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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 1995.

I hereby designate the Honorable MARK ADAM FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Richard A. Rhoades, Friedens Evangelical Lutheran Church, Gibsonville, NC, offered the following prayer:

Gracious God, as You have created a world so lush and wonderful and placed us here to both care for and enjoy it, guide this Nation as a people to consciously respect and care for one another and for all that exists. Bless this body, set apart by the people, to faithfully steward and guide the activities of the United States of America. Empower the leaders to use their gifts to the fullest, and enable their staff members to perform their tasks with excellence. Comfort these Your servants through the demands and stresses of their positions. And help all of our Nation's citizens to join in working together for universal peace and for the good of each other and of the world. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. JONES] come forward and lead the House in the Pledge of Allegiance.

Mr. JONES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mrs. FEINSTEIN as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. AKAKA as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. GORTON as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

250TH ANNIVERSARY OF FRIEDENS LUTHERAN CHURCH

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I am pleased to welcome to the House of Representatives today a minister from my district. Reverend Rhoades serves as the pastor of the Friedens Lutheran Church. Friedens Lutheran Church, Mr. Speaker, is beautifully situated among the gentle rolling hills of Piedmont, NC, between Gibsonville and McLeansville in the heart of the sixth Congressional District.

Friedens, a patriotic congregation, focusing on worship of God, service to the community, and living the love of God in their own lives and with everyone they meet, is celebrating its 250th anniversary this year. In addition to Reverend Rhoades, we are privileged, Mr. Speaker, to have in the House gallery today several members of the Friedens Lutheran Church.

Again, I say it is our privilege to welcome our guest chaplain, Reverend Rhoades today, and the members of the Friedens Lutheran Church, to the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to refer to members in the gallery.

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BUDGET RESOLUTION A PRODUCT OF SECRECY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, this morning around 1 or 1:15 a budget resolution was adopted by the House Committee on the Budget. It is the product of secrecy, of task forces meeting, working as a shadow government in this Capitol, to design a budget resolution. And if you had sat there from 10 in the morning until a little after 1 in the morning the next day as I have, you would understand why it has been necessary to conceive this budget resolution in secret, because the members of the Republican caucus have again broken their word.

They have broken their word about having an open House, which they promised on the first day. And the reason it was so essential for them to operate in secrecy is that they are breaking their word to seniors across this country. They are coming after Medicare to the tune of almost $300 billion in cuts, directly out of the pockets of American seniors.

Finally, after being pressed, they admitted that copayments are going up for American seniors and that many seniors will see a cut in their benefits. They just do not know who has been marked for the most pain.

FEDERAL BUDGET MUST BE BROUGHT UNDER CONTROL

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, time is running out.

If Congress fails to address the out-of control Federal budget, it will soon be too late for our children's future.

If we fail to end the irresponsible spending that Washington has engaged in for the last 25 years, we can say goodbye to the American dream, and say hello to a diminished standard of living for our kids.

The consequences are jut too great to imagine if we do not bring the Federal budget into balance. In just 10 years, at current projections, the Federal Government will be unable to pay for anything beyond the service on the debt and entitlements. That means no defense, no law enforcement, or any other domestic spending.

Mr. Speaker, Republicans are committed to bringing budgetary sanity out of budgetary chaos. We will balance the budget by eliminating outdated agencies, waste, and programs that simply do not work. All the liberal Democrats can offer is class warfare rhetoric and posture for the best political angle. They totally fail to realize that the future of America is on the line and that time is running out.

GOP BUDGET RESOLUTION

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, is it any surprise how the Republicans would reach a balanced budget in 7 years? By breaking our contract with senior citizens, with veterans, with the most vulnerable people in our society, and with those of us who live in cities.

I take the floor today to challenge just one aspect of this disastrous plan, that which would bankrupt American mass transit. The best way that we can empower people and bring them out of poverty and welfare is to help them get jobs and to keep those jobs. This requires meeting practical needs, job training, child care, health insurance, and mass transit. We must help people get to their jobs on safe, dependable, and economical public transit.

Thus I rise to oppose some of the aspects of this mean-spirited budget plan and to oppose, as strongly as I can, the end of the Federal Government's commitment to mass transportation.

ZERO DEFICIT BUDGET RESOLUTION PASSED

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, Rome burns and Nero fiddles. Since yesterday at this time, the national debt has increased $548 million. That is almost $23 million every single hour, $383,000 every single minute, $9,000 every second. Every newborn baby enters the world owing $17,300 of his or her share of the national debt. That means that between yesterday morning at this time and today, we have on a per capita basis increased the debt about $2.10 each.

Thomas Jefferson said that ''We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.'' Yesterday the Republican members of the Committee on the Budget, joined by one of the Democrat members of the committee, passed what will be a zero, goose egg, nothing, no deficit in the year 2002, balanced budget resolution.

MEDICARE RECIPIENTS PLACED AT GREAT RISK

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we now know that the majority proposes to reduce Medicare spending by $250 billion over the next 7 years. This will mean the average Medicare patient's benefits will be reduced by $132 in 1996 to $2,000 in the balanced budget year 2002. Out-of-pocket costs will rise as well. Each American on Medicare, and their families, can expect to be responsible for thousands of dollars of additional costs per year. The import of these huge spending reductions are profound—less people will have access to quality health care, and our Nation's hospitals will be put at great risk.

As Medicare goes under the knife, so too does funding for medical education, especially teaching hospitals, such as Pitt Memorial, in my congressional district. Hospitals like Pitt Memorial receive about 30 percent of their funding for resident training. They get additional funds for graduate medical education programs. These funds provide such hospitals with the financial cushion so that they can continue to provide care for Medicare patients. Who will pick up the slack for this essential funding—certainly not the States, the counties or the people? I invite my colleagues from across the aisle to really consider the impact that these deep spending reductions will have on millions of seniors and their families. This will end Medicare, as we know it.

Mr. Speaker, if these huge reductions go into effect. Medicare patients and their families will suffer.

TIME WARP

(Mr. CHRYSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRYSLER. Mr. Speaker, my colleagues on the other side of the aisle are caught in a time warp.

They are still thinking like the Congress of old, where through the magic of baseline budgeting, Democrats could claim they were cutting spending when actually they were spending more than ever.

Now they come to the floor and claim that Republicans are cutting Medicare, when the cold, hard facts are just the opposite.

As you can see by this chart, the per capita expenditure in Medicare will increase from $4,700 to $6,300 over the next 7 years.

In Democrat parlance, that is a cut, but to most Americans that is a significant increase.

Coupled with our reforms, which will weed out waste and fraud, we will protect, improve, and preserve Medicare far into the next century.

Mr. Speaker, House Democrats who come to the floor today will continue to attack Republicans for cutting Medicare. But as this chart shows, the truth is far different from the Democrat version of reality.

MEDICARE CUTS PAY FOR TAX CUTS FOR WEALTHY

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, the Republicans have finally unveiled their budget proposal. And as expected, the news is not good for our senior citizens.

House Republicans returned from their party conference last week united by a plan to cut Medicare in order to pay for their $345 billion tax cut for the wealthiest Americans. Under this proposal, 37 million seniors will lose $900 a year while a very lucky 1.1 million taxpayers—those making more than $230,000 a year—will enjoy a $20,000 bonus.

When President Clinton came to office, the Medicare Trust Fund was due to run out of funds in 1999. Through tough actions that this administration passed, and every Republican opposed, the trust fund was strengthened for an additional 3 years. The President then proposed a highly detailed health care reform proposal that would have significantly strengthened the Medicare Trust Fund, and again was opposed by most Republicans.

Since last year's election, the President has made clear that he still wants to work on Medicare cost issues with the Republicans, but that it has to be in the context of real health care reform that protects the integrity of the program, expands coverage, and protects choice as well as quality and affordability. No responsible person should stand by and allow Medicare to be used as a cover to pay for tax cuts for the wealthy and, in doing so, break our historic contract with the senior citizens.

REPUBLICANS SUBMIT AN HONEST BALANCED BUDGET PROPOSAL

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, my daughter is grown and she and her husband have a 1½-year-old son and another child on the way. The last time an official House committee submitted a bill to balance the budget, she was 2.

Today, House Republicans present the first honest attempt to balance the budget. We do so not for politics, but for our children, my daughter and son, and my grandchildren. We do so because my family, your family and families across the country cannot achieve the American dream if we do nothing.

If we do nothing, we will pay more interest on the debt than we spend for defense. Moreover, my grandchildren will pay more than $185,000 in their lifetimes just to pay interest on the debt.

We will not stand by and watch any child in this country be subject to that type of cruelty. Yet the Democrat Party, which needlessly frightened children of the impending doom of school lunches is utterly unmoved by the threat to the dreams and future of those same kids.

□ 1015

TRADE DEFICIT WITH JAPAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the battle for a balanced budget is not taking place in the Halls of Congress. The battle for a balanced budget is raging in the Pacific over the protectionist trade policies of Japan. You know that, I know that, and the American worker, they absolutely know it. Watch them at election time.

I commend President Clinton for his efforts. The President's fight is absolutely right. I just hope at the last minute they do not make another compromise washed-down deal.

Let me say this: The hammer is in the hands of Congress. I recommend imposing a 15-percent across-the-broad tariff on Japanese products, all products until they open their market. Think about it. That worked for Washington. That worked for Lincoln. And that worked for Japan.

There is nothing wrong with winning and losing is contagious. Let us join the President's fight. Let us take action against Japan. They are not going to open their doors on a voluntary request.

WHERE'S THE DEMOCRATS' PLAN

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, yesterday, Republicans produced a historic plan to bring us to a balanced budget by the year 2002. The liberal Democrats here in Congress have already jumped on the whining, moaning, and groaning bandwagon to denounce our plan in every way they can.

But let me just ask my colleagues on the other side of the aisle one question, Where's your bill? Where's your plan to balance the budget?

The fact is that you don't have a plan. You haven't submitted anything in writing to balance the budget. Instead, you are content to sit there maintaining the status quo while our children's future goes down the drain.

Mr. Speaker, Republicans care about the future of our country. Republicans will pass a balanced budget. We will keep our promise to the American people.

KEEPING THE MEDICARE PROMISE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, after waging a war against our Nation's children by slashing school lunch and child nutrition programs, the Republicans have turned their sights on America's senior citizens.

Yesterday, they released the details of a Republican budget that finances tax breaks for wealthy Americans by gutting Medicare.

The Republicans intend to write their wealthy friends a check for $305 billion. And to finance this giveaway, they plan to force seniors to cough up an extra $900 a year.

By targeting those with the most yet to give, our children, and those who have made the greatest sacrifice—our seniors—the Republicans are undermining a fundamental, moral obligation.

This debate is not about deficit reduction. It is about sacrifice. The generation of Americans who now receive Medicare benefits sacrificed to bring this Nation great prosperity.

A senior from my district—from Vacaville, CA—wrote to tell me that these programs are: ''promises made to people who earned these benefits.''

Promises? Where have I heard that word before? ''Promises made, promises kept.''

Obviously, this is one promise the Republicans do not intend to keep.

THE WRONG WAY TO GO WITH SOCIAL SECURITY

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans are solving something that has bothered all the people, but I do not think they are doing it the right way. Older people have complained to me; I am not talking about the wealthy older people who will be the beneficiaries of the Republican tax cuts but the average older person for whom Social Security is a major part of their income. And they have complained that, as the Social Security cost of living has gone up, Medicare has come and taken it away. And they have been virtually equal in many cases.

Well, no longer under the Republican budget plan will the cost-of-living increase that older people get be equal to the increase they have to pay in Medicare. But the Republicans are solving this in the wrong way.

Older people are going to have to pay more for their Medicare, and under the Republican plan they will get less for their Social Security. So every year older people will see under the plan an erosion in their incomes because the Republicans will reduce the cost of living.

They want to cut taxes for wealthy older people who will be making $150,000 or $200,000 a year, but they will cut the cost of living for an older person living on $9,000 or $10,000. That is the wrong way to go.

REPUBLICANS PROMISES ARE BROKEN

(Mrs. LOWEY asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, the Republican budget cuts $24 billion from Social Security. Seniors who have worked hard their whole lives will lose hundreds of dollars in Social Security benefits. Social Security is a contract that we've made with our Nation's seniors. The Republican budget tears that contract into pieces.

The Republican budget cuts $283 billion from Medicare. The Republican budget will eliminate Medicare as we know it by herding seniors into HMO's and by charging them $3,500 more for their health care. Seniors who depend on Medicare will be out of luck.

Mr. Speaker, the Republican budget breaks faith with the millions of American seniors who depend on Medicare and Social Security to make ends meet.

Day after day we have heard how the Republicans have kept their promises to the American people. One after another the Republicans told us that promises made are promises kept.

Well Mr. Speaker, today we learn that Republican promises made are promises broken.

Speaker GINGRICH and the Republican majority promised that they would not cut Social Security benefits. They promised not to devastate Medicare.

But what is the truth? What does their new budget say?

This is how the Republicans keep their promises: By cutting Medicare. By cutting Social Security. The American people deserve better.

BROKEN PROMISES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, Republicans love to get up here everyday and talk about promises made and promises kept, but it seems that my GOP colleagues have forgotten our sacred promise to take care of America's senior citizens. In fact, under the GOP budget proposal, released yesterday, seniors take a double hit.

First, Republicans cut health care for seniors. The GOP budget reduces Medicare spending by $283 billion over 7 years—a 25-percent reduction in the year 2002. Then, to make matters worse, Republicans turn around and reduce Social Security benefits for seniors by $24 billion between 1999 and 2002.

Now, Speaker GINGRICH calls these cuts painless. But, they are not painless to the millions of seniors who rely on Medicare and Social Security to help pay the bills and make ends meet.

Republicans promised to protect Medicare. Republicans promised that Social Security would be off the table during this budget debate. Promises made, promises broken.

REPUBLICAN BUDGET AND NATION'S CHILDREN

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, we had a long day in the House Committee on the Budget yesterday. I am here to tell Members about one aspect of the Republican plan to balance the budget that they do not want to talk much about. That is about the deep cuts in Medicare, $184 billion over the next 7 years. And the impact of these would take health insurance away from 5 million kids that now have it. It is taking a health care problem in this country and making it much worse by depriving 5 million kids of health insurance coverage.

The plan does not stop there, because it also assaults the elderly that depend upon Medicaid to help them defray the cost of nursing home expenses when they have exhausted their personal accounts. What will happen to some in a nursing home that has exhausted their life savings? Will they be put out on the street when the Republican Medicaid cuts begin to hit and there are no more funds available? Will they be forced to move in with their children who are already struggling to make it and provide for the college education of their children?

These are questions that need to be answered as we flesh out the Republican budget. Disaster for kids; disaster for seniors.

SHRINKING THE BUDGET

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, if they are making a movie this summer of the Republican budget, I think it can be titled ''Honey, I Shrunk the Budget and I Blew Up the Economy.'' I blew it up by gutting Medicare, cutting it up to 25 percent. And who will pay for that? Senior citizens, by not getting care; businesses and young people, by having to pay more insurance premiums; hospitals that have to close because they cannot absorb these kinds of losses.

Blew up the economy by cutting programs that bring growth. Student loans cut by $33 billion. Student loans that affect almost every person in this country. The Economic Development Administration, the linchpin for so much industrial develop, the Appalachian Regional Commission terminated. These grow the economy; the Republican budget shrinks it. Balancing the budget, Mr. Speaker, is important for a strong economy. But not with this budget and not one that bankrupts the economy.

KEEP PRESSURE ON JAPAN

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, recently the United States and Japan resumed automobile trade talks and these talks have collapsed. The talks were aimed at opening the Japanese market to autos and auto parts.

The United States presented new proposals in the two priority areas—improved foreign access to Japan's auto markets and increase sales of auto parts in both the United States and Japan. Japan's auto market remains closed. It has been stated Japan sells as many cars in a week in the United States as United States automakers sell a whole year in Japan.

Japan continues to maintain a closed economy which discriminates against United States auto exports and effects international economics. Japanese officials have expressed dismay over what they termed new demands at a late stage of talks.

Currently, there is a $36.7 billion United States-Japan gap in trade in autos and auto parts. This gap has to be decreased. Japan's market share of auto imports is only 4 percent. In addition, Japan's market share of auto imports is only 2.4 percent.

Nearly 2 years of negotiations have failed to produce an agreement in the United States-Japan auto trade talks. The administration announced tough trade sanctions against Japan. These sanctions will probably entail higher tariffs on Japanese imports worth billions of dollars a year.

I urge USTR and the administration to remain tough on Japan. The United States-Japan gap in trade is not reflective of the competitiveness of United States autos and auto parts. The United States is manufacturing auto and auto parts that are capable of competing in the Japanese market. The quality of United States products would gradually bring about a reduction of the deficit, if Japan would only begin to open their market.

We need to send Japan a clear message that we will not back down on the opening of their markets to auto and auto parts. If they refuse to negotiate, we should promptly enact tough sanctions.

CLEAN WATER ACT PROTECTIONS THREATENED BY H.R. 961

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today in opposition to H.R. 961 because I know that rolling back essential protections of the Clean Water Act will not contribute to the health and welfare of my constituents. In communities such as mine, water quality problems still persist. In addition to New York City-wide problems with giardia, a bacteria that causes stomach ailments, the families in my district

have had to depend on aggressive water quality standards, challenging the water company in court when health is endangered by substandard water quality. This right to appeal is predicated on the existence of strong enforcement water quality standards. Standards that H.R. 961 would roll back to erase 23 years of progress.

In addition, the Sixth Congressional District of New York borders on Jamaica Bay, a fragile area of marshland and islands that is widely used for fishing and recreation. Jamaica Bay is regularly contaminated by raw sewage and toxins that result from combined sewer overflow problems and storm water. And we are not alone, a 1992 study showed that 14 large cities, including New York City, Atlanta, and Minneapolis have deposited more than 165 billion gallons of raw sewage and pollution into surface waters each year. For my constituents, H.R. 961 seriously impedes any attempt to control this problem by postponing action to correct problems with combined sewer systems for at least 15 years. While we wait, the health concerns about fishing grow. Jamaica Bay cannot wait until year 2010 for this problem to be addressed. Can the waters in my colleagues district wait? Oppose H.R. 961.

REPUBLICANS BALANCE THE BUDGET

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, the time to balance the budget is now. It is time to end 40 long years of reckless spending.

The Republicans yesterday passed an historic budget. We believe it is wrong to burden a child born today with $187,150 in taxes in their lifetime just to balance the budget. We think it is wrong to do nothing and let Medicare go by the wayside. We believe it is right to cut waste, to cut duplication. We believe we have a moral imperative to balance the budget.

But where is the Democrat plan? There is no plan, folks. That is the problem.

We believe you should have a plan. And I was taught as a young boy, if I do not agree with something or I think it is wrong. I should have a better plan. There should be a better way to do things.

Their idea is to say, you are cutting kids. Well, there you go again. We have a plan. We have a plan to save our children's future, to protect Medicare and to get us back on the road to fiscal responsibility. That is exactly what the Republicans plan on doing. We are going to join with the American people in doing so.

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THE CONTRACT WITH AMERICA: A DISASTER FOR MIDDLE-INCOME AND WORKING PEOPLE

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, at a time when the gap between the rich and the poor is growing wider, I am not impressed by the Republican plan which provides huge tax breaks for the wealthiest people in this country and the largest corporations, and cuts back savagely on a wide variety of programs meant for low-income and middle-income people.

When thousands and thousands of senior citizens in the State of Vermont today are finding it very hard to pay their health care bills, I am not impressed by a Contract With America which savagely cuts back on Medicare and Medicaid. When millions of middle class families today cannot afford to send their kids to college because of the high cost of higher education, I am not impressed by a Contract With America which cuts back terribly on loans that millions of young people will need in order to get to college. The Contract With America works for the rich. It is a disaster for middle-income and working people.

WATER CROSSES STATE LINES

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I was disappointed yesterday that the substitute for the Clean Water Act was not passed on the House floor, but I think that during the course of the debate one very important fact was brought out.

Several speakers said and pointed out that the problem with clean water, or the problem with water in general, is that it follows, it crosses State lines. In other words, when we are dealing with the various amendments to the Clean Water Act today, we have to keep in mind that each State cannot be responsible totally for the water within its jurisdiction, because it has an impact on other States. That is why I think it was very important yesterday that we were able to pass the amendment on coastal nonpoint source pollution, because it means that one State will not be able to have a lesser standard or a lesser management program than another State and negatively impact that State.

The same philosophy has to go before us today when we are dealing with the other amendments, whether it is ocean discharge and waivers for secondary treatment, or it is beach water testing. All these things should be voted on and looked at in the context of the fact that water crosses State lines. Whatever one State does is going to have an impact on another State.

WHERE IS THE CUT?

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, where is the cut?

House Democrats have come to the floor, claiming that Republicans are cutting Medicare.

But I have to ask my colleagues, where is the cut?

If you look at this simple chart, you will see that Republicans are not cutting Medicare at all. In fact, we are increasing Medicare spending per person from $4,700 to $6,300.

So, where is the cut?

In a liberal Democrat's mind, whenever you slow the growth of spending, whenever you weed out waste and fraud, whenever you give a bureaucrat his walking papers, that is a cut.

But to the American taxpayers, these are not cuts. To senior citizens, these are not cuts. To people possessed of common sense, these are not cuts.

These are reforms that preserve, protect and improve Medicare far into the next century.

Mr. Speaker, I have to ask my colleagues, where is the cut?

THE AMERICAN PEOPLE WANT A BALANCED BUDGET, NOT EXCUSES

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, for weeks now, liberal Democrats have taken to this floor to decry, accuse, condemn, denounce, declaim, vilify, incriminate, fulminate, remonstrate, deprecate, and attack any plan to balance our budget. For some reason, they see no need to balance our budget. We have to make changes.

Despite all the carping from the other side, our friends on this side offer no alternatives. They offer no solutions. They offer no plan.

Mr. Speaker, yesterday the Republican majority introduced a plan to balance our budget in 7 years. There is no longer any excuse not to balance the budget. We have exhausted all the old methods. All of the old big government ideas have been tried and found wanting and found lacking. for the liberals to come to this floor with their hot air about class warfare is nothing short of irresponsible.

The American people are tired of excuses. They want this Congress to balance the budget. Republicans will do this, with or without the carping and crying of the liberal Democrats.

THE NATION'S FUTURE TIED TO BALANCING THE FEDERAL BUDGET

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. BAKER of California. Mr. Speaker, balancing the Federal budget is a noble cause. It is one of the few issues of our era that demands our full attention. The reason is very simple: moving the Federal budget into balance is not, ultimately, a debate about numbers, programs, agencies or interest groups. It is a debate about the future of our country. It is about whether or not we will leave our children in utter bankruptcy or with the hope of a better tomorrow. Either we tame the deficit monster that is ravaging our capacity for economic survival, or the very concept of prosperity will, for most of our children, be little more than a wistful memory.

By the early 21st century—a few years from now—the entire Federal budget will be consumed by entitlement spending and interest on the national debt. This is the shocking conclusion of the President's own commission on entitlements. It demands change—now.

Republicans are committed to capping the growth of Federal spending and cutting waste in the Federal budget, not to meet an arbitrary deadline, but for the sake of our children and our country. That is our mission, Mr. President. We will accomplish it.

AMERICA NEEDS A NATIONAL CLEAN AIR ACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, as this body meets today, the conferees are discussing the rescission bill a number of substantive changes in the Clean Air Act; first, to prevent EPA from imposing sanctions on States that violate the Clean Air Act, no matter how deliberate or egregious the violation; to eliminate the requirement that new highway projects funded with Federal monies must conform to the Clean Air Act by taking air quality considerations into account; and to eliminate the requirement that EPA give 100 percent credit to all State inspection and maintenance programs, no matter how deficient, how inadequate, or how patently empty those particular programs might be.

These are amendments which eliminate EPA's sanction authority, and effectively makes the Clean Air Act voluntary. If a State wants to opt out of the act and allow limitless pollution in that State, it is allowed to do so. This is fundamentally inconsistent with the position that the Congress has taken time after time for so many years, that we need a national Clean Air Act to prevent and to protect our people against interstate pollution.

WHERE IS THE DEMOCRAT PLAN TO BALANCE THE BUDGET?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I never cease to be amazed at the speed with which liberal Democrats are able to rattle off class warfare rhetoric. It is as if liberal Democrats get up every morning and drink a specially concocted bromide which enables them to spew forth class warfare epitaphs with machine-gun like rapidity.

The most recent example was yesterday when Republicans offered our plan to balance the Federal budget in 7 years.

But what was the response from the liberals?

Well, they just about tripped over themselves to get to the floor to denounce our plan as a devious plot to benefit the rich at the expense of children, the elderly, and the poor.

Mr. Speaker, the liberals are not fooling anyone. Even President Clinton's own Cabinet members admit that Medicare is going broke. And nobody denies the existence of the national debt.

But what have the liberal Democrats offered? Nothing but a few well-rehearsed class warfare epitaphs.

I only have one question for my friends on the other side. You know the problems we face—where is your plan?

Where is it?

DEMOCRATS WILL NOT BALANCE THE BUDGET ON THE BACKS OF SENIORS OR THE POOR

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the new Republican majority has shown great courage and guts, as we heard from another speaker, to cut and balance the budget. They are balancing their budget by making significant cuts in Medicare, the cost of living for Social Security, education funds, and job training funds. That takes a lot of guts and courage to pick on the least fortunate of our society.

The Republican majority call their drastic budget cuts in Medicare slow growth. Either way, it is less money for the next 7 years than expected for the growth in senior citizens, so it is a cut, whether we call it that or not. Medicare is not a bank to be raided by the Republicans, just because they want to pay for a tax cut.

The Republican majority also changes the way the Consumer Price Index is calculated, ultimately cutting the COLA's for seniors. I thought our new leadership told us Social Security would be sacred.

I want everyone in Congress to know that Democrats want to work with Republicans, but we refuse to balance the budget on the backs of Medicare, on the backs of cost of living for seniors, or education funding, or the least fortunate of our society.

REPUBLICANS WILL WORK TO PRESERVE AND PROTECT MEDICARE

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, according to the President's Commission on Entitlements, in about a decade all Federal revenues will be consumed by entitlements and interest on the debt. At that point, the Federal Government will cease to exist as we know it: no defense, no law enforcement, no education, no anything outside of entitlements and debt service.

The fact is, there is a problem with Medicare. By the year 2002, the funds will be out completely. What could we do about that? We can work together, Republicans and Democrats together, to make sure that we help our seniors, to make sure that Medicare is sound and safe and protected.

The fact is, the Republicans do have a plan. We will be presenting it. We do expect to have the American people embrace it, because it is one that is sensitive to families, sensitive to our children, sensitive to senior citizens, and one that will provide the kind of health care that Americans have come to expect. The fact is, Republicans will lead the way to protect, preserve, and to protect Medicare, and to work with senior citizen organizations and their families to make sure that Medicare is protected. We guarantee that. We will work on it every day. So help me God, it will be accomplished.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 140 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. 961.

□ 1040

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. 961) to amend the Federal Water Pollution Control Act, with Mr. HOBSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 10, 1995, the amendment offered by the gentleman from New York [Mr. BOEHLERT] had been disposed of, and

title III was open to amendment at any point.

Are there further amendments to title III?

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer 2 amendments, and I ask unanimous consent that the amendments, one in title III and one in title V, be considered en bloc.

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

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT: Page 35, after line 23, insert the following:

''(2) LIMITATION AND NOTICE.—If the Administrator or a State extends the deadline for point source compliance and encourages the development and use of an innovative pollution prevention technology under paragraph (1), the Administrator or State shall encourage, to the maximum extend practicable, the use of technology produced in the United States. In providing an extension under this subsection, the Administrator or State shall provide to the recipient of such extension a notice describing the sense of Congress expressed by this paragraph.

Page 35, line 24, strike ''(2)'' and insert ''(3)''.

Page 35, line 7, strike ''(3)'' and insert ''(4)''.

Page 35, line 18, strike ''(4)'' and insert ''(5)''.

Page 216, line 12, strike ''521'' and insert ''522''.

Page 217, line 7, strike ''521'' and insert ''522''.

Page 219, after line 18, insert the following:

SEC. 512. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 522, as redesignated by section 510 of this Act, the following:

''SEC. 521. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

''(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the sense of Congress expressed by subsection (a).''

Conform the table of contents of the bill accordingly.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

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

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are basically Buy American amendments. This one, though, deals with the fact that if the administrator or State extends the deadline for point source compliance, and encourages development and use of an innovative pollution prevention technology, under paragraph 1, the administrator or State shall encourage, to the maximum extent practicable, the use of technology produced in the United States. That would encourage more technology development in our country to deal with these issues.

It has been worked out. The second amendment is a standard ''Buy American'' amendment.

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

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

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding to me.

We have reviewed these, and we think these are good amendments. We support them.

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

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

Mr. MINETA. Mr. Chairman, I have no reason to object to the amendments offered by the gentleman from Ohio.

Mr. TRAFICANT. With that, Mr. Chairman, I urge a vote in favor of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to title III of the bill?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows'.

Amendment offered by Mr. PALLONE: Strike title IX of the bill (pages 323 through 326).

Mr. PALLONE. Mr. Chairman, my amendment would strike provisions of the bill which authorize waivers of secondary treatment requirements for sewage treatment plants in certain coastal communities which discharge into ocean water.

There are two major steps to wastewater treatment which I think many of us know. One is the physical primary treatment, which is the removal of suspended solids. The second is the biological or secondary treatment, which is the removal of dissolved waste by bacteria.

Secondary treatment, in my opinion, is very important, because it is critical to the removal of organic material from sewage. It is the material linked to hepatitis and gastroenteritis for swimmers. It is also the common denominator. Secondary treatment sets a base level of treatment that all must achieve, putting all facilities on equal ground.

Today almost 15,000 publicly owned treatment works around the country apply secondary treatment. It makes no sense to exempt many of these facilities. Under existing law, a national standard of secondary treatment for public owned treatment works was established by Congress in the original 1972 Clean Water Act.

There was a window of time during which facilities could apply for ocean discharge as an alternative to secondary treatment. However, this window has closed. A bill was passed last year, October 31, that allows the city of San Diego to apply for a waiver, even though that window has closed.

The EPA has a year pursuant to that legislation to make a decision on their application, and at present it looks likely that San Diego would be granted such a waiver. However, despite these concessions that have been made, a provision has been included in H.R. 961 that would grant such a waiver to San Diego without the necessary EPA review.

I am concerned, Mr. Chairman, that we are going toward what I would call a slippery slope on the issue of secondary treatment.

□ 1045

The San Diego waiver was for ocean outfalls at least 4 miles out and 300 feet deep. This was the only provision in the original H.R. 961. But in committee this section was expanded. Other towns can now apply for 10-year permits that would allow for ocean discharge only 1 mile out and at 150 feet of depth.

This new expansion of the section applies to at least six facilities in California, two in Hawaii, and there may be two dozen other facilities that it could apply. Also, communities under 10,000 are now eligible for permits, and there are about 6,500 facilities of 63 percent of all facilities that could be eligible under this under 10,000 provision. Soon Puerto Rico may also be able to apply for a waiver of secondary treatment because of the legislation the committee marked.

I think that this is a terrible development. I would like to know what is next. What other waivers and weakening amendments are going to exist to the Clean Water Act?

Ultimately, if we proceed down this slippery slope, secondary treatment may in fact disappear in many parts of the country. Secondary treatment may be costly, but it will cost more to clean up the mess after the fact, if we can clean it up at all.

The ultimate problem I have, and I am trying to correct with this amendment, is this idea that somehow the ocean is out of sight, out of mind, that is, a sort of endless sink that we can continue to dump material in. It is not true. The material comes back and ocean water quality continues to deteriorate.

Please do not gut the Clean Water Act. Let us not start down the slippery slope of allowing ocean discharge without secondary treatment, and please support this amendment.

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

Mr. Chairman, this amendment strikes all of the secondary treatment

provisions in the bill. During the debate on the unfunded mandates, secondary treatment was cited as one of the most costly unfunded mandates to States and localities.

Our bill provides relief from this mandate, but it provides relief only where it is also an unfunded mandate. Our bill allows a waiver of secondary treatment for deep ocean discharges, but only where secondary treatment provides no environmental benefit.

Let me emphasize that. We allow for a waiver of secondary treatment for deep ocean benefits but only when secondary treatment provides no environmental benefit.

This waiver must be approved by either the State water quality authority people or by the EPA, so this is not some willy-nilly waiver that a locality can give itself. It must go through the rigorous procedure of first showing that by getting the waiver, they are providing no environmental benefit, and, second, getting the approval of the EPA or the State.

The bill also allows certain alternative wastewater treatment technologies for small cities to be deemed secondary treatment if, and this is a big if, if they will contribute to the attainment of water quality standards.

This flexibility, Mr. Chairman, is badly needed because traditional centralized municipal wastewater treatment systems do not always make economic sense to small communities. We need to provide the flexibility to the States and to EPA to allow the use of alternatives, for example, like constructed wetlands or lagoons, where they make both economic and environmental sense.

Perhaps the most egregious example of the problems we would face if we were to adopt this amendment is the situation in San Diego to spend $3 billion on secondary treatment facilities when indeed the California EPA and the National Academy of Sciences says it is unnecessary. So this flexibility is needed not only for San Diego but for many of the cities across America.

I strongly urge defeat of this amendment.

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

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

Mr. MINETA. Mr. Chairman, the idea of waiving secondary treatment standards sounds alarms because the successes of the Clean Water Act over the past 23 years are attributable in large part to the act's requirements for a baseline level of treatment—secondary treatment, in the case of municipal dischargers.

There are several reasons that these waivers should be stricken from the bill: First, they are not based on sound science; second, they threaten to degrade water quality and devastate the shoreline; third, they are unfair; and, fourth, they are unnecessary.

NOT BASED ON SOUND SCIENCE

Several of the bill's secondary waiver provisions abandon the basic requirement that the applicant demonstrate that a waiver will not harm the marine environment. The bill abandons this requirement, even though it makes sense, and has been met by more than 40 communities that have obtained waivers.

This congressional waiver of scientific standards is at direct odds with the themes of sound science and risk analysis that were embraced in the Contract With America. The consequences could be devastating to the environment.

HARMFUL TO WATER QUALITY AND THE MARINE ENVIRONMENT

For example, the secondary waiver provision intended for Los Angeles provides for waivers if the discharge is a mere 1 mile offshore, and 150 feet deep. Unfortunately, history has taught us that sewage discharges at about 1 mile offshore can wreak havoc.

In 1992, San Diego's sewage pipe ruptured two-thirds of a mile offshore, spewing partially treated sewage containing coliform and other bacterias and viruses, and closing more than 4 miles of beaches. This environmental disaster happened just one-third of a mile closer to shore than the 1-mile-offshore standard for municipal discharges under one of the waivers in this bill.

In addition, it appears that this waiver provision, although intended for Los Angeles, picks up at least 19 other cities as well. And, the waiver for small communities makes thousands more communities eligible for waivers, even though many of them are already meeting secondary requirements and could seek to reduce current treatment under this provision.

Since the number of waivers authorized under this bill is potentially quite large, the environmental impact also can be expected to be substantial, particularly for waste discharged just 1 mile from shore.

The San Diego and Los Angeles provisions both provide for enhanced primary treatment in place of secondary. We would think for a minute about what primary treatment is. It is not really treatment at all—you just get the biggest solids out by screening or settling, and the rest goes through raw, untreated. Chemically enhanced primary means you add a little chlorine to the raw sewage before discharging it.

This means that even when the system is operating properly—without any breaks in the pipe spewing sewage onto our beaches—the bill could result in essentially raw human waste being dumped a mile out from our beaches. Most Californians do not want essentially raw sewage dumped 1 mile from their beaches.

UNFAIR

The waiver provisions are unfair because they grant preferential treatment to select communities. This favoritism has direct consequences for the thousands of communities that most of us represent: those that have expended, or are in the process of spending, substantial resources to comply with secondary requirements. Some communities, such as the city of San Jose which I represent, have gone well beyond secondary.

The waiver provisions say to all of these communities that they were fools for having complied with the law, because if they had just dragged their feet, they, too, could have escaped these requirements.

UNNECESSARY

In the case of San Diego, the inequity of allowing a third bite at the apple is heightened by the fact that San Diego will obtain a secondary waiver treatment without the bill. Yes, the bill's waiver provision is completely unnecessary for San Diego because San Diego was singled out for preferential treatment just last year.

In October 1994 President Clinton signed into law a bill that was passed in the closing days of the 103d Congress. Of the thousands of communities required to achieve secondary treatment, only San Diego was authorized to apply for a waiver last year. San Diego submitted its application last month, an EPA has publicly announced its commitment to act quickly and both EPA and the city expect that a waiver will be granted.

Why, then, is San Diego now receiving another waiver? Because this year's waiver would provide even a better deal than last year's—it would be permanent, and would excuse Dan Diego from baseline requirements that last year San Diego agreed that it could and would meet.

Mr. Chairman. I urge my colleagues to support this amendment.

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

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

Mr. BILBRAY. Mr. Chairman, I rise in opposition to the amendment. I would have to say, as someone who has spent 18 years fighting to clean up the pollution in San Diego County, it concerns me when my colleague from California speaks of the pollution problems in San Diego, when in fact we can recognize that one of the major problems we have had is that the regulation has taken precedence over the science and the need to protect the public health.

This bill as presented by the chairman reflects the scientific data that shows that not only does having chemically enhanced primary not hurt the environment, but it also shows that the studies that have been done by many, many scientific groups, in fact every major scientific study in the San Diego region has shown that if we go to secondary, as my colleague from California would suggest, that the secondary mandate would create more environmental damage than not going to secondary.

This is a big reason why a gentleman from Scripps Institute, a Dr. Revell, came to me and personally asked me to intervene. My colleagues may not think that I have any credentials in the environmental field, but I would point out that Dr. Revell is one of the most noted oceanographers that has ever lived in this century. He just passed away. He was saying strongly that the secondary mandate on the city of San Diego was going to be a travesty, a travesty to the people of San Diego but, more important, a damage to the environment of our oceans and our land.

My colleague from San Jose has pointed out that there may be a problem giving waivers. I think we all agree that there are appropriate procedures, but those procedures should follow science.

The city of San Jose has gone to extensive treatment, Mr. Chairman, but when the science said that you could dispose of that in the estuary of southern San Francisco Bay, my colleague's city of San Jose was given a waiver to be able to do that, and will continue to do it because the science says that it is okay. Our concern with this is the fact that the process should follow the path toward good environment.

What we have today now is a process that diverts the attention of those of us in San Diego and the EPA away from real environmental problems and puts it toward a product that is 26 pounds of reports, 1.5 million dollars' worth of expenses. It is something that I think that we really have to test those of us here: Do we care about the environment of America or do we care about the regulations of Congress?

When the science and the scientists who have worked strongly on this stand up and say, ''Don't require secondary sewage in San Diego,'' we really are put to the test. Are we more wedded to our regulation than we are to our environment?

□ 1100

Now if you do not believe me, though I have fought hard at trying to clean up Mexican sewage and trying to get the sewage to stay in pipes, while the EPA has ignored that, they have concentrated on this process. I would ask my colleague to consider his own colleague, the gentleman from California [Mr. FILNER], who has worked with me on this and lives in the community and has talked to the scientists, and Mr. FILNER can tell you quite clearly that this is not an issue of the regulations with the environment, this is one of those situations where the well-intentioned but misguided mandate of the 1970's has been interpreted to mean we are going to damage the environment of San Diego, and I would strongly urge that the environment takes precedence here.

Mr. Chairman, I would ask my colleague from San Diego, Mr. FILNER, to respond to the fact that is it not true that the major marine biologists, Scripps Institute of Oceanography, one of the most noted institutes in the entire country on the ocean impacts, supports our actions on this item?

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

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

Mr. FILNER. Mr. Chairman, I appreciate being here with the Congressman from my adjacent district, San Diego. Before I answer the question, I do want to point out that for many years we had adjacent districts in local government, Mr. BILBRAY being a county supervisor and myself being a San Diego city councilman. We have worked together for many, many years on this very issue. We have fought about it, we have argued about it, we have come to an agreement about how we should handle this, and I think it is very appropriate that we are both now in the Congress to try to finally give San Diego some assurance to try to deal satisfactorily with the environment, and yet do it in a cost-effective manner.

The gentleman from California asked me about good science. The gentleman from San Jose talked about good science. The most respected scientists who deal with oceanography in the world at the Scripps Institute of Oceanography have agreed with our conclusions.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has expired.

(At the request of Mr. FILNER and by unanimous consent, Mr. BILBRAY was allowed to proceed for 1 additional minute.)

Mr. FILNER. If the gentleman will continue to yield, the scientists from the Scripps Institute have lobbied this Congress for this change. The Federal judge in charge of the case has lobbied us for the change. The local environmental groups have lobbied us for the change. The local environmental groups have lobbied us for the change. And I would ask my colleague to continue that thought.

Mr. BILBRAY. I would like to point out, Mr. Chairman, my experience with Mr. FILNER was as the director of the public health department for San Diego, and as he knows, this is not something I am not involved with. I happened to be personally involved with the water quality there. I surf, my 9- and 8-year-old children surf. We have water contact; we care about the environment.

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

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

Mr. PALLONE. Mr. Chairman, what I do not understand though, since the existing bill that was passed last year actually allows for you to have a waiver, assuming certain conditions are met, and EPA I understand has already gone through that application process, why do you find it necessary in this bill to grant an absolute waiver?

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

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

Mr. BILBRAY. Why would I ask?

Mr. PALLONE. In other words, my understanding, you tell me if I am wrong, is that pursuant to this legislation, I will call it special legislation if you will that passed last year, San Diego can now apply for a waiver. It may be the only municipality that can. And EPA is now in the process of looking at that application for a waiver, and if in fact what Mr. FILNER and you say is the case that the waiver then is likely to be granted, why do we need to take that one exception that is already in the law for San Diego and now expand it to many others, thousands possibly of other municipalities around the country?

Mr. BILBRAY. The fact is that it is costing $1.5 million. The fact is, it is only a 4- to 5-year waiver, and the fact that under our bill all monitoring, the EPA will monitor it, the Environmental Protection Agency of California will monitor it. We have developed a system that scientists say will be the most cost-effective way of approaching this. All of the monitoring, all of the public health protections are there. As long as the environment continues not to be injured, we will continue to move forward.

And you have to understand, too, one thing you do not understand that Mr. FILNER and I do understand, we have had at the time of this process, this bureaucratic process has been going on, we have had our beaches closed and polluted from other sources that the EPA has ignored.

Mr. PALLONE. I understand, and you have gone through that with me and I appreciate that. My only point is I do not want to go down the slippery slope of the possibility of getting applications and waivers granted.

Mr. BILBRAY. There is no slippery slope. What it says is those that have proven scientifically there is no reasonable reason to think there is environmental damage that is going to occur should not have to go through a process of having to go through EPA and the Federal bureaucracy. I think you would agree if we in the 1970's were told by scientists there is no foreseeable damage or foreseeable problem with water quality, this law would never have been passed. In San Diego the scientists have said that, and I think you need to reflect it.

