what we are doing is not going to continue as it has been? You know, I do not think they would believe us anyway. The more they watch what is going on here on the floor, I am confident that if any of them did, they are even more sure that we do not know whether we are ever going to help them or how we are going to help them.

SMALL BUSINESS ADVOCACY AMENDMENT

Mr. DOMENICI. Mr. President. I am pleased the Senate has accepted my small business advocacy amendment to the regulatory reform bill. Several issues have been raised relative to this amendment that I believe warrant clarification.

First, a concern has been raised about the issue of timing; that small businesses will have input into the regulatory process prior to a notice of proposed rulemaking is issued and that other affected interests do not have this special treatment. In response to this concern, let me quote several findings from the July 1994 ''Small Business Forum on Regulatory Reform—Findings and Recommendations of the Industry Working Group:''

> The work groups clearly felt that early communication and input from small business owners and other stakeholders would be key ingredients in the achievement of the dual objectives of participation and partnership. . . . Many agencies track in-house, by computer, the progress of all proposed regulations which have reached the drafting stage. Each agency presently prepares and submits to OIRA a regulatory agenda every six months which includes all regulations proposed by the agency.
>
> Much discussion and deliberation took place in the work groups regarding the earliest date at which input should or could be solicited from stakeholders affected by a proposed regulation. At any given moment in time, there may be hundreds of ideas and concepts afloat in an agency. To solicit input at the very inception of the idea would impose too much of a burden upon the agency and the small business community. Often one, two or even more years pass while a regulation is in the development stage, supporting information is being gathered and analyses are being made. At the same time, waiting until a regulation has been drafted, and a notice of proposed rulemaking [NPRM] has been published in the Federal Register, may result in the loss of the opportunity for stakeholders to provide meaningful input early enough in the process.

Let me emphasize, the working groups—which included participants from the Environmental Protection Agency and the Department of Labor—met in multiple sessions over a 3 month period of time. A total of 70 Government representatives participated in the work sessions. The report stated that although the interagency groups worked independently, their reports reached similar conclusions:

> Their similarity suggests that the problems facing both small business owners and the agencies in the regulatory process may be universal, extending across industry and agency lines. The groups all agreed that a comprehensive, multi-agency strategy, with improved public involvement, is likely to be the most cost-effective way to improve the quality of regulations and to enhance regulatory compliance.

As the working groups noted:

> . . .waiting until a regulation has been drafted, and a notice of proposed rulemaking [NPRM] has been published in the Federal Register, may result in the loss of the opportunity for stakeholders to provide meaningful input early enough in the process.

The working groups explored various ways to address the need for early input, suggesting an Electronic Regulatory Information Center [ERIC] or electronic dockets to advise the most interested parties of forthcoming regulatory initatives. These suggestions have considerable merit, not only for small businesses but for any others who are interested in the impending regulations.

It is absolutely true that the small business advocacy amendment has singled out small businesses as important entities deserving early participation in the regulatory process. I believe the specific requirements for input, as articulated in the amendment, are wholly consistent with existing statutes, various Executive orders, and countless studies and reports that require or recommend small business collaboration in the process. And, as evidenced by the agency working groups in the small business forum on regulatory reform, early participation has a beneficial impact on the relationship of the stakeholders and the Federal Government.

I believe I speak for millions of small business men and women when I say that a ''partnership'' with their government is what they are after, not the present ''adversarial'' relationship. Let us not be afraid to change the present system—we know it is not working at its optimum. If we need to change the entire system so other affected members of the public have a means of voicing their particular concerns early in the process, then let us do it. Let us not, however, be fearful that early input or early participation by small businesses is detrimental to the process or gives them an unfair advantage. Early participation is already supported as one of the best ways to address potential problems.

It was my intent, and the intent of those who cosponsored this measure, to provide a much-needed mechanism for two federal agencies to be able to address what they, themselves, have already recognized as a deficiency in the present system: The need for early input for information and discussion purposes to make the process more efficient and effective.

I am pleased that this principle of reaching out to affected citizens is one with which we seem to all agree. I suggest, therefore, that if this mechanism works as we all believe it will, that it may just have a positive impact on the way all regulations are developed in the future, for all of our citizens who wish to make things work more efficiently and effectively. The bottom line is that the regulatory process should be a collaborative effort between the public and the Federal Government.

As important, small businesses should not be seen as autonomous, faceless, inhuman entities trying to skirt the health, safety and well-being of their fellow citizens. These are men and women—and in my State, the majority of new businesses are small businesses, and the majority of those are women-owned businesses—who are trying to make a living, with fairness and good business practices. They may hang out their shingle as a CPA firm, establish a women's magazine for the local community, set up a hardware or supply company, or make salsa to sell at the local museum—they all fit the definition of small businesses. When there is criticism that the workers may be shortchanged in a new regulatory process, I suggest we should consider changing our definition of workers. These men and women are workers, and their voices are as critical to the process as are, for example, the voices of a 20,000-plus member labor union.

