk assessment, that is wonderful for all of the regulations that are conjured up as causing all sorts of difficulty in this country, but apparently when it comes to timber roads, when it comes to mining, when it comes to exploitation and the government not being able to meet the bottom line when it comes out red with regards to a timber sale or when it comes out red with regards to mining when we are left with the cleanup and the cyanide and all the other problems that are associated with that, as long as it comes in in terms of bringing back some receipt from those water projects, you know, we may be losing $5 for every $1 we pick up, but the fact is then we do not want any cost-benefit analysis or risk.

When we have oil spills, we do not want any cost-benefit analysis. In fact, the gentleman from Pennsylvania that is rising to his feet implied earlier today that the Brown amendment did not cover the Corps of Engineers. I do not know if that was the case or not.

He was suggesting why was the Corps of Engineers excluded from this amendment? After all, we know the Corps of Engineers is responsible for significant water projects and activities across the land. He proclaimed broadly how important it was and that that was excluded.

Well, under the precepts that we have here, as I understand the gentleman's bill, now, this amendment was not put in in either committee, the Commerce Committee or the Science Committee, but all of a sudden it appears in this final version of the bill.

I would just suggest to the gentleman under the provisions of the bill that he has so artfully worked on, he has excluded many of those same water projects because they are involved in the collection of Federal receipts.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield briefly to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman said that this had something to do with cost-benefit. It does not.

The language that he refers to is only with regard to risk assessment. Cost-benefit analysis would be covered, so the gentleman would stand corrected.

Mr. VENTO. That is not the way I understand the gentleman's bill as I look at the gentleman's bill.

Mr. WALKER. The language on page 12 only applies to title I. It does not apply to title II.

Mr. VENTO. The gentleman is suggesting that we will do cost-benefit analysis of the leasing and of the water projects and we will do a cost-benefit of those under the provisions of the gentleman's bill?

Mr. WALKER. As long as it has a $25 million impact, I would tell the gentleman.

Mr. VENTO. I thank the gentleman, and I will continue to read this. But it seems to me that the provisions in this does exclude the risk analysis and the other provisions of the bill from these very projects that the gentleman suggests that he covers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho [Mr. CRAPO].

The amendment was agreed to.

Mr. WALKER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. KINGSTON] having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety,

and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, had come to no resolution thereon.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, TUESDAY, FEBRUARY 28, 1995, DURING 5-MINUTE RULE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The Committee on Agriculture;

The Committee on Banking and Financial Services;

The Committee on Government Reform and Oversight;

The Committee on House Oversight;

The Committee on the Judiciary;

The Committee on National Security;

The Committee on Small Business; and

The Committee on Transportation and Infrastructure;

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Ms. WATERS. Mr. Speaker, reserving the right to object, we have consulted with the ranking member on our side and have no objection to this request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

[Mr. DUNCAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1995–1999

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

This report is to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218), for legislation having spending or revenue effects in fiscal years 1995 through 1999.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, February 27, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of February 27, 1995.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority of each direct spending committee with the ''section 602(a)'' allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. ''Discretionary action'' refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490) have been revised to reflect the changes in committee jurisdiction as specified in the Rules of the House of Representatives adopted on January 4, 1995.

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised ''section 602(b)'' suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocaitons were filed by the Appropriations Committee on September 1, 1994.

The aggregate appropriate levels and allocations reflect the adjustments required by section 25 of H. Con. Res. 218 relating to additional funding for the Internal Revenue Service compliance initiative.

Sincerely,

JOHN R. KASICH,
Chairman.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET

STATUS OF THE FISCAL YEAR 1995 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 218

REFLECTING ACTION COMPLETED AS OF FEBRUARY 22, 1995

[On-budget amounts, in millions of dollars]

	Fiscal year 1995	Fiscal year 1995–99
Appropriate level (as set by H. Con. Res. 218):		
Budget Authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current level:		
Budget Authority	1,236,489	NA
Outlays	1,217,181	NA
Revenues	978,466	5,384,858
Current level over (+)/under (−) appropriate level:		
Budget Authority	−2,216	NA
Outlays	−424	NA
Revenues	766	−30,342

Note.—NA=Not applicable because annual appropriations acts for fiscal years 1997 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $2.216 billion in new budget authority for FY 1995 (if not already included in the current level estimate) would cause FY 1995 budget authority to exceed the appropriate level set by H. Con. Res. 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1995 outlays by more than $.424 billion (if not already included in the current level estimate) would cause FY 1995 outlays to exceed the appropriate level set by H. Con. Res. 218.

REVENUES

Enactment of any measures producing any net revenue loss of more than $766 million in FY 1995 (if not already included in the current level estimate) would cause FY 1995 revenues to fall below the appropriate level set by H. Con. Res. 218.

Enactment of any measure producing any net revenue loss for the period FY 1995 through FY 1999 (if not already included in the current level estimate) would cause revenues for that period to fall further below the appropriate level set by H. Con. Res. 218.