Mr. PALLONE. My point is the exemption for San Diego applies to 3 miles out, certain feet.

Mr. BILBRAY. Four miles, 300 feet.

Mr. PALLONE. Now you have another exemption for certain towns.

Mr. BILBRAY. Totally different.

Mr. PALLONE. Though you have another exemption, towns under 10,000, no scientific basis for that. All these things are thrown into the bill.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

(At the request of Mr. MINETA and by unanimous consent, Mr. BILBRAY was allowed to proceed for an additional 2 minutes).

Mr. BILBRAY. The fact is here it is outcome-based. In fact the water quality is not violated as long as scientists at EPA say there is not damage. My concern to you is if the monitoring is done, if the environment is protected, if EPA and all of the scientists say it is fine, why, then why is the process with a million and a half dollars and 26 pounds of paper so important to you to make sure those reports have been filed?

Mr. PALLONE. The difference is you are going through that process and you may actually achieve it in convincing the EPA pursuant to the existing law that that is the case. But what this bill has done is go beyond that, it has said that there is an absolute waiver for San Diego, they do not really have to do anything else at this point.

Mr. BILBRAY. Yes, with all the monitoring that would have to be done under existing law, the same review process and public testimony the same way.

Mr. PALLONE. Then it goes on to take another category, 1 mile and 150 is OK, and for a third category if you are under 10,000 it is OK. For another category for Puerto Rico we are going to do the study. You know you may make the case, we will have to see, that your exception makes sense. You may be able to do that to the EPA, but why do we have to gut the entire bill and make all those other exceptions? It makes no sense to carry one San Diego case that is now going through proper channels. This says they get the waiver; they do not need to go through the process in the previous bill, and now we have all these other exemptions.

Mr. BILBRAY. You have to read the bill and all the conditions of being able to meet the triggers of the EPA.

Mr. PALLONE. I have the bill in front of me. It has four different categories. The San Diego category, then it goes for the ones who go 1 mile and 150, then the ones that are 10,000 or fewer, and then it goes to Puerto Rico. All of these categories.

Mr. BILBRAY. And you have monitoring that basically says that you have to prove, bring monitoring that you do not, that you are not degrading the environment. That is what we are talking about; we are talking about an outcome basis. Does it hurt the environment? Not the regulations. Is the environment hurt here.

Mr. PALLONE. I do not see any scientific basis.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

Mr. MINETA. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. BILBRAY] be allowed to proceed for 2 additional minutes.

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

Mr. SHUSTER. Mr. Chairman, reserving the right to object, I will not do so now, but if we are going to move this along, I think we should all try to stay within the rules of the House and the time allotment.

Mr. MINETA. Mr. Chairman, if the gentleman will yield, I was just asking for unanimous consent for the gentleman from San Diego, Mr. BILBRAY, to be given an additional 2 minutes, and I would like to be able to ask a question of him since he also referred to the city of San Jose, and I happen to be the former mayor of San Jose.

The CHAIRMAN pro tempore. The Chair will inquire once again, is there objection to the request of the gentleman from California?

There was no objection.

Mr. MINETA. Mr. Chairman, will the gentleman yield.

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

Mr. MINETA. Mr. Chairman, my objection is this: that last year we worked to grant the city of San Diego the opportunity to apply under previously expired provisions to apply for a waiver. I thought we did that in good faith, with the city of San Diego also agreeing to certain conditions. Things like the need for alternative uses for their water and say that this would be a waiver that would only be good for a certain period of time. It is my understanding that the waiver is indefinite, except that there is a requirement for a report to be done every 5 years. And that to me is a reasonable kind of an approach.

Also in terms of any waiver for the city of San Jose, I am not familiar with what the gentleman is referring to, because we are at tertiary treatment in terms of our discharge into San Francisco Bay.

Mr. BILBRAY. The fact is that San Jose opens into an open trench into 20 feet of water in an estuary; it does not place it 350 feet deep and 4½ miles out in an area where scientists say not only does it not hurt the environment, it helps it. And so you do have a waiver to be able to do that rather than being required to have to use other outfall systems but it is because you were able to show that.

But the trouble here with this process is that all reasonable scientific data shows that there is no reason to have to spend the 26 pounds of reports, the $1½ million, and when you get into it, EPA will be the trigger to decide if that process needs to go. What EPA told me as a public health director when I say this is a waste of money, the Government did not mean to do this, they said Congress makes us do it. They do not give us the latitude to be able to make a judgment call based on reasonable environmental regulations they have mandated to us. So I am taking the mandate away from them.

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

Mr. Chairman, I wish to express my strong support for this amendment to strike the waivers of secondary treatment requirements.

This is an issue of protecting our Nation's beaches and coastal waters.

It is a matter of protecting the tourist economies of many States and of protecting the health of the American people.

Do we want our ocean waters to be a disposal area for sewage that has received only the barest minimum of treatment?

For 20 years, we have done better than that as the secondary treatment requirement has stood as one of the pillars of the Clean Water Act.

This bill started with a waiver for one city—San Diego. Then it moved to two dozen more in California and another possible six in Florida. Then we added Puerto Rico.

Where will this race to lower standards end?

H.R. 961 tells those who complied with the Clean Water Act that they should have waited. Maybe, they could have gotten a waiver.

It tells those who waited that they were smart. They could keep putting their untreated sewage in the ocean.

The beaches of New Jersey had frequent water problems several years ago before New York City finished its secondary treatment plant.

The problems in New Jersey should be a warning that we should stick to the secondary treatment requirements and not put poorly treated sewage in the ocean.

This provision of H.R. 961 sends us back more than 20 years. Since 1972, secondary treatment has been the standard that all communities have been required to meet.

That basic standard of the Clean Water Act should not be changed. We should keep moving forward on the effort to clean up our waters.

Mr. Chairman, I urge my colleagues to hold the line on secondary treatment and vote for this amendment.

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

Mr. Chairman, I have to admit that I have seen some alternatives around the world that do intrigue me. If we are going to go to this broad of an exemption from secondary treatment, for instance in Hong Kong, I was there and on the ferry early one morning, and I noticed how they deal with it, they do not require secondary; in many cases they do not require primary treatment. They are a little oversubscribed to their sewer system. They have nifty boats that go around the harbor with nets in the front and they scoop up everything that floats, and if it does not float, it is not a problem. So I guess

you know if we cannot support the Pallone amendment, we can say we are headed in that direction. We can buy some of the nifty little boats from Hong Kong with the nets on the front and drive them around the beachfront areas in the morning before people go in for that swim, and you know if you cannot see it, it is not a problem.

□ 1115

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

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

Mr. FILNER. Mr. Chairman, the gentleman from Oregon knows that on almost every environmental issue, we are in total agreement.

Are you familiar with the percentage of solid removal in the system that San Diego now uses?

Mr. DEFAZIO. Reclaiming my time, my understanding is you attempt to achieve 84 percent.

Mr. FILNER. It is not an attempt. We achieve 84 percent.

Mr. DEFAZIO. I will tell you, reclaiming my time, in my metropolitan wastewater facility, of which I was on the board of directors as a county commissioner, we built it for $110 million. We get 100 percent out. We do secondary and we do tertiary treatment. Theoretically, if one wanted to, one could drink the outfall. I do not want to drink the outfall. I do not know that we have to drive everything to that standard. But to think of the ocean as an endless dump close in proximity, I realize you have a big problem with Mexico, basically you are saying Mexico can dump all their stuff in there, why cannot we not just dump in a small amount of our stuff. I do not think that is the solution. I think we should be forcing Mexico to clean up so the people in California can go to the beach every day in the future.

Mr. FILNER. If the gentleman will yield, that is exactly our policy. As a matter of fact, those of us who live in San Diego and who completely depend on the beaches not only for our own enjoyment but for tourism and economic help, we could never possibly see the ocean as merely a dumping ground. We believe it, as you do, we believe that money to get that infinitesimal increase in solid removal required by the EPA to put into water reclamation, to put into tertiary, to deal with the Mexican sewage is the way we ought to spend our money, not be required to spend billions of dollars on something which gives us very little marine environment protection.

Mr. DEFAZIO. Reclaiming my time, do you think 16 percent is infinitesimal?

Mr. FILNER. No, it is not 16 percent. You know what secondary requirements are?

Mr. DEFAZIO. I am talking about the difference between the 84 percent and the 100 percent.

Mr. FILNER. The law requires us to do 85 percent. We are doing 84 percent. Should we spend $5 billion to get an infinitesimal increase in that solid removal with enormous damage to the land environment, because we would have to put in extra energy to do that for sludge.

Mr. DEFAZIO. Reclaiming my time.

Mr. FILNER. It is not environmentally sound.

Mr. DEFAZIO. Does this exemption go narrowly to that 1 percent for San Diego, or does exemption go beyond that?

Mr. FILNER. I am certainly supporting it as the section in the bill that applies to San Diego.

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

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I spoke yesterday generally about this bill and my objections to it.

I am rising today to support the Pallone amendment, and also to make some more specific comments about that portion of the bill providing a waiver for full secondary treatment. That portion of the bill was drafted by my good friend and colleague, the gentleman from California [Mr. HORN], and his district is just south of mine, and we agree on most everything, except for this.

I want to explain why we disagree and also to say that we worked together. His office was extremely helpful to me in providing information in support of his amendment, and I hope he understands that my demur has to do specifically with what I believe are the unintended consequences of his amendment on Santa Monica Bay.

Santa Monica Bay is the largest bay in southern California, and most of it is in my congressional district. I wrote to EPA so that I could understand better whether good science was involved in his amendment and how it would affect Santa Monica Bay. The letter that I received the other day from the assistant administrator of EPA says, in part:

> This amendment does not appear to be based upon sound science. We are not aware of any scientific documentation which suggests that discharges through outfalls that are 1 mile and 150 feet deep are always environmentally benign. To the contrary, a 1993 study by the National Research Council recommended that, ''Coastal wastewater management strategy should be tailored to the characteristics, values, and uses of the particular receiving environment.'' Thus, we believe this blanket exemption is neither scientifically nor environmentally justifiable, and could result in harm to the people who depend upon the oceans and coasts for their livelihood and enjoyment.

And the letter goes on to say specifically that with respect to the Santa Monica Bay Restoration project, a project worked on by all sorts of agencies and individuals in California and supported by California's Governor, Pete Wilson, this blanket exemption could derail the key element of the restoration plan.

For those careful and specific reasons, I oppose the Horn language, and I support the Pallone amendment.

And let me add just one thing, Mr. Chairman. Somewhere here is a chart that was provided to me by EPA, and it shows the consequences of not going to full secondary treatment. The suspended solids that can be discharged are the biggest problem, and the chart has this broken out by area of Los Angeles. In the L.A. County sanitation district, which would be directly affected by this exemption, the suspended solids are the highest portion of this chart, and it is a big problem specifically for Los Angeles.

Let me finally say one more thing. The gentleman from California [Mr. HORN] has sent, I think today, a ''Dear Colleague'' letter, and he makes a point with which I agree, and I want to apologize to him. He says that in a different ''Dear Colleague'' letter circulated by some of us, we said that his amendment could result in raw sewage dumped into Santa Monica Bay. That was an error. I apologize for that. The amendment would result in partially treated sewage dumped into Santa Monica Bay.

I urge my colleagues to support the Pallone amendment.

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

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

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

Mr. SHUSTER. Mr. Chairman, I thank my good friend for yielding.

The San Diego situation is a classic example of regulatory overkill. But regardless of how you feel about San Diego, you should vote ''no'' on this amendment, because it guts all of the provisions that allow flexibility on secondary treatment, including the flexibility for small communities across America.

We have worked on all of these provisions with State officials, wastewater and environmental engineers, and we should resoundingly defeat this amendment not only because of San Diego but because of what it does across America.

Mr. HORN. Mr. Chairman, I rise today in opposition to this amendment to strike the provisions of the bill which authorize waivers of secondary treatment requirements for certain coastal communities which discharge into deep waters.

I successfully offered this provision in the committee markup of H.R. 961. My reasons for doing so were based on sound scientific reasons, and they are environmentally responsible.

I was delighted, and I am delighted to take the apology of my distinguished colleague from southern California.

That letter she quotes from the assistant administrator of EPA talks in broad generalities. It does not talk about the specifics of the Los Angeles

area situation, and I want to go into that.

There is no permanent waiver in this provision. It would be good for 10 years. It would be subject to renewal after that period. The driving force behind this amendment is simply good science.

This Congress is moving forward to implement cost/benefit analysis and risk assessment across all environmental statutes.

Deep ocean outfalls that meet all water quality standards are an obvious place to apply these principles.

Now, to obtain this waiver, publicly owned treatment works must meet a stringent high-hurdles test, and I have not heard one word about that today. Outfalls must be at least 1 mile long, 150 feet deep. The discharge must meet all applicable State and local water quality standards, and I do not think anyone is going to tell us that California has low water quality standards. We have high standards, just as we do in air pollution.

Now, the publicly owned treatment works must have an ongoing ocean monitoring plan in place, and we do in Los Angeles City and County. The application must have an EPA-approved pretreatment plan, and we do in Los Angeles City and County. Effluent must have received at least a chemically enhanced primary treatment level, and at least 75 percent of suspended solids must have been removed. That is exactly what we have.

This provision is not any broad loophole. Indications also are that only five publicly owned treatment works in the country would meet this high-hurdles test. They are Honolulu, Anchorage, Orange County, and Los Angeles Country, and the city of Los Angeles. The first three cities already have waivers.

As I said in committee, the program under which the original waivers were given to the city and country, that has expired. The country of Los Angeles is being forced to spend $400 million to go to full secondary treatment.

Now, if that money went to improving the environment or cleaning up real environmental problems, and we have hundreds of them where usually the lawyers are getting the fees and we are not cleaning up the problems, that would all be understandable. But it is not.

This provision simply assures that we are spending local and Federal dollars wisely, not forcing communities to take steps that simply make no sense, which begs the question: Why should we force communities to spend hundreds of millions of dollars to meet a standard where that standard is already being met?

The city of Los Angeles treatment already meets the requirements of secondary treatment. So why spend millions of the taxpayers' hard-earned dollars to require Los Angeles to build facilities that already meet that required standard? The effluent from the county of Los Angeles far exceeds the rigorous State ocean plan developed by the State of California for every single measured area, including suspended solids, toxics, and heavy metals.

I have some attached graphs here some of you might want to wander up and look at. The current requirements to force the publicly owned treatment works to full secondary treatment is not justified when meeting that standard will bring no environmental improvement to the ocean but will cost local ratepayers hundreds of millions of dollars.

Mr. Chairman, the science behind this provision is irrefutable. No one is advocating pumping untreated wastewater into deep oceans off of Santa Monica Bay or in Santa Monica Bay or elsewhere.

The CHAIRMAN pro tempore. (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

(By unanimous consent, Mr. HORN was allowed to proceed for 1 additional minute.)

Mr. HORN. Mr. Chairman, going to full secondary treatment will not have any positive environmental benefit. Instead, we will be spending, as I have said earlier, hundreds of millions of dollars of the citizens of the county and city of Los Angeles, local taxpayer money, for no good reason. We simply cannot afford to be wasting money on problems that do not exist.

If municipal wastewater treatment facilities are meeting the high-hurdles test, including in H.R. 961, it serves the public interest, it serves the interests of the local taxpayers, and it serves the interests of the Nation to keep this waiver intact, and all else is really nonsense.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. HORN] has again expired.

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

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

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

Mr. PALLONE. Mr. Chairman, what I wanted to ask is: We had the gentlewoman from California [Ms. HARMAN] read from some sections of this letter from the EPA from a Mr. Perciasepe. I do not know if the gentleman from California [Mr. HORN] has seen this or not.

Mr. HORN. I have not.

Mr. PALLONE. And also from the EPA I received a list of another, I do not know, another 10 to 20 municipalities beyond 6 in California and the extra 2 in Hawaii you mentioned. My concern is this; this is the crux of it. Clearly, San Diego is one situation. They already have a waiver pursuant to existing law. But the amendment offered by the gentleman from California [Mr. HORN] which now goes to the 150-foot depth and the 1 mile.

Mr. HORN. And 5 miles, I might add, is the other one. One is 1 mile out, one is 150; the other is 5 miles out, 150.

Mr. PALLONE. This begins to open the door, if you will, to a whole different group of municipal sewage treatment plants beyond the San Diego waiver and is, of course, of greater concern to me than even that one.

You mentioned scientific evidence. Clearly, this letter from the EPA assistant administrator indicates that they are very concerned that this exemption that you have now put in is not based on sound science, plus the EPA has given us a strong indication that beyond the 6 or so California and the 2 Hawaii ones, we are talking now possibly about another 20 or 30. We do not know how many. It is a major concern. I just have not heard anything from the gentleman to verify scientific basis for this new exemption that goes beyond San Diego.

Mr. HORN. I know of no one that disagrees that the city and county of Los Angeles have met the scientific standards. EPA has never said it. If they are suddenly coming in at the last minute with a little sideswiping and saying all of these cities will be eligible for it, that is nonsense.

□ 1130

My language is very specific. It applies to one situation: The city and county of Los Angeles, that already have the waste treatment, that goes out to sea. There has not been any complaints that they are violating any standard of science. They test regularly.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

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

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

Mr. PALLONE. Mr. chairman, my point is, again, I heard the San Diego argument, I heard the Los Angeles argument. I do not agree with it, but I am hearing it. You are opening the door, and you have opened it to the six California and two Hawaii ones, to eliminating secondary treatment requirements for a whole slew of other municipalities. That is a problem.

Mr. HORN. Mr. Chairman, reclaiming my time, may I say to the gentleman from New Jersey, we are not opening the door. The language is very specific. The hurdles are quite specific as to the outfalls 1 mile long, 150 feet deep, that must meet all applicable State and local water quality standards and must have an ongoing ocean monitoring plan in place. That is exactly what we have. These charts show that we are way below the level of concern.

The question if very simple, folks. For the sake of the ego of EPA, do we have the taxpayers of Los Angeles spend $400 million when it will not improve the situation one iota, because

they already meet it? So the full secondary bit has been met in the pre-secondary, and that is why we should not be spending $400 million more.

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

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

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. Let me say I support him in his efforts to inject some common sense into this arbitrary application of law that defies science. The best scientists in the world have supported our situation in San Diego, where they say nature takes care of this; you do not have to spend $2 billion, EPA, we can spend it somewhere else where we desperately need it. Science also supports the gentleman from Long Beach.

The point is, the gentleman says this opens the door. Let me say to my friend from New Jersey, the door should always be open to reason, common sense, and science. That is precisely what we are injecting in this argument today. With all the programs, good programs, that must take reductions because of the deficit problem, the idea that you do not use common sense to reduce spending where it does not have to be done makes no sense. So I support the gentleman.

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

Mr. Chairman, not to beat a dead horse or a dead sewage system, as the case may be, I do rise in strong opposition to the amendment offered by my friend the gentleman from New Jersey [Mr. PALLONE].

This amendment raises the possibility that San Diego will be forced to waste, yes, waste, billions of dollars to change a sewage system that this Congress, the Environmental Protection Agency, a Federal District Court judge, the San Diego chapter of the Sierra Club, the world renowned scientists from the Scripps Institute of Oceanography, have all agreed does no harm and in fact may benefit the marine environment.

Mr. Chairman, the one-size-fits-all requirement of the Clean Water Act just does not make sense for San Diego. It does not make scientific sense, it does not make economic sense, nor does it make environmental sense. It is simply a bureaucratic requirement to provide a level of treatment that is unnecessary, costly, and provides no beneficial impact to the marine environment.

This is not simply my personal opinion. The option, as we stated over and over again, is stated by scientists from the Scripps Institute of Oceanography and from the National Academy of Sciences. It is supported by reams of scientific data collected over the years. These studies have shown there is no degradation of water quality or the ecology of the ocean due to the discharge of the plant's chemically enhanced treated waste water.

Let me point out, this is not merely a chlorine treated primary situation. This is an alternative to secondary treatment that includes a much higher level of technology that my friend, if I can yield to my friend from California [Mr. BILBRAY], might explain.

Mr. BILBRAY. Mr. Chairman, if the gentleman will yield, I think the problem is understanding the technical issues here. The fact that what was interpreted as being chlorination, San Diego is not using the chlorination.

Chemically enhanced primary treatment was actually brought to San Diego by members of the Sierra Club as a much more cost effective and environmentally safe way of getting to secondary treatment. It is where you use chemicals to remove the solids to fulfill the standard.

What it does is say look, back in the seventies we thought there was only one way to able to clean up the water. Now scientists have come up with new technologies. If we look at a 1970 car and a 1990 car, we will agree there is a difference.

The other issue, the chemical, what is called chemical enhanced primary, the fact is primary really is talking about a secondary treatment that does not use injected air and bubbling sewage around, biological activity. In a salt water environment scientists say there is no problem with this, it does the job. The only difference is the BOD, the biochemical oxygen demand, which in a deep salt water environment does not create any problem according to the scientists.

I would like to point out, too, as my colleague has, we are talking about this can only be done if the facility's discharges are consistent with the ocean plan for the State of California, one of the most strict water quality programs in the entire Nation, if not the most. So we are saying how you do it we do not mind, as long as the finished product does not hurt the environment and gets the job done.

I appreciate my colleagues who are going through a transition here. We are getting away from command and control, Washington knows the answer to everything. What we are trying to get down to is saying, local people, if you can find a better answer to get the job done that we want done, you not only have a right to do that, you have a responsibility, and we will not stand in the way of you doing that.

I would like to point out that the monitoring continues. If there is a pollution problem, if the EPA sees there is a hassle, if the monitoring problem shows there is an environmental problem, this waiver immediately ceases and we go back to the same process. That should assure everyone who cares about the environment.

Mr. FILNER. Mr. Chairman, reclaiming my time, I do want to thank the chair of the Committee on Transportation and Infrastructure for understanding the issues for San Diego, for helping us last year get our waiver, and for guaranteeing a success this year.

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

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

Mr. PACKARD. Mr. Chairman, I would like my colleagues in the Congress to recognize that this has been an issue that has been before the Congress for as long as I have served in Congress, for 12 years and more. We have been working on this issue of trying to resolve the problems that San Diego has had. If we are to follow the general policy that is now taking place in the Congress, where we evaluate every requirement and every mandate and every regulation on the basis of cost-benefit analysis, there is absolutely no question that we would never impose a multibillion-dollar process on San Diego.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. FILNER] has expired.

(By unanimous consent, Mr. FILNER was allowed to proceed for 1 additional minute.)

Mr. FILNER. Mr. Chairman, I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, there is no way that this project, as it would be required to go to secondary treatment, could possibly pass a cost-benefit analysis, and thus we ought to really allow the flexibility that the gentleman from Pennsylvania [Mr. SHUSTER] has put in the bill that would allow the City of San Diego to meet their requirements in an environmentally sound way.

I strongly urge that the Congress approve the bill as it is written and reject this amendment. There is a bipartisan issue for this. The entire delegation from San Diego, of whom I am one, has recommended we disapprove this amendment. It is certainly important to us that we do not impose a $12 billion cost on the people of San Diego.

Mr. Chairman, I rise in opposition to Mr. PALLONE's amendment to the clean water reauthorization bill. This amendment plays right into the environmentalists' chicken little cries that our environmental protection system is falling. On the contrary, chairman Shuster's amendments to the clean water bill provide communities the flexibility they need to better protect our natural resources.

Specifically, Mr. PALLONE claims that allowing San Diego a permanent waiver to the EPA's burdensome secondary sewage requirements jeopardizes southern California's water resources. The facts just do not support this assertion.

San Diego's location on southern California's beautiful coastline allows the city to take advantage of deep ocean outfall capabilities. Scientific studies conclude that San Diego's sewage treatment efforts are both effective and environmentally sound. In fact, the surrounding ecosystem flourishes partly as a result of the outfall effluence.

Yet, the EPA continues to shove their Federal mandates from Washington down the throats of San Diego taxpayers. They continue

to require San Diego to spend up to $12 billion on an unnecessary and potentially environmentally damaging secondary sewage treatment plant.

Year after year, San Diego officials battle Federal bureaucrats who require the city to submit a costly, time consuming waiver application. The last one cost $1 million and was more than 3,000 pages long. The American people are tired of this kind of bureaucratic bullying

Far from the Chicken Little cries of the environmentalists, the American people cry out for a little commonsense. Chairman SHUSTER's bill and the San Diego waiver provision bring a level of rationality to the environmental protection process. Since I began my service in Congress, I have worked as a former member of Chairman SHUSTER's committee to do just that. Now as part of a Republican majority, I am pleased to see my efforts come to fruition.

Republicans love the environment as much as anyone. My district in southern California contains some of the most beautiful natural resources in the country. I would never vote for a bill which would damage those resources in any way. I just think the people who live on the coast, or in the forests, or canyons or grasslands have a better sense of how to protect their resources than some bureaucrat sitting in an office in Washington. The situation in San Diego demonstrates this most clearly. For that reason, I oppose Mr. PALLONE's amendment.

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

Mr. Chairman, there is an issue on which I would like to engage in a colloquy and get the support of the chairman of the committee. I understand that section 319(h)(7)(F) identifies the scope for which a State may use clean water grants.

Mr. Chairman, in my State of Florida, the excessive growth of nonindigenous, noxious aquatic weeds, like hydrilla, is an extremely serious impairment of our waters. Funds available for control of these weeds are presently very limited.

This provision authorizes States like Florida to utilize a portion of their nonpoint source funds, should they choose to do so, for the control of excessive growth of these nonindigenous aquatic weeds. Although this is an important use, Mr. Chairman, it is my understanding that the utilization of funds for aquatic weed control should not deplete the funds available for other nonpoint source programs. Is that the understanding of the chairman of the committee?

Mr. SHUSTER. If the gentlewoman will yield, Mr. Chairman, that is correct.

Mrs. FOWLER. I thank the chairman of the committee for his support and clarification of this section.

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

Mr. Chairman, I rise in strong support of this amendment. H.R. 961 is a dangerous piece of legislation for my district, which includes the beautiful Santa Monica Bay. For years the people of Los Angeles have worked to clean the bay and make it safe for swimmers, divers, and the thousands of people who eat local seafood.

The city of Los Angeles, however, deserves very little credit for this. City bureaucrats have dragged their feet and done everything they could to avoid tougher controls. But our community was so committed that it overruled the bureaucrats and twice voted by overwhelming margins to stop the Los Angeles sewage system from dumping poorly treated sewage into the bay.

As a result, we have spent over $2 billion to bring full secondary treatment to the Hyperion treatment plant. Let me repeat that, because it is important to understand our situation. We have already spent $2 billion to stop dangerous pollution. To complete the project, we need to spend $85 million more.

Well, under this bill, we will never spend that $85 million, and we will never be able to clean up the bay. H.R. 961 would overturn our local decision and relieve the sewage system from meeting its obligation under the Clean Water Act to treat sewage.

This is a bizarre situation. This Congress is going to overturn a local decision made by Los Angeles voters, and in the process throw $2 billion down the drain and condemn the Santa Monica Bay to a constant flow of sewage. Let us avoid this lunacy and vote for the Pallone amendment.

Let me point out the anomaly here. Unless we have EPA insisting that the decisions be made to protect the Santa Monica Bay, the publicly owned sewage system will not be upgraded to accomplish that result. They have dragged their feet. The local decisionmakers, the people, will be frustrated.

We need the strength of the Environmental Protection Agency to be sure that the people's will is carried out.

The gentlewoman from California [Ms. HARMAN] has indicated in her statements the points made by the assistant administrator of the EPA, where he has said in the letter to her that the bill would alter fundamentally the current processes and standards by which EPA assures that communities achieve cost-effective commonsense sewage treatment solutions.

The decision that will be made in fact if this bill is not amended by the Pallone amendment would be to undermine decisions based upon sound science. It would undermine the process of the Santa Monica Bay restoration project, which has involved so many people over many years in developing comprehensive approaches to water pollution control and infrastructure investments.

The key point is not to let government bureaucrats in Los Angeles decide to ignore what the people in the area want, which is secondary treatment so that we can protect Santa Monica Bay.

I urge that we adopt the Pallone amendment, so that it would permit the existing law that has been pursued in making that work to succeed, and that we not let the present bill, which is being proposed today, undermine what is so important for the Santa Monica Bay and all around this country, to protect the public and to overturn the last 20 years of effort to clean up polluted waters.

□ 1145

I urge support for the Pallone amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me just take issue with the theme that was offered by my friend and colleague from the Los Angeles area and apply it to our situation in San Diego.

In San Diego, we have the Scripps Institute, as has been said a number of times by the gentlemen from California, Mr. FILNER and Mr. BILBRAY and Mr. PACKARD, the best scientists in the world with respect to oceanography. Those scientists over many years have affirmed and reaffirmed that you do not need to do this $2 billion treatment program for the cleaning of San Diego sewage.

We have literally thousands of projects throughout the country where you do have pollution problems, where you are begging for dollars.

In the defense nuclear weapons complex, we have a $6 billion budget that has been submitted to us by the Clinton administration to clean up the nuclear waste that has been reposited through the years at our defense weapons installations.

You have a lot of places where we can use this money. Here we have our own scientists, the best scientists in the world, who are not rebutted scientifically by anybody, saying, you do not have to spend $2 billion doing this.

I have been in these meetings with EPA over the years, as Mr. BILBRAY has. The basic theme that has come from them time and again in the meetings has been, we do not care what the scientists say. You have got to do it because it is the law.

Here we are affording our colleagues and the taxpayers to do what is right, to do what is consistent with science, to do what is consistent with public safety and to save $2 billion. If we cannot understand that this blind adherence to this rigid philosophy that has made EPA frankly an enemy of many communities in this country, if we cannot understand that this philosophy needs to be changed, then we are going to be spending billions in the future that we do not need to spend.

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

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

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I do want to make a clear distinction between the San Diego situation and the Los Angeles-Santa Monica Bay situation. Under existing law, San Diego can get a waiver, and I think you are making an excellent case for that waiver. But if this bill becomes law, places like Santa Monica Bay, which should not be excused from secondary treatment, would be disadvantaged. You are taken care of, but the bill, without the Pallone amendment, disadvantages Los Angeles and other communities around this country where good science would indicate that we ought to have the secondary treatment.

Mr. HUNTER. As I understand it, this permanentizes our waiver. If we do not achieve it, we will be back in the same boat perhaps in a year or two begging the Federal Government not to force us to spend in San Diego several billions of dollars.

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

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

Mr. BILBRAY. Mr. Chairman, I would point out that in each section, the facility discharge is subject to the ocean monitoring program acceptable to Federal and State regulators, and it must be in compliance with the ocean plan for the State of California.

If my colleague from California feels that California's water quality board is somehow not enforcing, we have one of the most efficient water quality controls here. In fact, they pointed out in the San Diego instance that—the water quality control board has pointed out that we do fulfill their discharge requirements and that EPA would have the lead role in assessing these permits. This happens at both locations. I think the problem is we are talking about chemically enhanced primary, does it fulfill the intention of Congress of cleaning up the pollution?

The BOD, which is what it does not address, does not apply, is not needed in a saltwater deep outfall. It does in an estuary like the shallow waters of San Francisco and in the lakes and rivers. But here what we get down to is, is Congress worried about the environment or is it a command and control thing; we made a decision that there was a certain way you treated sewage and if somebody has a different way that does the job cheaper, we do not care. We will not allow them to do it because we figure there is only one way to get the job done.

All of the regulatory agencies, the EPA, let me point out, the EPA not only is impressed with San Diego's jump on monitoring. The Federal Government, EPA has hired the city of San Diego's monitoring system to monitor the entire northern Baja.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HUNTER] has expired.

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

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, my point again is that with regard to the San Diego situation, we understand that under current law you can apply for this waiver, and we have every reason to believe that you will get the waiver.

I would disagree with the gentleman from San Diego in his statement that the language of the bill in just granting the waiver outright allows at some future time for this waiver to be taken back. I do not see the ocean monitoring program as providing for that.

Leaving that aside, the point of the matter is that this legislation opens up a lot of other waivers, for LA, for a lot of other different towns. The letter that we have—and the gentlewoman from California [Ms. HARMAN] presented today from the EPA—actually says that that is not scientifically based.

I understand the arguments that are being made by the San Diego people, but I think it is distinct and they have opportunities for a waiver. There has been no evidence presented that there is any scientific basis for any of these other waivers.

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

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

Mr. BILBRAY. The scientific data, what is called chemically enhanced primary, is equivalent to secondary treatment.

I would like to make several points about my legislation to recognize San Diego's primary advanced treatment as the equivalent of secondary sewage treatment.

Comprehensive ocean monitoring studies conducted by the city of San Diego demonstrates that the present combination of industrial waste source controls, chemically enhanced primary treatment facilities and ocean discharge facilities are highly effective at protecting the ocean environment.

Under the legislation I have introduced, the city will still be required to demonstrate that it meets the State and Federal clean water standards through the continued monitoring and testing procedures witnessed today.

As many of my California colleagues know, Mayor Golding has submitted the city's application for a waive from the secondary sewage requirement of the Clean Water Act.

The city had worked for years to get straightforward, unconditional legislation to acknowledge the scientific basis for the adequacy of our existing level of treatment. During the closing days of the 103d Congress, a compromise was ultimately accepted in the form of a free standing bill which limits the capacity of the point Loma plant and requires significant water reclamation capacity.

Failure to obtain this legislation would have meant a costly time-consuming trial on the requirement of the secondary treatment.

I would like to point out to you today what the difference between the waiver application, and my legislation, which provides permanent relief from the mandate.

Point Loma must operate under a National Pollution Discharge Elimination [NPDES] permit, issued by the Environmental Protection Agency every 5 years.

Regardless of whether the city is operating under a waiver, or an exemption as I have proposed, Point Loma must still renew its permit.

Likewise, the permit can only be reissued after a public review and hearing process is completed.

Eithr way, if the city is not in compliance with State or Federal standards, it would not receive its operating permit from the EPA.

The bottom line: It is more cost effective to provide the city with permanent relief from the secondary sewage requirement. The waiver application that Mayor Golding submitted to the EPA was 15 volumes long and cost $1 million dollars to assemble.

This is money which could be spent improving the existing system, or expanding it to meet future needs.

Finally, I'd like to point out that the State of California, which was a plaintiff in the Federal lawsuit against San Diego for 6 years switched sides, and became a defendant in the case, supporting the city's contention that the sewage treatment standard is needlessly stringent for San Diego. California switched sides after the city began operating the extended sewage disposal pipe, an action designed to bring the city into compliance with the State's ocean plan.

The city has currently been in compliance with the State standards for 17 months.

My legislation in no way exempts the city from the requirements and standards of the clean Water Act.

Continued monitoring and testing is explicitly provided for in order to ensure that the ocean environment is protected.

And if the State of California can be convinced that the city was acting in good faith to protect the ocean, the EPA must surely be able to recognize that the city's resources can be spent on more environmentally friendly pursuits that $1 million dollar waiver applications.

My legislation will accomplish the parallel goals of protecting our ocean environment and the taxpayer's wallet.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY,
Sacramento, CA, March 8, 1995.

Hon. SUSAN GOLDING,
Mayor, City of San Diego,
San Diego, CA.

DEAR MAYOR GOLDING: The purpose of this letter is to convey the California Environmental Protection Agency's support for your efforts to obtain a legislative exemption from the federal secondary treatment requirements for San Diego's Pt. Loma wastewater treatment plant.

This support is in recognition of the demonstrated ability of the Pt. Loma plant to comply with state Ocean Plan standards. The recently extended ocean outfall has been shown to be performing very well. This, in conjunction with the successful implementation of chemically enhanced treatment at Pt. Loma has given the city of San Diego a sewage treatment and disposal system fully capable of protecting the marine environment without the need for expensive secondary treatment.

The consensus statements by the scientists of the Scripps Institution of Oceanography fully support the concept of advance primary

treatment for discharge in swiftly moving marine waters such as those that exist off Pt. Loma. Additionally, scientists of the National Academy of Science, after three years of study, have published conclusions that support San Diego's efforts to amend the Clean Water Act. The Academy's April 1993 study ''Waste Management for Coastal Urban Areas'' includes many findings applicable to San Diego's situation. The Academy concluded that the secondary treatment requirement can lead to overcontrol and overprotection along open ocean coasts. Further, the Academy stressed that the Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. In the case of a deep ocean discharge, such as San Diego, they concluded that biochemical oxygen demand, pathogens, nitrogen and other nutrients were of little concern. In summary, the Academy scientists concluded that chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

The State of California concurs with the Scripps scientists as well as the National Academy of Science. Our review of your system and the extensive Ocean Monitoring Program reports further support the fact that San Diego will continue to meet all State Ocean Plan Standards for your discharge. Based on this scientific evidence, the State of California fully supports the City's request for legislation to grant an exemption from secondary treatment.

Sincerely,

JAMES M. STROCK.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION,

San Diego, CA, March 27, 1995.

DAVID SCHLESINGER,
Director, Metropolitan Wastewater Department, San Diego, CA.

DEAR MR. SCHLESINGER: Recently there have been some questions raised about regulation of the City of San Diego's discharge through the Point Loma Ocean Outfall. Because of the length of the extended outfall, the terminus is now beyond the 3 mile offshore boundary for State waters. Nevertheless, a NPDES permit would still be required for the City's ocean discharge. However, U.S. EPA would have the lead role in the issuance of this permit.

I anticipate that the Regional Board will participate in formulating the regulations that will apply to the City's ocean discharge. This participation will most likely be either furnishing comments on the NPDES permit to be issued by U.S. EPA or the issuing of a NPDES permit for the discharge by the Regional Board. In either event, it would be my recommendation that the NPDES permit for the City's ocean discharge contain requirements consistent with the State's Ocean Plan for the effluent, receiving waters and monitoring. Further, with regard to the State's Ocean Plan, I would recommend that the receiving water limits therein apply at the boundary of the zone of initial dilution (ZID) even though the ZID is beyond the 3 mile limit.

If you have any questions, or would like to discuss this matter further, please call me at the number on the letterhead.

Very truly yours,

ARTHUR L. COE,
Executive Officer.

[From the Union-Tribune, Mar. 23, 1995]

END THE NIGHTMARE—BOXER SHOULD SUPPORT BILBRAY'S SEWAGE BILL

San Diego's multibillion-dollar sewage nightmare is on the verge of being solved. A solution has been devised in the House of Representatives in the form of a bill that would permanently exempt San Diego's sewage system from the secondary treatment mandates contained in the Clean Water Act.

It looks like this legislation, sponsored by Rep. Brian Bilbray, R-Imperial Beach, will pass the House easily. It is supported by our country's entire congressional delegation and by the House Republican leadership, including Speaker Newt Gingrich, R-Ga.

That means the crucial hurdle for the Bilbray bill will be the Senate.

On a measure that affects only one state, tradition in the Senate holds that both senators from that state must approve of the bill before it can reach the floor for a vote. So, San Diego ratepayers' hopes of avoiding what could be an extremely costly and totally unnecessary sewage upgrade rest with California Democratic Sens. Barbara Boxer and Dianne Feinstein.

Boxer in the past has shown a good grasp of this issue. She sponsored an amendment in the Senate last year that allowed San Digeo to apply for a waiver from the secondary treatment mandates in the Clean Water Act. The waiver, which the city is applying for, would have to be renewed every five years.

Boxer lobbied hard for the waiver, explaining to her colleagues that secondary treatment is unnecessary for San Diego's sewage system because of our deep ocean outfall. With San Diego city officials at here side she pointed out at public hearings that the scientific community overwhelmingly supports that contention.

The exemption now proposed by Bilbray would simply codify in perpetuity the waiver that Boxer sponsored for San Diego last year.

Local environmental groups such as the Sierra Club have opposed the exemption because they have said it wouldn't mandate the extensive ocean monitoring that the waiver requires. Upon hearing that complaint, Bilbray toughened the language on environmental monitoring in his bill.

The Sierra Club's other objection to the exemption has been that it would undermine provisions for producing reclaimed water that are contained in the waiver legislation. The exemption actually divorces the issue of water reclamation from sewage treatment, which is proper. The two are separate issues.

If scientists say San Diego doesn't need to treat its sewage to secondary standards, there's no reason it should be forced to treat some of it to an even higher standard for reclaimed water. If San Diegans want reclaimed water, that should be a local policy decision wholly separate from the issue of secondary sewage treatment.

The Bilbray measure could move to the Senate in one of two ways, either as a separate bill or as an amendment to a broader bill reauthorizing the Clean Water Act, Either way, Boxer and Feinstein should support it.

Boxer understands San Diego's sewage problems, so she should see that the exemption is even better than the waiver.

And so should Feinstein, who voted for the waiver amendment last year. With their support, San Diego's sewage nightmare could vanish.

[From the Union-Tribune, Apr. 10, 1995]

PASS THE SEWAGE BILL—FILNER, BOXER SHOULD NOT BOW TO PRESSURE

San Diego has reached a crucial turn in its long battle to escape a multibillion-dollar federal sewage mandate that scientists agree is environmentally unnecessary.

At stake is more than $3 billion in potential outlays by San Diego ratepayers to build a mammoth secondary-sewage treatment plant, as required by the federal Clean Water Act.

A measure by Rep. Brian Bilbray, R-Imperial Beach, to exempt San Diego from this exorbitant—and scientifically specious—mandate is advancing on Capitol Hill. It deserves the support of San Diego County's five representatives in the House and California's two Democratic senators, Barbara Boxer and Dianne Feinstein.

Regrettably, however, the legislation does not have the unanimous backing of our delegation in Congress.

Last week, Sen. Boxer announced her opposition to the Bilbray measure. A day later, Rep. Bob Filner, D-San Diego, said he was undecided whether to support reauthorization of the Clean Water Act, a broad bill which includes Bilbray's sewage exemption.

Filner says he backs the exemption, which he long has championed. But he has very serious reservations about other provisions in the bill. ''There are significant problems with the bill overall,'' he says.

Consequently, Filner may vote against it when it reaches the House floor—despite the billions of dollars at stake for San Diego households.

The Democratic lawmaker was conspicuously absent last week when the House Transportation and Infrastructure Committee approved the Clean Water Act by a 42–16 vote. Filner, the only San Diego-area lawmaker on the panel, said he missed the critical vote because he had a doctor's appointment.

But political reality is that both Boxer and Filner, along with other Democratic lawmakers, are under intense lobbying pressure from environmentalists to vote against the Clean Water Act. Environmental groups such as the Sierra Club vigorously oppose San Diego's sewage exemption and other provisions of the bill which they claim would harm the environment.

But, unlike opponents of the exemption, San Diego has science on its side.

An authoritative study by the National Academy of Sciences concluded in 1993 that San Diego's current method of ''enhanced primary treatment'' of its sewage poses no harm to the environment. That's because San Diego discharges its sewage 4.5 miles out to sea, where the water is over 300 feet deep. A ''consensus statement'' signed by 33 eminent scientists at the Scripps Institution of Oceanography in La Jolla reached the same conclusion.