The second issue I want to clarify is that a post-regulation survey may be a burden on an agency. I strongly support efforts to reduce the paperwork burden on all Americans, including our federal agencies. Relative to this survey, I cannot believe that agencies are disinterested in how their regulations are working. We, in Congress, certainly receive enough inquiries requesting revisions to various regulations to know that some regulations need changes. And, we certainly know that small businesses find complying with multiple regulations imposes an incredible burden on them because a company of 25 employees must comply with most of the same regulations as a company of 1000 employees: this costs time and money a small company often does not have.

To better understand the impact of a major regulation on small entities, a survey will provide vital information as to how well it is working and whether there are ways to adjust the regulation to meet changing circumstances or needs. Why should such a survey be a burden or incur a frightening scenario to an agency? The agency does not have to be involved with the survey—it will hire a firm to conduct the survey and provide its findings. And, there is nothing in this amendment that mandates a small business must respond to a survey or that the agency must adhere to any of its findings. In fact, from all of the information I have received from the New Mexico Small Business Advocacy Council—which I established 2 years ago—and other small business suggestions, small businesses would love the opportunity to provide an assessment of how a regulation is working, either pro or con.

Mr. President, I and others have been listening to the men and women in our

States who have said there is a problem with the regulatory process. In effect they have been telling us in every possible way they can that they need to be a participant in this process; they would like to offer suggestions that will make regulations work better; that they have some common sense suggestions that can make the regulatory process a participatory one. But, there is no mechanism that provides an informal way of getting their message out. Everything is complicated. Everything is rigid. And, nobody cares.

We are offering a possible solution so that the voices of millions of men and women-owned small businesses can be heard. We are offering a mechanism for a question and answer survey to be conducted that may provide some meaningful insights as to how regulations, including, for example, how health and safety standards can be better implemented.

I am proud of this amendment. I do not believe the majority of Americans are fearful of this approach; it is an inventive one that we hope is responsive to legitimate concerns.

I believe the revisions worked out prior to the amendment's acceptance helped clarify its intent. I hope we can wholeheartedly embrace this innovative approach to ''hearing'' from our American men- and women-owned small businesses. Their voices—their counsel and advice—can help make our regulatory process more responsive and workable. Everyone will benefit.

SOUND SCIENCE AND RISK ASSESSMENT

Mr. DOMENICI. Mr. President, I would like to register a small historical footnote during the debate on the regulatory reform bill. During consideration of the Clean Air Act Amendments in 1990, Senator DOLE and I started to ask questions about how the Environmental Protection Agency did risk assessments and what those risk assessments meant.

We and many of our colleagues were surprised, and somewhat incredulous, as we learned that these risk assessments involved unrealistic assumptions about human exposure and overly conservative assumptions multiplied by other overly conservative assumptions. I still refer with wonderment—and I know Senator DOLE does this as well—at the so-called mythical man standing at the fenceline breathing a pollutant continuously for 70 years, never bothering to leave for work or to raise a family—or even move 20 feet away.

As a result of this inquiry, we established under the Clean Air Act a Commission on Risk Assessment and Management to advise the Congress and the administration on appropriate principles of risk before the residual risk section of the air law takes effect. We also commissioned the National Academy of Sciences to do a report on current risk assessment practices. That report, entitled ''Science and Judgment in Risk Assessment,'' was issued last year, and contained a number of criticisms in the way that the Environmental Protection Agency presently conducts its risk assessments during rule promulgation.

As a result of this activity, I sought and got an amendment during reauthorization of the Safe Drinking Water Act last year that would have required regulations issued under that act to be based on the best available peer-reviewed science. Such good science was clearly needed with regard to the operation of the Safe Drinking Water Act. For example, EPA has consistently proposed a minimum contaminant standard for radon in drinking water which could cost water systems upward of $12 billion in capital cost alone, even though EPA's own Science Advisory Board criticized that standard for not focusing limited resources on more important risks.

My good science amendment was a specific remedy in one law. But I believe that there is an urgent need for realistic and plausible exposure scenarios and sound science in all risk assessments. I am pleased, therefore, that the Dole bill requires that risk assessments be based only on the best available science, a basic requirement which has been sorely needed for far too long.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. How much time is left?

The PRESIDING OFFICER. The Senator from Utah controls 8 minutes. The Senator from Ohio has 4 minutes.

Mr. JOHNSTON. Will the Senator yield me 2 minutes?

Mr. HATCH. I would like to yield the last 2 minutes to the distinguished Senator from Louisiana, if I can. First, I will yield myself all but the last 2 minutes. I would like to have notice when 6 minutes is used.

I really have to say that I am very upset right now with some of the arguments that I have heard from the other side, because they could not have read this bill, could not understand the concessions that we have made time after time, day after day, meeting after meeting, hour after hour, and make the statements that were made today.

Some on the other side are so worried about subjecting the bureaucracy to too many ''hoops,'' that they forget the American public out there and how many hoops they have to jump through.