In the face of such evidence, Rep. Filner and Sen. Boxer should recognize that Bilbray's exemption serves the interests of not only San Diego sewage users but the environment as well. The real question is whether these two lawmakers will sacrifice good science and billions of dollars out of the pockets of San Diegans to satisfy the demands of Democratic pressure groups.

HISTORICAL REVIEW OF SAN DIEGO'S EFFORTS TO MEET THE REQUIREMENTS OF THE CLEAN WATER ACT, APRIL 1995

THE METROPOLITAN SEWERAGE SYSTEM

The Metropolitan Sewerage System serves approximately 1.8 million persons living in San Diego and in 14 other cities and sewer districts in San Diego County. Each day, 180 to 190 million gallons of sewage collected from these entities is treated at the Point Loma Wastewater Treatment Plant which is owned and operated by the City of San Diego.

The Point Loma Plant uses a settling method known as advanced primary treatment to remove approximately 80 percent of the solids from sewage. The liquid waste, or effluent, is then discharged into the Pacific

Ocean through an ocean outfall pipe which originally stretched about two and a half miles into the ocean to a discharge depth of more than 200 feet. This outfall was extended to a total length of 4.5 miles with a discharge depth of 320 feet in November 1993.

Solids, or sludge, are settled out of the sewage and are discharged into ''digester'' tanks. Heating of the sludge within the digesters produces methane gas which is burned to generate electricity to run the Point Loma plant and to produce revenue to offset a portion of the operating costs of the plant.

The heating also reduces the volume of the sludge by half, and the remaining solids are then pumped to open-air drying beds and mechanical presses on Fiesta Island. After the sludge is dried, it is beneficially used in soil conditioners, or landfilled when necessary.

Improvements currently under way at the Point Loma Plant will increase its treatment capacity to 240 million gallons per day (mgd). An additional 100 mgd will be needed in the system by the year 2050.

THE CLEAN WATER ACT

In 1972, the federal Clean Water Act became law, and directed the EPA to adopt standards of secondary sewage treatment for all municipal wastewater dischargers. Cities and sewerage districts were originally given five years to construct facilities to meet the secondary standards, and costs were to be shared by local, state and federal governments under the Clean Water Grant Program. The deadline for compliance with the secondary treatment standards was extended several times, and eventually was set at July 1, 1988.

Under the Clean Water Act, all U.S. dischargers were required to obtain from EPA a National Pollutant Discharge Elimination System (NPDES) permit which established effluent standards for both the sewage discharge and for receiving waters. A single set of standards was adopted for all municipal dischargers whether their effluent entered a lake, stream, river, bay or ocean. This approach differed dramatically from California's existing system for setting discharge standards. Prior to the Clean Water Act, California had been operating under the Dickey Act, which allowed the Regional Water Quality Control Board to adopt the requirements for individual dischargers within their jurisdiction. The Regional Board studied the discharge and receiving water at each individual point of discharge and set the requirements for each discharger based on the specific technical data from that site. This resulted in different standards for communities which discharged into smaller bodies of water or into waters which served as drinking water supplies than for communities which discharged into the ocean.

EPA regulations under the Clean Water Act defined secondary treatment in terms of three wastewater constituents; Biochemical Oxygen Demand (BOD), suspended solids, and pH: 1) BOD is a measure of how much the organic material in the wastewater can be broken down by microorganisms. Thirty-day average concentrations of BOD were not to exceed limits of 30 milligrams per liter (mg/l) or 85% removal, whichever was more restrictive. In San Diego's case, because the influent concentration can be as high as 300 mg/l, the 85% removal rate yields a 45 mg/l effluent concentration. Therefore, the 30 mg/l requirement is the more stringent, and a 90% removal rate is required. 2) Suspended solids were also not to exceed thirty-day average concentration limits of 30 mg/l or 85% removal. As with BOD, the more stringent criterion is the 30 mg/l, which corresponds to approximately 90 percent removal of solids from the incoming wastewater. 3) pH is a measure of the acidity of the wastewater. A range from 6.0 to 9.0 was established for pH.

With the exception of the BOD, suspended solids and pH, the EPA relied on the water quality standards contained in the State Ocean Plan to control the numerous other constituents found in normal municipal discharge, such as microorganisms, heavy metals and organic toxic substances. In addition to the secondary requirements set by EPA, California dischargers had to meet 200 other technical requirements set by federal and state water standards.

THE METROPOLITAN FACILITIES PLAN

At the time the federal secondary treatment standards were adopted, the Point Loma discharge was operating under a State of California permit which contained no limitation for BOD pH, and a limitation of 125 mg/l for suspended solids.

San Diego received its first NPDES permit for Point Loma in 1974. The initial permit allowed the facility to continue to treat sewage at the primary level as had been practiced for more than a dozen years under the State waste discharge requirements, but directed the City to complete plans and specifications to convert to secondary treatment by January 1, 1977.

The City was awarded a federal/state Clean Water Grant in 1975 to finance the preparation of a facilities plan to convert the metropolitan sewerage system to secondary treatment. Preparation of the plan included review of comprehensive ocean monitoring data, extensive analysis of numerous primary and secondary treatment alternatives, study of various layouts of the Metropolitan Sewerage System and multiple cost estimates.

The report, referred to as the ''Metropolitan Facilities Plan'' was completed in January of 1977. It concluded that San Diego's primary effluent was creating virtually no adverse impacts on the ocean and that secondary treatment was not necessary at Point Loma. The consultant recommended that San Diego request a waiver from EPA's secondary treatment standards.

At the time the facilities plan was written, however, there was no provision in the Clean Water Act which authorized EPA to grant waivers from secondary treatment. Because the waiver process did not exist and there was no guarantee that San Diego could obtain one, the facilities plan also included a plan to convert Point Loma to secondary treatment.

THE SECTION 301(H) WAIVER PROCESS

While the NPDES permit for Point Loma was being renewed in 1977, San Diego began action in Congress to enable EPA to grant waivers from secondary treatment. The City was soon joined by an association of all the major municipal wastewater dischargers in the United States. In late 1977, Congress added to the Clean Water Act Section 301(h) which established the waiver process.

Section 301(h) allowed municipalities discharging wastewater to marine waters to apply for modified standards of secondary treatment. Modifications were to be granted on a case-by-case basis and were to allow the dischargers to meet comparable state standards in place of the federal secondary standards for BOD, suspended solids and pH. The municipalities had to demonstrate that sewage discharged under the modified standards protected the environment at a level comparable to sewage treated under federal secondary standards. The dischargers also had to meet all state and federal ocean water quality standards and had to protect the beneficial uses of the ocean.

THE WAIVER APPLICATION AND DUAL FACILITY PLANNING EFFORTS

San Diego filed its waiver application in September of 1979. The application asked that San Diego be allowed to meet State Ocean Plan standards which are based on advanced primary treatment of sewage as an alternative to federal standards for secondary treatment.

Concurrent to filing an application for a waiver, the City continued facility planning efforts. The Metro II facilities plan which included engineering studies for both advanced primary treatment and secondary treatment recommended a new system that would consist of a 45 mgd secondary sewage treatment plant at Point Loma and a 140 mgd secondary sewage treatment plant in the Tijuana River Valley. A major new interceptor system would convey sewage south to the border area and a new land outfall would be constructed along the Tijuana River connecting the new treatment plant with a new ocean outfall.

STATE WATER RESOURCES CONTROL BOARD'S REACTION TO THE WAIVER

After San Diego submitted its Section 301(h) waiver application to EPA, the State Water Resources Control Board assigned a very low priority to the award of federal grant money for construction of secondary treatment facilities. On May 15, 1980, the State Board resolved through Resolution No. 80–37 not to award Clean Water Grants for any ocean discharge project in excess of that needed to meet the provisions of the Ocean Plan until the Board determined that sufficient grant funds were available to justify funding of such projects.

After the resolution was adopted, numerous coastal communities throughout the state, including San Diego, modified their wastewater treatment planning to eliminate or postpone secondary treatment. Plans already completed or partially completed were shelved as the dischargers awaited the outcome of the Section 301(h) applications.

Resolution No. 80–37 is still in effect and has not been amended.

EPA'S TENTATIVE APPROVAL OF THE WAIVER

On September 23, 1981, EPA tentatively approved San Diego's waiver application, conditioned upon the issuance of a revised NPDES permit for the Point Loma discharge. The 301(h) permit was to be issued following a joint public hearing before EPA staff and the Regional Water Quality Control Board. The public hearing was held in November 1982, however, the issuance of the permit was held in abeyance to allow the EPA and Regional Board to consider the public testimony.

MEXICAN/UNITED STATES BORDER ISSUES

In April 1982, San Diego continued its facilities planning efforts by initiating a study directed toward determining a long-term solution for the Tijuana sewage discharge problem that had resulted in millions of gallons of raw sewage entering the United States from Mexico. The City Council conceptually approved in 1983, a plan for the construction of a $730 million joint international wastewater treatment and disposal system with capacity for both Tijuana and a portion of San Diego.

REVISED WAIVER APPLICATION

During the three years in which the EPA was reviewing the original waiver application, the City updated population projections. The new projections were substantially higher than those used in determining the projected sewage flows in the waiver application. When, in 1983, the EPA opened up the waiver process for a second time, the

City used the opportunity to revise and resubmit its initial waiver application to include projections for sewage discharge through the year 1993, and to account for treatment of Tijuana sewage. The 1983 application reaffirmed the 1979 conclusions that secondary treatment of the Point Loma sewage discharge was not necessary to protect public health and the environment.

REVISION OF THE STATE OCEAN PLAN

While the City was filing its revised waiver application with EPA, the State Water Resources Control Board was making changes in the State Ocean Plan which would eventually have a direct impact upon the application.

In 1983, the board adopted two significant revisions to the plan:

1. Body contact bacteriological standards, the same ones formerly applied only to public bathing beaches, were adopted for all kelp beds off the California coast. This action was taken to protect those persons who SCUBA dive in the beds, and was to take effect on July 1, 1988. The law also allowed the Regional Board to examine kelp beds near sewer outfalls on a case-by-case basis and exclude them from the standards (''dedesignation'') where warranted.

2. Cities were given the opportunity to apply for an exemption from the suspended solids standards under the Ocean Plan and to request to remove 60 percent rather than 75 percent of suspended solids.

Prior to the 1983 revision of the Ocean Plan, neither the City nor any public health or water quality regulatory agency had received complaints of illness among SCUBA divers in or near the Point Loma kelp beds. In 1985, the City asked the State to exclude or ''dedesignate'' the Point Loma kelp beds from the body-contact bacteriological standards. By excluding the Point Loma kelp beds from the new state standards, the Point Loma discharge would be subject to the original Ocean Plan bacteriological standards, as addressed in the City's 1979 and 1983 waiver applications.

The Regional Water Quality Control Board conducted public hearings on the City's request for dedesignation of the kelp beds in September and November of 1985. The Regional Board postponed a decision on the matters, however, until after the City completed further studies.

DEDESIGNATION AND WAIVER REQUESTS

A. *Dedesignation*.—After the City filed its original dedesignation request in September 1985, with the Regional Water Quality Control Board, it conducted extensive field studies of the Point Loma kelp beds and of the health of those who dive in the kelp beds. The study showed that the proposed bacteriological standards were being met in the inner portions but were frequently exceeded along the outer edges of the beds.

The accompanying health effects study showed, however, that few cases of gastrointestinal illness were reported among divers after using the Point Loma beds, and that the number of reported cases was well below the level accepted by the EPA. (The study indicated eight reported cases of illness following 1,000 dives, and the proposed EPA bacterial standards permit up to 19 cases per 1,000).

In September of 1986, the Executive Officer of the Regional Water Quality Control Board indicated at a public meeting that he would recommend against San Diego's dedesignation request because no alternate ocean standards had been developed to protect divers in the kelp beds. He also said he would recommend against the City's proposed reduction in suspended solids removal because San Diego could not demonstrate an economic necessity for it and was already removing 75 percent of sewage solids at Point Loma with existing rate revenues.

Following discussions at a Council meeting on December 9, 1986, (discussed further in following paragraphs), the City of San Diego discontinued its dedesignation request for a revision to the water quality standards on December 16, 1986.

B. *Waiver*.—On September 30, 1986, EPA announced its decision to reverse its tentative approval of San Diego's 1979 waiver application and to tentatively deny both the City's 1979 and 1983 applications. EPA cited two reasons for denying the applications: First, it cited the City's inability to comply with the new State Ocean Plan bacteriological standards scheduled to take effect in 1988. Those standards apply body-bacteriological standards, like those formerly applied only to public bathing beaches, to all kelp beds off the California coast. The EPA stated that compliance with the standards is necessary to protect the health of recreational users of the kelp beds, and concluded that the Point Loma sewage discharge ''has degraded the recreational beneficial use in the kelp bed vicinity''. Second, the EPA concluded that the Point Loma discharge ''interferes with the protection and propagation of a balanced indigenous population'' of bottom dwelling ocean organisms in the vicinity of the Point Loma outfall. In support of this conclusion, EPA noted that species of clam is found in greater abundance near the outfall discharge than away from the outfall, and a species of starfish, a brittle star, is less common near the outfall discharge point than away from the outfall. The brittle star found in reduced numbers near the outfall is one of the most common and abundant species on the Southern California shelf.

The City had until March 30, 1987 to submit a revised waiver application to EPA if it intended to continue to pursue the waiver. On November 3, the San Diego City Council authorized the City Manager to send EPA a letter of intent to file a revised application. That letter had to be submitted to EPA by November 15, 1986, or the EPA tentative denial would have become final, and a revised waiver application would not be allowed. In authoring the filing of the letter, several members of the Council cautioned that their action did not indicate support for the filing of a revised waiver application, and that such a decision would be made following a public hearing on the waiver scheduled on December 9.

SAN DIEGO'S DECISION

San Diego's City Council devoted two public hearings, one on December 9, 1986, and one on February 17, 1987, to the issue of the 301(h) waiver application versus secondary treatment. Public response at both meetings favored abandoning waiver efforts and pursuing the federally mandated secondary treatment requirements. Additionally, there was much emphasis and support placed on the potential for water reclamation and reuse if the City were to modify its sewage treatment system.

Public testimony combined with consistent negative response by the regulatory agencies placed the City of San Diego in a position requiring immediate forward action. While all the efforts of the past (waiver and facilities planning) had provided beneficial avenues to San Diego, laws as well as public opinion changed over time and it was clear that either option that the City chose would require long range planning and provisions for water reclamation.

On February 17, 1987, the decision was made to discontinue waiver efforts and comply with federal sewage treatment standards. The City immediately proceeded at full speed to implement secondary treatment and water reclamation. Immediate actions by the City included establishing an advisory committee, the Metropolitan Sewer Task Force (MSTF), to lend expertise and guidance to Council on the many issues surrounding the sewage modifications; and creating the Clean Water Program to oversee the upgrade and expansion of the sewerage system.

CONSENT DECREE DISCUSSIONS WITH EPA

Although the City was swiftly and judiciously pursuing facilities planning efforts, it was clear that the July 1, 1988 compliance deadline would not be met. Beginning in January, 1988, the City embarked on discussions with the Department of Justice, EPA, SWRCB and RWQCB to establish a realistic time schedule for compliance with the federal discharge standards. Despite the City's commitment to comply, the federal government sued the City on July 27, 1988. The State of California joined as a co-plaintiff.

From 1987 to 1989 the City carried out intensive facilities planning with a team of engineers, planners, and environmental specialists working with the community. After consolidating twenty-two alternatives into seven, the City adopted a plan that included the upgrade of the Point Loma treatment plant, the construction of a new secondary treatment plant in the South Bay, and seven new water reclamation plants located throughout the service area. This plan, called Alternative IVa, was the basis for an agreement between the City and the State and Federal governments. This agreement, called a Consent Decree, was signed by the parties in January 1990 and was lodged in federal court. The cost to implement the facilities in the Consent Decree was estimated to be $2.5 billion in 1992 dollars.

FEDERAL COURT FINDINGS, JUNE 1991

When presented with the proposed plan, Judge Rudi Brewster noted that in order to finalize the Decree, he would need to find that the plan was in the best interest of the public. He held a hearing on whether or not the present discharge at Point Loma has adverse impacts on the marine environment and found that, while there is a potential impact to divers using the kelp beds due to bacteriological contamination, there is no significant impact to the sea life surrounding the discharge. He also recognized in his findings that extension of the outfall (which has now been completed) would eliminate the contamination of the kelp beds.

Judge Brewster ruled on June 18, 1991 that the proposed Consent Decree should be deferred to January 1993. He directed that the City conduct pilot tests at the Point Loma facility to determine whether or not chemically-enhanced primary treatment could meet the secondary treatment requirements and suggested that the City pursue its best efforts to amend the Clean Water Act. He also suggested that the National Academy of Science study entitled ''Wastewater Management for Coastal Urban Areas,'' which was due to be completed soon, be used as further guidance on the level of treatment necessary to protect the environment.

CONSUMERS' ALTERNATIVE

In May 1992 the City Council directed a reevaluation of Alternative IVa based on retaining Point Loma as an advanced primary treatment plant operating at an ultimate capacity of 240 mgd. With this change, 90 mgd of additional capacity could be provided at the Point Loma plant that would not be available if a conversion to secondary treatment had occurred as envisioned by Alternative IVa. The new plan, dubbed the Consumers' Alternative, has an estimated capital cost of $1.2 billion in 1992 dollars. At a July 10, 1992 hearing in Federal Court, Judge

Brewster directed the City to proceed with the Consumers' Alternative and await the results of the pilot testing at Point Loma and the report from the National Academy of Science.

PILOT STUDY RESULTS

The City completed the 18-month pilot testing in August 1993. Its purpose was to determine whether or not chemically enhanced primary treatment could be used to bring the Point Loma Plant into compliance with the 30 mg/l effluent requirement for total suspended solids and BOD currently embodied in the Clean Water Act. The results are clear for both constituents: the 30 mg/l law to achieve secondary treatment cannot be met. As a result, the City has redoubled its efforts to amend the Clean Water Act to provide modified standards where it is demonstrated that there will be no adverse impact to the environment.

NATIONAL ACADEMY OF SCIENCE REPORT CONCLUSIONS

After three years of study the Academy released ''Wastewater Management for Coastal Urban Areas'' in April 1993. No specific recommendations were made regarding San Diego's wastewater treatment system, but a number of conclusions reported by the Academy support San Diego's efforts to amend the Act: (1) The secondary treatment requirement can lead to over-control and over-protection along open ocean coasts; the 1972 Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. (2) In the case of deep ocean discharge where BOD, pathogens, nitrogen, and other nutrients are of little concern, and contributions of toxics and metals associated with solids are low, treatment for removal of these constituents is unnecessary. (3) Chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

FEDERAL COURT FINDINGS AND INTERIM ORDER

On March 31, 1994 Judge Rudi Brewster rejected the Consent Decree proposed in 1990 as ''not in the public interest.'' His memorandum decision stated that the Consent Decree presents no environmental benefit, requires wasteful over-treatment, requires unnecessary sludge production, and mandates unnecessary reclamation facilities. Key testimony in the courtroom included the legislative efforts of San Diego's Councilmembers, Senators, and Members of Congress to allow the Point Loma Treatment Plant to continue its advanced primary level of treatment.

An Interim Order issued August 26, 1994 requires San Diego to continue implementation of the Consumers' Alternative.

OCEAN POLLUTION REDUCTION ACT

After the bill received the unanimous support of the House and Senate, President Clinton signed the Ocean Pollution Reduction Act on October 31, 1994. This Act allows the City of San Diego to apply for a waiver from secondary treatment within six months and requires the EPA to complete its review of the application within one year of its receipt. It requires that San Diego commit to 45 MGD of water reclamation capacity by 2010 and that certain effluent parameters (80% suspended solids removal and 58% biological oxygen demand removal) be met. It also requires that there be fewer suspended solids discharged to the ocean at the end of the waiver period than are discharged at the beginning of the waiver period.

San Diego submitted the waiver application on April 24, 1995. EPA Administrator Carol Browner has notified San Diego that an initial assessment will be completed by about June 8, 1995 and a Tentative Decision Document will be issued by about August 7, 1995.

MAY 9, 1995.

Hon. DAVID DREIER,
Chairman, Subcommittee on Rules and Organization of the House, Committee on Rules, House of Representatives, Washington, DC.
Hon. DAVID M. MCINTOSH,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR CHAIRMAN: I write to respond to a letter written by the Honorable Norman Y. Mineta, dated May 1, 1995 (the ''May 1 letter'') and delivered to your Subcommittees for consideration in connection with your hearing on the procedures to be used for the Speaker's ''Corrections Day.'' In that letter, Congressman Mineta voices his concerns with H.R. 794, a bill introduced by Congressman Bilbray, that has been widely touted as a prime candidate for the Corrections Day process.

The purpose of this response is to set the record straight about San Diego's motivations, justifications and evidentiary support for H.R. 794, and further to assuage the concerns of those who mistakenly believe that H.R. 794 is ill-conceived or ill-motivated. Contrary to the message of the May 1 letter, H.R. 794 is critical to the long-term resolution of San Diego's wastewater treatment plans, and specifically the City's dispute with the Environmental Protection Agency (the ''EPA'') over the level of treatment necessary to protect the environment. By responding to the assertions made in the May 1 letter, I hope to educate and assure the members of Congress that by enacting H.R. 794 they are promoting fiscal and environmental responsibility.

San Diego has been pursuing environmentally sound and fiscally responsible compliance with the Clean Water Act (the ''CWA'') for more than two decades. Over the past four years our Congressional representatives have worked with the appropriate Congressional committees to pass legislation that would provide an opportunity to establish, once and for all, that the current level of sewage treatment at the Point Loma Treatment Plant fully protects the marine environment, and that the secondary level of treatment prescribed by the CWA does not make sense for our ocean or our ratepayers. Last year we consistently requested straightforward, unconditional legislation that would acknowledge the scientific basis for the adequacy of our existing level of treatment, but ultimately accepted compromise language that limits the capacity of the Point Loma plant and requires significant water reclamation capacity to be built. We worked hard to get this language into the CWA reauthorization; when it became clear that the CWA was not going to be reauthorized, we agreed in the closing days of Congress to the Ocean Pollution Reduction Act of 1994, a stand-alone bill that mirrored the compromise provision in the CWA. Failure to obtain this legislation by either vehicle would have meant a costly, time-consuming trial on the requirement for secondary treatment.

H.R. 794 embodies precisely the legislation we originally sought. In recent months, the House Transportation and Infrastructure Committee approved H.R. 961, which contains a coastal discharge provision for San Diego that substantially mirrors H.R. 794. We are encouraged by the bi-partisan support we received from the committee, but with the experience of last year's CWA re-authorization process still fresh in our minds, we urge you to consider H.R. 794 as equally vital to ensure that the necessary, long-awaited legislative relief is assured.

The May 1 letter authored by Congressman Mineta argues that H.R. 794 is inappropriate for consideration under Corrections Day procedures, raising in support of that argument several concerns as to San Diego's motivation, justification and evidentiary support for H.R. 794. Although I understand these arguments were addressed in the course of including the coastal discharge provision in H.R. 961, I offer the following detailed response to aid you in fully understanding San Diego's position on each of these matters.

THE NEED FOR SECONDARY TREATMENT

There is no dispute that the nationwide requirement for secondary treatment, imposed in 1972, has improved the overall quality of the nation's water. This is because most treatment plants in the country discharge into inland lakes, rivers and streams where there is limited capacity to assimilate suspended solids or biochemical oxygen demand (''BOD''). The May 1 letter notes that the city of San Jose, California, requires an even higher level of treatment than secondary to protect the environment; this, however, is because San Jose discharges into a tidal estuary in South San Francisco Bay via an open channel (not a submerged outfall pipe) into waters approximately 20 feet deep—a far different circumstance from San Diego's outfall pipe discharge into swiftly moving currents off our open coast at over 300 feet of depth and over four miles offshore. In fact, San Jose also has to have a ''conditional exception'' to the requirements of the Bays and Estuaries Act, which would otherwise prohibit discharges of this nature to the Bay in that area.

There is also little dispute that San Diego's current use of advanced primary treatment protects the marine environment. Among the numerous favorable findings of various scientists and agencies, I offer the following for your consideration:

The Environmental Protection Agency, in its 1981 Tentative Decision Document on San Diego's original waiver application, states that ''the applicant's proposed discharge will comply with the California State water quality standards'' and that ''the applicant's proposed discharge will not adversely impact public water supplies or interfere with the protection and propagation of a balanced indigenous population of marine life, and will allow for recreational activities.''

Judge Brewster stated, in his findings in his March, 1994 Memorandum Decisions and Order Rejecting the Proposed Consent Decree, that ''the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact appears to be enhanced.''

The National Research Council committee on ''Wastewater Management for Coastal Urban Areas'' stated in its April 1993 report that ''chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.''

Scientists from all over the country have testified in various forums, including under oath in the federal district court in San Diego, that San Diego's current level of treatment fully protects the offshore environment.

INDUSTRIAL PRETREATMENT

The May 1 letter credits secondary treatment and ''the corresponding basic level of treatment for industrial discharges'' with the success of the CWA. In fact, wastewater plant treatment and industrial pretreatment are two entirely separate requirements, not at all reliant on one another although they can work in concert, as they do in San Diego. San Diego's strong industrial

pretreatment program is exactly what makes our sewage treatment system a model for the rest of the country. Instead of spending billion of dollars on ever higher levels of treatment, San Diego works with its industries to ensure that toxic constituents never even get into the system. As a result, San Diego has a higher quality of wastewater coming into its Point Loma plant than is required for the effluent discharged after treatment.

Part of this confusion in the May 1 letter may be attributable to a misunderstanding of what ''secondary equivalency'' means. San Diego's application for modified standards of secondary treatment is exactly that, and no more: a redefinition of ''secondary'' under certain circumstances. It is not a waiver of or an exemption from the protections of the CWA, and it is certainly not a ''license to pollute.'' San Diego's permit under the Ocean Pollution Reduction Act—and any modified definition applied under H.R. 794—seeks modification of only two of the secondary treatment requirements: total suspended solids and BOD. All of the 200-plus other constituents that are typically measured and monitored at treatment plants across the nation will still have to conform to the secondary treatment requirements of the CWA. Because of the comprehensive and effective industrial pretreatment program currently in place, San Diego meets those standards now and would continue to meet those standards under the new law. ''Secondary treatment,'' as currently defined in the CWA, would add nothing significantly beneficial to the process.

REASONS FOR REJECTION OF THE 1983 WAIVER APPLICATION

The May 1 letter is incorrect insofar as it implies that the State of California denied San Diego's waiver application in 1986. The state's Regional Water Quality Control Board (''RWQCB''), in a March 1985 letter, informed the City that the State had responded to the EPA with a tentative finding that ''the discharge will comply with applicable state laws, including applicable water quality standards, and will not result in additional treatment, pollution control, or other requirements on any other point or non-point source.'' The denial was the work of the EPA, not the State. Moreover, the Tentative Decision Document issued in 1986 by the EPA clearly states that EPA's tentative denial was due to the 1983 amendment of the California State Ocean Plan that applied the same water quality standards to the offshore kelp beds as had previously been applied only to bathing beaches. This change came after the Point Loma plant had been operating for over twenty years, and led to the extension of the outfall that is currently in place. It was a change in the Ocean Plan, and not a failure of San Diego's treatment system, that led to the denial.

SAN DIEGO'S WITHDRAWAL OF THE WAIVER APPLICATION

The circumstances under which San Diego withdrew its waiver application in 1987, as referenced in the May 1 letter, must be corrected for the record. In federal court the issue was fully reviewed and the testimony demonstrated that key officials from the EPA and Regional Board convinced San Diego's mayor at that time that not only would a revised application not receive favorable review, but that the EPA would ensure that federal funds would be forthcoming to help San Diego pay for upgrade of the system to secondary treatment. In addition, those who opposed anything less than secondary treatment used sewage spills from a major pump station as a tool to convince some San Diegans to press for withdrawal of the waiver application. Unfortunately, it was never explained to the public that the two issues are in no way related, and that spending billions on secondary treatment would do nothing to prevent sewer spills or pump station break-downs (and would, in fact, take away dollars sorely needed to address those problems).[1] Based on the promises of the EPA and the concerns of a few citizens, the City Council voted 8–1 to withdraw the application, thus closing the door on San Diego's waiver unless reopened by new law.

SAN DIEGO'S ''HISTORY''

The May 1 letter characterizes San Diego's ''reversals'' during the last 23 years, regarding whether or not to implement secondary treatment, as a failure of municipal leadership. The true history of the situation does not support that contention.

When Congress passed the law requiring secondary treatment in 1972, San Diego, along with most other municipalities in the country, began the facilities planning necessary to implement the higher level of treatment. After the appropriate environmental impact documents had been completed, the findings were that the No Project Alternative (not implementing secondary treatment) had the least environmental impact. Other municipalities discharging through long deep ocean outfalls had similar findings, and based on that, in 1977 Congress amended the Clean Water Act, adding Section 301(h), allowing for waivers from secondary treatment.

San Diego applied for a waiver in 1979 and in 1981 received a tentative approval from EPA. We were encouraged that we were on the right track. Then in 1986 the EPA reversed itself, issued a tentative denial, convinced San Diego to withdraw the waiver application, and sued the City.

San Diego pursued not just secondary treatment, but an aggressive water reclamation program, from 1988 until 1992, when it became apparent that the cost far outweighed both the need and the benefits of seven new water reclamation plants by 1999. We revised our plans, advised the court, and the court agreed, rejecting the Proposed Consent Decree that would have required these overreaching efforts. The judge cautioned, however, that the City had to obtain a change in the law, or he would be forced by existing law to put us on a schedule to implement secondary treatment. Because time was literally running out, and because Congress at the time was not receptive to the legislative relief now proposed by H.R. 794 (or its counterpart provision in H.R. 961), San Diego agreed to the conditions included in the Ocean Pollution Reduction Act. Importantly, it was never represented that with the passage of the Ocean Pollution Reduction Act, the city would abandon its efforts to obtain permanent legislative relief for its ratepayers.

Recognizing that the cost of the conditions in the Ocean Pollution Reduction Act was high, and that the compromise was not necessarily in the best long-term interests of San Diego's ratepayers, I began discussions with our Congressional delegation to enact a better bill—one that would be based on science, would give San Diego the same opportunity given to other coastal dischargers, and would continue to protect the marine environment.

San Diego's actions over the past 23 years have always been in response to changes that were made by Congress, the EPA, or both. One of the reasons for H.R. 794 is to provide some certainty to San Diego that as long as the ocean is protected, as verified by scientific testing, secondary treatment will not be required due purely to changing bureaucracies and the individuals that make them up.

SECONDARY EQUIVALENCY

The May 1 letter states that H.R. 794 would give San Diego ''a permanent exemption from secondary treatment—no conditions, no review, no questions asked,'' and further asserts that the City would merely screen out the larger solids and add chlorine to the rest, ''basically untreated sewage except for the chlorine.'' This contention is likewise in error. First, chemically enhanced primary treatment is, according to the National Research Council, ''an effective technology for removing suspended solids and associated contaminant.'' San Diego does not chlorinate its effluent, as is stated in the May 1 letter, because the length and depth of its outfall precludes the need for doing so. The wastefield is completely isolated from both the kelp beds and the bathing beaches, fully protecting the health and safety of our citizens.

Moreover, H.R. 794 merely allows the regulators responsible for enforcing the Clean Water Act, the EPA and the RWQCB, to deem certain discharge to be the equivalent of secondary treatment. An operating permit will still be required, and to obtain that permit the City will have to continually meet some very strict standards. Even San Jose, with its tertiary treatment level must have an operating permit issued by the EPA and RWQCB, must monitor the treatment plant and receiving waters, must have an industrial pretreatment program in place, and must renew its permit every five years. Implementing secondary treatment—or a higher level of treatment—does not exempt a plan from oversight by the regulatory agencies, nor does it exempt a plant from any of the other requirements of the CWA.

SUPPORT OF SCIENTISTS FOR CURRENT LEVEL OF TREATMENT

The assertion in the May 1 letter, that Scripps Institution of Oceanography has taken no position on H.R. 794, is true. However, every credible scientist who has taken a position on whether or not secondary treatment is needed at the Point Loma facility has supported the current level of treatment. Further, Scripps Institution of Oceanography does not, as an institution, take positions on policy issues such as this. Even so, a consensus statement signed by 33 professors and researchers employed by Scripps supports the current level of treatment, and many other scientists around the country at other prestigious academic and research institutions also support the current level of treatment. Finally, the 1933 report issued by the National Research Council, the operating arm of the National Academy of Science, solidly supports the appropriateness of less than secondary treatment for municipalities like San Diego and more than secondary treatment for municipalities like San Jose. There is ample, uncontroverted scientific support for San Diego's position.

JUDGE BREWSTER'S COMMENTS ON SAN DIEGO

The May 1 letter includes just one comment by Judge Brewster, made in 1991 when he made his Findings regarding the several changes brought by the Department of Justice on behalf of EPA. The quote refers to spills and sewer backups, for which San Diego was fined $500,000. That problem is irrelevant to the question addressed by the consideration of H.R. 794: whether or not San Diego should be required to implement secondary treatment.

[1] The further implication in the May 1 letter that the 1992 break in the outfall was somehow forecast by the EPA in 1983—or that spending billions of dollars on secondary treatment would have prevented the break—is equally unfounded.

In that regard, Judge Brewster in his 1994 decision rejecting the Proposed Consent Decree, said that ''. . . with the new outfall, the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact it appears to be enhanced . . .'' He goes on to note that the National Research Council report states ''that on a scientific basis, it would be wise to consider environmental differences regulating sewage treatment standards under the CWA'' and that ''BOD is irrelevant in deep ocean discharges because of the massive abundance of oxygen in the ocean.'' He reminds us that in his 1991 Findings, the same ones that Mr. Mineta references, ''this Court held that the City's Point Loma discharge was not causing significant harm to the balanced indigenous population surrounding the outfall pipe.'' And most recently, at a May 1, 1995 hearing in his courtroom, Judge Brewster stated that ''the City has aggressively moved forward to complete all of the Court-ordered projects—many ahead of schedule.''

The fact is that San Diego has a well-run sewage treatment system. There have been, and will continue to be, spills occurring, as there are with every municipality in the country. However, it is noteworthy that the California Water Pollution Control Association in March 1995 awarded the City of San Diego its ''Best of the Best'' award for the Collection System of the Year. San Diego is making progress and will continue to do so. The money that would be spent on secondary treatment can unquestionably be better spent on pipelines and pump stations to continue our improvement of the system.

Finally, San Diego has made substantial commitments to supplementing our water supply in ways which include water reclamation. We began construction on the North City Water Reclamation Plant, a facility with a capacity of 30 million gallons per day (''MGD''), in 1993, and expect to begin operation in 1997. It is a $150 million state-of-the-art plant that will provide reclaimed water for customers in the northern part of our service area. We are also designing a 7 MGD water reclamation plant in the South Bay. As we go forward with our system-wide planning we will continually evaluate the market demand and economics that are an integral part of the viability of water reclamation.

We recognize in San Diego that the ocean is one of our most valuable assets, and we are committed to protecting it now and in the future. The existing waiver process provides temporary relief from expensive overtreatment, but will only be valid for five years. Thus, in another four years, the City will once again have to expend over $1 million to prepare another waiver application, to show once again what is already a matter of scientific fact—that secondary treatment is unnecessary and cost-ineffective for San Diego. Given the City's history of dispute with the EPA, the city is wary of having to fight further battles over this issue.

The House Transportation and I infrastructure Committee believes H.R. 794 makes sense, as evidenced by its ready willingness to include it as well in H.R. 961. This provision protects the environment, provides continuing monitoring and oversight, and welcomes public review of the permit application. The relief provided by H.R. 794 does not give San Diego a license to pollute; on the contrary, it acknowledges a continuing duty to meet strict California State Ocean Plan standards for coastal discharge. What it does provide is relief from regulators who disregard scientific fact and common sense, in favor of a strict, blind and costly adherence to ill-fitting regulations.

Thank you for this opportunity to present the facts underlying this important legislation.

Sincerely,

SUSAN GOLDING,
Mayor,
City of San Diego.

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

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

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from California [Mr. WAXMAN] who has agreed that the San Diego case is a valid one.

Mr. WAXMAN. Mr. Chairman, it seems to me the gentleman makes a very good case for San Diego and he ought to get his waiver under existing law. But the point I want to make to the gentleman, it is not in any way denigrating your case, but in our situation, the local people want the secondary treatment and the bureaucrats that are dragging their feet are local bureaucrats. So let us understand, bureaucrats are not only at the Federal level that frustrates actions that the people want.

Mr. HUNTER. Reclaiming my time, Mr. Chairman, the tie goes to the runner. We would rather have the local bureaucrats making decisions than those in Washington, DC.

Mr. BILBRAY. Mr. Chairman, if the gentleman will continue to yield, as somebody who was operating a health department, the elected officials locally that have to surf in those waters, the ones who are elected and go face to face with the citizens every day, they are the ones who know what really is happening in the ocean and they are the ones who are the most concerned and the most appropriate to be able to enforce this.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, they are the ones who have dragged their feet contrary to the will of the people who have had to vote twice to say they wanted this.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 267, not voting 13, as follows:

[Roll No. 315]

AYES—154

Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Forbes
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—267

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Filner
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski

Livingston	Pomeroy	Stearns
Longley	Porter	Stenholm
Lucas	Portman	Stockman
Manzullo	Poshard	Stump
Markey	Pryce	Talent
Martini	Quillen	Tanner
McCollum	Quinn	Tate
McCrery	Radanovich	Tauzin
McHugh	Ramstad	Taylor (NC)
McIntosh	Regula	Tejeda
McKeon	Riggs	Thomas
Metcalf	Roberts	Thornberry
Meyers	Roemer	Thornton
Mica	Rohrabacher	Thurman
Miller (FL)	Ros-Lehtinen	Tiahrt
Molinari	Rose	Torkildsen
Mollohan	Roth	Traficant
Montgomery	Royce	Upton
Moorhead	Salmon	Volkmer
Myers	Saxton	Vucanovich
Myrick	Scarborough	Waldholtz
Nethercutt	Schaefer	Walker
Neumann	Schiff	Walsh
Ney	Seastrand	Wamp
Norwood	Sensenbrenner	Watts (OK)
Nussle	Shadegg	Weldon (FL)
Ortiz	Shaw	Weldon (PA)
Oxley	Shuster	Weller
Packard	Sisisky	White
Parker	Skeen	Wicker
Pastor	Smith (MI)	Williams
Paxon	Smith (TX)	Wilson
Payne (VA)	Smith (WA)	Wolf
Petri	Solomon	Young (AK)
Pickett	Souder	Young (FL)
Pombo	Spence	Zeliff

NOT VOTING—13

Barrett (NE)	McInnis	Sanford
Bono	Moakley	Towns
Collins (GA)	Murtha	Whitfield
Collins (IL)	Peterson (FL)	
McDade	Rogers	

□ 1212

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. McInnis against.

Mr. MARTINI changed his vote from ''aye'' to ''no.''

Mr. LAZIO of New York changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there additional amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer amendment No. 30, as printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA:

Page 133, strike line 15, and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

''SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

''(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of municipal stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the municipal stormwater management program of the State. It is recognized that State municipal stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

''(b) STATE ASSESSMENT REPORTS.—

''(1) CONTENTS.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

''(A) identifies those navigable waters within the State which, without additional action to control pollution from municipal stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

''(B) identifies those categories and subcategories of municipal stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

''(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of municipal stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

''(D) identifies and describes State and local programs for controlling pollution added from municipal stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

''(2) INFORMATION USED IN PREPARATION.—In developing, reviewing, and revising the report required by this subsection, the State—

''(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from any group stormwater permit application process in effect under section 402(p) of this Act and such other information as the State determines is appropriate; and

''(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

''(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

''(c) STATE MANAGEMENT PROGRAMS.—

''(1) IN GENERAL.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a municipal stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

''(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include the following:

''(A) IDENTIFICATION OF MODEL MANAGEMENT PRACTICES AND MEASURES.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from municipal stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

''(B) IDENTIFICATION OF PROGRAMS AND RESOURCES.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage municipal stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (h) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

''(C) PROGRAM FOR REDUCING POLLUTANT LOADINGS.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

''(D) SCHEDULE.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

''(E) CERTIFICATION OF ADEQUATE AUTHORITY.—

''(i) IN GENERAL.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

''(ii) COMMITMENT.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

''(F) IDENTIFICATION OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's municipal stormwater management program.

''(G) MONITORING.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program,

including the attainment of interim goals and milestones.

''(H) IDENTIFICATION OF CERTAIN INCONSISTENT FEDERAL ACTIVITIES.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

''(I) IDENTIFICATION OF GOALS AND MILESTONES.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

''(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

''(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

''(d) ADMINISTRATIVE PROVISIONS.—

''(1) COOPERATION REQUIREMENT.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing municipal stormwater management programs.

''(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

''(3) TRANSITION.—

''(A) IN GENERAL.—Permits issued pursuant to section 402(p) for discharges from municipal storm sewers, as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State municipal stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State municipal stormwater management program. Prior to the effective date of a State municipal stormwater management program, municipal stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the municipal stormwater discharger shall implement the revised stormwater management practices and measures which may be voluntary pollution prevention activities. A municipal stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

''(B) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

''(e) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

''(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

''(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

''(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

''(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

''(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State municipal stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

''(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (d)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

''(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

''(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

''(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

''(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a municipal stormwater management program for the State.

''(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from municipal stormwater sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

''(f) INTERSTATE MANAGEMENT CONFERENCE.—

''(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

''(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

''(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

''(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

''(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

''(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have

been established by interstate water compacts, Supreme Court decrees, or State water laws.

''(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

''(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

''(g) GRANTS FOR STORMWATER RESEARCH.—

''(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (g), the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

''(A) identify adverse impacts of stormwater discharges on receiving waters;

''(B) identify the pollutants in stormwater which cause impact; and

''(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

''(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

''(h) DEVELOPMENT OF STORMWATER CRITERIA.—

''(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (g)(1).

''(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

''(A) shall be developed from—

''(i) the findings and conclusions of the demonstration programs and research conducted under subsection (g);

''(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

''(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act;

''(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

''(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

''(i) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

''(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

''(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

''(j) REPORTS OF ADMINISTRATOR.—

''(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

''(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

''(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

''(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

''(C) describe the amount and purpose of grants awarded pursuant to subsection (g);

''(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

''(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

''(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

''(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the municipal stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

''(k) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

''(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a municipal stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

''(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

''(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term ''model management practices and measures'' means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

''(l) ENFORCEMENT WITH RESPECT TO MUNICIPAL STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Municipal stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

''(m) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State municipal stormwater management program are located.

''(n) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Municipal stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.''.

(b) CONFORMING AMENDMENTS TO INDUSTRIAL STORMWATER DISCHARGE PROGRAM.—Section 402(p) (33 U.S.C 1342(p)) is amended—

(1) in the subsection heading by striking ''MUNICIPAL AND'';

(2) in paragraph (1) by striking ''1994'' and inserting ''2001'';

(3) by adding at the end of the paragraph (1) the following: ''This subsection does not apply to municipal stormwater discharges which are covered by section 322.'';

(4) in paragraph (2) by striking subparagraphs (C) and (D) and by redesignating subparagraph (E) as subparagraph (C);

(5) in paragraph (3)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading; and

(C) by striking subparagraph (B);

(6) in paragraph (4)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading;

(C) by striking ''and (2)(C)''; and

(D) by striking subparagraph (B);

(7) by striking paragraph (5);

(8) by redesignating paragraph (6) as paragraph (5); and

(9) in paragraph (5) as so redesignated—

(A) by striking ''1993'' and inserting ''2000''; and

(B) by inserting after ''paragraph (2)'' the following: ''and other than municipal stormwater discharges''.

(c) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

''(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

''(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.''.

Mr. MINETA. Mr. Chairman, my amendment would strike the provision in the bill related to control of stormwater discharges, and replace it with a revised version which addresses all of the cities' concerns.

Mr. Chairman, my amendment would amend the bill to address the stormwater horror stories which have been raised by the cities and the other side, and it would continue the expectations of our constituents that industrial dischargers will continue to do their share.

Stormwater pollution from municipalities and industry has been identified as a major contributor of water quality violations by the states. In 1987, Congress enacted a comprehensive mechanism to address stormwater discharges from municipalities and industries. We approved a phased approach, allowing for flexibility in the program's implementation.

The current provision has not been without its difficulties, particularly for municipalities, and is in need of amendment. But we should not throw out the current program in its entirety for a new untested program—a program which will create huge loopholes for industry, with questionable environmental benefits.

The stormwater program has been criticized for being overly burdensome. But the question is, do we fix the burdens while maintaining environmental protection, or do we do away with the environmental protection?

I have heard my colleagues and the witnesses at our hearings talk about the need to reduce burdens, but always with the commitment to continue environmental protection. My amendment does that.

My amendment adopts the provisions of H.R. 961 related to stormwater discharges from municipalities. There would no longer be permits for municipal stormwater discharge, just like in the bill.

For nonmunicipal dischargers, my amendment continues the status quo. No new requirements are added. The amendment continues the exemption for commercial or other discharges, leaving those discharges to be regulated by States as they see fit, or to be controlled under the nonpoint source program.

Finally, like the bill reported by the committee, I would create a new $100 million program to conduct stormwater research to test innovative approaches to stormwater control.

Mr Chairman, we have heard a number of objections to the current stormwater program from the mayors and city councils. We should address them.

While I am not convinced that the municipal permitting program should be scrapped, I am willing to try something other than the current program.

But, we should not throw out the entire program and force the States to begin anew for industrial discharge. Too much valuable time and too many resources have been devoted to the effort to date.

If the amendment is adopted in its current form, States will have to begin the development of entirely new programs for the control of industrial stormwater discharges. This requirement for completely new programs will apply even in States which do not currently implement a stormwater permitting program.

While it may be appropriate to impose this burden upon the States to provide relief for a few hundred cities, I find no compelling reason to mandate that States create entirely new programs to address thousands of industrial discharges when a mechanism currently exists. It appears that water quality suffers, the States have a new mandate, but industrial polluters benefit.

Mr. Chairman, one of the recurring arguments in favor of repealing the stormwater permitting program is that the permitted entities cannot control what is put into their stormwater. If, for example, a homeowner decides to put excessive amounts of pesticide on his lawn right before it rains, that will show up in stormwater pollution. That is very difficult for a community to control. However, for industry, the industry can control what pollutants are present at their site, the industry can control the activities of its employees, and the industry can control the exposure of pollutants to precipitation.

The arguments which are used to justify relief for municipalities just do not hold up for industrial stormwater. Let us make the program work, ease the burdens upon cities, and address our Nation's water pollution problems in a responsible manner.

Support my amendment to give relief to the cities, but assure that industry does its share.

□ 1215

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, this amendment should be soundly defeated, because it really destroys our effort to reform the stormwater provisions in the bill.

We have provided for State-developed stormwater management programs. Under this amendment, private firms would continue to be regulated or unregulated, depending on the standard industrial classification code of the industry, not on whether or not it contributed pollution to stormwater discharges. This is another example of regulatory overkill, of one-shoe-fits-all.

As a result, if a company falls within a particular industry code, under this amendment it would have to get a stormwater permit even, and get this, even if the company happens to be located in an office suite and has no outside facilities. It makes no sense.

This amendment leaves this broken program in place for over 7 million commercial and smaller industrial facilities that are covered by the stormwater permitting program today, merely extending the permit deadline until the year 2001. This amendment also would fragment the Stormwater Program into two parts, increasing rather than decreasing the bureaucracy.

In contrast, our bill provides the needed regulatory relief and will protect the environment from stormwater discharges. Our bill repeals section 402(p) and regulates stormwater in a manner similar to other nonpoint sources and discharges. However, unlike the section 319 nonpoint program, our Stormwater Program will require enforceable pollution prevention plans. If necessary, the program also provides for the general and site specific permits.

I would emphasize that we have a letter from the association of State and Interstate Water Pollution Control Administrators strongly supporting our provision in the bill and opposing this amendment.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote

A recorded vote was ordered.

The votes was taken by electronic device, and there were—ayes 159, noes 258, not voting 17, as follows:

[Roll No. 316]

AYES—159

Abercrombie	Clay	Eshoo
Ackerman	Clayton	Evans
Andrews	Clyburn	Farr
Baesler	Collins (MI)	Fattah
Barrett (WI)	Conyers	Fazio
Becerra	Coyne	Fields (LA)
Beilenson	Deal	Filner
Bentsen	DeFazio	Flake
Berman	DeLauro	Foglietta
Boehlert	Dellums	Forbes
Bonior	Deutsch	Ford
Borski	Dicks	Frost
Boucher	Dingell	Furse
Brown (CA)	Dixon	Gejdenson
Brown (OH)	Doggett	Gephardt
Bryant (TX)	Durbin	Gibbons
Cardin	Engel	Gilchrest

Gilman
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—258

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—17

Baldacci
Bono
Brown (FL)
Collins (GA)
Collins (IL)
Hall (OH)
McNulty
Metcalf
Moakley
Murtha
Peterson (FL)
Rangel
Rogers
Smith (MI)
Torkildsen
Towns
Whitfield

□ 1243

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. MEEHAN changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman I offer and amendment, amendment No. 44.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

Page 72, strike line 20 and all that follows through line 18 on page 73 and insert the following:

(b) BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH.—

(1) WATER QUALITY CRITERIA AND STANDARDS.—

(A) ISSUANCE OF CRITERIA.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

''(13) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

''(i) be based on the best available scientific information;

''(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

''(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

''(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.''.

(B) STANDARDS.—

(i) ADOPTION BY STATES.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(13) of the Federal Water Pollution Control Act not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act.

(ii) FAILURE OF STATES TO ADOPT.—If a State has not complied with subparagraph (A) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(13) of the Federal Water Pollution Control Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act. The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under such section 304(a)(13). The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

(2) COASTAL BEACH WATER QUALITY MONITORING.—Title IV (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

''SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

''(a) MONITORING.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(13), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

''(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

''(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

''(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

''(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters;

''(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

''(A) compliance with the applicable water quality standards for those waters; and

''(B) protection of the public safety; and

''(6) require, if the State has an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), that each coastal zone management agency of the State provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

''(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

''(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

''(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

''(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

''(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

''(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

''(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

''(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

''(f) DEFINITIONS.—For the purposes of this section—

''(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

''(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.''.

(3) STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOENS IN COASTAL RECREATION WATERS.—

(A) STUDY.—The Administrator, in co-operation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(B) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this paragraph, including—

(i) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(ii) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(iii) an evaluation of State efforts to implement this section, including the amendments made by this section.

(4) GRANTS TO STATES.—

(1) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to paragraphs (1) and (2) (including any amendments made by such paragraphs).

(B) COST SHARING.—The total amount of grants to a State under this paragraph for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to such paragraphs.

(5) DEFINITIONS.—In this subsection—

(A) the term ''coastal recreation waters'' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(B) the term ''floatable materials'' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator—

(A) for use in making grants to States under paragraph (4) not more than $3,000,000 for each of the fiscal years 1996 and 1997; and

(B) for carrying out the other provisions of this subsection not more than $1,000,000 for each of the fiscal years 1996 and 1997.

Page 204, line 14, strike ''406'' and insert ''407''.

Mr. PALLONE. Mr. Chairman, my amendment provides for a national uniform beach water quality testing and monitoring program that provides adequate protection for swimmers and flexibility for the States. It is basically oriented toward providing, if I could call it, a right-to-know for bathers and swimmers in the Nation's waters that they should know when the beach water quality is such that they should not be bathing in those particular waters or at that particular beach.

□ 1245

Again, the amendment provides for a nationally uniform beach water quality testing and monitoring program for bathers and swimmers, essentially to assure that bathers and swimmers on the Nation's beaches have a right to know and should know when the beaches are of such quality that they should not be swimming there.

The reason we need this amendment is because coastal areas are the most populated areas of the country and also the areas most rapidly being developed. The growth in population demands on sewer systems are extreme and have resulted in overflows contaminating coastal waters with human waste. This human waste is the leading cause of human health problems in coastal waters.

The coastal economy and the economy of our Nation in general is inextricably linked to the quality of our coastal waters. Coastal tourism, recreation, commercial fishing are all mutibillion-dollar industries and create thousands of jobs. The health and safety of coastal residents and visitors to coastal waters depend on it.

States have highly inconsistent water quality standards for sewage contamination, beach water quality testing, and beach closing standards and criteria. Monitoring in some States is completely absent. Most States have not even adopted EPA's recommended testing methods.

Essentially, this amendment is based on the Beaches, Environmental Assessment, Closure and Health Act of 1993, long championed by our former colleague, Mr. Hughes from New Jersey.

This language which we have in the amendment today enjoyed broad-based support and passed overwhelmingly, I stress overwhelmingly, in the House in the 101st and 102d Congresses. The amendment provides for a national uniform beach quality testing program. It requires the EPA to issue regulations on procedures to monitor coastal recreational waters, but it provides the States with flexibility in the way that they go about the monitoring program. It also establishes minimum standards to protect the public from pathogen contaminated waters and requires States to post signs at beaches alerting beachgoers whenever standards are violated.

It also requires the EPA and NOAA to conduct a study to develop better indicators for detection pathogenic risk to human health and guidance of marine debris, the floatables that many of us know occur, continue to occur, but really were a major cause for our beach closings in New Jersey back in 1987 and 1988.

Mr. Chairman, the focus of the bill basically is to ensure States have in place adequate beach testing programs. We provide authorization of $1 million to the EPA to carry out its responsibility and $3 million for States to have matching grants so that they can also follow up on this beach water quality and monitoring program.

Again, I would stress the lack of uniformity around the country with regard to beach closings is a major problem. In my own State of New Jersey, we do have a very good program that has moved forward in terms of monitoring beaches and making sure that they are closed when the water quality level if unacceptable for swimmers and bathers.

However, this is not the case nationally, and I would urge this amendment be passed so that, as I said, again, our bathers and swimmers and tourists that use the coastal waters of this Nation will know when it is safe to swim.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment, which is a mandate on States to monitor beaches and incorporates criteria for pathogens on the State water quality standards, and this would appear to me to be maybe one of the first examples we would have of a potentially unfunded mandate.

I wanted to address the author of the amendment with regard to the funding of this, whether any consideration has been given, or CBO has been asked to give, any sort of estimate as to what the cost of this might be applied nationwide.

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

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. PALLONE. I would say, first of all, again, I would point out that this amendment is exactly the same as legislation that passed in the last two

Congresses and that there were estimates made. The funding provided in the bill for the grant programs is basically in there to provide adequate funding for the States on a matching grant basis to do this kind of monitoring.

Now, again, I am not saying a lot of States do not already do this. Some do, some do not. What we are trying to do is provide uniform criteria and provide the States with some funding so that they can administer the program.

Mr. CLINGER. Reclaiming my time, I understand that while the amendment did pass in the previous two Congresses, it was given very minimal debate. We really have had not a full-scale discussion of this issue.

I would also point out that in the last two Congresses we did not have on the books, albeit not applicable, we did not have on the books an unfunded mandates statute.

Mr. PALLONE. I would point out to the gentleman that, you know, again, from a procedural point of view, that unfunded mandate legislation, of course, does not go into effect until next year. But I would maintain there is adequate funding in this bill, at least the authorization for it, to provide adequate funding to the States to do this type of monitoring.

Mr. CLINGER. It strikes me there are analogies here to the Great Lakes initiative where we have had some indication what the cost might be, but the costs became wildly beyond anybody's wildest dreams what it might actually involve.

At any rate, Mr. chairman, I must oppose the amendment, as the gentleman from New Jersey has indicated, that that State, New Jersey, has adopted pathogen criteria on their water quality standards. That is certainly something every State can and perhaps should consider, but what this amendment would do would be to force that, would make other States do precisely the same thing.

As I say, New Jersey may, and obviously does, consider it useful to have pathogen criteria, but other States may disagree or may have different criteria that they would prefer to pursue.

Point sources do not discharge pathogens. It is a very difficult task, sometimes almost impossible, to determine the source, so it is really unclear how a State may meet a pathogen standard if forced to adopt one, which this amendment would ultimately require, a forced adoption of pathogen standards.

So New Jersey may, indeed, think it is useful to monitor beaches. Other States may agree, and certainly that would be, in my personal idea, would be a good idea, but to force them under this, in this mechanism, I think is wrong.

H.R. 961 does, I would point out, acknowledge the importance, extreme importance, of monitoring by requiring EPA to develop monitoring guidance, to give guidance to the States on how to go about monitoring, but it is not a mandate. It is not something that is going to be forced, assuming again into Washington total wisdom, total knowledge how to do this. We have enough mandates already.

Mr. Chairman, I urge a ''no'' vote.

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

Mr. Chairman, there have been some Government programs we have seen throughout the years that have worked. We have seen some that have failed.

But few, from the perspective of my State of New Jersey, have been as successful as our ocean testing and monitoring program.

Since 1974, the State of New Jersey has developed a program to ensure to those who visit our beaches, those in our $18 billion tourist industry, if you swim in the waters off our shore, it is safe, it is clean, it is a place you would want to take your family. Today, 180 different locations and 143 bays and rivers are monitored continuously to assure that level of safety, and to anyone who in any summer visits those ocean locations, there is a perceptible and an overwhelming difference in the quality of the water and the enjoyment of your vacation time at a New Jersey resort.

We did it, Mr. Chairman, because we had no choice. There were allegations of sickness, implications of health, and, indeed, the economic losses were mounting. Restoring confidence to families and to business became critical.

In the last Congress, the Members of this institution recognized the success of this program and overwhelmingly, Democrats and Republicans, 320 strong, voted to have just such a program across the country. They were right then. The gentleman from New Jersey [Mr. PALLONE] is right now.

This is a program we should have on a national basis. It makes about as much sense, Mr. Chairman, for one State to have ocean monitoring and another not to have it as if the States would have individual air quality standards. It is only a few miles from the beaches of Coney Island, NY, to the beaches of Sandy Hook, NJ. If one State will have high standards and monitor and attempt to assure a quality of water and another State will not, it is no more than a swift breeze, an ocean current away from one State violating the standard of another.

Indeed, it goes to the very issue of federalism. These are the kinds of standards that were contemplated in forming a union to assure uniformity, safety for all of the States and their interests.

I trust, Mr. Chairman, that in each of our States we recognize the potential loss economically and in quality of life if people lose confidence in the basic American right on a weekend or a summer afternoon to take your child and your family to a beach. That is what life is all about, and if the Federal Government can mean anything to our families, for all of the excesses of other things it has done, all the programs that did not work, all the things we should eliminate, do we really want to go so far that as a Federal Government we cannot say to an individual American family, ''We will assure you you will know when your child walks into an ocean resort, that water will be safe and it will be to the highest standards, whether it is the Oregon, California, New York, New Jersey or Florida''? That is what the gentleman from New Jersey [Mr. PALLONE] asks, and almost to the person, Democrats and Republicans, have voted for exactly that in the past.

Today, we ask you to do so again.

I congratulate the gentleman from New Jersey [Mr. PALLONE] for offering this amendment. I am very proud to have joined with him in his sponsorship, and I am very proud that my State uniquely has taken the lead in setting these high standards.

Mr. Chairman, the alternative situation is this: Some States will offer their citizens no assurance at all. Twenty-two other States will have 11 different standards, conflicting, lower but without any minimum Federal guarantee. As we offer this for the air we breathe and the water we drink, the ocean that would receive our families should have no less.

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

I will not take the 5 minutes.

I simply rise in strong opposition to this.

New Jersey certainly can impose whatever regulatory requirements they have, but to mandate what New Jersey says is good for New Jersey on the other 49 States, I think, is wrong.

We have required EPA to develop monitoring guidance, but not a mandate. This is just one mandate, and it should be defeated.

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

Mr. Chairman, I support the gentleman's amendment.

Water pollution at beaches poses a special health problem because these are the places where people, including numerous children, come into direct contact with dirty water. With little protection, and sometimes without warning, people are exposed to serious water-borne diseases.

Coastal waters are also particularly susceptible to pollution because virtually all of the water eventually drains to the sea. As water flows toward the coast, pollutants are picked up and become increasingly concentrated. The result is a very serious health problem and a very serious environmental problem.

This amendment provides very necessary protection to the public who visits our coastal recreation areas. It would require EPA to issue water quality criteria for pathogens, and States to establish water quality standards, in

these areas. It would also require a State program to monitor beach water quality, and to notify local governments and the public of violation of applicable water quality standards.

This is the approach that has brought us most of the improvement in water quality under the Clean Water Act to date. We should expect it to be equally effective in addressing beach water pollution problems.

Mr. Chairman, I urge adoption of the Pallone amendment.

□ 1300

Mr. PALLONE. Mr. Chairman, I thank the gentleman for yielding. I will be brief. My only point is essentially I believe that this amendment, more than anything else, is what I call a right-to-know amendment. In other words, when people are swimming or bathing, they should know whether the water quality is clean enough. I do not think it matters whether you are in New Jersey or any other State. The problem is, without some sort of national standard and program for testing, with flexibility for the individual States about how they go about it, there is no way for a bather or swimmer to know when they are swimming whether the water quality is adequate.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 251, not voting 8, as follows:

[Roll No. 317]

AYES—175

Ackerman
Andrews
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mineta
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—251

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Bono
Collins (IL)
Laughlin
Miller (CA)
Moakley
Norwood
Peterson (FL)
Rogers

□ 1320

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. BAESLER changed his vote from ''aye'' to ''no.''

Mr. FRANK of Massachusetts and Mrs. KENNELLY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HOBSON). Are there further amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: PAGE 170, LINE 19, STRIKE ''ISSUING''.

Page 170, line 20, before ''any'' insert ''issuing''.

Page 170, line 24, strike ''or''.

Page 171, line 1, before ''any'' insert ''issuing''.

Page 171, line 3 strike the period and insert a semicolon.

Page 171, after line 3, insert the following:

''(3) granting under section 301(g) a modification of the requirements of section 301(b)(2)(A);

''(4) issuing a permit under section 402 which under section 301(p)(5) modifies the requirements of section 301, 302, 306, or 307;

''(5) extending under section 301(k) a deadline for a point source to comply with any limitation under section 301(b)(1)(A), 301(b)(2)(A), or 301(b)(2)(E) or otherwise modifying under section 301(k) the conditions of a permit under section 402;

''(6) issuing a permit under section 402 which modifies under section 301(q) the requirements of section 301(b), 306, or 307;

''(7) issuing a permit under section 402 which modifies under section 301(r) the requirements of section 301(b), 306, or 307;

''(8) renewing, reissuing, or modifying a permit to which section 401(o)(1) applies if the permittee has received a permit modification under section 301(q) or 301(r) or the exception under section 402(o)(2)(F) applies;

''(9) extending under section 307(e) the deadline for compliance with applicable national categorical pretreatment standards or otherwise modifying under section 307(e) pretreatment requirements of section 307(b);

''(10) waiving or modifying under section 307(f) pretreatment requirements of section 307(b);

''(11) allowing under section 307(g) any person that introduces silver into a publicly owned treatment works to comply with a

code of management practices in lieu of complying with any pretreatment requirement for silver;

''(12) establishing under section 316(b)(3) a standard other than best technology available for existing point sources;

''(13) approving a pollutant transfer pilot project under section 321(g)(1); or

''(14) issuing a permit pursuant to section 402(r)(1) with a limitation that does not meet applicable water quality standards.

Mr. MINETA. Mr. Chairman, I want to thank the Chairman for his diligence in chairing the Committee of the Whole House.

Mr. Chairman, this bill would allow new waivers for as many as 70,000 chemical pollutants, waivers which would allow some to trade air pollution credits in one area for the right to dump extra pollution into the river in another area, waivers to industrial polluters discharging into municipal sewer systems, waivers for innovative technologies, waivers for mining, pulp and paper, iron and steel, photo processing, food processing, electric power, cattle, oil and gas, and waivers from water quality standards if you say you are in a watershed. And this is not an exhaustive list.

As a result, an enormous number of decisions are going to have to be made about waivers, and those decisions taken together will have an enormous effect on the environment and on the costs of compliance. In fact, taken all together, these decisions on all these waiver requests will be very important regulatory decisions.

There has been a lot of talk in recent months about cost-benefit analysis and risk assessment, and how important these tools are when making regulatory decisions involving tradeoffs between costs and benefits. Many have defended the new cost-benefit and risk assessment proposals as better ways to make regulatory decisions, and they have denied that they were merely trying to hamstring the issuance of new regulations.

Here's our chance to show what it is that we really mean. The waiver decisions in H.R. 961 would constitute important regulatory decisions and they should be subject to an assessment of the risks they pose. My amendment would apply risk assessment to those aspects of the bill where it is most desperately needed.

Opponents of this amendment will say that there is no need to apply the risk assessment provisions to these waivers since the risk assessment will have been done in establishing the original standard from which the waiver is granted. But that argument just further justifies my amendment.

When the basic requirements from which waivers are requested are put in place, a risk assessment determined that the required measures were justified by the risks which would be avoided. Now, under the bill, industry will have the opportunity to do less than the basic standard—the standard which the risk to be addressed justified. If undertaking the basic requirement is justified by the reduction of risk, shouldn't we know what the risks are of doing something less than what has been determined to be justified? Sound risk assessment demands no less.

My amendment expands the use of risk assessment under the bill. This amendment would simply say that in making the decision to grant these waivers, EPA should do the same risk assessment that this bill would require of many other regulatory decisions. If it's a good way to make regulatory decisions, then let's use it. We owe it to our constituents to be able to say that when industry receives a waiver from the basic, minimum requirements of the Clean Water Act, we required that there be an assessment of the risks posed by such a waiver.

Support my amendment to achieve consistency in and expand the use of risk assessment.

Mr. MICA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I greatly respect the gentleman from California and his leadership on many issues in the transportation and public works arena, but I rise this afternoon in strong opposition to the amendment he has proposed.

Let me say first of all that this amendment was very soundly rejected in the committee by a very large and wide bipartisan majority of 38 to 18. Earlier in the debate, the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], referred in his comments on the floor to the liberals big lie strategy to try and defeat this bill.

This amendment is predicated on one of the small fibs that makes up the big lie strategy, I am afraid to say.

This amendment is based on the fiction that risk assessments only apply when standards are being made stronger and do not apply if they are being made weaker. It masquerades as what is good for the goose is good for the gander in the form of an amendment.

This is simply not true, and I will demonstrate that fact in just a minute.

First, let me tell you why the bill distinguishes between generally applicable regulations and site-specific decisions. The reason for this distinction is already clear to the sponsor of this amendment.

I might note that the dissenting views in the committee report support national affluent limitations over site-specific standards because they allow the regulator to implement the Clean Water Act without exhausting resources on complex resource-intensive scientific adjustments, such as those required under many of the waiver provisions of H.R. 961.

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I agree that the amount of risk assessment analysis necessary to make up a site-specific permit modification should be left up to the EPA or the State. Some site-specific modification will undoubtedly be needed, but others will not. As the report language warns, a mandatory risk assessment would unnecessarily exhaust precious resources in these cases. Let me tell the Members why this amendment is based on a fib.

The fact is the bill already allows a what-is-good-for-the-goose-is-good-for-the-gander philosophy. There are simply two separate flocks of geese here. The first flock are local site-specific decisions. Site-specific permit modification, regardless of whether a limitation is being made more or less stringent, will not automatically trigger a risk assessment.

For instance, under section 402, EPA can tighten the limitations in a facilities permit based on new site-specific information showing greater ecological harm than was previously expected. H.R. 961 does not require EPA to perform a risk assessment to make the permit more stringent.

The second flock, using that analogy, are significant regulations, such as effluent limitation guidelines for a class of industry. They must be supported by sound risk assessment, regardless of whether they are raising or lowering regulatory requirements, because they can have potentially broad and important effects on a large number of people.

For instance, any deregulation that may be necessary to refocus EPA's priorities will be subject to a risk assessment. What is particularly ironic about this amendment is that it actually does the opposite of its stated purpose. Far from treating all requirements equally, the list of waivers and permit modification it would subject to risk assessment do not include any modification that would tighten permit requirements.

The Mineta amendment before us would not apply risk assessment when EPA wants to tighten requirements for a permittee, but magically, risk assessment would be necessary before a permittee would be granted any kind of variance, no matter how minor. This approach is a microcosm of a well-worn extreme environmentalist strategy: scream long, scream loud about any alleged advantage so-called polluters are getting, while you slip in your own fix that gives you the very advantage you were just condemning.

The American people have really been turned off by this mixture of arrogance and hypocrisy that has been displayed in the past, and this is no place for this today. That is why Congress has overwhelmingly passed risk assessment in every consistent vote before this body by wider and wider margins. That is why we must defeat this amendment. It is an ill-conceived amendment. It does just the opposite of what we need to do.

Mr. Chairman, I strongly oppose this amendment. I urge my colleagues to defeat this amendment, and let us pass a good revision to our clean water legislation.

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

Mr. Chairman, I support this commonsense amendment offered by the gentleman from California.

If we are serious about apply risk assessment to the Clean Water Act then we should apply it to proposals to grant waivers of the Clean Water Act.

What could have more risk associated with it than relaxing pollution control standards?

These waivers raise the possibility of adding serious and harmful pollutants into our Nation's rivers, lakes, and streams.

If we are going to allow these waivers, we should at least subject them to the same risk analysis as other parts of the clean water program.

If these waivers can withstand the scrutiny of risk analysis, then there is even more reason for granting them.

If they cannot measure up, they should not be allowed.

This bill allows waivers of the Clean Water Act's requirements to limit discharges into the waters.

I do not believe there is a full understanding of the meaning of those waivers.

The waiver proposal has not been subjected to any kind of scientific evaluation.

The Mineta amendment would apply science—good science—and risk analysis to these waivers.

If we want to limit these waivers to areas where they won't harm the environment, this is the right amendment.

I urge passage of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 271, not voting 11, as follows:

[Roll No. 318]

AYES—152

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bono
Boucher
Brown (CA)
Coleman
Collins (IL)
Davis
Martinez
Moakley
Peterson (FL)
Rogers
Torres

☐ 1354

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mrs. MEYERS of Kansas changed her vote from ''aye'' to ''no.''

Mr. COSTELLO changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BUNNING of Kentucky. Mr. Chairman, I was back in Kentucky on personal business yesterday attending the funeral of Shirley Rogers, the late wife of my Kentucky colleague, HAL ROGERS. I was not present for rollcall votes Nos. 311 through 314.

I would like for the RECORD to show that if I had been present I would have voted ''yes'' on rollcall vote No. 311, ''no'' on rollcall vote No. 312, ''no'' on rollcall vote No. 313, and ''no'' on rollcall vote No. 314.

AMENDMENTS OFFERED BY MISS COLLINS OF MICHIGAN

Miss COLLINS of Michigan. Mr. Chairman, I have a series of amendments at the desk, amendments 9, 10, 11, 12, and 13. I ask unanimous consent that they be considered en bloc. It is my understanding that the majority has no objection to this.

The CHAIRMAN pro tempore (Mr. HOBSON). The Clerk will first designate the amendments.

The text of the amendments is as follows:

Amendments offered by Miss COLLINS of Michigan:

Page 62, after line 14, insert the following:

(d) CONSIDERATION OF CONSUMPTION PATTERNS.—Section 304(a) if further amended by adding at the end the following:

''(13) CONSIDERATION OF CONSUMPTION PATTERNS.—In developing human health and aquatic life criteria under this subsection, the Administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments at disproportionately high risk, such as minority populations, children, and women of child-bearing age.''.

Page 62, line 15, strike ''(d)'' and insert ''(e)''.

Page 63, line 4, strike ''(e)'' and insert ''(f)''.

Page 63, line 24, strike ''(f)'' and insert ''(g)''.

Page 64, line 4, strike ''(g)'' and insert ''(h)''.

Page 73, strike lines 19 through 22 and insert the following:

(c) FISH CONSUMPTION ADVISORIES.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

''(o) FISH CONSUMPTIONS ADVISORIES.—

''(1) POSTING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations establishing minimum, uniform requirements and procedures requiring States, either directly or through local authorities, to post signs, at reasonable and appropriate points of public access, on navigable waters or portions of navigable waters that significantly violate applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.

''(2) SIGNS.—The regulations shall require the signs to be posted under this subsection—

''(A) to indicate clearly the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption;

''(B) to be in English, and when appropriate, any language used by a large segment of the population in the immediate vicinity of the navigable waters;

''(C) to include a clear warning symbol; and

''(D) to be maintained until the body of water is consistently in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated for the body of water or portion thereof.''.

Page 73, after line 18, insert the following:

(c) FISH AND SHELLFISH SAMPLINGS.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

''(n) FISH AND SHELLFISH SAMPLINGS; MONITORING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and analysis and uniform requirements for monitoring of navigable waters that do not meet applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.''

Page 73, line 19, strike ''(c)'' and insert ''(d)''.

Page 203, after line 8, insert the following:

SEC. 410. ENVIRONMENTAL JUSTICE REVIEW.

Section 402 (32 U.S.C. 1342) is further amended by adding at the end the following:

''(u) ENVIRONMENTAL JUSTICE REVIEW.—No permit may be issued under this section unless the Administrator or the State, as the case may be, first reviews the proposed permit to identify and reduce disproportionately high and adverse impacts to the health of, or environmental exposures of, minority and low-income populations.''.

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 213, after line 14, insert the following:

SEC. 508. DATA COLLECTION.

Section 516 (33 U.S.C. 1375) is amended by inserting after subsection (e) the following:

''(f) DATA COLLECTION.—

''(1) IN GENERAL.—The Administrator shall, on an ongoing basis—

''(A) collect, maintain, and analyze data necessary to assess and compare the levels and sources of water pollution to which minority and low-income populations are disproportionately exposed; and

''(B) for waters receiving discharges in violation of permits issued under section 402 or waters with levels of pollutants exceeding applicable water quality standards under this Act, collect data on the frequency and volume of discharges of each pollutant for which a violation occurs into waters adjacent to or used by minority and low-income communities.

''(2) PUBLICATION.—The Administrator shall publish summaries of the data collected under this section annually.''.

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 236, strike lines 13 and 14.

Page 236, line 15, strike ''(k)'' and insert ''(j)''.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

(Miss COLLINS of Michigan asked and was given permission to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr Chairman, my amendment in part directs the Administrator to take into account the differing consumption patterns of different segments of the population when developing water quality criteria.

There is compelling evidence to show that different segments of our population consume greater quantities of fish per capita than do others. Consequently, if the fish are tainted with toxic compounds, these segments of the population would be at far greater risk of health problems than others.

One specific example is in my home State of Michigan. There, different native American ethnic groups such as the Ottawa and Chippewa have a long and well-documented fishing culture. Studies have shown their fish consumption rate to be as high as four times the rate of the average Michigan resident. These higher consumption rates coincide with higher average level of PCB's in the blood of these people.

The Michigan native Americans provide only one example of this problem. So, consequently, I ask that in developing human health and aquatic life criteria under this subsection, the administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments with disproportionately high risk such as minority population, children, and women of childbearing age.

The next amendment asks that not later than 18 months after the enactment of this act the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and uniform requirements for monitoring of navigable waters that do not meet applicable water standards under this act or that are subject to a fishing ban, advisory, or consumption restriction. The amendment asks that the States have uniform requirements to either directly or through local authorities post signs at reasonable and appropriate points of public access.

These amendments are designed for those who rely on lakes and rivers and other navigable waters as a recreation or sustenance. They work together, so there I am presenting them together. The problems addressed by these amendments are quite serious. One-third of the Nation's shellfish beds are closed or restricted to harvest due to pollution. In 1992, over 2,600 beaches were closed or placed under swimming advisories because of dangers to public health. However, there are no uniform requirements for fish and shellfish bans or advisory and consumer restrictions.

Moreover, there are no Federal requirements for public notification when water quality standards are violated. Unfortunately, there is a great disparity in the manner in which States monitor water safety for fishing and swimming. There is also much disparity in their means for notifying the public.

The problems are especially significant for people who depend on local fishing as a regular food source because they may be subjected to higher doses of contaminants.

The public has a right to know if their waters are safe for swimming or fishing, and these amendments will justify that need.

Mr. Chairman, my next amendment seeks to include impact evaluations on minority and low-income populations in their review of pollution discharge permit applications.

Studies by the Environmental Protection Agency, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated beyond any reasonable doubt that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than other neighborhoods. Consequently, these neighborhoods suffer greater exposure to health risk. In fact, the President issued Executive Order 12–898 in February 1994 to address issues related to environmental justice in minority and low-income populations.

This amendment would ensure that all permit applications under section 402 of the Clean Water Act be reviewed for their effect on minority and low-income populations. This amendment sends a message that minority neighborhoods and water tables will not be dumping grounds for irresponsible toxic waste dumpers. Mr. Chairman, this amendment seeks to collect and publish data on water pollution affecting minority and low-income populations. The need for such a function is clear. Many different studies have shown a strong correlation between race and income and exposure to unsafe environmental factors.

Studies by the EPA, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than are other neighborhoods. For example, three out of the Nation's five largest waste disposal facilities are located in minority areas, including Emil, AL, site of the biggest toxic landfill in the United States. Also, the Nation's biggest concentration of hazardous waste sites is on Chicago's South Side, where the residents are predominantly African-American.

A personal example concerns my hometown of Detroit where the University of Michigan researchers assessed the relative influence of income and race on the distribution of waste management facilities. Their study found that minority residents were four times more likely than white residents to live within a mile of commercial hazardous waste facility, and that race was a better predicator of proximity to the site than was income. In the name of equality and decency, I ask all my colleagues to support this en block amendment.

In the name of equality and decency, I ask all my colleagues to support this enbloc amendment.

□ 1400

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

I must reluctantly oppose these amendments from my good friend. These amendments simply represent the mandating of more regulations so that specific groups will get special protection.

The goal of all environmental legislation is to protect all people from unreasonable risks. The EPA already has sufficient authority to consider the effects on sensitive subject populations in the design of their standards. EPA already is factoring environmental justice considerations into all of its programs. And nothing in this legislation would prohibit those considerations.

We simply believe that we should not be creating new regulations. We should not be forcing EPA, we should not be micromanaging EPA to do what they already have the authority to do if they decide it is in the best interests of the environment in our country.

Further, section 323(b) of our bill requires risk assessment used to develop water quality criteria to provide a description of the specific populations subject to the assessment.

So for all of those reasons, while these are very well-intentioned en bloc amendments, I must urge their defeat.

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

Mr. Chairman, I rise in strong support of the en bloc amendment offered by our fine colleague, the gentlewoman from Michigan.

These amendments attempt to provide protection against disease caused by consumption of contaminated fish and shellfish caught from polluted waters.

Waterborne diseases are hazardous to your health. We may recall that more than 100 people died in Milwaukee when they drank contaminated water. Eating contaminated seafood is no less deadly.

This amendment would require scientifically sound sampling and monitoring of fish and shellfish, as well as posting of signs on navigable waters that significantly violate applicable water quality standards. Doing so will let us know if the catch is safe to eat, and if it is not, warn people against eating it.

Low-income and minority communities often are exposed to a higher level of water pollution than society as a whole. To adequately protect residents of these at-risk communities, we need good information and special recognition of their disproportionate exposure.

That is what this amendment will do. It would require EPA to take steps to minimize the health and environmental impacts on poor and minority populations when issuing discharge permits. It would also require EPA to take into account consumption patterns of poor and minority when developing water quality criteria.

These efforts will help address the higher risks facing these communities. I urge support of the Collins enbloc amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Collins en bloc amendments, and I want to tell this group much progress has been made since the Clean Water Act has been enacted. It is one of our Nation's success stories, but much still remains to be done. One-third of the Nation's shellfish beds are still closed or restricted to harvest; one-half of the Nation's rivers are polluted; and there are still great disparities as to how States monitor pollution and warn citizens of polluted waters. Florida was once called the polluted paradise. Many other States still have that distinction, they still can be called polluted areas.

This, Mr. Chairman, puts many Americans at risk. Studies show that many minorities and particularly the poor search for fish and use fish for subsistence. They live from their daily fishing catch.

The clean water bill before us today is really a misnomer, Mr. Speaker. It will not provide clean water. It does nothing to address environmental inequities faced by millions of minority and low-income Americans. Their communities are exposed to disproportionately high levels of pollutants that end up in the water supply.

This environmental injustice is real, Mr. Chairman, and it must be stopped. But the bill before us today is virtually silent on environmental injustice. It ignores the years of environmental abuse suffered by minority and low-income communities across this great country of ours, whether they are farm workers, inner-city teenagers, native Americans on reservations, or minorities in small towns.

The Collins amendments will begin to bring some justice to those Americans who face daily environmental threats to their health.

Mr. Chairman, I urge my colleagues in support of environmental justice to support the Collins amendments.

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

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

Mr. BECERRA. Mr. Chairman, I also rise in strong support of this en bloc amendment offered by my esteemed colleague from Michigan. It is true that at times we try to do our utmost to protect our societies and our communities from pollution, from hazards, from the environment when we create those hazards. But oftentimes we do not succeed.

It is unfortunate that current law has not done the job of protecting certain communities, mostly low-income communities, minority communities, when it comes to things like environmental hazards. Let me give some very concrete examples.

I represent a portion of the city of Los Angeles. I happen to represent, in portions of my district, some of the wealthiest individuals in Los Angeles, and at the same time in another portion of my district I represent individuals of very low income.

On one end of my district I have no freeways crossing through the district. I have no problems with waste dumps. I have no problems with projects for incineration plants or for pipelines for oil to be passed through. But on the other side of my district, I do. I have a district that has within its 5-mile radius around seven prison facilities that have been housed there over the last 10 years as a result of a supposed need by the county to have a place to house prisoners. We have a toxic waste dump that is on the EPA site for cleanup, and it must be taken care of because it is emitting pollutants and hazardous emissions. I had, at one point nearby, a proposal to build a toxic waste incineration plant in the district or close to the district. It has not gone through, but clearly present law was not enough to protect this. Current legislation is not enough to protect, and we need the en bloc amendments by the gentlewoman from Michigan to make sure we do so, because there is a danger, it is clearly the case, the facts show it, that disproportionately minority communities, low-income communities share the exposure, the highest exposure and the burden of that exposure of those environmental hazards.

We should and we must do what we can to ensure that there is equal treatment of all communities when it comes to hazardous wastes to make sure that they are all protected, but oftentimes we do not go far enough. This gives us an opportunity to ensure that the past wrongs can be righted and that we will never make those mistakes again, so that every community, whether they are very empowered, very enfranchised, or not, have the opportunity to say that they will benefit from the protections of our environment that we are trying to do here today.

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

Mr. Chairman, it is clear that all of us do not represent districts that are exactly alike. My district is very similar to Congressman BECERRA's. We have right now a Superfund site.

I do not think we can address water in this country without addressing health status in this country. And unfortunately, this bill which is before us fails to address this issue from the standpoint of public health. This poses a very serious problem. In families with annual incomes at or below poverty, almost 70 percent of black children suffer from high lead blood levels, while only 36 percent, which is much too high, of the nonblack children. Blood poisoning is the most preventable disease that we can address. It is identifiable. We just need the protections to do it. We know what levels; our scientific levels and science has taught us that.

What we need now are standards that ensure that all of our citizens are protected. Women living less than 1 mile from a hazardous waste site have a 12-percent higher risk of having a child with a birth defect than other mothers. Three million homes or 74 percent of all private housing built before 1980 contains some lead paint.

□ 1415

Minority and low-income people are more likely to live in these older homes. The lead which they are exposed to is stored in the bone, and later calcium and lead are released into the bloodstream, placing these people, particularly women, at risk for continuing lead poisoning many years later.

We are considering now the costs of health care. We cannot do that in a vacuum. We must consider all of the things that lead to a large price tag when we talk about the cost of health care. We cannot afford to ignore a very preventable illness that is so common among the poor.

We cannot stand here and say that we are upholding our oath without remembering that we have a large percentage of poor people and poor children in this country, and they live in the areas that many of us might not see, but that does not mean they do not exist.

The clean water bill now before us is notably silent about these and other important issues relating to the health of minorities and low-income Americans.

These amendments offered by my colleague, the gentlewoman from Michigan [Miss COLLINS] take an important step toward addressing these concerns, and I urge this body, I urge my colleagues who might not know of these kinds of areas, to please give serious consideration in supporting these amendments.

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

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

It is time to do right by our Nation's poor and minority communities. Too often, we throw garbage, place incinerators and dump dirty water in these communities.

This amendment is an important step in making a bad bill better. People have a right to know what is in their water, the water they drink. The poor and minorities have the same right to clean water as the rest of us.

Mr. Chairman, our right to clean water is threatened.

In 1972, Democrats and Republicans came together to end pollution of our water. They recognized that no industry, no person—no matter how rich or how powerful—has the right to poison our streams, our lakes, or our people.

The Clean Water Act is a proud, bipartisan law that stands up for the common person. It says ''no'' to those who would poison our environment. We must not allow it to be weakened.

I plead, with all my colleagues to make this bad bill a little bit better. Support the Collins en bloc amendment.

Mr. STOKES. Mr. Chairman, I rise in support of the Collins amendments.

Mr. Chairman, although pollution affects all people, no matter where they live, direct exposure to water pollutants and other environmental hazards are disproportionately distributed. Data now indicate that low-income, racial and ethnic minorities are more likely to live in areas where they face environmental risk.