Let me tell you, we are being regulated to death in this country. What about the hoops that the American citizens have to jump through because of a bureaucracy inside this beltway that does not consider their needs and enacts silly, stupid, dumb regulations that are wrecking our country. On this bill, we have had it with some in the media, who continue to completely misrepresent, in the most despicable way, what this bill means.

I assure you that we would not have some of these Senators voting for cloture today if they thought for a minute that some of these representations were true. Now, we do not believe that the latest Kerry-Glenn proposals are right. They not only do not address our offers made on Tuesday, which were made to meet both side's concerns, in words that we thought we had agreed on in the meetings; but then their counteroffer significantly expands the areas of disagreement by adding new issues. That is what we have been going through the whole time. We get to where we think we have it, and the next thing you know, 10 more issues are on the table.

Let us worry a little more about the American people. This bill takes care of providing that the best science will be applied, and that the right decisions will be made, and that the bureaucracy will have to be accountable for the first time in the history of this country. This is one of the most important bills in the history of this country because it means getting the status quo, the overwhelming, unthinking bureaucracy, off of our backs and makes them become more responsible to issue good regulations, rather than bad, based upon the best science available.

It gets the American public from underneath the horrendous burden of unnecessary, silly, and dumb regulations. If there is a funeral, to use the metaphor used by one of my colleagues, it is ''a funeral for common sense'' if we do not pass this bill. If there is a funeral on the other side of that quotation, then it is the celebration of the status quo. I would have to say that most of the opponents of this bill have not even read it. They could not have read it and made some of the comments that they made.

We have tried and we have worked very, very hard to bring people together. We have been criticized—Senator ROTH and I, in particular—we have been criticized by people on both sides of the aisle. Our goal is to bring together the best bill we can, that will stop some of the overregulatory killing that is happening in this country today.

We think we are there. That does not mean if we invoke cloture that we will not continue to work to try and satisfy our sincere colleagues on the other side, not the least of whom is Senator GLENN, who has worked very hard to try and resolve this. I know he is very dedicated, and sincerely so, to resolve these problems. There are a number of others who are as well, and I want to pay tribute to them.

This is a key vote for small business. Every small businessman in the country has to be watching this vote. I have to say even harmonized reg flex has cost-benefit criteria. We have done so much to try and make this bill acceptable to both sides. I think it should be acceptable. We will continue to work, but I think we need to invoke cloture. It seems to me the time is now. We have waited long enough. Frankly, it is time to do this.

The other side is so worried about subjecting the bureaucracy to too many hoops. What about the American public? What about the hoops that the American public has to go through to satisfy the horrendous burden of regulation?

If this is a funeral for common sense and a celebration of the status quo, most of the opponents of this bill have never read it.

We believe that the latest Kerry-Glenn-Levin proposals not only do not address our offer made Tuesday in good faith to meet that side's concerns, but significantly expands the areas of disagreement by adding new issues.

First and foremost, the proposal to strike the decisional criteria section and replace it with a certification process is unsatisfactory. The decisional criteria section is at the heart of Dole-Johnston because it is the mechanism that both sets the standard for cost-benefit analysis and assures that the analysis is done by the agencies. We believed that their side had agreed to the concept of a decisional criteria section, but that the language of the standard needed to be negotiated. Their proposal to strike this section constitutes the most significant area of disagreement.

Other significant areas of disagreement include their proposal to limit the reasonable alternatives that an agency must disclose in a rulemaking to three or four. While the number of options for a particular rulemaking may be small, in certain circumstances it may be greater, and disclosure of all relevant options is necessary for effective public participation in the rulemaking process and for judicial review.

We also object to the elimination of the petition processes. The right of the American people to petition their government is a fundamental constitutional right. We believe that Congress has a duty to assure the efficacy of this right. Consequently, we object to the deletion of these provisions from S. 343. As to eliminating the petition for review of a major rule, we believed that we had already reached an agreement to keep this provision as part of the agency review of rules section and are disappointed and somewhat surprised at your suggestion to eliminate it. As to the section 553(1) petition process for nonmajor rules, the suggestion to strike this subsection will render this longstanding APA petition process virtually useless. This is because the section 553(1), for the first time, establishes an 18-month time limit for agencies to answer the petitions. The lack of a time limit has rendered the present APA petitions moribund.

Other significant areas of disagreement with their most recent proposal includes striking TRI, the Delaney Clause reformation, and the section 707, the consent decree reform provision.

Furthermore, new issues have been raised for the first time which makes closure even more difficult. These include weakening the regulatory flexibility judicial decisional criteria, and, as stated above, the limiting of the reasonable alternative requirement to a few options. The raising of these new issues contravenes our understanding that we had just a limited universe of four items—decisional criteria, judicial review, sunset, and petitions—to negotiate. Obviously, we cannot continue these negotiations forever; we have already in good faith made over 100 significant and technical changes to the bill.

CHANGES WE ARE PROPOSING TO S. 343

First, judicial review. Language is changed in section 625 to clarify that there is no independent review of the procedures of the bill, but that judicial review will be of the rulemaking file as a whole under an ''arbitrary and capricious'' test.

Second, decisional criteria. Further language is suggested to clarify that there is no supermandate in the decisional criteria section; and adopt the greater-net-benefits test.

Third, section 553(1) petition. Strike language providing for petition of interpretive rules and guidance documents.

Fourth, section 623 petition—agency review. Add requirement that the court, to the extent practicable, shall consolidate petition review in one proceeding.

Fifth, reg flex. Amend section 604, subsection (c) of title 5 to change the standard to one of compliance burdens.

Sixth, substantial support test. Strike substantial support test in section 706.

Seventh, sunset. Adopt language of Glenn-Chafee substitute on sunset.

I ask unanimous consent to have printed in the RECORD a letter and attachment on this subject.

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

U.S. SENATE,
Washington, DC, July 20, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, Russell Senate Office Building, Washington, DC.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, Hart Senate Office Building, Washington, DC.

Hon. J. BENNETT JOHNSTON,
Ranking Member, Committee on Energy and Natural Resources, Hart Senate Office Building, Washington, DC.

DEAR ORRIN, BILL AND BENNETT: We have received your letters dated July 19, and are pleased to see progress on several of the key regulatory reform issues. As you know, however, our July 18 list of major issues was a package, and several of our key issues were not addressed in your letters.

Attached is a list of amendments we need included in our package of amendments. This list represents a revision of our July 19 proposed amendments. The major issues are as follows:

First, we cannot accept a bill that provides new opportunities for litigation, or delays or stops needed health, safety, or environmental protections. We have always opposed the new judicially reviewable petition processes contained in Dole/Johnston, which will result in bureaucratic gridlock and excessive litigation. Glenn/Chafee contains a workable review process. In the interest of compromise, the attached amendments would modify the Glenn/Chafee review process in order to provide for judicial review of the agency schedule and for review of major free-standing risk assessments. Your proposal to accept the Glenn/Chafee action-forcing rulemaking provision, as opposed to an automatic sunset, is an important, positive step. It does not, however, address our concerns about the new petitions and the review process.

Second, our July 19 offer included cost-benefit analysis, but not a new and inflexible decisional criteria. While your counteroffer proposed a revision to the decisional criteria that we are willing to consider, continuing concern about the effect of decisional criteria recommend that we discuss this issue further before making any final decisions.

Third, with regard to judicial review and unwarranted litigation, we propose a variation on standards for judicial review. The elimination of the interlocutory review language in Dole/Johnston sec. 625(e) is a good step, and we assume this includes the elimination of the Reg Flex interlocutory appeal provisions. Also, the elimination of the ''substantial support'' language in Dole/Johnston sec. 706(a)(2)(F) is a welcome change.

Fourth, on the subject of special interest issues, while we continue to believe that it should not be included in the legislation, we are certainly willing to discuss the Toxic Release Inventory. We remain equally concerned with the other special provisions we have identified, as well.

Finally, important issues not addressed in your July 19 letters include a limitation on ''reasonable alternatives,'' a future effective date, a limitation on extension of deadlines, the number and scope of rules covered under the law, and revisions to the Regulatory Flexibility Act. The specific language and/or filed amendments for each of these issues is contained in the Attachment.

While we are pleased to see progress on key regulatory reform issues, each of these issues is part of a package. We are not able to accept proceeding with any of these as individual amendments without addressing the package as a whole. We hope you will look closely at this letter and the attached language, and respond to us. Working together in this way, we are confident that we can develop a regulatory reform proposal that can be accepted by the vast majority of our colleagues. We look forward to hearing from you.

Sincerely,

JOHN GLENN,
CARL LEVIN,
JOHN KERRY.

SPECIFIC LANGUAGE, 7/20 RESPONSE TO 7/19 ROTH/HATCH AND JOHNSTON LETTERS

1. Decisional criteria.

A. Discussion needed on decisional criteria standards and relation to underlying statutes.

B. Limit alternatives agencies must consider to a limited number of alternatives.

C. Strike regulatory flexibility decisional criteria and replace Regulatory Flexibility Act judicial review (Glenn Amendment #1656).

2. Litigation opportunities.

A. Strike petition processes (Levin Amendment #1648):

On page 11, strike lines 5 through 19.

On page 12, strike lines 9 through 12.

On page 59, strike line 10 and all that follows through page 60, line 23.

On page 44, strike line 14 and all that follows through page 46, line 4.

B. Standards for Review:

Offer—revise D/J s. 625(d):

''(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may not be considered by the court except for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).''

Response—substitute the following:

''(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, the information contained in any cost-benefit analysis or risk assessment required under subchapter II or III may be considered by the court as part of the administrative record solely for the purpose of determining whether the final agency action is arbitrary, capricious, or an abuse of discretion. The adequacy of compliance or the failure to comply with subchapter II or III shall not be grounds for remanding or invalidating a final agency action, unless the agency entirely failed to perform a required cost benefit analysis or risk assessment.''