However, a stronger data base is needed to better understand the problems, to identify solutions to those problems and evaluate the efficacy of programs that address the problems. This is why it is imperative that the Environmental Protection Agency collect and analyze data on sources of water pollution to which minorities and low-income populations are disproportionately exposed. For example there are clear situations where certain populations are exposed to higher levels of pollutants in waters. Thus it is essential that prior to the granting of discharge permits, the Environmental Protection Agency review the permit application and related elements to ensure that minority and low-income communities will not be adversely impacted.

Recognizing that a number of factors might increase susceptibility to the effects of water pollutants, the environmental justice amendment calls for the development of water quality standards that take into consideration the variations in water usage among diverse segments of the population, including the high risk individuals such as pregnant women and children. These individuals may be more or less sensitive then others to the toxic effects of water pollutants.

Mr. Speaker, these and other provisions of the environmental justice amendment will help ensure that water improvement approaches are applied equitably across racial and socioeconomic groups, minority and low-income communities faced with a higher level of environmental risk.

Therefore, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Michigan [Miss COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Miss COLLINS of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 271, not voting 10, as follows:

[Roll No. 319]

AYES—153

Abercrombie	Gephardt	Owens
Ackerman	Gibbons	Pallone
Andrews	Gonzalez	Pastor
Barcia	Green	Payne (NJ)
Barrett (WI)	Gutierrez	Pelosi
Becerra	Hall (OH)	Pomeroy
Beilenson	Harman	Poshard
Bentsen	Hastings (FL)	Rahall
Berman	Hayes	Rangel
Bishop	Hefner	Reed
Bonior	Hilliard	Reynolds
Borski	Hinchey	Rivers
Brown (CA)	Hoyer	Roemer
Brown (FL)	Jackson-Lee	Rose
Brown (OH)	Jacobs	Roybal-Allard
Bryant (TX)	Jefferson	Rush
Cardin	Johnson, E. B.	Sabo
Clay	Johnston	Sanders
Clayton	Kaptur	Sawyer
Clyburn	Kennedy (MA)	Schroeder
Coleman	Kennedy (RI)	Schumer
Collins (MI)	Kennelly	Scott
Conyers	Kildee	Serrano
Costello	Lantos	Skaggs
Coyne	Levin	Slaughter
de la Garza	Lewis (GA)	Stark
DeFazio	Lincoln	Stokes
DeLauro	Lipinski	Studds
Dellums	Lofgren	Stupak
Deutsch	Lowey	Thompson
Diaz-Balart	Maloney	Thornton
Dicks	Manton	Thurman
Dingell	Markey	Torres
Dixon	Martinez	Torricelli
Doggett	Matsui	Towns
Durbin	McDermott	Traficant
Engel	McHale	Tucker
Eshoo	McKinney	Velazquez
Evans	Meehan	Vento
Farr	Meek	Visclosky
Fattah	Menendez	Volkmer
Fazio	Mfume	Ward
Fields (LA)	Miller (CA)	Waters
Filner	Mineta	Watt (NC)
Flake	Mink	Waxman
Foglietta	Moran	Williams
Ford	Nadler	Wise
Frank (MA)	Neal	Woolsey
Frost	Oberstar	Wyden
Furse	Olver	Wynn
Gejdenson	Ortiz	Yates

NOES—271

Allard	Barr	Bilirakis
Archer	Barrett (NE)	Bliley
Armey	Bartlett	Blute
Bachus	Barton	Boehlert
Baesler	Bass	Boehner
Baker (CA)	Bateman	Bonilla
Baker (LA)	Bereuter	Brewster
Baldacci	Bevill	Browder
Ballenger	Bilbray	Brownback

Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Bono
Boucher
Collins (IL)
Fields (TX)
McDade
Moakley
Oxley
Peterson (FL)
Richardson
Rogers

☐ 1437

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. RIGGS changed his vote from ''aye'' to ''no.''

Mr. ORTIZ changed his vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: Page 172, line 14, insert ''similar'' before ''risks''.

Page 172, line 15, before the period insert the following: ''regulated by the Environmental Protection Agency resulting from comparable activities and exposure pathways''.

Page 172, after line 15, insert the following: Comparisons under paragraph (7) should consider relevant distinctions among risks such as the voluntary or involuntary nature of risks and the preventability and nonpreventability of risks.

Page 173, line 18, after the period insert closing quotation marks and a period.

Page 173, strike line 19 and all that follows through page 172, line 17.

Page 176, lines 10 and 11, strike ''the requirement or guidance maximizes net benefits to society'' and insert ''the incremental benefits to human health, public welfare, and the environment of the requirement or guidance will likely 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''.

Page 178, line 14, insert ''and benefits'' after ''costs''.

Page 179, strike line 3, and all that follows through page 180, line 22.

Page 180, line 23, strike ''(g)'' and insert ''(f)''.

Mr. MINETA. Mr. Chairman, this amendment would make this bill's provisions on risk assessment and cost-benefit analysis consistent with those in H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995 already passed by the House earlier this year.

This bill requires elaborate risk assessment and cost-benefit analysis to be performed before regulations to protect clean water can be issued.

The argument in favor of these requirements is that the House has already spoken on the issue of risk assessment and cost-benefit analysis, and we should be consistent with it in the Clean Water Act.

But the provisions in this bill are not consistent with H.R. 1022—they are more extreme and more onerous in three key respects.

First, regarding comparative risk analysis, H.R. 961 would have EPA and the Corps of Engineers compare the risks which are the subject of their rulemaking to not only risks that they know something about, such as the health effects of toxics in water or flooding due to filling of wetlands, but also risks about which they know nothing, such as auto accidents on highways or building collapse due to earthquakes. H.R. 1022 specifically rejected having agencies make risk comparisons outside their areas of expertise, because of a valid concern that agencies wouldn't know what they were doing.

Second, this bill contains a look-back provision which would require risk assessment and cost-benefit analysis to be applied to existing, as well as proposed, regulations. This was the Barton amendment to H.R. 1022, but without safeguards to protect the risk assessment process. This issue was specifically rejected on the House floor during debate on H.R. 1022. The House rejected Mr. BARTON's look-back idea because of concerns that it would overwhelm not only the regulatory process but also the risk assessment procedures, and subject them to endless legal challenges. We should not adopt in this bill what the House has earlier specifically rejected for the risk assessment bill.

And third, this bill goes well beyond the standard established in H.R. 1022, that regulatory benefits would likely justify, and be reasonably related to, costs. Instead, it requires a clean water regulation to maximize net benefits. H.R. 1022 did not adopt that standard because our ability to quantify all costs and all benefits is not that precise. Requiring an agency to select the one regulatory option with the highest net benefits, out of all possible options, assumes a level of measurement precision which does not exist in our agencies, nor can be achieved by cost-benefit analysis. H.R. 1022 did not adopt this standard for the simple reason that it was bound to fail.

Many have argued that on risk assessment and cost-benefit analysis we should be consistent with what the House did on H.R. 1022. That is exactly what my amendment does. I assume this amendment, therefore, will be noncontroversial, and urge its adoption.

☐ 1445

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

Mr. Chairman, again I rise in opposition to another amendment by the distinguished gentleman from California which, unfortunately, would also gut some of the provisions we have worked so hard to establish in this legislation dealing with risk assessment and cost-benefit analysis.

I would like to also share with my colleagues the fact that this amendment, just like the other amendment offered, again by the distinguished gentleman, was soundly rejected by our committee. This amendment has really a grab bag of provisions in it and changes, some of which there is good news for and some bad news for. Unfortunately, most of the news presented in this amendment is bad news.

Let me say, for instance, that the one good thing in this proposed amendment is that it would clarify that risk comparisons should include a discussion of differences between the nature of risks being compared. However, this is already addressed in section 324(b)(2)(C) on page 177, but it does not

really hurt to misstate as the champion of this particular amendment has offered.

Now, that is the good news. Now, my colleagues, let us look at the bad news, and there are a number of areas that fall into that category. Unfortunately, the majority of the changes proposed in the rest of this amendment are all undesirable, and I want to highlight a couple of these.

First, the amendment would change the cost-benefit criterion for maximizing net benefits to a weaker standard. The benefits must be ''reasonably related to the cost.''

This is a standard that already exists under certain sections of the Clean Water Act, such as section 302(b)(2)(A), and would be less than vigorous at weeding out unnecessary and really inept rules.

Further, this standard, since it does not address cost effectiveness, conflicts with the regulatory review criteria adopted by the House in H.R. 1022 this year that passed earlier by a wide margin.

Second, the amendment would greatly restrict the risks that EPA could use for comparison purposes. Under the amendment, EPA could only compare risks if they have already been regulated by EPA and result from comparable activities and exposure pathways. This would greatly diminish the benefit of risk comparisons.

For instance, part of the value of performing these comparisons is to see whether there may be other unregulated risks that deserve more immediate attention. This would not be possible under the amendment proposed by my good colleague.

Finally, and unfortunately, this amendment would wipe out the modest retroactive provisions of this bill. Let me say, I would like to see much more retroactive attention to all of these regulatory matters, even in this legislation.

For instance, the retroactive coverage has been described and misquoted, and let me give you one example here, by the National Wildlife Federation, as repealing ''23 years of existing major Clean Water Act standards by requiring extensive cost-benefit and risk assessment reviews for all major existing standards within an impossible deadline of 18 months.''

This is simply untrue and misleading. In fact, H.R. 961, our legislation, requires EPA to review only those regulatory requirements and guidelines issued after February 15, 1995, that would result in costs of $100 million or more per year. Such reviews must be completed within 18 months of enactment of this section.

Thus far, only one requirement, the Great Lakes Initiative, issued in March 1995, would need to be reviewed under this subsection. Further, since rules costing $100 million or more already are required to be evaluated by EPA and the Office of Management and Budget under Executive Order 12866, the committee expects that the retroactive review required by sections 323 and 324 will place little or no additional burden on EPA, assuming EPA has complied with the Executive order.

These are only three of the serious problems with the grab bag of changes proposed under this amendment, and any one of them is in fact enough for my colleagues to come forth and vote against this amendment.

Mr. Chairman, on the basis of just these three points, I urge my colleagues to vote against the amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MICA] has expired.

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

Mr. MICA. Mr. Chairman, let me say I appreciate the extension of time, and also the opportunity to talk about risk assessment, because this is probably the last frontal attack on risk assessment before the House of Representatives.

As my colleagues know, this issue came before the House in the last Congress and we were denied an opportunity to bring this forth in the form of a complete piece of legislation. It was never voted on as far as affecting all regulatory items before the Congress.

Now we have the first individual bill, a regulatory bill, a regulatory reform bill, and we have an opportunity to pass good cost-benefit risk assessment language. This is in fact going to be the last assault, I believe, on risk assessment.

So many of the colleagues who have come here on many occasions to vote for risk assessment will have that opportunity today. Many of the people who have come here and asked for cost-benefit analysis in the way we pass regulations in this Congress and through the agencies, the Federal Government, will have an opportunity to vote today. And once and for all we can bring common sense to a process, a regulatory process, that has been out of control, out of hand, put people out of work, out of business, out of jobs.

So I urge my colleagues to come to the floor this afternoon, defeat this final amendment that proposes a frontal assault on good risk assessment language and also on cost-benefit language that is so essential to have in this clean water bill. This is what this is all about, bringing common sense, bringing some light into an area of darkness in the regulatory processes of this country.

I thank the gentleman for the additional time.

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

Mr. Chairman, I rise in strong support of the Mineta amendment. I have to tell the House that the Democratic members of the House Committee on the Budget were put to a very difficult choice yesterday: Should we stay across the street in the Cannon Building and fight the surprise attack disclosed in its details for the first time yesterday morning of the Republican members of the Committee on the Budget to wreck havoc with Medicare, to break their promises with reference to Medicare, and to affect senior citizens across this country by reaching in their pocket and insisting they come up with more money to fund their health care, the same group that wants to challenge the middle class families of this country who want to send a child to college, to thwart their efforts by adding $5,000 to the cost of a Stafford loan, do we stay over there and fight that kind of surprise attack concocted in the shadows of this Capitol by secret Republican task forces, or do we come across the street and help the gentleman from California here on the floor of the Congress stave off the polluters who want to wreck one of the most effective pieces of environmental protection legislation that this country has ever known?

Well, it was a tough choice. But staying there from 10 in the morning until after 1 o'clock this morning did not stop a mean-spirited budget resolution from passing. But I hope it has helped inform the American people about what lies ahead, because with Mother's Day coming up, if there is any American citizen that has not yet bought a present for Mom, they better send her some money if she is on Social Security, because these Republicans are coming after Social Security and coming after Medicare.

Now, what about this issue of water? Not having had a chance to fight the battle yesterday, I do not quite understand why some of our Republican colleagues are so insensitive to the idea of clean water. Maybe it is because they drink Perrier all the time. I do not know what it is. But for whatever the reason, in my part of the country, Colorado on the rocks is still not a bad drink. You take Colorado River water that is pure, and you pour it over some good ice, and on a hot summer day in Texas it tastes might good. This battle is about protecting Colorado on the rocks, protecting the drinking water in the Colorado River, in the critical tributary of that river called Barton Creek, with a natural spring called Barton Springs, which is a source of entertainment and, I might say, a little coolness on a hot summer day in Texas.

Citizens all over central Texas are struggling to protect that natural resource. They recognize we have something very unique in the beauty and the quality of the water of the Colorado River and of Barton Springs, a place to swim, to fish, and, most importantly, a source of drinking water. And what is occurring today affects Austin, TX, very much, because we value our water. We have developed a balance between the necessary part of our economy, the need to expand and

develop and have jobs, and the recognition that does not have to be in conflict with clean water and the environment. Rather, the two can interface and work together.

Our children will benefit because we would not let those two very legitimate concerns get in conflict. What is occurring here today is an effort to thwart the attempt of the people of central Texas to protect their water supply.

Mr. Chairman, the bottomline is that this so-called Clean Water Act is really a dirty water act. And of the many horrible provisions of this bill, and goodness knows there are a lot of them, the one that the distinguished gentleman from California is now trying to fix concerning the standards for risk assessment is one of the worse.

What this measure does is to take an amendment that was rejected by the House Committee on Science, chaired by the gentleman from Pennsylvania [Mr. WALKER], and rejected here on the floor of the House. Let me tell you, an amendment that is so bad that it gets rejected in that committee is so bad you cannot scrub it down with a brush, Members.

Let me assure you that that committee on risk assessment—and let me remind you how it handled the risk assessment bill. This is a committee where when you ask the committee counsel about the risk assessment bill, he cannot give you an answer without turning over his shoulder and getting the answer from the lobbyists that helped draft the bill. That risk assessment bill is the one this House passed. It will be in this piece of legislation even if the amendment of the gentleman from California [Mr. MINETA] is adopted today. The question is, do we go even further than that?

Well, the amendment that is already in the bill has received bipartisan opposition. It was Senator CHAFEE, the Republican Member of the Senate, who indicated that this is not about good science, it is about gumming up the regulatory process or, to use his words, it is a recipe for gridlock. And that is all that people want who oppose this amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

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

Mr. DOGGETT. Mr. Chairman, risk assessment is a good concept if, and only if, risk assessment means good science. If risk assessment is only good politics, if risk assessment is only gumming up the regulatory process so that you cannot regulate and assure clean water, then it is a pretty worthless concept.

□ 1500

We get a good dose of that in this bill, because it was not 30 minutes ago that the distinguished gentleman from California said, well, let us have it both ways. If they are going to come along and weaken the process, if they are going to come along and have waivers so that polluters can pollute a little here on the side and a little there and a little here, then let us apply risk assessment to that. Was that amendment accepted? Absolutely not, because this is a one way street for polluters.

It is OK to pollute; do not get in the way of anyone trying to regulate the polluter. But if it is someone who wants to do something about regulating pollution, then let us erect as many barriers as possible.

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

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, is it not true that H.R. 1022 applies to all regulations that may be forthcoming under this legislation? The old risk assessment regulatory reform bill that we passed, the House passed back during the 100 days.

Mr. DOGGETT. It does that. This is a question of whether you go even further than that bad old amendment that we passed back then.

Mr. VOLKMER. Let us say that that bill goes on and eventually becomes law and then we have this bill go on with these provisions that the gentleman from Florida thinks so much about and this House does not think so much, if you follow the regulatory reform process in the House when we voted on these things, but, anyway, this passes. Now we have got two different, EPA, Corps of Engineers for everybody else to follow; is that correct?

Mr. DOGGETT. That is absolutely right.

Mr. VOLKMER. It is absolutely crazy. I do not generally disagree with the thrust of much of this legislation. As far as the agriculture sections of it, I love it. But when it comes to things like this, these are the kinds of things that make me question whether I want to vote for this bill.

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

With respect to the Mineta amendment, I would argue against this and in favor of the bill. President Clinton and Mrs. Browner and many in the press have stated over and over again that big business is responsible for the risk assessment and cost-benefit analysis. This legislation does have the support of over 1,000 industry trade associations, the NFIB, and the National Farm Bureau, but the truth is that the risk and cost-benefit agenda is long overdue and represents principles with broad-ranging support among State and local governments.

The claim that this is just an agenda of big business is nonsense. President Clinton and Mrs. Browner and the press know it. The National Governors Association states:

> Environmental requirements should be based upon sound science and risk-reduction principles, including the appropriate use of cost-benefit analysis that considers both quantifiable and qualitative measures. Such analyses will ensure that funds expended on environmental protection and conservation address the greatest risks first and provide the greatest possible return on investment.

The National Association of Counties in hearings before the Committee on Commerce stated:

> Congress should adopt legislation which requires federal agencies to provide fair, scientifically sound and consistent assessments of purported health, safety or environmental risks prior to the imposition of new regulations. It is just plain wrong to regulate without at least an attempt to make a scientifically based assessment of the risk that is sought to be abated, its relationship to other risks, and the costs involved.

The American public, by a margin of three to one, supports cost-benefit analysis. This amendment would significantly weaken that. That is why I would urge Members to vote against this amendment and in support of the bill.

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

Mr. GANSKE. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I just wanted to make a couple of responses in response to some comments that were made by a previous speaker who came to the floor and said that he was only given the opportunity to be at budget hearings or to run to the floor and talk about this clean water legislation. Indeed, those are some of the choices that we have to face.

We have to face the fact that literally for the last 40 years that we have, that this Congress has robbed every cookie jar in the country and that the cookie jars are all empty and we have busted the budget, and the country is in serious shape, financial shape, and facing a disaster. Those are the choices before us.

The choice is not a question of just balancing the budget or going on in the means that we have done in the past. The choice is that we, in fact, address these serious financial problems and that the cookie jar has been raided for the last time, and we have to make those choices.

The choice on the floor today that we run back and forth on relates to regulation and the regulatory process. We have so overregulated. We have had the experience of this law on the books and we know what it is doing. We know how it is driving people out of business, out of jobs, out of the open world competition market.

We know, in fact, that he talked about bottled water and Perrier. Well, there are probably no Federal regulations except for possibly some fancy labeling regulations. That is a situation we find ourselves in, we are swatting at the flies and missing the elephants. So we have to make those choices and we have to decide.

We have to bring into the regulatory process cost-benefit analysis and risk assessment, which is only a commonsense approach. This is not anything

that is intended to destroy the environment and have a lesser environment, have less pure water or air. It is to bring some reasonableness, some common sense to the process.

So whether it is the physical condition of the United States or the regulatory conditions imposed by this Congress in years and years of overregulation, those are the questions before us.

Now we have a chance with this amendment to defeat the progress we want to make in regulatory reform. I urge my colleagues to defeat the Mineta amendment. Let us go forward. Let us bring common sense to the process. Let us make this Congress work for the people and for business and for jobs and for competition rather than against folks and make some commonsense improvements in the process.

I thank the gentleman for yielding to me.

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

Mr. Chairman, I support the amendment offered by the gentleman from California [Mr. MINETA].

Very simply, the House spent a week debating the issues of risk assessment and cost-benefit determinations.

I did not agree with all of the outcomes but the House has made a determination.

Unfortunately, many of the provisions of this bill go far beyond the House-passed provisions.

In one case, this bill contains a look back provision that was specifically rejected on the House floor by a vote of 206 to 220.

The bill also contains language on maximum net benefits that goes well beyond the cost-benefit language approved by the House by a vote of 415 to 15.

Mr. Chairman, we should not go beyond what the House has already done.

I urge support for the amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words in support of the amendment.

Mr. Chairman, I rise in support of the amendment. I do so because the gentleman from Florida gave a very compelling speech here. It just did not happen to be accurate. Because the reason we have the Clean Water Act, the reason we have the Clean Water Act was not because of 40 years of overregulation. It was because of 100 years of people abusing the waterways of this Nation, abusing the airways of this Nation, abusing the natural resources and lands of this Nation that the taxpayers unfortunately now have had to come back and clean up much of that mess.

Without the Clean Water Act, without the Clean Air Act, there was no industry that walked into the Congress and said, I am going to voluntarily clean up the air in the San Francisco Bay area or in Los Angeles or in Cincinnati or in Philadelphia. There was no industry that walked in here and said, I will voluntarily take our sewage, our toxic materials from the steel mills, from the chemical mills, from the refineries out of the bays, out of the rivers, nobody did that. They fought this measure tooth and nail. They have been fighting it for 30 years.

But what has been the net result? The net result is we have the cleanest industry and the most efficient industries in almost every segment of manufacturing, of doing business in the entire world.

The auto industry is now more efficient and it is cleaner. And when you read the business journals, you will understand that much of that innovation, much of that technology, much of that efficiency came about as a result of having to comply with RCRA, with clean air, with clean water.

Why does Dow Chemical now recycle what used to be toxics that were taken off their site, or duPont? Because of the efficiencies that were built in and the cost that was built in when they could no longer dump it in the river, when they could no longer dump it in the land, when they could no longer dump it in people's backyards, when they had to think about how to do it.

What happens now? We refine more oil out of every barrel. We refine more materials and refine more products that are used in exports, that are used in products in this country than ever before. Why? Because it was subsidized before. It was subsidized by throwing it into the river, by sending it up a smokestack and not caring what happened.

If Members want to see what happens to those nations that chose another route, that chose not to have clean water in the 1960's and 1970's, 1980's and 1990's, go to Eastern Europe, go to Asia. You cannot breathe. You cannot go outside of your hotel. Citizens cannot live. They cannot grow vegetables. Lands are taken out of circulation.

No, this is a monument to success.

Wonderful speech by the gentleman from Florida. It simply was not accurate. It simply was not accurate. It was a bunch of anecdotal crap that cannot be supported on the record.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BORSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 262, not voting 15, as follows:

[Roll No. 320]

AYES—157

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—262

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum

McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Fattah
Frank (MA)
Lazio
Linder
Moakley
Parker
Peterson (FL)
Richardson
Rogers
Walsh

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1530

The Clerk announced the following pair:

On this vote:

Mrs. COLLINS of Illinois for, with Mr. BARTON against.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEFazio: Page 92, line 2, strike ''or other facility'', as inserted on page 14 of the committee amendment offered by Mr. Shuster.

Mr. DEFAZIO. Mr. Chairman, the amendment before the committee would restore three words that were in the act as it passed out of committee. Those three simple words, which were struck yesterday by the so-called technical amendments and an unamendable amendment at the beginning of consideration, are very important because they would subject the Federal Government of the United States and Federal facilities to the same laws that apply to every State, to every private entity in America and every municipal entity in America.

Should we grant a broad exemption to Federal facilities in this bill from the Clean Water Act when private contractors, industry, municipal governments, county governments, sewer districts and others cannot get such broad exemptions? I think that for the sake of consistency, most Members of the House would argue no.

We are going to hear further that this exemption is warranted for national security purposes, because most of these facilities, these are nuclear Navy facilities, are essential to the defense of the United States. There is another section in the bill, and that section allows the President of the United States, by simple Executive order, to exempt any Federal facility or operation from all the requirements of this bill, but that would require a separate action.

I would argue that that would be the more consistent way to deal with these facilities. If some of them truly need an exemption from the Clean Water Act, I do not know what they are doing or what they are putting in the water that they need exemptions. But if they need exemptions so that they can put things in the water that industries and local governments are not allowed to put in the water, then they should ask the Commander in Chief for individual exemptions so there is at least some level of accountability and scrutiny applied.

There are 10 States directly affected by this amendment, and a total of 12 States when you consider downstream entities. Again, the question is what is it that is objected to by the Federal Government? What can the Federal Government not do? What are they putting in the water?

I think the people who live in or represent those 12 States should ask that question. I think their constituents are going to ask them that question in the future. What are they putting in the water that we will not allow industry to put in the water, that we will not allow local governments to put in the water? What is the Federal Government putting in my water it needs a blanket exemption under the act?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, am I hearing what the gentleman said correctly, that all of the Navy nuclear facilities have been taken out and you did not know about this? Did I hear what he said?

Mr. DEFAZIO. Mr. Chairman, that is correct. The committee saw fit to include them under the bill and then the technical amendments removed them from the jurisdiction of this bill.

Mrs. SCHROEDER. If the gentleman would yield again, I have always really respected him. He is one of the few who really reads the bill. I assume he did not get any notice, he just found this out?

Mr. DEFAZIO. Mr. Chairman, I am afraid that neither the staff nor I caught this before the technical amendments had gone through the Committee on Rules.

Mrs. SCHROEDER. If the gentleman will continue to yield, how many facilities are there like this? I really find it amazing that the Federal Government does not want to be under the same law as everyone else is.

Mr. DEFAZIO. This would exempt 12 Federal facilities, Mr. Chairman, from the laws that every other local government, State government and industry would be subjected to. Furthermore, we will hear, I am certain, and the gentlewoman is familiar with this from her work on the committee, the claim that they need an exemption for national security purposes.

The bill allows the President with the stroke of a pen to exempt anything, any Federal facility, if that is necessary. Beyond that, two are closed and one is being decommissioned. Why would we remove a closed or a decommissioned facility from jurisdiction under the Clean Water Act for national security purposes?

Mrs. SCHROEDER. Mr. Chairman, I thought I heard what he said and I appreciate very much the gentleman clarifying that. That is really shocking. I hope people support the gentleman's amendment.

Mr. DEFAZIO. I thank the gentlewoman.

Again, just back to the basic point here. If indeed there is a threat to national security, particularly at those closed bases or the base that is being decommissioned——

The CHAIRMAN. The time of the gentleman from Oregon [Mr. DEFAZIO] has expired.

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

Mr. DEFAZIO. Mr. Chairman, again the question is, Why should we grant a blanket exemption under this bill when the President has the authority as Commander in Chief to exempt any individual military facility? In particular, why is it in the States of California, Idaho, and South Carolina that we would exempt facilities that are closed or being decommissioned? It is particularly puzzling.

Even beyond that, I think the residents of the other States, and the list is long, New York, Pennsylvania, South Carolina, Virginia, Idaho, Washington, Hawaii, Connecticut, I think the residents of those States should ask, what is it that the Federal Government is putting into the water that no industry in America is allowed to put into the water, that no local government in America is allowed to put into their water, whether it is recreational water or drinking water or just something that happens to flow through their community; what is it that the Feds are putting in that they need this blanket exemption? I think that is a question that should be answered.

All I am saying is put back in the words, subject the Federal Government to the same requirements as everyone else in this country, the same way we subjected the Congress of the United

States to the same laws as everyone else in this country, for the sake of consistency make the Federal Government follow its own laws, and if it needs an exemption for national security purposes, the bill allows it with a simple signature by the President of the United States.

Mrs. FOWLER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment creates a new and duplicative regulatory authority for the EPA.

The Naval Nuclear Propulsion Program currently exercises regulatory authority over the activities affected by this amendment. This is a system that has worked well and has been found by the GAO to contain ''no significant deficiencies.'' The system is already regulated and has no need for additional or duplicative regulations by the EPA.

Contrary to our efforts to reinvent government, do more with less, and reduce unnecessary regulation, the gentleman's amendment would do just the opposite.

I am particularly concerned with the costs this would impose on the Navy. As with most other branches of the Government, the Navy is facing significant budget cuts. Adding another layer of unnecessary regulation will have the effect of imposing additional tax on the Navy and require the Navy to devote scarce resources from defense programs and missions and instead use them for yet another layer of unnecessary and duplicative regulations.

I urge my colleagues to vote against this amendment and protect scarce naval resources.

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

Mrs. FOWLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentlewoman for yielding.

I would make the point that this simply returns us to current law. In fact, in the Mineta clean water bill of last year, this provision was included. We are simply doing what was in last year's clean water bill.

Perhaps most importantly, I was the author of the provision to change it, and I was wrong. After I studied the issue, I came to the conclusion that the points that the gentlewoman makes are very valid points. We do not need a duplicative process. This is already regulated by the Nuclear Regulatory Commission. It works. ''If it ain't broke, don't fix it.''

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am really pleased that my colleague, the gentleman from Oregon [Mr. DEFAZIO], has brought this to my attention because I am just shocked that my constituents are not going to be told that there are nuclear materials being put into the rivers, into the waters, if that polluter is a Federal facility.

We do not allow anyone else in this country to self-regulate. It does not seem fair that private businesses are held to stricter rules, to stricter costs, much greater costs than government facilities. If private businesses are not allowed to self-regulate, why should the Federal Government be?

I represent the First Congressional District of Oregon. That is on the Columbia River. The Idaho National Engineering Lab is upstream from me. That means that my constituents of the First Congressional District of Oregon may be having nuclear materials put into the river and they are not going to be told about it. I just think that is plain wrong.

Mr. Chairman, we are sent here to speak for our constituents, to defend their health. I would like to urge my colleagues who represent districts that are downstream from these Federal facilities to make sure that we do not allow our constituents' health to be damaged.

I am going to vote yes to protect the health of my citizens on the DeFazio amendment, and I would like to urge every other Member who represents someone who is maybe downstream from a Federal facility to do the same.

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

Ms. FURSE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, just to respond to the previous speech, I was a bit puzzled to hear that the nuclear Navy is subject to the EPA and NRC. If that were true, then there would be and there would never have been any need to include them in this bill.

They are exempt from the Clean Water Act, they are exempt from the authority of the Environmental Protection Agency, and they self-regulate. Unlike any other polluter in America, the nuclear Navy tells us they have adopted standards, they are meeting their standards and we should not worry about it.

Well, if that is good enough for the nuclear Navy, perhaps we should look at that approach for private interests or municipal interests. I resent the fact that my municipal government has to be monitored by the EPA for its sewer system. It costs money.

But at some point we do not allow self-regulation. I realize that of course the Navy is certainly holding itself to higher standards and certainly meeting its own conditions, and if that is true, then it will cost them nothing to comply.

Ms. FURSE. I say to the gentleman from Oregon [Mr. DEFAZIO], the point you make I think is really important. The city of Portland has invested $750 million in cleaning up any pollution site and they are happy to live by the rules of the EPA.

I am just shocked to find the nuclear Navy, this Federal facility, is not held to the same standards. I think it is really great that the gentleman brought it to our attention. I certainly support the amendment and hope my colleagues will do so, too.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I do not have much more than 5 minutes because we have to get a budget resolution out here on the floor for next week.

Somebody posed a question a few minutes ago, what is the nuclear Navy putting in the waters that others don't? Well, they put in nuclear submarines, for one thing, torpedoes. They even put this marine in the water once.

This amendment would strike much of what was accomplished yesterday in the chairman's en bloc amendment. Let me emphasize, Mr. Chairman, and I think members ought to listen to this on both sides of the aisle. The Department of the Navy, the Department of Defense, and the Joint Chiefs under President Clinton all strongly oppose this DeFazio amendment. Keep that in mind.

□ 1545

You know only a few years ago there was a Congressman here by the name of Synar who, like Congressman DEFAZIO, is a remnant of the nuclear freeze movement. You know they led all of that fight a few years ago.

Mr. DEFAZIO. Mr. Chairman, I rise to a point of personal privilege.

Mr. SOLOMON. Can I yield to my good friend, because the gentleman was part of the movement on this floor. You and I have debated it many times.

Mr. DEFAZIO. Will the gentleman yield?

Mr. SOLOMON. I said that with all due respect, as you know.

Mr. DEFAZIO. Mr. Chairman, I understand the gentleman perhaps is overreaching with his rhetoric. I am not aware of a movement which people signed up for. We certainly differ over the need for additional nuclear capability when we have 12,000 hydrogen bombs, that is correct.

Mr. SOLOMON. That is exactly what I was referring to, and I thank the gentleman for repeating what I just said.

But let me just say Mr. Synar and I think Mr. DEFAZIO probably, I do not know, requested that the General Accounting Office determine if there was a safety or a health or an environmental problem with the nuclear Navy. And you know what the GAO report came back with? They found no deficiencies in the area of the environmental protection, they found no deficiencies in nuclear safety, and they even found no deficiencies in occupational safety and health.

Just last month, and I think the minority side of the aisle ought to listen to this too, our President, President Clinton, praised the nuclear Navy. I would like to quote him. He said, ''Our Navy has steamed over 100 million miles on nuclear power * * * in a way that has protected the public and the environment, both here and abroad.'' And that, ladies and gentlemen, that is a fact, 100 million miles.

We all know my colleague and friend from Oregon opposes all things nuclear, but this amendment does not make sense. It is an attempt to fix something that is not only not broken, but is actually working very, very well.

In fact, I would again quote President Clinton, who just recently described the nuclear propulsion program as ''exemplifying the level of excellence we are working toward throughout our government.''

Mr. Chairman, no environmental problem exists with this program. I think we can safely assume this amendment is little more than a backdoor attempt to once again undermine an essential national security program in this country. And again I would request that Members support the position taken by the Navy and our Joint Chiefs of Staff and President Clinton and myself and vote ''no'' on this DEFAZIO amendment.

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

Mr. SOLOMON. I yield to the gentleman from Virginia, one of the most distinguished members of the National Security Committee.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding. I want to join in the comments just made by my colleague from New York, the distinguished chairman of the Rules Committee. I would only offer in addition to that if you take the record of the Navy's nuclear propulsion system, the standards of safety and their performance, the military discipline and integrity that has underlain their program for all of these years, and you wanted to make an amendment to make EPA and others subject to them and give them the money to discharge it, it might make sense, but which certainly do not add any additional cost to the taxpayers for duplicating, replicating that which is already being done in a very distinguished way.

The idea that people are putting things in your water and you do not know about it I think is basically pretty darn frivolous.

Mr. SOLOMON. Let me thank the gentleman for his comments.

Let me remind my colleagues of what is going to happen here next week. There is going to be on this floor a budget resolution which is going to lead to a balanced budget sometime at least by the year 2002. There are going to be drastic cuts in the programs in the Environmental Protection Agency, in all of these programs, and to pile yet another obligation on our Navy which is already so under-funded today is just outrageous. This amendment had better be defeated for the good of America.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words and I rise in strong support of the gentleman's amendment.

I must admit I was very, very surprised, Mr. Chairman, when I came on the floor and heard what the gentleman was saying, because I know those of us in the Colorado delegation have insisted that Federal installations be under the same laws that the private sector is. I think that has been very important and we have wanted that in our own State, and I was really shocked to find out that even though we are lessening some of these standards, we still do want these installations to be at the same standard that the private sector is. And even when if the President thought there was some reason, he could with the stroke of a pen pull them out.

So I think the gentleman's amendment is the right way to go and that is the way the bill was originally, if I remember.

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

Mrs. SCHROEDER. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I thank the gentlewoman for yielding. Yes, the bill as passed out of committee by a large margin included these Federal facilities. They would have been subjected to the same laws as all other businesses or Federal facilities in America.

The situation that would be created here, first off, vessels were never a consideration, vessels were not part of this bill. So to bring out the red herring of the nuclear submarines or nuclear-powered carriers is a red herring. They were never included.

This is shore-based fixed facilities in the United States of America which have the potential to harm American citizens. That is what we are trying to regulate here, and in fact the situation would be created if this amendment is not adopted, in Idaho we would have two different Federal agencies regulating two different standards at Idaho nuclear propulsion laboratories, because part of the property is nuclear Navy, which will be exempt from all Federal laws, and part of the property is DOE and will be subject to Federal laws. So the situation we are going to create is bizarre, and to say it is a burden or it is going to create a national security risk when we are dealing with two bases that have already been closed, two that are closed and one that is being decommissioned, that is an absurdity to say somehow by subjecting two closed bases, which perhaps, you know, pose a daily threat to nearby citizens from the Clean Water Act is a threat to our national security. The gentlewoman is on the committee of jurisdiction.

Mrs. SCHROEDER. I do not really understand it, because one of the things I found when we were going through this base-closure process was many of the citizens are very upset. They are so afraid we are going to declare these areas sacrifice zones and not clean them up, and I certainly hope that is not what we are doing in this bill, because if you are saying closed bases do not have to comply, and we are doing it to save money, well, if people who happen to live around it want it to be cleaned up, I guess what we are saying is they have to do it with their own money at the local level and the Federal Government is not going to help. I really think this is surprising, and I am particularly startled that the gentleman was not notified then that the bill was changed before it came to the House floor.

I think the gentleman's point too that he is making is he is talking about the shore installations. He is not talking about tracking ships and doing all of that, you are talking about the shore installations that should be good neighbors, and if there is some reason that cannot be that is highly classified, the gentleman is assuring me there is something in the bill that would allow the President to deal with that, am I correct?

Mr. DEFAZIO. That is correct. On page 86 beginning with line 17, ''The President may exempt any effluent source of any department, agency or instrumentality,'' et cetera, and goes on to explain there is no limitation on that authority.

Mrs. SCHROEDER. I really thank the gentleman from Oregon again for his vigilance.

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

Mr. Chairman, I am shocked, I am absolutely penetratively shocked. I do not think the gentlewoman from Colorado has even been shocked about anything in her life, especially this.

Second, I look at the individuals that are offering this. Is there any shocking doubt, the same people that would vote to cut defense $177 billion, the same ones that would put homos in the military, the same ones that would not fund BRAC, the same ones that would not clean up.

Mr. SANDERS. Mr. Chairman——

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. No, I will not. Sit down, you socialist.

Mr. SANDERS. Mr. Chairman——

Mr. CUNNINGHAM. The ludicrousness of this, even to appeal this. It is the lunacy of this, the EPA and other organizations have continually stated you take the shore-based and the surface-based, have less problems than any of your public bases, less than all of them put together.

I have operated off these carriers. I have operated out of these. You want to take a Geiger counter, go ahead. I have scuba dived underneath the docks. I am not going to do that if it is polluting. And the same people that would control with big Government the rules and the regulations and try and diminish national security, look at them, just look at them right here. And the same people. The team never changes, and you want to put these burdens, and the problems is that you fail to see the solutions to very simple problems. You state your own opinion as fact when it is not.

There are studies and studies and studies that show that there is no discharge, that it is not regulated, but yet you would cost the American taxpayers and lay on rules and regulations and have bigger Government, more facilities, more control over the regulatory factors, and that is wrong.

Mrs. SCHROEDER. Mr. Chairman, do we have to call the gentleman ''the gentleman'' if he is not one?

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

Mr. Chairman, I rise to speak in support of the amendment. I thank the chairman very much and would like the opportunity, if the gentleman from California would respond, just to ask him a brief question, if I might.

My ears may have been playing a trick on me, but I thought I heard the gentleman a moment ago say something quote unquote about homos in the military. Was I right in hearing that expression?

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

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

Mr. CUNNINGHAM. Absolutely, putting homosexuals in the military.

Mr. SANDERS. You said something about homos in the military. Was the gentleman referring to the thousands and thousands of gay people who have put their lives on the line in countless wars defending this country? Was that the groups of people that the gentleman was referring to?

Mr. CUNNINGHAM. I am talking about the military. People in the military do not support this.

Mr. SANDERS. That is not what we were talking about. You used the word homos in the military. You have insulted thousands of men and women who have put their lives on the line. I think they are owed——

Reclaiming my time, Mr. Chairman, I would also say that if my friend in support of this amendment, if my friend from Oregon was involved in the nuclear freeze movement, I want to congratulate him. There are millions of Americans who wonder about the wisdom of spending millions and millions more dollars building more and more nuclear weapons at the same time as the Republicans are cutting back on Medicare, Medicaid, and student loans.

Furthermore, I find it incomprehensible that at a time when the vast majority of the people in this country are terribly concerned about what is going on in the environment, terribly concerned about the environmental implications of nuclear energy, that the American people do not know what is in their waterways, and that various military installations might be exempted from Federal regulatory practices.

So I very much applaud this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 294, not voting 14, as follows:

[Roll No 321]

AYES—126

Abercrombie
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clyburn
Coleman
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hinchey
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—294

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Martinez
Moakley
Peterson (FL)
Richardson
Rogers
Schumer

☐ 1619

The Clerk announced the following pairs:

On the vote:

Mrs. Collins of Illinois for with Mr. Bono against.

Mr. Moakley for, with Ms. Dunn against.

Miss Collins of Michigan for, with Mr. Frisa against.

Messrs. BERMAN, MORAN, and JEFFERSON, and Mrs. CLAYTON changed their vote from ''aye'' to ''no.''

Mrs. LINCOLN changed her vote from ''no'' to ''aye.''

So the amendment was rejected

The result of the vote was announced as above recorded.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was not on the floor during the last debate, but I was informed of some of the remarks that I want to address. I am here, Mr. Chairman, referring to the comment of the

Member from California in opposition to the last amendment in which he said that this was to be expected from those who supported homos in the military.

Mr. Chairman, I very much regret taking the time away from Members on this serious subject, but the time is over when I will let that kind of gratuitous bigotry go unchallenged, and I take the floor simply to express my contempt for the effort to introduce such unwarranted and gratuitous slurs on decent human beings on the floor of this House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I want to join with the distinguished gentleman from Massachusetts [Mr. FRANK] in expressing my shock, outrage, and contempt for what was said on the floor of this House a little while ago. To express gratuitous bigotry when the subject of gays and lesbians in the military was not on the agenda—we are debating an environmental bill—for someone to get up and make an ad hominem attack on an environmental bill by saying, ''What do you expect from someone who would support homos in the military,'' is beneath the dignity of what should be uttered on the floor of this House and deserves condemnation by every decent individual in this House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, first of all it was not the only item mentioned. It is a series of things in which the liberals in this House have supported their social agenda.

Second, do I support homosexuals in the military? The answer is no. I personally believe that it affects readiness; yes, I do.

Does the majority of the military, men and women in the military, want homosexuals in the military? The answer is no, and, as long as the military leaders and those people feel that way, and if the gentleman could ever prove to me that that does not have an effect, then I will change that position, but that is the position currently, that it affects the national security and readiness of this country, and that is what I support.

Mr. FRANK of Massachusetts. Mr. Chairman, I come to Congress prepared to do a number of things that are difficult. I like the job, and I will undertake them, but trying to prove anything to the gentleman from California goes beyond the pale of my oath, and I will not try.

I will say again that we are not here talking about the merits of that issue. We are talking about the gratuitously bigoted formulation of it by which it was injected into this debate, and I find that to be beneath the dignity of the House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, as I understood the statement which was directed at me, it was not to say that I wanted to put them in the military. Well, I have news for the gentleman from California. There are quite a number of gays and lesbians serving proudly in the U.S. military, unfortunately not serving proudly and openly because of the fact that people like him exist and have pressured, as my colleagues know, the President and others to deny that opportunity to those people.