C. Interlocutory Review:

Offer—strike D/J s. 625(e).

Response—Accept, provided that this includes striking the Nunn/Coverdell Reg Flex interlocutory review provisions.

D. Scope of Review:

Offer—strike D/J s. 706(a)(2)(F) re: ''substantial support in the rulemaking file''.

Response—Accept.

3. Agency review of rules.

Offer—Replace Dole/Johnston sec. 623(i) with Glenn/Chafee sec. 625(g) language re: agency initiation of rulemaking to repeal a rule.

Response—Judicially reviewable petitions for review are unacceptable. Substitute G/C sec. 625 for D/J sec. 623 with changes as proposed in 7/19 follow-up to the 7/18 ''Proposed Package'', i.e.:

A. Strike sec. 625(c), and insert in lieu thereof:

''(c) Agency decisions regarding deadlines for review of rules contained in a schedule issued pursuant to subsection (b) shall not be subject (b) shall not be subject to judicial review.'' [COE95.845—p. 18, 1. 4–10];

B. Strike sec. 625(h)(2) [COE95.845—p. 21, 1. 22–25 as modified];

C. Insert a new subsection at the end of sec. 625:

''(i) For purposes of this section, the term ''rule'' shall include a risk assessment, not associated with a rule, that has an effect on the United States economy equivalent to that of a major rule.'' [COE95.845—p. 21].

4. Special interest sections—Strike relevant sections: e.g., Lautenberg #1574 (TRI), Glenn/Levin #1658 (consent decrees), Kennedy #1614 (Delaney), and Kennedy food safety.

5. Other.

A. Provide for a reasonable future effective date of 180 days after enactment (Glenn Amendment #1657).

B. Limit the extension of statutory and judicial deadlines (to allow agencies time to implement new regulatory process requirements) to 2 years (Chafee Amendment #1591).

C. Limit the number of rules covered by the legislation under the Nunn/Coverdell amendment.

Mr. GLENN. I yield such time to the Senator from Michigan as he may need. The Senator from Michigan came here, and his No. 1 item was to see if we could not get into regulatory reform. He was president of the city council in Detroit and had so many programs, and he has been working on it since he has been here.

I yield to him for a parliamentary inquiry.

Mr. LEVIN. I make the parliamentary inquiry, Mr. President, that if cloture were invoked, are amendments which are relevant, according to the unanimous consent, in order or out of order, if, while they are relevant, are not technically germane.

The PRESIDING OFFICER. The relevant standard is considerably broader than the germaneness standard, so they would not be in order.

The PRESIDING OFFICER. The Senator from Ohio has 3 minutes and 16 seconds.

Mr. HATCH. May I make a parliamentary inquiry on my time? Is it not true that both sides can agree post-cloture and add language to the bill?

The PRESIDING OFFICER. Only by unanimous consent.

Mr. GLENN. Mr. President, we all want sensible regulatory reform. I want regulatory reform as badly as anybody here. We have worked on it for years in our committee, the Governmental Affairs Committee, but I want balanced regulatory reform, not regulatory reform slanted so much that anybody that objects to a particular regulation coming out could tie it up in courts in judicial review for almost an unlimited period of time.

We have negotiated in good faith on this, back and forth, and I am sorry we have to go to another cloture vote on this because contrary to what has been said here, we have made a lot of progress. We did not have time enough to go through all of it.

Mr. President, S. 343, the Dole-Johnston bill, does not fix the problem. It was quoted a moment ago that President Clinton said the American people deserve a system that works for them. We do not have such a system today. I submit that S. 343 does not give that balanced system either.

The President has taken initiatives on this and already cut out 1,200 pages of regulation out of 13,000 pages reviewed. So they are working hard at making corrections. We do not need a bill that does nothing but provide regulatory favoritism. That is all we can call this, when they insist on keeping in such things as provisions gutting the toxics release inventory that protects people around plants, and so on. That is just not right that we pass something like that.

We, in good faith, submitted another proposal this afternoon. We gradually, one by one, as proposals have been sent back and forth between the two sides, have worked out a lot of our differences, and this is one of the most complicated bills, one of the most complicated pieces of legislation that we can have, because it refers to so many aspects of law. It affects every man, woman, and child in this country.

In that respect, I ask unanimous consent that the article out of this week's issue of Newsweek called ''Of Helmets and Hamburger'' be printed in the RECORD.

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

OF HELMETS AND HAMBURGER

CONGRESS: DECIDING WHAT YOU EAT AND BREATHE

Soon after Lori Maddy moved into her Sedgwick County, Kans., farmhouse in 1982, she noticed that wind blowing from the direction of the nearby Vulcan Chemicals plant carried a smell like ''the inside of an inner tube.'' So Maddy joined with neighbors to ask Vulcan what, exactly, it was venting. None of your business, Vulcan replied. Then came a 1986 law requiring companies to report—not stop, just report—their toxic releases. Vulcan turned out to be spewing 50 percent of Sedgwick's total emissions, including carcinogens. Spurred by local outrage, Vulcan voluntarily reduced its pollution by 90 percent. ''We felt obligated,'' says plant manager Paul Tobias, ''to win back the public's trust.''

The Toxics Release Inventory (TRI) seems to be a smart way to reduce pollution, but Congress has put TRI and every other federal health, safety and environment rule in the crosshairs. The House passed a strong regulatory-rollback bill in February. Last week the Senate fought over whether it, too, would (pick one) ''wage a full frontal assault on the American people and their environment,'' as Environmental Protection Agency chief Carol Browner put it, or ''take the heavy hand of the federal government out of people's lives,'' as GOP Sen. Olympia Snowe of Maine said.

Washington is already well down the road to deregulation. Congress is moving to free the states to raise speed limits and eliminate the requirement that motorcyclists wear helmets (table). The U.S. Fish and Wildlife Service wants to exempt small-property owners from the Endangered Species Act so they can build on their land even if that damages the habitat of a rare breed. EPA and the Occupational Safety and Health Administration no longer fine first offenders. But the House's antireg bill, and now the leading Senate version, are much broader, affecting anyone who eats meat, drinks water or breathes:

Meat: Bob Dole, sponsor of the Senate bill, wants to deliver regulatory relief this year. But smack in the middle of the Senate debate came news that five children in Tennessee had gotten *E. coli* poisoning, which comes from contaminated hamburger. Such outbreaks, say consumer groups, will become even more common if Dole gets his way. In its current form, they charge, the Dole bill requires federal agencies to prove by extensive analysis that any proposed rule—including better meat inspection—is the cheapest way to protect the public. Showing that the rule's benefits (avoiding 4,000 deaths, 5 million illnesses and up to $3.7 billion in medical costs a year) are greater than its cost to industry ($245 million a year) wouldn't automatically be good enough. Dole disputes this, but there's no doubt that under his plan industry could sue to overturn the rules on much weaker grounds than current law allows. Dole, says Adam Babich of the Environmental Law Institute, is trying to solve ''the problem of too much bureaucracy by adding bureaucracy. It would flunk its own cost-benefit test.''

Air and water pollution: If the GOP proposals had been law in the 1970s, some regulations on air and water quality might never have made it. The cost-benefit analysis of banning lead in gasoline, for example didn't clearly show that it would spare children

much neurological damage. EPA went ahead anyway, and subsequent research shows that the lead phaseout cut blood lead levels far more than EPA expected. The GOP's new plan would also affect existing regs on how much pesticide and fecal bacteria can be in drinking water. Rules would automatically expire every five to 10 years unless an agency reanalyzed (and, possibly, relitigated) them.

Republicans respond with horror stories of regulators run amok. Some are hyped, but many are not. Limits on how much chloroform from paper mills may pollute drinking water, they say, cost $99 billion per year-of-life saved. Even Clinton has a bit of regulation-cutting religion; he's eliminated hundreds of silly federal rules. But more rollback seems inevitable. Ironically, it's coming at a time when GOP budget cutting—EPA is look at a 40 percent hit—will make it even tougher for agencies to meet the stiffer requirements for justifying rules. But maybe that's the idea.

REGULATIONS GO ON THE BLOCK

Washington appears determined to review, and in some cases dismantle, health and safety rules. The results will affect everything from beef to how fast you can drive.

Status quo	GOP plan	Democratic retort
Inspectors "poke and sniff" for spoilage, but 4,000 people a year die anyway. USDA proposes more scientific methods.	The Senate bill would require the USDA to prove that the benefits of its new inspection system outweigh the costs.	The GOP plan would delay reasonable reforms that would save hundreds from dying and millions from getting sick
The United States imposes a cap of 65 mph on rural interstates and 55 on most others. Motorcyclists must wear helmets.	The Senate voted to drop all federal speed limits and let states set their own caps. Bikers may go bareheaded.	The government estimates that up to 4,750 more traffic deaths could occur each year without federal speed limits
The EPA regulates pollutants from lead in gasoline to fecal bacteria in water. Cost is secondary or not considered at all.	The EPA would have to choose the cheapest way to reduce pollution risks. Industry could then challenge the rules in court.	Lawsuits could delay new regulations for years, and even existing rules would be vulnerable to court challenge
Department of Transportation's design and safety standards, including airbags and crushable front ends, save lives.	Federal officials would have to submit all past and future safety rules to a detailed cost-benefit analysis.	Detroit always challenges federal safety rules; under the GOP bill it would prevail more often, and more lives could be lost

Mr. GLENN. Mr. President, it details some of the problems involved, and I wish we had time to read it in the RECORD. It puts it very well, that what we are doing here is not only providing regulatory reform if we pass the Dole-Johnston bill, we are providing the possibility of rolling back health and safety laws developed over the last 25 years that have proven invaluable, have provided for better health, have provided for better safety for our own citizens. We do not want to take a chance of rolling that back.