Mr. FRANK of Massachusetts. Let me say to the gentleman I do not want to get diverted. I am not here debating the substance of the policy; we have done that, and we will do it again. I am particularly calling attention to the formulation, the gratuitously, I believe, bigoted and insulating formulation, and I am very disappointed to see that language on the floor of the House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. I think the gentleman would be correct if that is the only issue. I meant it. I said it as a policy of the people in general that support the issues that degrade national security of this country, and that is one of those many issues which the gentleman supports, and in a case of amendment that is absolutely ridiculous, it was meant to formulate those same people that do not support defense are trying to tie the hands of defense even in the future.

Mr. FRANK of Massachusetts. The defense of a bigoted remark, and it was one of several remarks, makes even less sense than I had expected. I am talking about the formulation. It was bigoted, and I would hope it would not be repeated.

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

First of all, it is not a bigoted statement. Many times the gentleman from California [Mr. DELLUMS] has told me that people have differences of opinion. It is this Member's opinion that homosexuals in the military do not do service to the national security of this country, and in that vein making a statement that those that support that are supporting the nonreadiness of defense is—and I will be happy to yield in just a second.

The second thing is that there is a tendency by the Members that support that kind of activity, support all the rest of it, and it is meant that we need to support national security in this country.

I say to my colleagues, ''A bigoted statement, if I was directing it to you or anybody else in this thing, in other contexts, yes, would be bigoted, but a personal opinion, that it degrades the national readiness of this country, is not a bigoted statement.''

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I was referring in part to the formulation of homos in the military. The gentleman has been very careful since that time to say homosexuals, but he was not very careful when he got up on the floor, and I took specific offense to the deliberately bigoted and belittling form of words that he chose to use.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, let me say that I used the shorthand term, and it should have been homosexuals instead of homos. We do misspeak sometimes.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the previous speaker, the gentleman from California, attempted to make a correction in the utilization of the word homo or homosexuals. I just want to reemphasize the point that I think my colleagues are making on this side of the aisle. It is the point that we were discussing an environmental issue, and it is the point that for some reason it was thought appropriate to intrude a discussion on another nonmeritorious issue that gave some suggestion that the gentleman was throwing stones, if my colleagues will, at a person for having supported a group of people on another issue on another point. That to me seems to suggest bigotry, and maybe the gentleman did not mean that, and we would accept, certainly, his clarification and even an apology, but it is certainly my understanding that, if my colleagues were discussing one issue, and someone throws another issue in and castigates a group of people, then he has clearly made it an issue of discrimination and bigotry. Inappropriate behavior and words, and this certainly calls for an apology to both the colleague that was speaking and, as well, the whole group that he has maligned.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NADLER: Page 50, strike line 19 and all that follows through line 10 on page 52.

Mr. NADLER. Mr. Chairman, I rise today so that we will not have to see signs like the one to my left in the future. It is the right of citizens of this country to have clean water. If this bill is passed in its current form, the signs will never come down.

During the committee markup of this legislation, Mr. Chairman, I introduced an amendment that would have deleted a section of the bill that allowed pollution controls to be lowered or eliminated for waterways that had already

been cleaned up if the cost of maintaining those controls outweighed the benefit of maintaining the level of water quality in the opinion of the State. I would like to commend the gentleman from Pennsylvania [Mr. SHUSTER] for taking this section of the bill out of the bill in his en bloc amendments we adopted yesterday. While I am pleased this was done, I believe we must go further.

The bill still permits States to abandon all efforts to attain the previously set water quality goals, or even any water quality goals at all, if the State determines that in its opinion the cost of reaching the designated water quality standard outweighs the benefit.

□ 1630

My amendment would delete this section of the bill and maintain the current process in which the designated use, the designated quality, fishable, swimmable, navigable, can be reviewed by the State every 3 years.

I ask my colleagues to support this amendment for the following reasons: First, this bill waives Clean Water Act quality standards if the cost outweighs the benefit of keeping the water clean.

I ask, how do you measure the benefit of parents being able to take their children fishing, or of children using their favorite watering hole, or a fisherman making their livelihoods, and how do you determine whether that outweighs the cost of attaining that level of water quality?

The bill does not define what constitutes a benefit that would outweigh the cost, and vice versa. The bill does not define how to measure the cost versus the benefit and what standards to apply to measure which exceeds the other.

Second, proponents of this bill never referred to any problems with the current guidelines for determining how clean the waterway must be, what standards must be attained, nor does this bill try to modify existing guidelines. They do not identify why we should change it.

Instead, the bill reflects the notion that if a State believes it is too expensive to reach the water quality levels set pursuant to the standards that it already determined, and that it can change every 3 years, then you can just stop, or not try quite as hard to clean up the water.

The bill essentially says in this section that we do not really care about the health and well-being of the people using this water. If it is expensive for a polluter to clean up the water, do not bother. In other words, the cost to the polluter is more important than the health of our children under this text.

Third, the current law gives the States ample flexibility to adjust the designated uses of a waterway and the level of water quality they must attain. Current law reflects that every 3 years this must be reviewed in the practicality of keeping the designation of each waterway, whether it be fishable, swimmable, navigable, must be reviewed every 3 years. They must take into account health, safety, agricultural, industrial, and recreational uses of the waterway. The States can then, after EPA approval, increase the amount of pollution that is allowed into those waters.

Some of my colleagues argue we should trust the States to make these determinations without EPA approval and allow them greater flexibility. But this is not just a matter of trusting the States. It has to do with preventing polluters, big businesses, from in essence blackmailing the States by saying to a State if you do not lower the water quality standards, we will move to the other States and we will take our taxes and our jobs with us.

The only way to protect the States against this form of blackmail by big polluters is to have the EPA still have a role to set minimal standards, so that the State can say well, while you may be able to move because you do not want to attain the quality standards here, but you will not be able to do the same kind of pollution in the next State either.

It also has to do with preventing interstate pollution. If one State lowers its water quality standards in their section of a river, that pollution then flows down the river to other States that need the same water for fishing or recreational, agricultural, fishing or drinking purposes. As I mentioned earlier, the States already have the ability to lower water quality standards if they need to do so. But by including this cost-benefit analysis without any guidelines, it gives too much leverage to large polluters.

Finally it says that the State may eliminate the water quality standard if the State determines that the costs of achieving the designated use are not justified by the benefits. It can go to no standard at all.

In conclusion, Mr. Chairman, we must adopt this amendment and get rid of this language if we are going to attain a safe and healthy environment for people to fish, swim, and drink the water.

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

Mr. Chairman, I am afraid that the gentleman from New York has presented an amendment in search of a problem. States actually have asked for this flexibility, and States currently set these standards now. What we are looking at proposing in our legislation is to allow a reasonable change and a reasonable opportunity to make changes under reasonable circumstances.

The amendment of the gentleman from New York [Mr. NADLER] strikes the provisions of H.R. 961 that allow States to take costs and benefits into account in revising designated uses of water bodies.

Let me point out that in 1975, the administrator required States to designate all navigable waters for which a use had not been designated as follows: They are either fishable, swimmable, and that is to use the quote, the designation by the administrator. They are designated as fishable-swimmable.

As a result, many of the waters have received a designated fishable-swimmable category and an unrealistic designated use. For example, streams in the arid West that are dry most of the year have been designated as fishable and swimmable.

The bill that we have proposed changes current regulations, the revision of designated uses, in two ways. Let me explain those two ways. First, current regulations allow a State to revise designated uses if it demonstrates to EPA that achieving the designated use is infeasible. The bill allows the State to make the determination of feasibility, but feasibility is still defined by EPA.

Second, and let us look at the second point, under current law designated uses may be revised only if attaining the use will result in substantial economic dislocations.

Certainly the author of this amendment is very familiar with economic dislocations. I had the opportunity to visit his district some time ago, and I saw the skyline of his district and the vacated factories, and I think he told how many hundreds of thousands of manufacturing jobs have been gone, how the piers are abandoned and how the housing tenements are abandoned. So we know about this question of substantial economic dislocation. I am sure the gentleman is familiar with that.

Let me say that H.R. 961 allows States to revise a designated use that is not being attained if the cost of attainment is outweighed by the benefits. So what we are trying to do is something reasonable. This is a reasonable approach, and this is an approach that we think makes a lot of sense. So we are using costs and benefits here in a manner that will give flexibility to the States, and the States have requested this flexibility.

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

Mr. MICA. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Florida is quite correct when he says that we are granting this flexibility to the States. The key difference, of course, is that under current law the administrator of EPA has to agree with the State that is changing the designated use that it meets the requirements of the law. That in effect is being removed here. Here the final authority is the States. That is exactly the kind of flexibility which would mean that there would be no uniform standard across the country to make sure that States are in fact making proper progress toward Clean Water Act standards, and that is a key difference.

Mr. MICA. Reclaiming my time, if I may, again, I think feasibility is still defined under our legislation by the Environmental Protection Agency. They will be a participant in this process. Indeed, the gentleman from New York is offering an amendment that is in search of a problem that does not exist, that we have a broad base of support for this from the States, from governors, from counties and cities and local officials. What we are trying to do is take some of the unreasonable approaches, and I gave an example, swimmable-fishable in the desert, in an area that may have water in it a few days a year. This does not make sense.

So we are just trying to take a common sense approach, look at this, and move forward.

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

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

Adoption of the amendment will preserve the current, cooperative system of States and EPA combining in the protection of State water quality consistent with the States' goals and desires.

Designated uses are set by the States. They reflect the use of the waterbody which the State determines is appropriate—not what the Federal Government determines is appropriate.

Currently, States may change a designated use if attaining the use is not feasible because the more stringent controls would result in substantial and widespread economic and social impact. The bill would expand the ability to downgrade water quality standards if a State determines that the costs of achieving the designated use are not justified by the benefits.

This gives much too great an emphasis on cost at the expense of environmental and human health impacts. Cost is and always should be of concern in the Clean Water Act. However, cost should be used when determining the method of achieving water quality goals—it should not operate as a limit upon those goals.

If this amendment is rejected, the bill would allow cost to become the overriding concern in establishing water quality standards. That is not the way to achieve expected water quality.

The American people want and expect clean, healthy water in their rivers, lakes and coastal areas. The Nadler amendment will help assure that the wishes of the people are fulfilled. Support the amendment.

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

Mr. Chairman, I rise in opposition to the amendment. I came to the well yesterday and talked about the pendulum of regulation being pulled back to the middle, not going back to where we were, but to where we should be based on a reasonable balance of regulation.

One of the other defining issues, I believe, in this new Congress is this notion of do we trust those that we elect to office in our respective States with a lot of the decisions that come before the people in those States. We do not have to federally micro-manage every specific element of every program.

We need to Clean Water Act. We do agree with the concept of clean water. But overregulation, I believe, is what brings us to this debate in 1995 to amend the Clean Water Act with some reasonable amendments. I believe the States will do the right thing. I believe the elected leadership of our States are closer to the people, they are more responsible to the people. And I believe that sometimes costs can shut down a free market and there needs to be a reasonable balance of regulation.

That is what we are here today, yesterday, and even tomorrow to debate with these revisions to the Clean Water Act.

I clearly believe that this amendment goes too far again with Federal micro-management of many decisions that can be best made by our States. The 10th amendment clearly articulates the difference here between the Federal micro-management and the rights we should have in our States.

Mr. Chairman, I encourage our friends from both sides of the aisle to oppose this amendment.

□ 1645

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. SHUSTER. Mr. Chairman, reserving the right to object, the gentleman has already spoken; has he not?

The CHAIRMAN. That is correct. That is the purpose of the Chair asking if there was objection.

Mr. SHUSTER. Did the gentleman ask for 2 additional minutes?

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. NADLER] is recognized for 2 additional minutes.

There was no objection.

Mr. NADLER. Mr. Chairman, the fundamental question in this amendment is twofold. One, do we not believe, do we recognize that the water quality standards are not, first of all, an issue only with respect to one State? Rivers flow through several States. It is not simply the case that a decision on the quality of water only affects necessarily that one State. When one State decides to permit pollution to continue because it thinks it is too expensive, the costs outweigh the benefits, that will affect the next State the river runs through. This is not simply something that we can keep within one State.

Second, it is not simply a question of do we trust the States? We know that the States are subject to pressures that exceed what the Federal Government is exposed to. We know that the polluting businesses have a major way, a major leverage over the State to tell the State, You had better give us this ability to keep polluting. Do not make us spend this money or move to the other State.

That does not mean the State officials necessarily agree that it is better to let the pollution continue. But they might agree that they have no choice but to submit to this ultimatum and say, We will let you continue polluting. We will lower the water quality standards because we do not want to lose the jobs and the taxes.

The Federal Government is not subject to that pressure and therefore can better represent, therefore has to be in a partnership with the State to represent the interests of the people to fishable, navigable, swimmable, drinkable, safe, clean water.

Therefore, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 294, not voting 19, as follows:

[Roll No. 322]

AYES—121

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Meyers
Mfume
Mineta
Mink
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—294

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)

Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
Mascara
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Leach
McCollum
Miller (CA)
Moakley
Ortiz
Peterson (FL)
Richardson
Rogers
Schumer
Skelton
Torres

□ 1708

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Watts against.

Mr. Moakley for, with Mr. Barton against.

Miss Collins of Michigan for, with Ms. Dunn of Washington against.

Mr. MASCARA and Ms. FURSE changed their vote from ''aye'' to ''no.''

Mr. HOYER changed his vote from ''no'' to ''aye''.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBERSTAR:

Page 100, strike line 5 and all that follows through the first period on line 10 on page 101.

Page 102, line 1, strike ''Such demonstration'' and all that follows through the first period on line 3.

Page 114, strike line 17 and all that follows through line 4 on page 115.

Page 115, line 5, strike ''(n)'' and insert ''(m)''.

Page 117, line 4, strike ''(o)'' and insert ''(n)''.

Page 117, line 6, strike ''(q)'' and insert ''(p)''.

Page 117, line 10, strike ''(p)'' and insert ''(o)''.

Page 117, line 12, strike ''(r)'' and insert ''(p)''.

Mr. OBERSTAR. Mr. Chairman and colleagues, nonpoint source pollution is the next frontier of our clean water program. The Nation has done very well in cleaning up pollution from point sources. Over the past 20-plus years since the Clean Water Act was enacted in 1972, industry and municipalities both have spent on the order of $230 billion cleaning up point sources.

Yet, although a measure of progress has been made in our lakes and streams, we still have unacceptably high levels of pollution, principally coming from runoff from open land sources: agricultural lands, lands under development for housing or other purposes, forestry lands that have not been properly protected.

The most egregious effect of such runoff from nonpoint source was the already-referred-to attack of Cryptosporidium in the city of Milwaukee a couple of years ago, where runoff from agricultural land carried with it a deadly disease; it got into the drinking water of the city of Milwaukee, and affected some 400,000 citizens, of whom 120-plus died.

Those illnesses and those deaths could have been prevented with effective nonpoint source protection programs. I spent some 10 years attempting to develop such language, which was included in the committee bill introduced by our chairman in the last Congress, the gentleman from California [Mr. MINETA], and which I have very strongly advocated.

That bill died with the 103d Congress, and in the current legislation, the bill before us does attempt to deal with the issue of nonpoint source. I commend our current chairman, the gentleman from Pennsylvania, Mr. SHUSTER, for attempting to address this issue.

However, there are two fatal shortcomings in this bill that make the nonpoint source program utterly ineffective. The first is one that introduces into this debate a totally new concept. On section 319 (B)7, subsection 7, there is language providing for an exemption for whole farm or ranch natural resources management plans, but nowhere in the bill are those two items defined. Nowhere in legislative language do we have those items clarified.

Yes, there is some reference to it in committee report language, but as we all know, when an issue of this kind is challenged in court, the court does not look to committee report language. It scarcely looks at the debate that we conduct here on the floor. It looks to the legislative language, and there is no definition of what is a whole farm or a ranch natural resources management plan.

The bill, therefore, in that section, where it should be addressing runoff from open sources, pesticides, fungicides, rodenticides, fertilizers, herbicides, makes no such reference, has no control mechanism. Then in a further section, the bill provides some funding, for which I do commend our chairman.

It starts off at $100,000 and goes up to $300,000 a year. Then it says ''However, if the appropriation level does not meet the authorization level, the enforcement does not follow.'' The State is not required to enforce the program. EPA has no enforcement authority.

This scenario, and in these tight budget times, that language becomes a self-fulfiling prophecy. If we get close, say $95 million in appropriation, but not $100 million, there is no requirement for enforcement. There is some sort of language that suggests that if the administrator of EPA and the State together certify that the amounts appropriated are sufficient to meet the requirements of the section, that the deadline then will be enforced.

I do not think that will ever happen. I do not think we are ever going to have a Governor saying less will do more.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

□ 1715

Mr. OBERSTAR. Mr. Chairman, although we know the pressures and constraints and we know very well what enormous pressures there will be on Governors not to move to the stage of compliance, I want to see compliance. I want to see our open spaces, runoff of pollution from open lands, cleaned up.

That is the next frontier. That is the challenge that we must meet. This bill gives 19 years to get to that point, but the deadline will always be a mirage. It will always be out there just beyond our grasp because the funding will never be there.

I wish the Chair would agree to a means in which we could accomplish that the objective without having it slip from our grasp and not be so elusive as this bill provides.

I urge my colleagues to support my amendment, which strikes those provisions and puts some teeth into the nonpoint source provisions of this bill, which otherwise are reasonably good.

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

Mr. Chairman, I am surprised that my good friend from the great agricultural State of Minnesota would come forward with a provision that really guts, eliminates whole farm planning in the State's non-point source management program. Essentially what this amendment says is, once again, we do not trust the States. Once again, we in Washington know best.

In fact, we have a letter from the National Governors Association dated just yesterday in which they urge strong support for the language that we have in the bill. They say, ''We support this approach to non-point source pollution.''

So the Governors are strongly in support of what we are attempting to do here, and I think it is time that we trust our States and do not come to the conclusion that Washington always know best.

The whole farm plan is a voluntary initiative that makes environmental sense. What is very significant is that there must be approval from the water quality people in the State, through a written memorandum of agreement, that the whole farm plan is consistent with a non-point source management program before such a whole farm plan can be adopted in the State.

That is fair. That says that we do put emphasis on the environment. That says there has got to be a non-point source management program in a State.

Further, I may not agree with too much of what the Clinton administration is attempting to do, Mr. Chairman, but the Clinton administration, and I say to my friends on the other side of the aisle, the Clinton administration has proposed the whole farm plan in the 1995 farm bill. It is a Clinton farm initiative and it is a good one, and we should support it.

In fact, as to the issue of the definition of what this plan should be, first of all, it is indeed defined in the report; but much more importantly than being defined in the report, we looked to the Committee on Agriculture of this House to define it in the farm bill.

That is where the definition should take place. It is a farm issue. The farm bill should be the place where the definition is provided. We have confidence in the Committee on Agriculture to do that. Further, the gentleman's amendment also strikes the safeguards against unfunded mandates. This is an extremely important point.

The last thing I think we want to do around here is eliminate safeguards against unfunded mandates. Indeed, if the appropriation is enough in any given year to allow the States to implement the program, there is no slippage of deadlines.

For all of those reasons, I think we should support our farmers, we should support our Governors, we should support our States, and we should reject this amendment.

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have here in my hand a letter from the Governor of Oregon. He says in this letter, ''The State of Oregon is opposed to H.R. 961. This bill includes several unacceptable provisions that would undermine the careful balance of the Clean Water Act.''

He goes on to say, ''Proposals raise significant concerns that the progress made in improving water quality over the last 20 years will be traded in for short-term economic gains without sufficient consideration of the long-run costs.''

''The proposals,'' he says, ''which raise the greatest concern in Oregon include failure to add clear deadlines, goals, and consequences to the nonpoint source program.''

For 95 percent of Oregon's 100,000 miles of streams, non-point pollution is the only source of pollution. Yet H.R. 961, as the Governor has said, does not provide clear guidance or goals to address non-point source pollution. Even worse, the bill would repeal the State's existing coastal zone non-point pollution programs.

In other words, for 95 percent of the State's streams, the Oregon streams, H.R. 961 would not only fail to make any progress in combating water pollution problems, it would actually undermine existing programs.

Mr. Chairman, I find it a little ironic that the 104th Congress, which has repeatedly said it is a protector of States' rights, is now advocating to pull the rug from under States like Oregon which are diligently trying to improve the quality of life inside their borders.

There is absolutely no point to H.R. 961's non-point provisions. I urge my colleagues to oppose them by supporting the amendment of the gentleman from Minnesota [Mr. OBERSTAR] which would put teeth into non-point source pollution protections.

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

Mr. Chairman, I rise in strong opposition to the gentlemen's amendment to strike the provisions of the bill supporting the concept of whole farm and ranch management programs. The provisions as included in the bill have the support of many major commodity groups (including the U.S. Wheat Growers, National Cotton Council, National Corn Growers, American Soybean Association), several farm and agribusinesses organizations (American Farm Bureau, National Council of Farm Cooperatives), along with that of the National Governor's Association and the National Association of the State Departments of Agriculture. These provisions direct the EPA Administrator, in coordination with the U.S. Department of Agriculture, to consult with individual States in order to reduce or eliminate conflicting requirements and guidelines relating to nonpoint source pollution—this amendment removes those incentives.

As I have stated in this body many times over the years, American farmers and ranchers are the original stewards of the land. No one has a greater interest in maintaining and improving the quality of their soil and water than the domestic farm and ranch producer. I have also noted that the hard-working men and women of today's farming and ranching communities are willing to further commit themselves to continued responsible soil and water practices. These provisions direct farmers and ranchers to work with their individual State in developing and implementing a voluntary plan to address nonpoint source pollution.

For too long, agricultural producers have been subject to onerous rules and regulations from both the federal and state level. In many cases, this confusion has deterred efforts to exercise common-sense, nonpoint source pollution reduction efforts. By rejection of this amendment, farmers and ranchers will be able to utilize sound conservation practices, such as Best Management Practices, low-tillage, no-tillage, buffer strips, and a variety of other USDA approved management practices in their crop production efforts.

Individual farmers and ranchers finally deserve the opportunity to prove their commitment to nonpoint source pollution reduction without the heavy-handed, inflexible mandatory demands of Washington's federal bureaucracy. I ask the Members of this body to reject this attempt to take away incentives to provide some much-needed flexibility to our nation's farmers and ranchers to adopt proven plans to improve water quality on agricultural lands.

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

Mr. Chairman, I strongly support this amendment. It would eliminate two of the most egregious loopholes in the nonpoint source section of the bill.

First, the amendment would strike a provision that exempts agricultural producers from the nonpoint provisions of the Clean Water Act, if a producer has in place a plan referred to as a ''whole farm or ranch natural resources management plan.''

I want to be clear at the outset. I have no objection to the concept of whole farm plans. It makes a lot of sense for farms that are subject to numerous planning requirements to consolidate them into a comprehensive management plan. But that is not what H.R. 961 does.

H.R. 961 creates a mechanism for escape from Clean Water Act coverage without any assurance whatsoever that a farm plan will even address nonpoint source pollution.

Any farmer who prepares a document and calls it a whole farm plan can be out of the nonpoint program entirely.

The bill contains no specifications or standards as to what the farm plan should address, or what it should attempt to accomplish.

There is no requirement that the State or Federal environmental agencies with expertise in protecting water quality play any role in ensuring that these plans address water quality concerns.

In fact, there is no requirement that the plans include measures to address water quality concerns.

H.R. 961 removes from the reach of the Clean Water Act the single greatest source of water quality impairment. By allowing whole farm plans to serve as compliance, the bill takes away from States the ability to require nonpoint control by these producers, even if the State program is not making progress in controlling nonpoint pollution. This will unnecessarily hamper the efforts of States in achieving environmental results.

The Oberstar amendment also would strike provisions that improperly make environmental protection contingent on receipt of Federal funding. Requirements on States for assessments, nonpoint program implementation and monitoring would all be delayed one year for each year that the Federal appropriation for nonpoint programs falls even one dollar short of the amount authorized. And, the amount of federal assistance provided will be taken into consideration in determining whether a State's program is making reasonable progress toward attainment of water quality standards.

These concepts of linking Clean Water Act goals with Federal funding are bad policy and are certain to thwart any progress in addressing the largest remaining source of pollution. The Clean Water Act has never been a fully federally funded program. Individuals and corporations have responsibilities not to contaminate their neighbors' water regardless of whether they receive any payments from the Federal Government.

As with all of the loopholes in the bill, someone will pay the price. Nonpoint sources of pollution need to do more, not less, to reduce water pollution. That is the only way to avoid disproportionate burdens on industrial and municipal dischargers, and enormous losses to the tourism industry, recreation and others. And, it is the only way we can achieve the quality of water that our citizens expect and deserve.

I urge my colleagues to support the Oberstar amendment.

□ 1730

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

Mr. Chairman, I rise in strongest possible opposition to the Oberstar amendment. This is an amendment that every single member of the House should oppose.

First of all, as a fourth generation family farmer, I cannot stress strongly enough how offensive the Oberstar amendment is. We, in agriculture, are sick and tired of Washington, DC, bureaucrats treating us with contempt.

There is general agreement among people who understand agriculture that Best Management Practices are the most cost effective programs for reducing agricultural run-off. That is the responsible principle that this bill seeks to put into affect.

And, who are the experts on agricultural run-off? I assure you that the answer is not the bureaucrats at EPA.

H.R. 961 puts the responsibility of developing Best Management Practices in the hands of the USDA.

The Oberstar amendment demonstrates contempt for farmers and contempt for the USDA.

As far as the unfunded mandates portion of the Oberstar amendment, President Clinton has already signed into law the Unfunded Mandates Reform Act to prevent exactly this type of legislation from being passed by Congress.

The provisions of H.R. 961 are simple, but fair. The bill makes an estimate of annual needs toward attaining the goals of the Clean Water Act. If Congress does not appropriate these funds, compliance deadlines for the States are delayed.

This is the type of unfunded mandate relief that both Houses of Congress have already approved overwhelmingly and is already Federal law.

The Oberstar amendment says ''forget all that, let's pretend that the unfunded mandate bill never passed. Let's go back to business as usual, passing the buck as we've done before.''

Even if you didn't support unfunded mandate reform, you should respect that this is now the law of the land. No Member, no matter how you feel about the rest of the bill, should support this amendment.

Vote ''no'' on the Oberstar amendment. It's an insult to farmers. It deserves to be defeated resoundingly. In fact, it deserves to be defeated unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 290, not voting 22, as follows:

[Roll No. 323]

AYES—122

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Fattah
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Harman
Hastings (FL)
Hinchey
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Mineta
Mink
Moran
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Yates

NOES—290

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren

Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—22

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Meek
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Richardson
Rogers
Schumer
Tanner
Torres
Waldholtz
Watts (OK)
Young (FL)

□ 1751

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Texas for, with Mr. Bono against.

Mr. Markley for with Ms. Dunn against.

Mrs. Collins of Michigan for, with Mr. Watts against.

Messrs. FRANKS, of New Jersey, WISE, CLYBURN, and BRYANT of Texas changed their vote from ''aye'' to ''no.''

Ms. DELAURO and Mr. DOGGETT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment, Amendment No. 41.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 41: Page 81, after line 1, insert the following:

(a) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 (33 U.S.C. 1251) is further amended by adding at the end the following:

''(i) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

''(j) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.''.

(b) VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.—Section 307(d) (33 U.S.C. 1317(d)) is amended by striking the first sentence and inserting the following: ''After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section or any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.''.

(c) INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.—

(1) APPLICABILITY OF REQUIREMENTS.—Section 308(a) (33 U.S.C. 1318(a)) is amended by striking ''the owner or operator of any point source'' and inserting ''a person subject to a requirement of this Act''.

(2) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) is amended—

(A) by inserting ''(including information contained in the Permit Compliance System of the Environmental Protection Agency)'' after ''obtained under this section'';

(B) by inserting ''made'' after ''shall be''; and

(C) by inserting ''by computer telecommunication and other means'' after ''public'' the first place it appears.

(3) PUBLIC INFORMATION.—Section 308 is further amended by adding at the end the following:

''(e) PUBLIC INFORMATION.—

''(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

''(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

''(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

''(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

''(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

''(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

''(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

''(3) REGULATIONS.—

''(A) ISSUANCE.—The Administrator—

''(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

''(ii) not later than 18 months after such date of enactment, shall issue such regulations.

''(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

''(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

''(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

''(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

''(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

''(I) address cancer and noncancer human health risks;

''(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

''(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

''(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

''(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

''(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.''.

(4) STATE REPORTS.—Section 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(C) by adding at the end the following:

''(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year.''.

(d) CIVIL PENALTIES.—

(1) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(A) COMPLIANCE ORDERS.—

(i) INITIAL ACTION.—Section 309(a)(1) (33 U.S.C. 1319(a)(1)) is amended by inserting after ''of this Act,'' the following: ''or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(ii) ISSUANCE OF ORDERS.—Section 309(a)(3) is amended by inserting before ''he shall'' the following: ''or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(B) CRIMINAL PENALTIES.—Section 309(c)(3)(A) is amended by inserting before ''and who knows'' the following: ''or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(1) is amended by inserting after ''or by a State,'' the following: ''or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,''.

(2) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(A) CRIMINAL PENALTIES.—Section 309(c) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(B) CIVIL PENALTIES.—Section 309(d) is amended by striking the last sentence.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended by striking the last sentence.

(3) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(A) IN GENERAL.—Section 309(d) is amended by inserting after the second sentence the following: ''The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.''.

(B) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: '', including ordering the use of a civil penalty for carrying out mitigation projects''.

(4) DETERMINATION OF AMOUNT OF PENALTIES.—

(A) CIVIL PENALTIES.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting ''the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations,'' after ''economic impact of the penalty on the violator,''.

(B) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended—

(i) by striking ''or savings''; or

(ii) by inserting ''the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations,'' after ''resulting from the violation,''.

(5) LIMITATION ON DEFENSES.—Section 309(g)(1) is amended by adding at the end the following: ''In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.''.

(6) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(A) GENERAL RULE.—Section 309(g)(2) is amended to read as follows:

''(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

''(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

''(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator shall give to the person to be assessed the penalty written notice of the Administrator's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

''(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

''(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this subparagraph.''.

(B) CONFORMING AMENDMENTS.—Section 309(g) is amended—

(i) in paragraph (1) by striking ''class I civil penalty or a class II'';

(ii) in the second sentence of paragraph (4)(C) by striking ''(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty'' and inserting ''(2)''; and

(iii) in the first sentence of paragraph (8) by striking ''assessment—'' and all that follows through ''by filing'' and inserting ''assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing''.

(7) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) is amended—

(A) by inserting ''or'' after the comma at the end of clause (i);

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by striking ''or the State''; and

(ii) by striking ''or such comparable State law, as the case may be,''.

(8) RECOVERY OF ECONOMIC BENEFIT.—Section 309 is amended by adding at the end the following:

''(h) RECOVERY OF ECONOMIC BENEFIT.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

''(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.''.

(9) LIMITATION ON COMPROMISES.—Section 309 is further amended by adding at the end the following:

''(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

''(1) the minimum amount required for recovery of economic benefit under subsection (h), to

''(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.''.

(10) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Section 309 is further amended by adding at the end the following:

''(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

''(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

''(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

''(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

''(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

''(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

''(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

''(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

''(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

''(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator

shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

''(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

''(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(7) of this section.''.

(11) STATE PROGRAM.—Section 402(b)(7) (33 U.S.C. 1342(b)(7)) is amended to read as follows:

''(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;''.

(12) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) (33 U.S.C. 1368(a)) is amended by inserting after the second comma ''or who is identified under section 309(j)(3) of this Act,''.

(e) NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.—

(1) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) (33 U.S.C. 1342(b)) is amended by striking ''unless he determines that adequate authority does not exist:'' and inserting the following: ''only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:''.

(2) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) is amended by inserting ''and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling'' before the semicolon at the end.

(3) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) is amended—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following:

''(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;''.

(4) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) is further amended by adding at the end the following:

''(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;''.

(5) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) is further amended by adding at the end the following:

''(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and''.

(6) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) is further amended by adding at the end the following:

''(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.''.

(7) INSPECTION.—Section 402 is amended by adding at the end the following:

''(r) INSPECTION.—

''(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

''(2) MINIMUM STANDARDS.—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

''(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

''(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

''(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

''(D) An evaluation of the sampling techniques used by the permittee.

''(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

''(F) An inspection of the sample storage facilities and techniques of the permittee.''.

(8) REPORTING.—Section 402 is further amended by adding at the end the following:

''(s) REPORTING.—

''(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

''(2) REPORTING OF HAZARDOUS DISCHARGES.—

''(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a threat to human health and the environment, the person holding such permit shall notify the Administrator, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

''(B) SPECIAL RULE FOR HAZARDOUS POLLUTANTS.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

''(3) SIGNATURE.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.''.

(9) LIMITATION ON ISSUANCE OF PERMITS TO SIGNIFICANT NONCOMPLIERS.—Section 402 is further amended by adding at the end the following:

''(t) SIGNIFICANT NONCOMPLIERS.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations

occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.''.

(10) APPLICABILITY.—The amendments made by this subsection shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(A) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(B) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

(f) EXPIRED STATE PERMITS.—Section 402(d) (33 U.S.C. 1342(d)) is amended by adding at the end the following:

''(5) EXPIRED STATE PERMITS.—In any case in which—

''(A) a permit issued by a State for a discharge has expired,

''(B) the permittee has submitted an application to the State for a new permit for the discharge, and

''(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).''.

(g) COMPLIANCE SCHEDULE.—Section 302(b)(2)(B) (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: ''The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.''.

(h) EMERGENCY POWERS.—Section 504 (33 U.S.C. 1364) is amended to read as follows:

''SEC. 504. COMMUNITY PROTECTION.

''(a) ISSUANCE OF ORDERS; COURT ACTION.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

''(b) ENFORCEMENT OF ORDERS.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.''.

(i) CITIZEN SUITS.—

(1) SUITS FOR PAST VIOLATIONS.—Section 505 (33 U.S.C. 1365) is amended—

(A) in subsection (a)(1) by inserting ''to have violated or'' after ''who is alleged'';

(B) in subsection (b)(1)(A)(ii) by striking ''occurs'' and inserting ''has occurred or is occurring''; and

(C) in subsection (f)(6) by inserting ''has been or'' after ''which''.

(2) TIME LIMIT.—Section 505(b)(1)(A) is amended by striking ''60 days'' and inserting ''30 days''.

(3) EFFECT OF JUDGMENTS ON CITIZEN SUITS.—Section 505(b) is further amended—

(A) in paragraph (1)(B)—

(i) by striking '', or a State''; and

(ii) by striking ''right.'' and inserting ''right and may obtain costs of litigation under subsection (d), or''; and

(B) by adding at the end the following: ''The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragrah. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.''.

(4) CONSENT JUDGMENTS.—Section 505(c)(3) is amended by adding at the end the following: ''Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).''.

(5) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) is amended by striking ''or pretreatment standards'' and inserting ''or pretreatment standard or requirement described in section 307(d)''.

(6) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) is amended by inserting ''narrative or mathematical'' before ''condition''.

(7) DEFINITION OF CITIZEN.—Section 505(g) is amended to read as follows:

''(g) CITIZEN DEFINED.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted.''.

(8) OFFERS OF JUDGMENT.—Section 505 is further amended by adding at the end the following:

''(i) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.''.

(j) ISSUANCE OF SUBPOENAS.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking ''obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act,'' and inserting ''carrying out this Act,''.

(k) JUDICIAL REVIEW OF EPA ACTIONS.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) ''including a decision to deny a petition by interested person to veto an individual permit issued by a State,'';

(2) by inserting after the comma at the end of clause (E) ''including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,''; and

(3) by striking ''and (G)'' and inserting the following: ''(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)''.

(l) NATIONAL CLEAN WATER TRUST FUND.—

(1) IN GENERAL.—Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

''SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

''(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.''.

(2) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting ''(a) IN GENERAL.—'' before ''There is''; and

(B) by adding at the end the following:

''(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.''.

(m) APPLICABILITY.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike ''(h)'' and insert ''(k)''.

Page 131, line 5, strike ''(r)'' and insert ''(u)''.

Page 188, line 21 strike ''(s)'' and insert ''(v)''.

Page 192, line 6, strike ''(t)'' and insert ''(w)''.

Page 216, line 11, strike ''by'' and all that follows through ''518'' on line 13 and insert ''by inserting after section 519''.

Page 216, line 14, strike ''519'' and insert ''520''.

Page 217, line 7, strike ''before'' and all that follows through the comma on line 8 and insert ''after section 520''.

Page 217, line 9, strike ''520'' and insert ''521''.

Page 321, line 3, strike ''(8)'' and insert ''(7)''.

Mr. PALLONE. Mr. Chairman, my amendment seeks to improve enforcement of the Clean Water Act. Based on EPA data, almost 20 percent of U.S. major industrial, municipal and Federal facilities were in significant noncompliance with their Clean Water Act permits.

The EPA inspector general has found that penalty assessments are not sufficient to recover the economic benefits gained by noncompliance with the Clean Water Act. Small fines and lengthy time limits to achieve compliance promote an it-pays-to-pollute mentality, and failure to recover economic benefits places those who comply with the law at an economic disadvantage relative to those who are in violation of the law.

The Clean Water enforcement program should be strengthened to promote greater incentives to comply with the law.

Mr. Chairman, in New Jersey we have on the books as a State law Clean Water enforcement amendments, which became law in May of 1990, that increase enforcement. In March of 1995, the New Jersey department of environmental protection released their 4th annual report of the Clean Water Enforcement Act in New Jersey. Their findings reflect a significant decrease in penalty assessments as a result of increased compliance. The number of significant noncompliers declined from 70 to 44 in a given year.

Basically, the enforcement provisions in this amendment require State programs to establish mandatory minimum penalties for serious violations of and significant noncompliance with the Clean Water Act. They require penalties recover at least economic benefits, and they improve and increase the frequency of discharge reporting.

In addition to the enforcement provisions, this amendment would remove obstacles to citizen suits. The 1972 Clean Water Act included authority for citizens to sue polluters, thereby recognizing the U.S. EPA and the States might be unable or unwilling to aggressively pursue all violators, and citizen suits are a proven enforcement tool.

According to a U.S. Department of Justice statistical report, private citizen actions over 5 fiscal years have recovered approximately $11 million in penalties and interest. Basically, what we do in this amendment is allow citizens to sue for past violations, overturning a 1987 Supreme Court case which made those kinds of actions more difficult.

The amendment also increases citizens' rights to know, through posting notice requirements and fish consumption advisories. There are currently no Federal requirements the public be notified when water quality standards are violated. There are no uniform requirements for determining the nature and extent of fish and shellfish bans. Essentially, we have posting of notice requirements for areas where you should not swim or fish, and also fish consumption advisories.

Lastly, Mr. Chairman, I would point out the amendment establishes a national Clean Water trust fund to carry out inspections and enforcement pursuant to the act. The idea is the penalties we would get for increased enforcement would go into this fund, and they would be used to carry out the purposes of the act.

Mr. Chairman, I ask that this amendment be considered. I think that one of the most important things we can do is increase enforcement of the Clean Water Act, and that is the primary purpose of this amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is 5 congressional pages of mandatory enforcement provisions inserted into the Clean Water Act. This amendment not only is unnecessary but could be, and is, counterproductive to effective enforcement of the act.

This amendment, and get this, this amendment would deny due process to alleged violators in connection with the imposition of administrative penalties. Penalties could be imposed without the alleged violators having the right to due process.

Further, this amendment specifies minimum penalties, mandatory minimum penalties, that must be imposed, and so severely limits the abilities of the enforcement authorities, the EPA and the States, to sit down and compromise proposed penalties, to negotiate proposed penalties. In some instances, it would bar such compromises altogether.

Now, this certainly is not flexibility.

The National Governors' Association is strongly opposed to this amendment. The State water quality officials are strongly opposed to this amendment, and, indeed, this amendment also would allow duplicative enforcement by citizens' groups of violations that have been the subject of State enforcement actions. Not only could the State bring an enforcement action, but citizens' groups could come along and also bring an enforcement action, and even worse, citizens' groups could bring an enforcement action against something that already has been corrected. Let me emphasize that.

Even though something has been corrected, citizens' groups would be able to reach back and bring an enforcement action against somebody even though they corrected the problem.

In sum, this amendment imposes greater rigidity on the Clean Water Act. It would encourage, rather than discourage, protracted litigation. This is a lawyers' paradise, and this should be defeated.

Mr. MINETA. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, it is very important that citizens be notified when a beach or lake where they take their children to swim or fish is subject to a fishing ban due to fish contamination, or is not meeting water quality standards. This amendment would give the public the information it deserves, so that people can protect themselves from illness caused by eating contaminated fish or swimming in polluted water.

It makes sense that where a court finds that a discharger has violated the Act, the penalty should, at a minimum, recoup the economic benefit that the violator realized as a result of its violations. Otherwise, the polluter would gain an advantage over its competitors who complied with the law. This amendment would prevent windfalls that reward polluters.

These are just a few of examples of how the amendment would strengthen enforcement and other provisions of the Act, and ultimately improve the quality of our Nation's waters and the protection provided to our citizens.

Mr. Chairman, I urge support for the amendment.

□ 1800

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

Mr. Chairman, the thrust of this amendment is to bring about mandatory enforcement, and I do not find that as a shocking thing, or something that is undesirable or should not be part of this bill.

I do not believe anybody who is more than 25 or 30 years old in this country has any problem remembering the bad old days, the days when the Cuyahoga River was so polluted that it actually caught fire, the days when the Willamette River in Oregon, a State highly regarded for its environmental laws, was not fishable, swimmable, or drinkable, and, thanks to the Clean Water Act, and actual mandatory enforcement, those rivers have been substantially cleaned up.

But work remains to be done, and I do not see how those on the other side of the aisle who are diluting the standards which would be enforceable under this bill, and minimizing them, and moving significant areas of concern to voluntary compliance, would object for those few things that they leave to be mandatorily regulated, that to be the prospect of fines against polluters and higher fines against repeat polluters. There is due process for every violation. I am puzzled that the esteemed chairman would say there is not due process. It is there.

On the issue of fines, Mr. Chairman, what we would do here is level the playing field among competitors in an industry. For example, in my State, in my district, one of my paper mills has just spent $50 million, and that is a lot of money, to clean up its discharge into the Willamette River because downstream that same river is used for drinking water in addition to the fishing and other benefits, and they are

state-of-the-art, fully in compliance. Now should another mill, which has drug its feet thus far and is not in compliance with existing law, be allowed to continue in that vein and economically benefit? This amendment says no, that the fine would be commensurate at least to the economic benefits. So what we would do is level the playing field among members of an industry, between those who have acted in good faith as good citizens, good corporate citizens and good citizens of their community, and those who have not.

So I do not find it a radical proposal at all that we should have mandatory enforcement of those standards which do remain the bill which is before us today, and I rise in strong support.