The bill that I proposed, known as the Glenn-Chafee bill, was one that hit a real balance. We provided redress for these regulatory excesses, and we all agree that there are regulatory excesses. They are all over the place. We hear about these every time we go back home.

We correct them, but we correct them in the right way, providing a process that cannot be used to override the system, cannot be used to overflow the system, cannot be used to swamp the system.

That is what S. 343 has the potential of doing. We want regulatory reform. We want regulatory reform as badly as anybody. I am sorry we cannot continue this negotiation today. I hope our colleagues will not let cloture be invoked and will vote against it so we can continue with these negotiations.

Mr. HATCH. Mr. President, just to make one point, if we invoke cloture tonight, this Senator is going to work with the other side. I know the Senator from Delaware will. I know the distinguished Senator from Louisiana will.

On all relevant amendments, we will work on those with them, and what we can agree on we will put in by unanimous consent. I just want people to understand that.

This cloture vote is very, very important. It has a lot to do with whether we will ever get regulatory reform.

I yield the balance of my time to my colleague from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes and 20 seconds.

Mr. JOHNSTON. Mr. President, we have had a lot of talk here on the floor about good faith and negotiation, and there has, in fact, been good faith and good negotiation by both sides.

Believe me, Mr. President, the majority leader has yielded and yielded and yielded, and I have given a list of those things he has yielded. There was some progress made on the bill.

Mr. President, ultimately there are a few basic differences. Really, three in number. A lot of small ones, but three basic differences on this bill that constitute a wide chasm and a wide gulf.

Now, the first is whether we can question existing rules. I have heard it said you could. Mr. President, let me read what the Glenn substitute says. The Glenn substitute says, "The head of the agency, in his sole discretion, picks what is to be reviewed." In his sole discretion. When you get around to a review, it says, "judicial review of the agency action taken pursuant to these requirements shall be limited to review of compliance or noncompliance with this section." You review at the sole discretion of the head of the agency.

Now, Mr. President, if that is a right to challenge an existing regulation, then I am not a U.S. Senator, because, Mr. President, it is no right at all. It is business as usual.

The head of the agency has that discretion right now. If you want to keep things exactly as they are, then vote against cloture. I say vote for the Glenn amendment. We have already voted for the Glenn amendment once and it went down. It constitutes the bureaucrats preservation act, because it keeps things exactly as they are.

Mr. President, we can make more progress in negotiation if cloture is voted, but unless we have an end to this process, Mr. President, there is an end to this bill. I believe strongly in this bill. I hope we will get cloture. I hope we can get an act passed.

Mr. DASCHLE. Mr. President, I understand that all time has expired, so I will use part of my leader time to comment briefly on the pending resolution.

I note that my colleagues have made the case very well. Those who have preceded me in opposition to this cloture motion, I think, have made the case that I would simply like to summarize prior to the time we come to a vote.

The first and most important point is that this vote is unnecessary. There is no effort to filibuster. No one is delaying final passage on this bill. No one is trying to stop us from coming to a conclusion on this legislation. There has been a sincere attempt, by virtually every Senator involved in this debate, now for several weeks, to try to improve the legislation and accommodate the very difficult points that have been raised and in many cases resolved as a result of those negotiations. So that is point No. 1; no filibuster.

Point No. 2, there has been, as my colleagues have indicated, substantial progress since the day we began this effort several weeks ago; substantial progress. Senator KERRY, Senator CHAFEE, Senator GLENN, Senator LEVIN, and Senator JOHNSTON on our side have all indicated that progress, as a result of these negotiations, has been real. And I think the latest testament to the fact that progress is being made is what the Senator from Rhode Island has just announced. As a result of the efforts in the last 24 hours, he, too, has been able to get additional concessions as a result of these negotiations, concessions that would not have been made were we not at this point in this deliberative process, concessions that we have been talking about now for some time. So, with each stage in the development of this debate, additional progress has been made up until this very afternoon.

Point No. 3, from the outset we have laid out some principles that we say are essential to a good bill. They are very simple.

First and foremost, we have to have a bill that does not roll back laws that have provided cleaner air, purer water, and safer food.

Second, we will not support a bill loaded with special interest fixes.

Third, we will not have a bill that results in an avalanche of litigation from hundreds and hundreds of lawyers.

That is it. Those are our principles. We are guided by those and it is in that effort to maintain our allegiance to those principles that we continue to negotiate in good faith. I believe those concerns have not yet been adequately addressed. I believe equally as strongly, though, that we can get there. I believe the Glenn-Chafee bill would have gotten us there, and 48 Senators agreed with us on that matter. But most important in the statement, I want to emphasize right this minute: We are willing to continue to go into that room, continue to work, continue to work out the differences, as has been the case now for several days.