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

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

Mr. PALLONE. Mr. Chairman, I would just like to point out that what we are basically talking about here are bad actors, repeat offenders, and in the case of the bad actors or the repeat offenders of their discharge permits, we are imposing mandatory minimum penalties, and then they, for the more serious violations, those penalties increase on a daily basis to a maximum penalty which is much higher than what is currently in the law. The idea is basically very similar to what is done in a lot of statutes where we want to make sure that bad actors have to pay a fine that is commensurate with the economic benefit that they have received. Otherwise, what is the point of having the Clean Water Act?

In regard to the State administrative actions, I know the gentleman on the other side mentioned that he did not like the idea of State administrative actions, that they should be able to preclude citizens' suits, but I would point out that in many cases courts have construed the preclusion provision so broadly that almost any State administrative action, no matter how inadequate, has had a preclusive effect on citizens' suits. So we want citizens to be able to bring actions where necessary to enforce the act, and again, in the past those citizen action suits have really done a lot to enforce the Clean Water Act and should be encouraged.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from New Jersey [Mr. PALLONE] for his good work on this amendment and urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 299, not voting 29, as follows:

[Roll No. 324]

[Roll No 324]

AYES—106

Ackerman
Andrews
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hinchey
Jackson-Lee
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
McDermott
McHale
McKinney
Menendez
Mineta
Moran
Nadler
Oberstar
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Reynolds
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Saxton
Schroeder
Scott
Serrano
Shays
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Thompson
Thornton
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Yates

NOES—299

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dicks
Dunn
Fattah
Frisa
Hancock
Kleczka
Martini
Meek
Miller (CA)
Mink
Moakley
Nussle
Ortiz
Pastor
Peterson (FL)
Rangel
Richardson
Rogers
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

□ 1825

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr Nussle against.

Mr. Moakley for, Mr. Barton against.

Miss Collins of Michigan for, Ms. Dunn against.

Mr. Rangel for, Mr. Bono against.

Mr. NEAL of Massachusetts and Mr. TORKILDSEN changed their vote from ''aye'' to ''no.''

Mr. GENE GREEN of Texas changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 70, after line 25, insert the following:

(e) ANCHORAGE, ALASKA.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

''(v) ANCHORAGE, ALASKA.—The Administrator may grant an application for a modification pursuant to subsection (h) with respect to the discharge into marine waters of

any pollutant from a publicly owned treatment works serving Anchorage, Alaska, notwithstanding subsection (j)(1)(A) and notwithstanding whether or not the treatment provided by such treatment works is adequate to remove at least 30 percent of the biological oxygen demanding material.''.

Mr. YOUNG of Alaska (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 Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman. My amendment will revise section 301(h) of the Clean Water Act to allow the city of Anchorage which has a waiver of secondary treatment to be relieved of the 30-percent BOD removal requirement. This requirement puts a tremendous burden on the city.

EPA requires the Anchorage Wastewater Utility to remove 30 percent of organic material from sewage before it can be discharged. Meeting this requirement for Anchorage has been extremely difficult because sewage inflow is very clean.

In 1991, the utility was approached by 2 fish processors who wanted to discharge 5,000 pounds of fish guts into the system daily. Anchorage approved the request and it made it easier to meet the 30 percent requirement. The discharge was less clean, but the EPA requirement was satisfied. This is a perfect example of why we need cost benefit analysis in our laws.

The cost for Anchorage is $180,000 per year in increased operating expenses. They will be required to spend more than $4 million within the next 2 years. All this while spending $1 million over 6 years to monitor outflows to ensure there is no negative impact from the discharge.

Had their been some flexibility in the law, Anchorage could have avoided millions of unnecessary expenditures.

I urge support of the amendment.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, as I understand it, this is limited to Anchorage, AK.

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. SHUSTER. It makes a lot of sense, and I support the gentleman.

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

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I just would like to make a short comment that I oppose this amendment. This is just another waiver of standards, another rollback of existing requirements, and it is specifically for Anchorage, AK. If this amendment is adopted, the law will allow for less than primary treatment. I am concerned that the next amendment will be to allow totally untreated sewage to be discharged into coastal waters, whether it is offered by the gentleman from Alaska or other amendments that will come forward.

□ 1830

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I have an amendment at the desk, amendment No. 54.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VISCLOSKY: Page 82, after line 21, insert the following:

(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

''(i) NATIONAL CLEAN WATER TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

''(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

''(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the dale or redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

''(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

''(5) SELECTION OF PROJECTS.—

''(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

''(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

''(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

''(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

''(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.''.

''(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

''(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: ''The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.''.

''(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: '', including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)''.

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

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment to H.R. 961, which would help expedite the cleanup of our Nation's waters. My amendment would create a national clean water trust fund, establishe fines, penalties and other moneys collected through enforcement of the Clean Water Act to help alleviate the problems for which the enforcement actions were taken.

This amendment would not in any way change the way in which enforcement actions were taken, the nature of the penalties or the manner in which the penalties were levied. I would want to make that very clear. A similar provision was included in last year's Clean Water Act reauthorization, H.R. 3948.

Currently, there is no guarantee that fines or other moneys that result from violations of the Clean Water Act be used to correct water quality problems. Instead, some of the money goes into the general fund of the U.S. Treasury without any provision that it be used to improve the quality of our nation's water.

The congressional district I represent is in northwest Indiana. It is home to abundant rivers and wetlands. It is also home to the Indiana Dunes National Lakeshore and five major steel facilities. A century of industrial development has created many toxic hot spots,

including the Indiana Harbor Ship Canal, which pose a constant threat to the health and safety of northwest Indiana residents. I am keenly aware of the need to balance between protecting the environment and encouraging economic growth. It would certainly be a step in the right direction to ensure that penalty moneys paid to the U.S. Treasury for violations of the act were used to clean up polluted water.

Today I am concerned that EPA enforcement activities under which fines and other penalties are levied ignore the fundamental issue of how to pay for the cleanup of the water pollution problems for which the enforcement occurred. If we are really serious about ensuring the successful implementation of the act, we should put enforcement funds to work and actually clean up our nation's waters.

It does not make sense for scarce resources to go into the bottomless pit of the Treasury's general fund especially if we fail to solve our serious water quality problems.

Specifically my amendment would establish a National Clean Water Trust Fund within the U.S. Treasury for fines, penalties, and moneys including consent decrees obtained through enforcement of the act that would otherwise be placed into the Treasury's general fund. Under my proposal, the EPA Administrator would be authorized to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act.

However, this amendment would not in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the act and other legislation. I strongly support the use of SEPs to facilitate the cleanup of serious environmental problems which are particularly prevalent in districts such as mine.

However, my bill would dedicate the cash payment to the Treasury, to the Clean Water Trust Fund. The amendment further specifies that remedial projects be within the same EPA region where enforcement action was taken. Northwest Indiana is in EPA Region 5, and there are 10 EPA regions throughout the United States. Under the proposal, any funds collected from enforcement of the Clean Water Act in Region 5 would remain in the trust fund for that region.

The establishment of the trust fund is an innovative way in which to help improve the quality of our nation's waters by targeting funds accrued from enforcement of the act that would otherwise go into the Treasury. We can put scarce resources to work to facilitate the cleanup of the problem areas throughout not only the Great Lakes but this great country.

I urge support of my amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word. It is with great reluctance that I must oppose the amendment of my good friend.

This amendment has appeal. I would be very happy to work with the gentleman and other interested committees on this to see if indeed we could work something out. The concerns we have here tonight, however, are multifold.

First of all, this could end up creating a slush fund for the EPA. That, I think, we do not want to see happen. This, in effect, could become a superfund for water, if you will, an aquatic superfund. We certainly do not want to see a replay of all the superfund problems we have had.

One of the things that concerns me greatly is that this provision, I am told, could encourage citizen lawsuits for even minor infractions and, indeed, it could possibly create a situation where EPA might exercise prosecutorial discretion. That is something I do not think we want to see happen.

Indeed, it also, as I understand the way it is crafted, could create a situation where hundreds, if not thousands, of citizens groups would be going into the court to seek funds out of this program or, indeed, going into court using, even worse, using the funds from this program to pay for citizen lawsuits.

Finally, the Committee on Ways and Means certainly has a clear interest in this because it does take money out of the general fund Treasury, and so I think anything that we do here would have to be done in concert with the Committee on Ways and Means.

For all of the reasons, I think we should reject this amendment tonight. But I would be happy to work with the gentleman to see if we could craft something that might be acceptable not only to our committee but to the other committees of jurisdiction.

I thank the gentleman.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

Mr. Chairman, I am pleased to support the gentleman's amendment.

In today's tight economic times, it is important that we attempt to maximize the resources available for environmental protection. This amendment would assure that the fines and penalties which are assessed and collected for violations of the Clean Water Act are used to benefit the environment in the area where the violation occurred.

This amendment will put these fines and penalties to use to create remedial projects to restore and recover from damages resulting from the violation. While consent orders often include environmental remediation, when cases go to trial, fines and penalties often end up as miscellaneous receipts in the Treasury. This may assist the general fund, but it doesn't help the local environment which has suffered the harm.

Funding at all levels of government is under increasing pressure. If we can increase funding for environmental cleanup, without using tax receipts, I believe that we should pursue such an option.

Mr. Chairman, I support the amendment.

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

Mr. Chairman, I just also want to indicate support for the amendment of the gentleman. As those of you who listened to the debate on my amendment previously know, I had advocated establishing a trust fund with fines and penalties that are received from violations for enforcement purposes. But I think that the purpose of the gentleman from Indiana, [Mr. VISCLOSKY], in setting up this trust fund is certainly just as valid.

There is no question that we need more funding for cleanup, and I would like to see nothing better than to have the money that comes from violations of the Clean Water Act placed into a fund that would be used for more cleanup rather than go to the general Treasury. I think that is the way to go in order to provide additional funding for cleanup.

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

Mr. SHUSTER. Mr. Chairman, is the gentleman asking for unanimous consent to be recognized for 1 minute?

Mr. VISCLOSKY. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

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

There was no objection.

Mr. VISCLOSKY. Mr. Chairman, I would like to respond to the arguments made by the chairman.

First of all, the idea that a slush fund would be traded is simply not true. If you look at the total national fines that have been imposed by EPA and the courts, you are talking about $12 million in a year like 1989. You are talking about $28 million in a year like 1993.

Second, that the moneys would be used to pay for citizens' suits is absolutely not true. I point out in the text of the amendment it states, ''Amounts in the fund shall be available, as provided in appropriations acts,'' that is your ultimate break on this system, ''to the administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.''

Again, the control of this system is the appropriations process. They are subject to it, and they are only available to clean up polluted waterways in the United States.

The final point the gentleman made, that this would encourage bureaucrats to run amok, again, the break on the

system is the subject of the annual appropriations process, just as the highway trust funds, the aviation trust funds and other funds are. So I do not think we have that encouragement. We are not changing the penalties.

I would recommend the amendment to the Members' attention.

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

Mr. Chairman, the gentleman has a very interesting amendment. I think it should be very carefully considered.

The purpose of my rising today is to address an undercurrent that is going on in the House right now. That undercurrent pertains to the vote last night on the coastal zone management program. There are a number of Members who are wondering what really is going to happen now that the House has spoken its will by a vote of 224 to 199.

There are a lot of Members wondering what people outside this Chamber who have a vested interest in the success of this program are saying. So I thought it would be timely to share with my colleagues in the House a letter I have received just today from the Coastal States Organization which says:

''We are writing in great appreciation for the vote on the floor of the House yesterday in restoring and fixing the coastal nonpoint pollution control program during the debate on the reauthorization of the Clean Water Act. Finally, through your amendment''—the letter is addressed to me—''we can address the critical problem of coastal nonpoint pollution in a manner that grants the coastal states, rather than the federal agencies, the flexibility and authority to determine which coastal waters are threatened or degraded, target the coastal nonpoint pollution program as well as prioritize which waters to address first, utilize voluntary measures first to address coastal nonpoint pollution rather than being required to implement mandatory requirements and start working to address this serious problem now, not five years from now.''

The letter from the Coastal States Organization goes on to say:

''Through your amendment, this program has been redesigned to be a state-implemented program. Thank you for taking this 'states rights' approach and granting us the authority and flexibility to address this serious problem as the states deem appropriate as well as for saving over four years worth of work. Please convey our gratitude to all the Members of Congress who supported your efforts to restore and protect this nation's companies.''

□ 1845

Less than 24 hours ago, the House, by a decisive vote, voted to protect the coastal management program. Now the undercurrent in this Chamber indicates that there is a secretive plan to undo what we did. I want Members to know the Coastal States Organization does not want any secret plan to be implemented. The Coastal States Organization does not want any sleight of hand. The Coastal States Organization, with 30 States involved, representing tens of millions of people, are watching us, and they are saying ''Don't back down.'' I thought it was very important, so timely, to present this letter to this Chamber, so that we could all have the benefit of the wisdom of the Governors in the States and the people we are trying to effectively serve.

What we are about today is addressing a most sensitive environmental and public health piece of legislation. Let no undercurrents undermine what we have already done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VISCLOSKY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 247, not voting 31, as follows:

[Roll No. 325]

AYES—156

Abercrombie
Andrews
Barcia
Becerra
Beilenson
Berman
Boehlert
Bonior
Borski
Brown (CA)
Brown (OH)
Burr
Castle
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Heineman
Hinchey
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
McDermott
McHale
McKinney
Meehan
Menendez
Metcalf
Mineta
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Rush
Sabo
Sawyer
Saxton
Schroeder
Serrano
Sisisky
Skaggs
Slaughter
Smith (NJ)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—31

Ackerman
Ballenger
Barton
Bono
Boucher
Brown (FL)
Collins (IL)
Collins (MI)
Dunn
Fattah
Frisa
Hancock
Harman
Istook
Johnston
McNulty
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Roukema
Sanders
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

□ 1904

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Watts against.

Mr. Moakley for, with Mr. Bono against.

Miss Collins of Michigan for, with Ms. Dunn of Washington against.

Mr. WAXMAN changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Chairman, today I returned to Arizona to attend the graduation of my daughter from Arizona State University. Consequently, I missed a number of rollcall votes on H.R. 961. Had I been present, I would have voted in the following manner: ''Nay'' on rollcall vote No. 323; ''aye'' on rollcall vote No. 324; ''aye'' on rollcall vote No. 325.

LEGISLATIVE PROGRAM

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

Mr. Chairman, I rise for the purpose of inquiring from the chairman of the committee or the distinguished majority leader if we could know what the schedule is for the remainder of today and tomorrow.

I rise because we were told during the period when the contract was on that when the contract was finished, that the schedule would be a little more family friendly and that we could get people home at a reasonable hour. This is the second night that we are going to be here late.

I realize this is important legislation but as I look at the schedule for next week, there are days when there is not a lot of business that we could perhaps finish this bill. I inquire of the distinguished majority leader if we could perhaps leave fairly soon so that Members could see their families and come back tomorrow and try to finish.

Mr. ARMEY. If the gentleman would yield, let me thank the gentleman for his inquiry. We have been talking to a variety of Members on both the majority and minority side.

There are for a great many of our Members very serious matters before the House that have very serious consequences to their particular national and local interests. It has been our hope and intention to move this bill to the point that we could complete the work on the bill by 1 p.m. tomorrow because many Members have some departure times that are very strategically important to them there as well.

It is our hope to finish the bill by 1 p.m. tomorrow and to do that in such a way as to not abridge the rights of any Member that chooses to offer the amendment that they in so many cases have so often carefully prepared and so patiently waited their turn to offer, and also to hold without any bias against that Member their right to call their vote. Many times a Member offers an amendment and wants to have a vote, a recorded vote, and it is fundamentally that Member's right.

In the meantime we have been in discussions, and I had hoped that by 7 p.m. we would have some greater clarity of understanding to where I could make an announcement. As it is now, I think discussions are still ongoing.

We are still optimistic that we could either continue tonight to a later hour and finish the bill, so that we could all be done with our week this evening, or to see clearly that it is possible for us to rise at an earlier hour and then complete the bill tomorrow in such a time as to convenience those people who are trying to get their departure by 1 p.m. or thereabouts.

The other option that is out there that we are cognizant of is to hold the bill over into next week. That is something that a great many Members also would like to avoid.

Let me just say that we are continuing that information. Perhaps during the course of the next amendment, between now and the next vote that is called, we can have some definitive final understanding of where we can go, and we will be able to make an announcement that defines which of the three alternatives has sort of presented itself through the will of the Members who are participating in the bill.

Mr. GEPHARDT. I thank the gentleman.

I realize it is difficult to make everything come out on time, but I really believe that there was a great amount of anticipation and excitement among all Members when we talked about making the schedule more family friendly. I admit it is hard to do. I have been in your position, and I know how difficult it is. But in that this bill is not essential, we are not on a strict time line, I really believe it would be helpful if Members could go home at a decent hour, come back tomorrow, get out at 1 p.m., come back on Tuesday and get our work done.

Mr. ARMEY. If the gentleman will yield further, let me just say, I understand that, and again as the gentleman from Missouri knows, we always try to juggle as fairly as possible the heartfelt interests of a large group of different Members with different interests, and we are continuing to work with that.

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

Mr. GEPHARDT. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, the distinguished leader from Texas and I have engaged many times over the course of the last 125 days about the schedule, and about getting a more predictable schedule and a more effective schedule and a more family-friendly schedule.

I would just like to ask the leader a couple of questions.

How many amendments do we have left on this bill?

Mr. ARMEY. If the gentleman would yield, there are a fairly significant number of amendments, about 15. Then there are questions related at who among the 15 choose to offer their amendment? Do they choose to call recorded votes? Are there agreements that might be made?

We have also looked at the option of a time limitation. We have some Members that feel very strongly they do not want that and would object to it.

As I have said, I suppose I have sort of kept the gates of bargaining and negotiation open a little longer perhaps than one normally does. But we like to keep options open for fair consideration for all interested parties as long as we can before we come to some sort of ''This is it, we've got to pick option A, B, or C and close the gate on the other options.''

Mr. ROEMER. If the leader would answer some other questions, we have about 3 or 4 amendments left on this side, so you have 10 or 11 amendments left on your side. Is that correct?

You are working on your side now to try to get some unanimous-consent agreements to bracket the wetlands section or to limit time on this open rule?

Mr. ARMEY. I think the gentleman is almost wholly correct. We are really working with our side rather than on our side. Given that little subtlety, we are working together, and I understand we all would like to get out early. If we are going to come back tomorrow, we would rather get out earlier than later.

I think if we can get back to the bill and maybe again talk to some of these final Members, maybe we can get a final answer.

Mr. ROEMER. Can the leader give us some time as to when he is going to make an announcement tonight to let us know if we will be in until midnight tonight and until 1 p.m. tomorrow? Can we begin to let our staffs know when we can make reservations to fly back home tomorrow?

Can the leader be a little bit more specific, since the 11 or 12 amendments are on his side?

Mr. ARMEY. Again, if I may remind you, the schedule has been, as a matter of fact, the schedule you had before you left for your April recess that scheduled your departure time for tomorrow at 3 p.m. We are working for 1 p.m.

In all due respect to all the other Members, I have more or less felt that anything between now and your printed schedule that you had prior to your April recess that says 3 p.m. is fair game. Again, I am trying to work with everybody.

I would not hold anybody late tonight unless there was some chance we could compensate for that lateness by getting the bill done.

Mr. ROEMER. That is my question to the leader, is if we go late tonight, we could be out earlier than 1 p.m. tomorrow and we could make reservations to fly back home at 10 or 11 a.m. tomorrow.

When would we know that?

Mr. ARMEY. That is a level of fine-tuning that goes even beyond the great expectations of Keynesian fiscal policy in the early 1960's. Certainly we should

be able to get a look at whether or not we can finish the bill tonight or must come back tomorrow. When we get to that definitive point, then we can see the option.

I would not ask Members to stay until midnight tonight, stay late tomorrow, and then come back next week and work on this bill.

Mr. ROEMER. Would the leader be willing to roll votes until tomorrow and have debate on these serious questions?

I agree with the leader that many of these questions and many of these amendments are very serious. We offered a serious substitute yesterday. Many of these amendments need to be seriously debated, but to then limit this serious debate between now and 1 p.m. tomorrow does not do the service that the leader has talked about.

What about on Tuesday, where you have scheduled the New London National Fish Hatchery Conveyance Act? I think that is the only order of business all day Tuesday.

Mr. ARMEY. I thank the gentleman again for that recommendation.

Mr. ROEMER. But he is not going to listen to my recommendation.

Mr. ARMEY. The gentleman, I think, does me a bit of a disservice to presume that I have not taken that into consideration up to this point.

Mr. ROEMER. You are the leader, and I am sure you are way ahead of this minority Member.

Mr. GEPHARDT. Perhaps if I could reclaim my time and bring this to a conclusion, because we are now wasting time.

Mr. ARMEY. As Randy Quaid says, ''I'll get back to you later with the details as quickly as I can.''

Mr. GEPHARDT. I know the gentleman is doing everything that he can to bring this to a successful and swift conclusion. Just please know that there is a lot of, unhappiness maybe is too strong of a word, but deep concern and unhappiness, I am sure, on both sides of the aisle about the failure to get out.

The contract is over. It is time for family friendly.

□ 1915

Let us do everything we can to make that happen.

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

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

Mr. THOMAS. I thank the gentleman for yielding. I would like to point out there have been nine recorded votes on your side today, none on ours.

Mr. GEPHARDT. I understand.

Mr. ARMEY. If I may respond to the gentleman?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. I do understand the concern the Members have. And let me just say to a large extent it is out of our concern for the full rights of each individual Member that we have come to this point, and we will get back to that business and try to resolve this as quickly as we can.

Mr. GEPHARDT. I thank the gentleman.

The CHAIRMAN. Are there any further amendments to title III.

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding the following new paragraph:

''(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.''.

SEC. 402. PERMIT REFORM.

(a) DURATION AND REOPENERS.—Section 402(b)(1) (33 U.S.C. 1342(b)(1)) is amended—

(1) in subparagraph (B) by striking ''five'' and inserting ''10'' and by striking ''and'';

(2) by inserting ''and'' after the semicolon at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

''(E) can be modified as necessary to address a significant threat to human health and the environment;''.

(b) REVIEW OF EFFLUENT LIMITATIONS.—Section 301(d) (33 U.S.C. 1311(d)) is amended to read as follows:

''(d) REVIEW OF EFFLUENT LIMITATIONS.—Any effluent limitation required by subsection (b)(2) that is established in a permit under section 402 shall be reviewed at least every 10 years when the permit is reissued, and, if appropriate, revised.''.

(c) DISCHARGE LIMIT.—Section 402(b)(1)(A) (33 U.S.C. 1342(b)(1)(A)) is amended by inserting after the semicolon at the end the following: ''except that in no event shall a discharge limit in a permit under this section be set at a level below the lowest level that the pollutant can be reliably quantified on an interlaboratory basis for a particular test method, as determined by the Administrator using approved analytical methods under section 304(h);''.

SEC. 403. REVIEW OF STATE PROGRAMS AND PERMITS.

(a) REVIEW OF STATE PROGRAMS.—Section 402(c) (33 U.S.C. 1342(c)) is amended by inserting before the first sentence the following: ''Upon approval of a State program under this section, the Administrator shall review administration of the program by the State once every 3 years.''.

(b) REVIEW OF STATE PERMITS.—Section 402(d)(2) (33 U.S.C. 1342(d)(2)) is amended—

(1) in the first sentence by striking ''as being outside the guidelines and requirements of this Act'' and inserting ''as presenting a substantial risk to human health and the environment''; and

(2) in the second sentence by striking ''and the effluent limitations'' and all that follows before the period.

(c) COURT PROCEEDINGS TO PROHIBIT INTRODUCTION OF POLLUTANTS INTO TREATMENT WORKS.—Section 402(h) (33 U.S.C. 1342(h)) is amended by inserting after ''approved or where'' the following: ''the discharge involves a significant source of pollutants to the waters of the United States and''.

SEC. 404. STATISTICAL NONCOMPLIANCE.

(a) NUMBER OF EXCURSIONS.—Section 402(k) (33 U.S.C. 1342(k)) is amended by inserting after the first sentence the following: ''In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a technology-based effluent limitation established pursuant to section 301, a permittee shall be deemed in compliance with the technology-based effluent limitation if the permittee demonstrates through reference to information contained in the applicable rulemaking record that the number of excursions from the technology-based effluent limitation are no greater, on an annual basis, than the number of excursions expected from the technology on which the limit is based and that the discharges do not violate an applicable water-quality based limitation or standard.''.

(b) PRETREATMENT STANDARDS.—Section 307(d) (33 U.S.C. 1317(d)) is amended by adding at the end the following: ''In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a categorical pretreatment standard or local pretreatment limit established pursuant to this section, a person who demonstrates through reference to information contained in the applicable rulemaking record—

''(1) that the number of excursions from the categorical pretreatment standard or local pretreatment limit are no greater, on an annual basis, than the number of excursions expected from the technology on which the pretreatment standard or local pretreatment limit is based, and

''(2) that the introduction of pollutants into a publicly owned treatment works does not cause interference with such works or cause a violation by such works of an applicable water-quality based limitation or standard,

shall be deemed in compliance with the standard under the Act.''.

SEC. 405. ANTI-BACKSLIDING REQUIREMENTS.

Section 402(o) (33 U.S.C. 1343(o)) is amended by adding at the end the following:

''(4) NONAPPLICABILITY TO PUBLICLY OWNED TREATMENT WORKS.—The requirements of this subsection shall not apply to permitted discharges from a publicly owned treatment works if the treatment works demonstrates to the satisfaction of the Administrator that—

''(A) the increase in pollutants is a result of conditions beyond the control of the treatment works (such as fluctuations in normal source water availabilities due to sustained drought conditions); and

''(B) effluent quality does not result in impairment of water quality standards established for the receiving waters.''.

SEC. 406. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (k) the following:

''(l) INTAKE CREDITS.—

''(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

''(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

''(ii) if the source of the intake water meets the maximum contaminant levels or treatment

techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

''(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

''(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

''(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

''(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

''(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.''.

SEC. 407. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

''(s) COMBINED SEWER OVERFLOWS.—

''(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

''(2) TERM OF PERMIT.—

''(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

''(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

''(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

''(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

''(C) LIMITATIONS ON EXTENSIONS.—

''(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

''(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

''(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).''.

SEC. 408. SANITARY SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

''(t) SANITARY SEWER OVERFLOWS.—

''(1) DEVELOPMENT OF POLICY.—Not later than 2 years after the date of the enactment of this subsection, the Administrator, in consultation with State and local governments and water authorities, shall develop and publish a national control policy for municipal separate sanitary sewer overflows. The national policy shall recognize and address regional and economic factors.

''(2) ISSUANCE OF PERMITS.—Each permit issued pursuant to this section for a discharge from a municipal separate sanitary sewer shall conform with the policy developed under paragraph (1).

''(3) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under subsection (b)(1)(B), the Administrator or a State with a program approved under subsection (b) may issue a permit pursuant to this section for a discharge from a municipal separate sanitary sewer due to stormwater inflows or infiltration. The permit shall include at a minimum a schedule for compliance with a long-term control plan under the policy developed under paragraph (1), for a term not to exceed 15 years.

''(4) EXTENSION.—Notwithstanding the compliance deadline specified in paragraph (3), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a municipal separate sanitary sewer, the period of compliance beyond the last day of such 15-year period if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator, unless the Administrator or the State determines that the extension is not appropriate.

''(5) EFFECT ON OTHER ACTIONS.—Before the date of publication of the policy under paragraph (1), the Administrator or Attorney General shall not initiate any administrative or judicial civil penalty action in response to a municipal separate sanitary sewer overflow due to stormwater inflows or infiltration.

''(6) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal separate sanitary sewer shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy developed under paragraph (1) or otherwise achieve the objectives of this subsection.''.

SEC. 409. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

''(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

''(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

''(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

''(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

''(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

''(B) Identification of the abandoned or inactive mined lands addressed by the plan.

''(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

''(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

''(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

''(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

''(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

''(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

''(I) A budget and identified funding to support the activities described in the plan.

''(J) Remediation goals and objectives.

''(K) Contingency plans.

''(L) A description of the applicant's legal right to enter and conduct activities.

''(M) The signature of the applicant.

''(N) Identification of the pollutant or pollutants to be addressed by the plan.

''(4) PERMITS.—

''(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

''(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

''(ii) require that any modification of the plan be reflected in a modified permit;

''(iii) require that if, at any time after notice to the remediating party and opportunity for

comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

''(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

''(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

''(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

''(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

''(I) after implementation of the remediation plan;

''(II) if a party obtains a permit to mine the site; or

''(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

''(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

''(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

''(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

''(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

''(i) to limit or otherwise affect the Administrator's powers under section 504; or

''(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

''(5) DEFINITIONS.—In this subsection the following definitions apply:

''(A) REMEDIATING PARTY.—The term 'remediating party' means—

''(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

''(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

''(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

''(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

''(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.''.

SEC. 410. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting ''(also referred to as 'biosolids')'' after ''sewage sludge'' the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

''(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).''.

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting ''building materials,'' after ''agricultural and horticultural uses,'';

(2) in paragraph (1) by adding at the end the following: ''Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge.''; and

(3) in paragraph (2) by striking ''September 30, 1986,'' and inserting ''September 30, 1995,''.

SEC. 411. WASTE TREATMENT SYSTEMS DEFINED.

Title IV (33 U.S.C. 1341–1345) is further amended by adding at the end the following:

''SEC. 406. WASTE TREATMENT SYSTEMS DEFINED.

''(a) ISSUANCE OF REGULATIONS.—Not later than 1 year of the date of the enactment of this section, the Administrator, after consultation with State officials, shall issue a regulation defining 'waste treatment systems'.

''(b) INCLUSION OF AREAS.—

''(1) AREAS WHICH MAY BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator may include areas used for the treatment of wastes if the Administrator determines that such inclusion will not interfere with the goals of this Act.

''(2) AREAS WHICH SHALL BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator shall include, at a minimum, areas used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless—

''(A) the area was created in or resulted from the impoundment or other modification of navigable waters and construction of the area commenced after the date of the enactment of this section;

''(B) on or after February 15, 1995, the owner or operator allows the area to be used by interstate or foreign travelers for recreational purposes; or

''(C) on or after February 15, 1995, the owner or operator allows the taking of fish or shellfish from the area for sale in interstate or foreign commerce.

''(c) INTERIM PERIOD.—Before the date of issuance of regulations under subsection (a), the Administrator or the State (in the case of a State with an approved permit program under section 402) shall not require a new permit under section 402 or section 404 for any discharge into any area used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless the area is an area described in subsection (b)(2)(A), (b)(2)(B), or (b)(2)(C).

''(d) SAVINGS CLAUSE.—Any area which the Administrator or the State (in the case of a State with an approved permit program under section 402) determined, before February 15, 1995, is a water of the United States and for which, pursuant to such determination, the Administrator or State issued, before February 15, 1995, a permit under section 402 for discharges into such area shall remain a water of the United States.

''(e) REGULATION OF OTHER AREAS.—With respect to areas constructed for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water that are not waste treatment systems as defined by the Administrator pursuant to this section and that the Administrator determines are navigable waters under this Act, the Administrator or the States, in establishing standards pursuant to section 303(c) of this Act or implementing other requirements of this Act, shall give due consideration to the uses for which such areas were designed and constructed, and need not establish standards or other requirements that will impede such uses.''.

SEC. 412. THERMAL DISCHARGES.

A municipal utility that before the date of the enactment of this section has been issued a permit under section 402 of the Federal Water Pollution Control Act for discharges into the Upper Greater Miami River, Ohio, shall not be required under such Act to construct a cooling tower or operate under a thermal management plan unless—

(1) the Administrator or the State of Ohio determines based on scientific evidence that such discharges result in harm to aquatic life; or

(2) the municipal utility has applied for and been denied a thermal discharge variance under section 316(a) of such Act.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment numbered 47 offered by Mr. RIGGS: Insert at the appropriate place in title IV the following new section:

''DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting ''the concentration or loading of'' after the words ''applicable to''.

Mr. RIGGS. Mr. Chairman, I want to thank the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his excellent work on the bill.

Mr. Chairman, I hope and believe that my amendment should not be controversial. It reaffirms what the EPA

should already know. Clean water is not itself a pollutant, and should not be regulated as such.

Specifically, Mr. Chairman, my amendment clarifies the anti-backsliding exception in the Clean Water Act under section 402(o). The act now allows a discharge permit to be ''renewed, reissued or modified to contain a less stringent effluent limitation applicable to a pollutant'' in certain circumstances.

The amendment would make clear that as long as other clean water precautions are followed, a discharge permit could be renewed, reissued or modified to contain a less stringent effluent limitation applicable to the concentration or loading of a pollutant.

The effect of the language is that increased volumes of treated wastewater could be discharged into a river or other body of water as long as water quality is not degraded.

The amendment is consistent with the spirit of H.R. 961 in that it gives flexibility while preserving requirements that water quality standards be met.

This amendment is particularly important to a jurisdiction, a portion of which I represent, the city of Santa Rosa in Sonoma County, CA.

Mr. Chairman, the anti-backsliding exception criteria explicitly addresses only the concentration of effluent quality constituents, not the pollutant quantity or wastewater flow. It appears that my amendment would enable the city of Santa Rosa to discharge into a nearby river at a greater than 1 percent rate only with modification of the anti-backsliding provision.

Mr. Chairman, this amendment will allow funds to be spent where the environment will benefit the most. Without this proposed language publicly owned wastewater treatment works across the country could be forced by existing regulations to forgo implementation of wastewater reuse projects that would restore wetlands and supply reclaimed water to support local agriculture, the wastewater that would be made available by this amendment and in the case of the city of Santa Rosa, avoid agricultural pumping of water from streams used by salmon and flathead.

For all of these reasons, Mr. Chairman, I urge my colleagues' approval of this amendment, and again I would hope that my amendment would be accepted by the minority and I believe that my amendment is noncontroversial in nature.

Mr. BACHUS. Mr. Chairman, I move to strike the last word, and I rise in support to the Riggs amendment. It provides a needed clarification of the 402(o) exemptions, and I would urge a yes vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. CONSULTATION WITH STATES.

Section 501 (33 U.S.C. 1361) is amended by adding at the end the following new subsection:

''(g) CONSULTATION WITH STATES.—

''(1) IN GENERAL.—The Administrator shall consult with and substantially involve State governments and their representative organizations and, to the extent that they participate in the administration of this Act, tribal and local governments, in the Environmental Protection Agency's decisionmaking, priority setting, policy and guidance development, and implementation under this Act.

''(2) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to meetings held to carry out paragraph (1)—

''(A) if such meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

''(B) if such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of this Act.

''(3) IMPLEMENTING GUIDELINES.—No later than 6 months after the date of the enactment of this paragraph, the Administrator shall issue guidelines for appropriate implementation of this subsection consistent with applicable laws and regulations.''.

SEC. 502. NAVIGABLE WATERS DEFINED.

Section 502(7) (33 U.S.C. 1362(7)) is amended by adding at the end the following: ''Such term does not include 'waste treatment systems', as defined under section 406.''.

SEC. 503. CAFO DEFINITION CLARIFICATION.

Section 502(14) (33 U.S.C. 1362(14)) is further amended—

(1) by inserting ''(other than an intermittent nonproducing livestock operation such as a stockyard or a holding and sorting facility)'' after ''feeding operation''; and

(2) by adding at the end the following: ''The term does include an intermittent nonproducing livestock operation if the average number of animal units that are fed or maintained in any 90-day period exceeds the number of animal units determined by the Administrator or the State (in the case of a State with an approved permit program under section 402) to constitute a concentrated animal feeding operation or if the operation is designated by the Administrator or State as a significant contributor of pollution.''.

SEC. 504. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

''(27) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).''.

SEC. 505. STATE WATER QUANTITY RIGHTS.

(a) POLICY.—Section 101(g) (33 U.S.C. 1251(g)) is amended by inserting before the period at the end of the last sentence ''and in accordance with section 510(b) of this Act''.

(b) STATE AUTHORITY.—Section 510 (33 U.S.C. 1370) is amended—

(1) by striking the section heading and ''SEC. 510. Except'' and inserting the following:

''SEC. 510. STATE AUTHORITY.

''(a) IN GENERAL.—Except''; and

(2) by adding at the end the following new subsection:

''(b) WATER RIGHTS.—Nothing in this Act shall be construed to supersede, abrogate, or otherwise impair any right or authority of a State to allocate quantities of water (including boundary waters). Nothing in this Act shall be implemented, enforced, or construed to allow any officer or agency of the United States to utilize directly or indirectly the authorities established under this Act to impose any requirement not imposed by the State which would supersede, abrogate, or otherwise impair rights to the use of water resources allocated under State law, interstate water compact, or Supreme Court decree, or held by the United States for use by a State, its political subdivisions, or its citizens. No water rights arise in the United States or any other person under the provisions of this Act. This subsection shall not be construed as limiting any State's authority under section 401 of this Act, as excusing any person from obtaining a permit under section 402 or 404 of this Act, or as excusing any obligation to comply with requirements established by a State to implement section 319.''.

SEC. 506. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term ''animal fat'' means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term ''vegetable oil'' means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 507. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking ''biennially revised'' and inserting ''quadrennially revised''; and

(2) in the second sentence by striking ''February 10 of each odd-numbered year'' and inserting ''December 31, 1997, and December 31 of every 4th calendar year thereafter''.

SEC. 508. GENERAL PROGRAM AUTHORIZATIONS.

Section 517 (33 U.S.C. 1376) is amended—

(1) by striking ''and'' before ''$135,000,000''; and

(2) by inserting before the period at the end the following: '', and such sums as may be necessary for each of fiscal years 1991 through 2000''.

SEC. 509. INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—Section 518(d) (33 U.S.C. 1377(d)) is amended by adding at the end the following: ''In exercising the review and approval provided in this paragraph, the Administrator shall respect the terms of any cooperative agreement that addresses the authority or responsibility of a State or Indian tribe to administer the requirements of this Act within the exterior boundaries of a Federal Indian reservation, so long as that agreement otherwise provides for the adequate administration of this Act.''.

(b) DISPUTE RESOLUTION.—Section 518 is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection:

''(h) DISPUTE RESOLUTION.—The Administrator shall promulgate, in consultation with States and Indian tribes, regulations which provide for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide, in a manner consistent with the objectives of this Act, that persons who are affected by differing tribal or State water quality permit requirements have standing to utilize the dispute resolution process, and for the explicit consideration of relevant factors, including the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.''.

(c) PETITIONS FOR REVIEW.—Section 518 (33 U.S.C. 1377) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following:

''(i) DISTRICT COURTS; PETITION FOR REVIEW; STANDARD OF REVIEW.—Notwithstanding the provisions of section 509, the United States district courts shall have jurisdiction over actions brought to review any determination of the Administrator under section 518. Such an action may be brought by a State or an Indian tribe and shall be filed with the court within the 90-day period beginning on the date of the determination of the Administrator is made. In any such action, the district court shall review the Administrator's determination de novo.''.

(d) DEFINITIONS.—Section 518(j)(1), as redesignated by subsection (b) of this section, is amended by inserting before the semicolon at the end the following: '', and, in the State of Oklahoma, such term includes lands held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe, lands which are subject to Federal restrictions against alienation, and lands which are located within a dependent Indian community, as defined in section 1151 of title 18, United States Code''.

(e) RESERVATION OF FUNDS.—Section 518(c) (33 U.S.C. 1377(c)) is amended in the first sentence—

(1) by striking ''beginning after September 30, 1986,'';

(2) by striking ''section 205(e)'' and inserting ''section 604(a)'';

(3) by striking ''one-half of''; and

(4) by striking ''section 207'' and inserting ''sections 607 and 608''.

SEC. 510. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

''SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

''In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.''.

SEC. 511. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by section 510 of this Act, the following:

''SEC. 520. AUDIT DISPUTE RESOLUTION.

''(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

''(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

''(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

''(d) MEMBERSHIP.—

''(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

''(2) TERMS.—Each member shall be appointed for a term of 3 years.

''(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

''(e) BASIC PAY AND TRAVEL EXPENSES.—

''(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

''(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

''(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

''(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.''.

AMENDMENT OFFERED BY MR. EMERSON

Mr. EMERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. EMERSON: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after ''subject to section 10 of the Act of March 3, 1899,'' the following, and by renumbering the remaining paragraph accordingly:

''(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);''.

Mr. EMERSON. Mr. Chairman, the purpose of this amendment is to resolve the friction and conflict that the Clean Water Act, as interpreted by the Supreme Court in its 1994 Tacoma decision, is creating with the Federal Power Act. The Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission's licensing authority over hydropower projects under the Federal Power Act. This amendment would rectify that situation by exempting hydropower projects from regulation under the Clean Water Act.

The Federal Energy Regulatory Commission already conducts a comprehensive review of proposed new hydropower projects when first deciding whether to issue a license and again upon relicensing. That review takes into account the inputs of State and Federal agencies, Indian tribes, and the public. The review also carefully evaluates and addresses the potential environmental impacts of each proposed and existing project. Therefore, in the context of hydropower projects under the Commission's jurisdiction, there is no need for the additional, duplicative layer of regulation that the Clean Water Act now creates. This amendment eliminates the duplicative layer of Federal regulation.

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

Mr. EMERSON. I am happy to yield to the chairman of the committee of jurisdiction.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding. I understand what he is attempting to accomplish here. My judgment is that it does go a little too far, and I am hopeful that we might be able to work out a compromise. I believe either Congressman TATE or myself or Congressman LAUGHLIN will have a compromise, and I would be constrained to vigorously support the compromise and hope the gentleman might be able to see his way clear to do that.

Mr. EMERSON. I am glad to be amended, if that is the intent of the chairman.

Mr. SHUSTER. I thank the gentleman for his cooperation.

Mr. RAHALL. Mr. Chairman, we have heard a great deal of talk this year about unfunded mandates, about the rights of the States, about regulatory burdens on local units of government. Well, I would say to my colleagues, this amendment represents the granddaddy of all burdens on the States, of all unfunded mandates on the States and of all violations of the rights of the States.

What this amendment says is that we will let the Federal Government, in the form of FERC, run roughshod over State water quality determinations during the licensing of hydroelectric power projects.

It is an amendment of convenience. At times, it is convenient to support State primacy. This time, to some, apparently it is not convenient.

And so, what this amendment basically says is that we will allow FERC to shove hydro projects down the throats of the States, and while we're at it, overturn a Supreme Court decision and disregard the views of 40 State attorneys general.

The simple fact of the matter is that water quality, where the States have primacy under section 401 of the act, and water quantity considerations cannot be separated.

For this reason, the States currently have the right to condition hydroelectric power licenses issued by FERC to protect their bona fide interest in maintaining the water quality of their rivers and streams.

This amendment would do away with that fundamental right of the States.

As 40 State attorneys general wrote to the committee leadership recently: ''This Congress is actively pursuing a new federalism, seeking to delegate to states authority previously held by the federal government.''