Finally, let me make a point about the issue raised by the distinguished Senator from Michigan. If, indeed, we are going to come to closure on this

bill, one of the most important things we have to do is ensure that those Senators who have amendments that are relevant but not germane can be protected. Regardless of whether or not we come to closure in the next couple of days on this bill, it is very important that those who want to make additional contributions to this legislation, to try to improve the bill with or without negotiations that may or may not come to any fruitful conclusion, they ought to be protected in their right to offer those amendments and have them successfully debated and ultimately voted on. A vote against cloture ensures that they will have that right, and I think it is very, very important that everyone understand that.

So, I think, in essence, the message is very simple. A vote against cloture is a vote for progress, progress that has been demonstrated over and over again as we have resolved these differences and as we continue to work for final passage, as we continue to guarantee that the principles we laid out at the very beginning can be protected.

I am optimistic that we can achieve that. I believe we can continue to work in good faith to accomplish what remains. And I believe voting against cloture today is the fastest way to get there.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will just take a minute or two because I know we have had a lot of debate here and we have had a lot of negotiations. In fact, we have been negotiating since April. This is about the 10th day now on this bill.

I think what we have forgotten—we keep talking about we have to satisfy this Senator, that Senator—somewhere out there some small business man or woman or farmer is saying, what are these people doing in the U.S. Senate? We have been on this bill 10 days. We had about 2 weeks of negotiation before that. We have made over 100 changes. When do we stop? When we satisfy every liberal Senator on the other side of the aisle? Then you could not find the rest of us voting for it.

I note in the latest offer they made they say, ''We are not able to accept proceeding with any of these as individual amendments without addressing the package as a whole.'' So you take this package, then tomorrow you will have another package, oh, just four or five more things we thought of or the staff thought of or the administration thought of or the bureaucrats thought of.

It is one thing to say we are for regulatory reform. But we are not going to have it unless we have cloture. So the moment of truth is about to arrive. The moment of truth is about to arrive. I have heard all the speeches. I have listened to the speeches. I suppose everybody wants some vague regulatory reform. But by the time we adopt every amendment we have had proposed by some of my colleagues, we would not have regulatory reform. We would satisfy the bureaucracy, which is apparently what some wish to do. The Senator from Louisiana just read a piece of the Glenn bill, ''in sole discretion.'' They make the determination.

So I hope my colleagues will understand, we have a lot of work to do this year. In fact, we just voted earlier today on an amendment, I think it had regulatory reform in it. I think the vote was 91 to 8—91 people voted for this broad bill that had regulatory reform, tax reform, grazing reform, all the reforms we could think of; 91 to 8 voted for it. So there ought to be 91 votes for cloture.

I just hope my colleagues—we have made a lot of progress. Every Republican will now vote for cloture. That is up from about 49; now it is 54. But we cannot get there alone. I tell the American people, we cannot have regulatory reform without at least a half dozen on the other side. It is not possible to satisfy the concerns of some. It is never possible in any legislation.

I do not know what a filibuster is, but it seems like after a couple of weeks we ought to make some decisions. There are a lot of amendments filed, relevant, germane. There are still opportunities to improve this bill after cloture is invoked. Some of these things, in my view, we ought to just say, ''If we cannot reach an agreement, there ought to be an up-or-down vote.'' We would win some, the other side would win some, but at least we would have some resolution.

So I urge my colleague, particularly on the other side of the aisle—and I know you are under extreme pressure. I know the little sweatshop is working right outside the corridor here. I know there are a lot of people coming out there with arms that are hurting. Some have slings. I know the pressure is great, all the way from the White House, the President, the Vice President, every bureaucrat in town is concerned about this bill because they do not want it to happen.

I think it is time we just, in the next 20 minutes, think about the American people during the vote—people in Kansas, Rhode Island, Georgia, Virginia, New York—wherever. So, before we cast our vote—Oregon. Anybody else who is here. We are all one big country. It is going to be one big vote.

I thank my colleagues.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dole-Johnston substitute amendment to S. 343, the regulatory reform bill:

Bob Dole, Christopher S. Bond, Bill Roth, Frank H. Murkowski, Rod Grams, John Ashcroft, Spencer Abraham, Craig Thomas, Pete V. Domenici, Bill Frist, Fred Thompson, Mike DeWine, Thad Cochran, Larry E. Craig, Bob Smith, Chuck Grassley.

CALL OF THE ROLL

The PRESIDING OFFICER. Under the previous order, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of Senate that debate on the amendment numbered 1487 to S. 343, the regulatory reform bill, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (when his name was called). Mr. President, on this vote, I have a pair with the senior Senator from Hawaii [Mr. INOUYE]. If he were present and voting, he would vote ''nay.'' If I were permitted to vote, I would vote ''aye.'' I, therefore, withhold my vote.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 40, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—58

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Breaux	Gregg	Packwood
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Cohen	Jeffords	Snowe
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

NAYS—40

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Pryor
Bryan	Hollings	Reid
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	
Exon	Levin	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the