They concluded: ''How ironic it would be for this Congress to reverse this policy and strip away longstanding state authority over water quality.''

Mr. Chairman, I urge the defeat of this amendment.

AMENDMENT OFFERED BY MR. LAUGHLIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. EMERSON

Mr. LAUGHLIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAUGHLIN as a substitute for the amendment offered by Mr. EMERSON: Page 213, after line 5, insert the following:

SEC. 507. DISPUTE RESOLUTION.

(a) IN GENERAL.—Section 401 of the Federal Water Pollution Control Act does not apply with respect to the licensing of a hydroelectric project under Part I of the Federal Power Act if the relevant federal agency makes the determination referred to in subsection (b) in accordance with the mechanism described in subsection (c).

(b) DETERMINATION.—The determination referred to in subsection (a) is a specific determination that a denial, condition, or requirement of a certification under section 401 of the Federal Water Pollution Control Act for such a project is inconsistent with the purposes and requirements of Part I of the Federal Power Act.

(c) MECHANISM.—The dispute resolution mechanism for purposes of subsection (a) shall be a mechanism established by the relevant federal agency in consultation with the Administrator and the States, for resolving any conflicts or unreasonable consequences resulting from actions taken under section 401 by a State, an interstate water pollution control agency or the Administrator relating to the issuance of a license (or to activities under such license) for a hydroelectric project under Part I of the Federal Power Act. Such mechanism shall include, at a minimum, a process whereby: (1) the relevant federal agency, in coordination with the State, the interstate agency or the Administrator (as the case may be) may determine whether any denial, condition or requirement under section 401 of the Federal Water Pollution Control Act relating to the issuance of such license or to activities under such license is inconsistent with the purposes and requirements of Part I of the Federal Power Act; (2) such denial, condition, or requirement shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act if based on temperature, turbidity or other objective water quality criteria regulating discharges of pollutants; and (3) any denial, condition, or requirement not based on such criteria shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act unless the relevant federal agency, after attempting to resolve any inconsistency, makes a specific determination under subsection (b) and publishes such determination together with the basis for such determination in the license or other appropriate order.

Mr. LAUGHLIN (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 Texas?

There was no objection.

Mr. LAUGHLIN. Mr. Chairman, the Laughlin-Tate-Brewster-Bachus-Parker amendment to the Emerson amendment is a balanced, reasonable amendment to address the ongoing problem involving section 401 of the Clean Water Act and the Federal Energy Regulatory Commission.

This sets up a balanced, fair dispute resolution process. It responds to the conflicts—or at least potential conflicts—between Clean Water Act water quality certifications and FERC hydropower licensing decisions.

A recent Supreme Court case has expanded the interpretation and use of section 401.

This amendment does not overturn that case. It does not weaken States rights to protect water quality.

Instead, it sets up a fair mechanism to resolve potential conflicts or unreasonable consequences. It also retains States rights to protect water quality—the original intent of the Clean Water Act.

I urge my colleagues to support the amendment.

Mr. BACHUS. Mr. Chairman, I rise in support of the substitute amendment.

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

Mr. BACHUS. Mr. Chairman, this amendment deals with hydroelectric power. Hydroelectric power is our largest renewable energy source. Ninety-five percent of our renewable energy in the United States is hydroelectric power. That source of renewable energy is threatened by the 1994 Supreme Court ruling which the gentleman from Texas mentioned, and it has placed this energy resource in jeopardy. The Supreme Court ruling known as the Tacoma decision expands the role of the State water quality agency beyond traditional water quality issues by permitting these agencies to regulate operations of a hydro project, a power previously under the jurisdiction of the Federal Energy Regulatory Commission and Federal natural resource agencies.

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Hydropower today provides 12 percent of our Nation's electricity, and I call your attention to the fact that hydropower emits no greenhouse gases or pollutants. It does not produce any toxic waste. It is completely renewable through annual rainfall and snow melt, and it is domestically produced, which is critical to national security. In the next decade a large portion of the Nation's hydroelectric projects will come up for relicensing before FERC.

In my home State of Alabama, 70 percent of the hydroelectric projects must be relicensed in the next 10 years. Unfortunately, as these vital projects come up for relicensing, they are threatened by the Tacoma decision.

If left unaddressed in this present legislation, the Supreme Court's interpretation of section 401 of the existing Clean Water Act threatens the continuing operation of hydroelectric projects throughout this country, and in doing so, it threatens the viability of our most significant renewable resource and millions of business and customers who depend on hydroelectric power. To allow this situation to threaten the hundreds of existing projects that will undergo relicensing in the coming year is simply not good environmental or public policy.

As the largest provider of renewable energy, hydropower must not be strangled by the dual regulatory process that has been inadvertently created by the Tacoma decision.

The substitute being offered by the gentleman from Texas [Mr. LAUGHLIN], the gentlemen from Washington, Oklahoma, Mississippi, and myself, gives this Congress the chance to pull hydroelectric projects out of the regulatory quicksand that has been created and get our energy and environmental policies working together for a secure, clean energy future.

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

If I could enter into a discussion with my friend from Missouri, we just received a copy of this, and what I am trying to understand in reading through it is: Are we preempting the States? I know that that was the objective of the original amendment, to preempt the State's authority to control its own water. In this case, we seem to

have some kind of a dispute mechanism being set up, but it seems to me ultimately the decisions will all be made within the Federal Energy Regulatory Commission.

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

Mr. DEFAZIO. I yield to the gentleman from Missouri.

Mr. EMERSON. The object here is to establish a dispute resolution process. That is the intent of the amendment, to avoid duplicative efforts.

Mr. DEFAZIO. Reclaiming my time, who would have the final say in a dispute where a State has determined that a hydro project is inconsistent with that State's regulation of its own waters; that is, of whether they have a concern regarding drinking water quality, turbidity, fisheries, whatever?

Mr. EMERSON. In an issue involving the jurisdiction of FERC, it would be FERC.

Mr. DEFAZIO. Reclaiming my time then, so the gentleman is preempting States' rights, and in the western States a number of States have opted to oppose projects by FERC, and now in this case, should a State oppose a project approved by FERC, FERC could overrule the State? Is that correct? I guess it is.

Mr. EMERSON. If the gentleman would yield, no, the States still have their right to protect their water quality. It is when we get into the issues of water quantity that you need an arbiter above an individual State

Mr. DEFAZIO. Reclaiming my time, I do not know how in the West, where it does not rain in the summertime and some years we do not have a lot of runoff, we can separate the issues of water quantity and quality. They kind of go together. If we do not have enough water, a lot of times there may be something, a problem with resident fish, and there may be a problem with other naturally occurring pollutants. We have some mercury contamination that is natural. If we do not have enough water, it reaches dangerous levels.

Mr. EMERSON. If the gentleman would yield, I think the best way to put it is that when a State acts under the Clean Water Act and there is a dispute, you need a higher authority to go to resolve the dispute. So this is a dispute resolution mechanism more than anything else.

Certainly, it would not be my object to preempt States' rights, but there certainly are issue areas where States, where a higher authority needs to be invoked.

Mr. DEFAZIO. Reclaiming my time, is the gentleman familiar with the position of the Western Governors, and have the Western Governors signed off on this? Because they were opposed to the previous amendment.

Mr. EMERSON. We have worked with the Western Governors. No, they have not signed off on it. We have given them every opportunity to be involved, and that is one of the reasons, quite frankly, for which there needs to be a dispute resolution.

Mr. DEFAZIO. Reclaiming my time, there is a dispute resolution now. It has been determined, you know, through the Supreme Court that, in fact, States ultimately control the waters within their States and they cannot be preempted by a bunch of faceless Federal bureaucrats. I guess I would ask, could the gentleman name the members of the Federal Energy Regulatory Commission? I cannot. I do not know who they are.

Mr. EMERSON. If the gentleman would yield, the Supreme Court specifically did not address the issue that the gentleman is raising, which is why we need a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, I mean, so we would determine that if a State disagrees with the Federal Energy Regulatory Commission, the Federal Energy Regulatory Commission would essentially have the ultimate say. As a western Member, I have a real concern giving authority over State water in the Western States to a bunch of nameless, faceless bureaucrats in Washington, DC, even if they are appointed by an ostensibly Democrat President and Administration.

Really, it is not something I am particularly interested in granting to this agency, and this amendment seems to do so, and I am not interested in doing that. I am trying to understand this. The staff is furiously reading through it. If we could ask for an additional extension of time, I would appreciate the Chair doing so.

Mr. BACHUS. If the gentleman would yield, I would like to respond to your concerns for the Western States by pointing out to you some testimony from David Conrad, who is the water resource specialist for the National Wildlife Federation, and he, in fact, in testimony given in connection with H.R. 649.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. SHUSTER was allowed to speak out of order.)

Mr. SHUSTER. Mr. Chairman, I wish to take this time in order to make an announcement.

In consultation with several Members, including the majority leader, what we have decided is to rise tonight at 8:30, to come in tomorrow at 10 o'clock, work until 1 o'clock, rise tomorrow afternoon, take this bill up Monday evening, probably around 6 o'clock, as soon as we can Monday. I understand there is other legislation before us Monday, and take the bill up again at 10 a.m. on Tuesday and attempt to complete it on Tuesday.

The majority leader tells me that we would consider setting time limits next week, if necessary, but this is my understanding of where we are. So I would expect that we will rise around 8:30 tonight, and I thank the distinguished chairman.

Mr. DEFAZIO. Mr. Chairman, I ask unanimous consent for an additional 5 minutes for the gentleman from Alabama [Mr. BACHUS] so the gentleman and I may continue our colloquy.

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

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I defer to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. What I was saying was Mr. Conrad gave testimony in 1991, in which he argued against FERC giving up being the final arbitrator of these hydroelectric projects, and he said at that time that he would like FERC preserved as the final arbitrator by saying that if the right was withdrawn, it would eliminate, and he gave three reasons, it would eliminate the critical floor of environmental protection that now exists in the Federal Power Act and in related Federal environmental laws; second, it would make hydroelectric licensing and the protection of the environment much more difficult and unpredictable than it is currently; and third, and to address your specific concerns, it would vastly reduce, especially in the Western States, the opportunities for the public to be involved in the environmental conditions associated with hydropower development.

As I am sure the gentleman is aware, FERC goes through exhaustive hearings in which local citizens are allowed to give testimony. Local agencies are allowed to give testimony, and under the amendment which has been proposed, the States would still have every right to establish and to enforce water quality standards, including adopting water quality standards to rightfully establish the amount of chemicals or pollutants, percentages, in the water, and establish numeric water quality criteria standards.

Mr. DEFAZIO. If I could ask the gentleman, the point I was making, for instance, and I can go to a specific instance but I will not, but it involved quantity, not quality, because without the quantity we do not get to that point because of naturally occurring pollutants. So you are saying if there is a naturally occurring problem or pollutant, the State could control the quantity sufficient to dilute it, because that is essentially what we are doing in this instance, in order to keep up temperatures and in order to offset other problems in the water; we could, the State would still have the right to control quantity if it could make a case based on water quality grounds. Is that the gentleman's understanding of the amendment?

Mr. BACHUS. As the gentleman knows, you have to have adequate inflow for these projects, and FERC would continue to be the final arbiter of that. But the States would, and local governments and citizen groups, would all participate through a mediation or arbitration process that is set up in this amendment.

Mr. DEFAZIO. Reclaiming my time then, I guess ultimately, I mean I would then conclude, in opposition to the amendment, because I do not want the Federal Energy Regulatory Commission to be the final arbiter of something that concerns the waters of a sovereign western State. You know, we had a dispute in my State between FERC and the State, and the State prevailed because the State demonstrated that the project approved by FERC would have caused the decimation of a fishery. The State had wildlife concerns, and also would have very detrimental effects on a very, very heavily used river in terms of whitewater rafting.

So I am not assured by the idea that these faceless, nameless bureaucrats at FERC are going to be the protectors of the 50 States' sovereign water rights. So I would reluctantly rise in objection to the amendment, as I understand it. I have hardly been given the opportunity to review it.

Mr. EMERSON. If the gentleman would yield, we do recognize that quality and quantity are mixed. But let me say to the gentleman that when a State makes a quantity decision that may be in conflict with FERC, there needs to be a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, my understanding now, in those cases, either it has been decided by the courts, I am not certain, or certainly people have had recourse to the courts, given the conflict between a State agency and a Federal agency. But to have a dispute resolution wherein FERC has the final say, if this were a neutral dispute resolution process with an arbitrator or a mediator or something, someone not part of FERC, I would be more interested and enthusiastic, but to say there will be a dispute resolution and FERC, who disagrees with the State, will get to determine the resolution is going back to the fox guarding the chickenhouse.

Mr. EMERSON. If the gentleman would yield, if it is strictly a FERC issue, FERC will decide. The problem comes when there is a conflict between FERC and the States.

Mr. DEFAZIO. Again, that is my concern. I would like to see the States have at least equal footing, if not preeminence, when it comes to this.

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

Mr. Chairman, first of all, I would like to thank the chairman of the Transportation Committee for his efforts on this particular issue, trying to forge a compromise, as well as the gentleman from Texas [Mr. LAUGHLIN] and others who have been working on this particular issue.

Since January 4, we have been trying to make Government more efficient, less bureaucracy, trying to streamline all processes of Government.

The Tacoma case complicates this entire issue. What we are trying to do is bring some common sense back to this, and there are some questions left unanswered by the Supreme Court.

Now, this amendment recognizes the expanded role granted to the States by the Supreme Court, but we need a balance. We need a reasoned approach.

The current process under FERC looks at environmental concerns, looks at power production, looks at fish and wildlife, looks at native American treaties, looks at irrigation, looks at management of Federal lands, looks at interstate flow issues, and FERC does not always rule on the side of hydro.

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I mean, if we do not have these kind of changes, this is going to be a lawyers' dream. We are going to fight over between who and which is right. The current process is complicated. The current process is lengthy. Otherwise, if we do not make these changes, we are going to have the Noah's Ark approach. We are going to have two of everything. We have got to have some kind of process to solve this problem.

This amendment, I think and I believe, will promote what is our renewable resource right here in America, and that is our water resources. We need to protect it. To me this is a commonsense solution. It has been worked out in a bipartisan way, and I think that it deserves the support of the Members of this body.

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

Mr. TATE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Well, again just returning to—as my colleague knows, I think we all strive for consistency. I mean the issue of preempting the State on waters solely within, as my colleague knows, its jurisdiction disturbs me, and I would assume it disturbs the gentleman to give that power to a bunch of—— Could the gentleman name the members of the Federal Energy Regulatory Commission for me?

Mr. TATE. Once again, I cannot name the names of the FERC, but the point to keep in mind, the gentleman from Oregon, is, if we do not make these differences and changes, we are going to have two processes. I mean we have to decide. Eventually, there has to be an answer. Otherwise this becomes a lawyers' dream. We are going to argue between which is right. I am someone who respects States' rights, but ultimately there needs to be a decision. This provides that ultimate decision. Otherwise we are just hanging out there in space waiting for someone to answer. This gives a final answer, and that is what we need.

Mr. DEFAZIO. If the gentleman will yield, in my State we got to a final answer. FERC approved the project, the State disapproved it, and the project did not go forward, and I would hope that would be the result, but under this amendment FERC would approve it, the State would disapprove it, and FERC would then preempt the State, and I am puzzled that a Western Member would support——

Mr. TATE. Reclaiming my time, that could still occur under this current provision. We are just trying to have some finality to this, some certainty to this, and to move forward with this. The gentleman's scenario would still exist under this particular bill, or actually substitute to the Emerson amendment.

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

Mr. TATE. I yield to the gentleman from Washington.

Mr. DICKS. I rise in support of this substitute amendment. This case occurred in—Tacoma case is in my district and it affected a dam up on the Olympic Peninsula in the State of Washington, and I have thought about this at some great length, and in my judgment we have to have some way to resolve this. I say to my colleagues, You can't have the States being able to completely block. I mean that the FERC should consider the States' objections, they should give them very thorough consideration and that there should be—as I understand the bill, there is basically you're saying that, unless the FERC can show that it's inconsistent with the Federal Power Act, basically it has to go along with the State objection. It seems to me that is fine, but to have this—to have these two processes where both of them are kind of State FERC's and a national FERC I think is a big mistake, and I think this is a good compromise. I think it's well-thought-out and very balanced, and I would hope that it would be adopted.

Mr. TATE. Reclaiming my time to agree with the gentleman from the Sixth District of Washington, I say, You are exactly right. The burden of proof is on FERC to prove that it is the problem, and so that's—we are solving the problem with this. We are getting rid of the duplication, and I commend the gentleman for his support.

Mr. DICKS. I would point out this does mean this is kind of a strong Federal system, but I think in this case it is warranted.

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

As my colleagues know, it is very interesting that in the Northwest we rely about 40 percent on hydropower production. Unfortunately, hydropower production is dependent upon water for its fuel source, and unless there is a reliable quantity of water which could be taken away from a project because of quality concerns, and unless there is a stability in that in the long term over the period of the license, a project can be threatened, and ratepayers ultimately have to pay that cost.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Maybe I misheard the gentlewoman, but I understood her to

say that a project might be deprived of a quantity of water because of quality, water quality, concerns. Well, I would hope that would be the case, and I would imagine that most people in Idaho would hope that would be the case.

Mrs. CHENOWETH. Well, reclaiming my time, if a project is required because of water quality problems to have to spill in order to raise the level of the water downstream because of water quality problems, and they are required by a State agency to spill above and beyond the capacity of the plan to take the water, and they are not only able to produce the electricity that they should be producing over a period of time, that causes a great deal of uncertainty, not only to the power producers, the ratepayers, but also to the bankers and the bond company. The water is the fuel source, and before a license is granted, the license applicant certainly has to go though all of the hoops set forth in the Environmental Comprehensive Protection Act which requires that the State once and for all set the criteria as far as quality and quantity of water and how that would mix. Our concern is that the goal posts do not get moved down the pike so that it can break projects because we are so reliant on hydropower.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield again?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I just like to point out, and I do not know the gentlewoman's relationship with the gentleman, but Allen G. Lance, attorney general of Idaho, was opposed to the last iteration of this that he saw, and I do not believe he has had an opportunity to review this one.

Mrs. CHENOWETH. Yes, I do not think our attorney general has had the opportunity to review this amendment, and I have not had the opportunity to speak to him. I am a very strong proponent of States' water rights; that is one of the reasons I ran for Congress, but I think that we have to offer to our ratepayers and to the license holders a certain degree of certainty, and I think that this amendment would do that.

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

Mr. Chairman, I rise in support of the Laughlin amendment. Mr. Chairman, this amendment resolves very simply a potential problem resulting from the so-called Tacoma decision by the Supreme Court. That decision actually puts the Clean Water Act in direct conflict with the Federal Energy Regulatory Commission under the Federal Power Act. It erodes FERC's ability to balance broad national interests when making decisions about hundreds of hydro projects around the country.

Without this amendment, hydroelectricity's clean and affordable contribution to our Nation is threatened. I urge my colleagues to support the Laughlin amendment.

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

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

Mr. STOCKMAN. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I think one unfair thing about this debate is there has been some suggestion that under this amendment that the States and their water quality agencies do not have significant authority under this amendment. I would remind the gentleman from Oregon and anyone that is concerned about this that FERC will still be required to include the State's position on the need for power for the project, the value of the project to the local and regional economy, as well as the effects on recreation, fish and wildlife, and water quality in deciding whether or not to issue a license, and over the past history of FERC's regulation, even prior to this amendment which expands the rights of the water quality agencies of the States, FERC has accepted the recommendations of the States in over 90 percent of the cases, and we strengthen that. We strengthen under this amendment the right of the States to mandatory input and to mandatory participation.

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

Mr. BACHUS. I yield to the gentleman from Oregon.

Mr. DEFAZIO. The qualification I see in here is for such a project, is inconsistent with the purposes and requirement of part 1 of the Federal Power Act. Again, not having been given the time to go back and review the statutes, what protections are in part 1 of the Federal Power Act. Are all the things that the gentleman just mentioned included in part 1 of the Federal Power Act.

Mr. BACHUS. All the present protections of the Federal Power Act are included and preserved under this amendment.

Mr. DEFAZIO. So part 1 of the Federal Power Act includes all of those concerns and additions the gentleman just listed.

Mr. BACHUS. Either those or the Clean Water Act, which is now in effect, or other statutes and FERC regulations, rules and regulations.

Mr. DEFAZIO. If the gentleman would yield further, the point is we are exempting them unless it is inconsistent here, and I guess, as the gentleman knows, I think that this is an amendment of such import to the West, to unveil it with no opportunity to have it reviewed by the rather lengthy list of attorney generals—four pages from the West; I am not sure how many are on here, and other States other than the West: Delaware, Georgia, Hawaii, Illinois, Iowa, Maine. Well, looks like we went to the East: Pennsylvania, New Mexico, et cetera. It looks like most of the State attorney generals signed this, and to not have an opportunity to run it by all the attorney generals that objected to the original iteration, it seems again, as my colleagues know, that this is something that would perhaps be better left until Tuesday to at least give some of us an opportunity to review it with attorney generals.

Mr. BACHUS. In conclusion I would like to say to the gentleman from Oregon and to the Members, ''Remember the days when hydroelectric power was the most popular of energy resources. It was cheap, it was friendly to the environment. Fishermen and boaters loved the reservoirs that were created. The big dams were called the Eight Wonders of the World. The National Geographic had article after article about the popularity and the attractiveness of hydroelectric power.''

I say that is not changed today. It is 95 percent of our renewable energy comes from hydroelectric power. It is as important today, if not more important, than it was then, and 70 percent of those projects, hundreds of projects throughout this country, are going to be coming up for relicensing in the next 10 years. We have to establish an arbitration and a licensing agreement and not keep these tied up in court, as the gentleman alluded to, for years and years. It is a matter of national security. It makes us less dependent on foreign oil.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. LAUGHLIN] as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. DEFAZIO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DEFAZIO. This vote is on the amendment offered by the gentleman from Missouri [Mr. EMERSON] as amended; is that correct?

The CHAIRMAN. The gentleman is not correct.

Mr. DEFAZIO. All right; go ahead. I was just trying to get straight for Members what we are voting on. We are voting on the amendment offered as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The CHAIRMAN. The gentleman is correct.

The vote as taken by electronic device, and there were—ayes 309, noes 100, not voting 25, as follows:

[Roll No. 326]

AYES—309

Allard	Bachus	Ballenger
Andrews	Baesler	Barcia
Archer	Baker (CA)	Barr
Armey	Baker (LA)	Barrett (NE)

Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOES—100

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Brown (OH)
Clay
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Durbin
Engel
Ensign
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gutierrez
Hastings (FL)
Hinchey
Jackson-Lee
Jefferson
Johnson (CT)
Johnston
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
McCarthy
McDermott
McInnis
McKinney
Meehan
Menendez
Meyers
Mineta
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Serrano
Skaggs
Slaughter
Stokes
Studds
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—25

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Harman
Istook
Livingston
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Schumer
Stark
Tanner
Torres
Watts (OK)
Young (FL)

□ 2020

The Clerk announced the following pairs:

On this vote:

Mr. Bono for, with Mrs. Collins of Illinois against.

Mr. Watts for, with Mr. Moakley against.

Mr. Barton for, with Miss Collins of Michigan against.

Ms. VELÁZQUEZ, Ms. PELOSI, Mrs. JOHNSON of Connecticut, Ms. MCKINNEY, and Messrs. SKAGGS, BARRETT of Wisconsin, and MEEHAN changed their vote from ''aye'' to ''no.''

Messrs. TAYLOR of Mississippi, BROWNBACK, WISE, BARCIA, POMEROY, and HOUGHTON changed their vote from ''no'' to ''aye.''

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Chairman, I was, unfortunately, required to attend to business in my congressional district in Baltimore this evening and thus forced to miss two record votes. Specifically, I was not present to record my vote on rollcall vote No. 325, the amendment offered by Mr. VISCLOSKY of Indiana and rollcall vote No. 326, the amendment offered by Mr. LAUGHLIN of Texas to the Emerson of Missouri amendment.

Had I been here I would have voted ''yea'' on rollcall vote No. 325 and ''nay'' on rollcall vote No. 326.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The question was taken, and the Chairman announced that the noes appeared to have it.

The CHAIRMAN. In the opinion of the Chair, the noes have it, and the amendment is rejected.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SHUSTER. Mr. Chairman, I was on my feet and did not hear the Chair announce the vote. What was the announcement of the 5-minute vote?

The CHAIRMAN. The announcement of the 5-minute vote was that the noes prevailed. The Chair stands corrected. It was not a 5-minute vote. There was a voice vote.

On the voice vote, the noes prevailed and the amendment was not agreed to.

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Those in favor of a recorded vote will indicate by standing.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, it seems to me Members have left. To now call for a vote——

The CHAIRMAN. The Committee will be in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The House will be in order. Members will suspend.

The gentleman from California [Mr. MINETA] has been recognized by the Chair. The gentleman from California shall proceed.

Mr. MINETA. Mr. Chairman, on the basis of what we have now heard, I ask unanimous consent that the last vote be reconsidered, that the voice vote be reconsidered; that there be a reconsideration of the voice vote.

The CHAIRMAN. A motion to reconsider is not in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The Members will suspend.

By unanimous consent, the Committee may vacate a voice vote, and do it over.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the voice vote be vacated.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The amendment, as amended, was agreed to.

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

Mr. Chairman, after title VI is read, I will then move that the Committee do rise. We will come in tomorrow at 10 o'clock to resume debate on this legislation. We will proceed until 1 o'clock

tomorrow afternoon. We will take up this legislation Tuesday morning. However, I am informed by the majority leader that there will be other votes on Monday, as has been previously announced.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking ''(1) for construction'' and all that follows through the period and inserting ''to accomplish the purposes of this Act.''.

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking ''before fiscal year 1995''; and

(2) by striking ''201(b)'' and all that follows through ''218'' and inserting ''211''.

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

''(c) OTHER FEDERAL LAWS.—

''(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

''(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.''.

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

''(d) GUIDANCE FOR SMALL SYSTEMS.—

''(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

''(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

''(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.''.

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

''(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

''(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

''(B) Implementation of lake protection programs and projects under section 314.

''(C) Implementation of a management program under section 319.

''(D) Implementation of a conservation and management plan under section 320.

''(E) Implementation of a watershed management plan under section 321.

''(F) Implementation of a stormwater management program under section 322.

''(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

''(H) Implementation of measures to improve the efficiency of public water use.

''(I) Development and implementation of plans by a public recipient to prevent water pollution.

''(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

''(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.''.

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after ''20 years'' the following: ''or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan''; and

(2) in subparagraph (B) by striking ''not later than 20 years after project completion'' and inserting ''upon the expiration of the term of the loan''.

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

''(5) to provide loan guarantees for—

''(A) similar revolving funds established by municipalities or intermunicipal agencies; and

''(B) developing and implementing innovative technologies.''.

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ''or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)''.

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.''.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking ''and 320'' and inserting ''320, 321, and 322''.

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

''(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

''(1) such project is on the State's priority list under section 216 of this Act; and

''(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.''.

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

''(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

''(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.''.

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

''(k) SALE OF TREATMENT WORKS.—

''(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

''(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

''(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

''(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

''(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

''(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

''(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

''(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall

modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

''(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

''(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

''(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

''(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

''(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

''(i) is majority-owned and controlled by citizens of the United States; and

''(ii) does not receive subsidies from a foreign government.''.

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

''(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

''States:	*Percentage of sums authorized:*
Alabama	*1.0110*
Alaska	*0.5411*
Arizona	*0.7464*
Arkansas	*0.5914*
California	*7.9031*
Colorado	*0.7232*
Connecticut	*1.3537*
Delaware	*0.4438*
District of Columbia	*0.4438*
Florida	*3.4462*
Georgia	*1.8683*
Hawaii	*0.7002*
Idaho	*0.4438*
Illinois	*4.9976*
Indiana	*2.6631*
Iowa	*1.2236*
Kansas	*0.8690*
Kentucky	*1.3570*
Louisiana	*1.0060*
Maine	*0.6999*
Maryland	*2.1867*
Massachusetts	*3.7518*
Michigan	*3.8875*
Minnesota	*1.6618*
Mississippi	*0.8146*
Missouri	*2.5063*
Montana	*0.4438*
Nebraska	*0.4624*
Nevada	*0.4438*
New Hampshire	*0.9035*
New Jersey	*4.5156*
New Mexico	*0.4438*
New York	*12.1969*
North Carolina	*1.9943*
North Dakota	*0.4438*
Ohio	*5.0898*
Oklahoma	*0.7304*
Oregon	*1.2399*
Pennsylvania	*4.2145*
Rhode Island	*0.6071*
South Carolina	*0.9262*
South Dakota	*0.4438*
Tennessee	*1.4668*
Texas	*4.6458*
Utah	*0.4764*
Vermont	*0.4438*
Virginia	*2.2615*
Washington	*1.9217*
West Virginia	*1.4249*
Wisconsin	*2.4442*
Wyoming	*0.4438*
Puerto Rico	*1.1792*
Northern Marianas	*0.0377*
American Samoa	*0.0812*
Guam	*0.0587*
Pacific Islands Trust Territory	*0.1158*
Virgin Islands	*0.0576''.*

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking ''title II of this Act'' and inserting ''this title''.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

''(6) such sums as may be necessary for fiscal year 1995;

''(7) $2,500,000,000 for fiscal year 1996;

''(8) $2,500,000,000 for fiscal year 1997;

''(9) $2,500,000,000 for fiscal year 1998;

''(10) $2,500,000,000 for fiscal year 1999; and

''(11) $2,500,000,000 for fiscal year 2000.''.

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after ''title'' the following: ''(other than section 608)''; and

(2) by adding at the end the following:

''SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

''(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

''(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

''(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

''(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

''(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.''.

Mr. OLVER. Mr. Chairman. I rise today in opposition to H.R. 961. This bill has many, many flaws. It allows industry to discharge more toxics than they do today—forcing cities and towns to be responsible for cleaning up industry's discharges, or allowing those pollutants to flow into our waterways. The bill does nothing to address the problems of non-point source pollution, which is now an even bigger problem than point source pollution. The bill establishes wholesale new categories of waivers and exemptions which will roll back protections for our citizens and set us back in our efforts to clean up our rivers and streams.

There is a lot wrong with this bill. However, as a scientist, I want to address in detail one particular set of appalling provisions—those concerning wetlands.

We have heard repeatedly since the start of the 104th Congress and in the debate on this very bill over the last two days that Republicans want to rely on sound science in reforming our environmental laws. Speaker Gingrich himself endorsed this principle in describing his vision of what 21st Century America should look like.

In fact, Mr. Shuster's Committee report emphasizes the importance of using sound science, and says quite plainly ''The Committee also heard repeatedly of the need to ensure that Clean Water Act standards and requirements are based on sound scientific evidence and principles.''

I agree. In fact, I think wetlands regulation is one area crying out for greater reliance on scientific knowledge.

But unfortunately, we are seeing a pattern emerge in this House that sound science is only to be used when it agrees with the preconceived notions of Republicans.

The National Academy of Sciences assembled a very broad and diverse panel to examine how we can identify a wetland. The results of two years of study by the best people working in the field—wetlands professionals and academics alike—are now in.

The study makes it absolutely clear that there is no scientific justification for the wetlands provisions in H.R. 961.

For example, the NAS Committee concluded that the best scientific description of a wetland would use 14 days of water saturation in the root zone. H.R. 961 mandates a definition of 21 days of saturation on the surface. The difference could result in 30 to 50 percent less wetlands across the country.

In addition, H.R. 961 restricts protections of wetlands on the basis of the functions they perform. This might be a fine idea—if we had the knowledge to back it up. I strongly support increased cost-effectiveness and prioritization in our environmental protection. However, the NAS study found that we simply do not know enough about wetlands at this point to reliably classify them on the basis of function. The NAS Committee found that any shorthand

attempt to prioritize wetlands on the basis of size, or proximity to developed areas, is wholly inadequate from a scientific point of view.

We should classify wetlands, but only based on our scientific knowledge. We know that wetlands perform important functions—in flood prevention, water quality, wildlife habitat and other areas. However, the plain fact is that no one has the scientific knowledge to pick and choose which wetlands to regulate on the basis of function.

Each Member of this House faces a straightforward test of whether or not one agrees with the principle of basing our regulatory decisions on sound science.

Any suggestion that the content or timing of the NAS report is politically motivated is outrageous and represents a wholesale rejection of the principle that Congress should utilize professional expertise in making difficult scientific decisions.

The fact is, Members who make such insinuations are simply disappointed that their ostrich-like efforts to schedule floor consideration of H.R. 961 in advance of the release of this report were unsuccessful.

Make no mistake, if you support using sound science in regulatory decisions, you must oppose the provisions of H.R. 961. Anything less is sheer hypocrisy.

Mr. SERRANO. Mr. Chairman, there they go again.

The pattern the Republicans set for the first 200 days was to cut spending and repeal programs intended to help children, the poor, the elderly, legal immigrants, and working families, so they can give tax cuts to the wealthiest Americans at the same time they are balancing the federal budget by 2002.

The first significant piece of legislation for the second hundred days is the Clean Water Amendments of 1995, H.R. 961, known in some circles as the ''Dirty Water Act'' because the Republicans have chosen to protect polluters rather than the health and well-being of ordinary people.

This bill would roll back two decades of progress in reducing pollution in our lakes, rivers, and coastal areas, and halt further progress. It would let corporate polluters increase pollution, and make downstream water users pay to remove pollution that shouldn't get into the water in the first place.

There are problems throughout the bill. Perhaps the most widely debated provisions would redefine 80 percent of the nation's wetlands out from under federal protection.

Now, we don't have a lot of wetlands in the South Bronx, but we do drink water, and wetlands recharge water supplies and filter harmful substances from our water. We eat fish and seafood, and wetlands provide critical habitat, assuring adequate stocks now and in the future. We enjoy fishing, swimming, and other recreation on and around the water, and wetlands help keep our waters clean. But H.R. 961's wetlands provisions would cost us more while reducing the quality of our water and the safety and quantity of our seafood. We have plenty of reasons to care about wetlands.

Another major problem for me, Mr. Chairman, is the burden this bill would place on urban consumers downstream from runoff sources—the agribusinesses, miners, foresters, and developers that would not be required to take even minimal actions to prevent pollution for decades, if every. In many areas, overall water quality continues to be poor because sources of polluted runoff are not doing their share. Under H.R. 961, low-income urban ratepayers would have to pay more to get clean water, while upstream businesses that could afford to limit pollution would not be required to do so.

In addition, I am deeply distressed by the bill's lack of environmental justice protections for poor people and people of color. Amendments to require water quality testing and reporting in areas where the most vulnerable populations live, work, fish, and swim, and posting of fish advisories to warn subsistence fishers that fish in certain waters are too poisoned to eat—low-cost and cost-effective measures—have been rejected.

And, Mr. Chairman, these are only a few of the problems I see in this bill. The Clean Water Act is widely regarded as one of our most effective and successful environmental laws. It has produced marked improvements in the health of our people, the quality of life along our waterways and coasts, and the availability of clean water for household use and recreation. But the Republicans, in H.R. 961 reverse these successes and deny us further progress.

Mr. Chairman, I oppose this bill, as do many thoughtful New Yorkers, who have written letters opposing H.R. 961.

Marcia Fowle of the New York City Audubon Society wrote:

> Over 23 years, the water quality of New York Harbor, the Hudson River, the East River, Long Island Sound and Jamaica Bay—making up 578 miles of New York City waterfront—has markedly improved due primarily to the Clean Water Act. This progress should not be broken nor weakened.

Judith Enck and Linda Babiarz of NYPIRG wrote:

> There are few things as important to sustaining life as water. We must not return to the days when swimming and fishing threatened our health.

Bruce Carpenter of New York Rivers United wrote:

> Regardless of amendments, please vote NO on H.R. 961. The quality of our country's waters must not be undermined by polluters and special interests.

Rav Freidel of Concerned Citizens of Montauk wrote:

> We have tried to find alternative amendments that would make the Clean Water Act clean again. There is no way to fix it. It is simply a dirty water bill.

Marcy Benstock of the Aquatic Habitat Project, Clean Air Campaign in New York City wrote:

> H.R. 961 includes so many harmful changes that it cannot be fixed.

They are right. No amendments adopted in the House will fix this bill and I urge my colleagues to join me in voting against passage of H.R. 961.

Mr. COBLE. Mr. Chairman, the Federal regulation of stormwater in my congressional district has become known simply as the ''rain tax.''

The city has imposed a new utility tax on all property owners in order to raise $5.5 million annually to offset some of the costs of this unfunded Federal mandate. As my constituents in Greensboro, NC, have become aware of the direct tax resulting from the current Clean Water Act, they have called and written my office to express their outrage over this, a perfect example of Federal overreach. ''What will be taxed next?'' they ask.

I have a letter from Greensboro's city manager, Bill Carstarphen, in which he supports the stormwater management provisions in H.R. 961. Further, city officials urge the defeat of amendments that could subvert the improved flexibility in H.R. 961 for State and local governments to address stormwater pollution. Our city's environmental services director, Elizabeth Treadway, praises the recognition in H.R. 961 that stormwater cannot be considered a point-source pollution problem. These are our community experts speaking to the need for developing this program to the States, with an emphasis on voluntary compliance.

Greensboro was issued its permit in late 1994. The city spent almost $1 million over a 2-year period just to secure the permit. The city was forced to spend this money even though a solution to stormwater pollution under current law is unenforceable. It is multisource.

The stormwater provisions in H.R. 961 have been criticized as rolling back existing protections and allowing currently treated stormwater to be discharged without treatment. In fact, H.R. 961 does not eliminate the permit under which Greensboro currently manages its stormwater program. Greensboro and 341 other large cities—and 134,000 industrial facilities—already have stormwater permits. Greensboro would be required to comply with the existing permit until it became subject to voluntary activities, enforceable plans, general permits, and site-specific permits under approved State stormwater management programs described in H.R. 961.

The stormwater provisions of the current Clean Water Act are unworkable. H.R. 961 would replace the current, broken Federal requirements with a new program worked out between local governments and their State. H.R. 961 would recognize city officials' concerns that stormwater varies dramatically by season, by climate, and by each storm. This issue cries out for the application of balance.

I urge my colleagues to reject stormwater amendments designed to perpetuate the status quo.

Mr. BARTON. Mr. Chairman, I support the clean water bill, H.R. 961. Among its many good provisions, which have already been described and extolled, is a commonsense solution to an issue that has unnecessarily burdened cities in my district, as well as many others, regarding separate ''Sanitary Systems Overflows'' [SSO's].

H.R. 961 instructs the EPA to develop a reasonable, flexible, consistent, and economically feasible approach for controlling discharges from SSO's. It also instructs them to stop, review, and modify enforcement actions for projects required under the old policy.

While overinterpreting the Clean Water Act, the EPA has required cities with SSO systems, like Dallas and Fort Worth in my district, to eliminate all overflows. The overflows in question do not present a public health or water quality concern. Yet, to date, the EPA has forced cities in Texas alone to begin hundreds of millions of dollars of work to eliminate all overflows. This bill will correct this situation.

We have come a long way since I asked EPA officials to meet in my office with representatives of Dallas and Forth Worth on this

issue, when few others were raising this concern.

I thank the chairman of the Transportation and Infrastructure Committee for his help on this issue and would like to work with him to make some technical and refining changes that are currently being discussed. I strongly support the solution included in this bill and look forward to it becoming law.

Mr. SHUSTER. 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. WELLER) having assumed the chair, Mr. MCINNIS, 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. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 357

Mr. LAHOOD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–116) on the resolution (H. Res. 144) providing for consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–117) on the resolution (H. Res. 145) providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–118) on the resolution (H. Res. 146) providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, which was referred to the House Calendar and ordered to be printed.

□ 2030

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1500

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1500.

The SPEAKER pro tempore (Mr. WELLER). Is there objection to the request of the gentlewoman from California?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, FRIDAY, MAY 12, 1995 DURING 5-MINUTE RULE

Mr. HAYWORTH. 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 Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on International Relations; and the Committee on Veterans Affairs.

It it 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 Arizona?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am instructed by the leadership that these committees have been consulted, and it is proper for them to meet tomorrow.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1143, H.R. 1144, AND H.R. 1145

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent that Mr. BRYANT of Texas be removed from the list of cosponsors of the following bills introduced by myself: H.R. 1143, H.R. 1144, and H.R. 1145.

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 South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

[Mr. GRAHAM addressed the House. His remarks will appear hereafter in the Extension 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 Extension of Remarks.]

NATIONAL SPACEPORT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, tomorrow I will formally introduce the National Spaceport Act, but today, I would like to take a few minutes to discuss why I believe this is a critical and important step forward for American space policy as we prepare for the 21st century.

America has always been a world leader in space development, exploration, technology, and most recently commercialization. Our Nation has always understand the importance of space and has exercised bipartisan cooperation when it came to advancing space issues. This bipartisan cooperation has come from every corner of the political spectrum because of a universal recognition that space is an area of national unity and importance. I recently saw this bipartisan cooperation first hand during the deliberations over the California Spaceport and its 25-year lease with the Air Force.

We are now into the next frontier of space and that is the growing commercial arena. Commercial space was once an area dominated by the United States. However, over the past few years, we have relinquished our leadership position and stood by as other nation's have stepped in and vigorously embraced the vast opportunities presented by this market.

Today, a European consortium controls over 60 percent of the commercial launch market. In addition, many other nations including China, Russia, Japan, India, Canada, and Australia are becoming stronger and stronger competitors. Most have the benefit of big and seemingly unlimited government subsidies. For example, earlier this year, the Japanese government announced a 5.1-percent increase in their overall space budget. The Russians have also approved a substantial increase in 1995 funding while the Indian Government increased their funding for

1995–96 by 31 percent.There is a strong return on the investment. European industry expects to post sales of up to $12 billion from commercial launches of Ariane rockets by the end of the decade.

Although the United States remains a strong competitor with active spaceports and a healthy booster and satellite market, we have not charted a course to regain a leading role in what has become a very large market. Moreover, this very large market promises to be an even larger international enterprise in the 21st century.

We have to take a step out of the box and employ a new approach with regard to commercial space. The first step is educating and making the case that space is more than a NASA, science, or an exploration issue. Space is a vast area of untapped economic potential for local communities, State, and most importantly our Nation.

We are not looking for government to play the leading role, but instead we are looking to the private sector. But if we are to convince the private sector that commercial space is a worthwhile and ultimately profitable undertaking we have to demonstrate Government's commitment to a comprehensive commercial space policy and the development of commercial spaceports.

A spaceport is a transportation center that moves surface infrastructure into space. I believe that we ought to look at spaceports in the same way that we look at airports and treat them just like we would airports. Rather than moving passengers from one place to another, spaceports move commerce from one place to another.

The spaceport philosophy is a commitment to use-friendly environments, integrated launch services, and low-cost access to space. In addition it is important to recognize that facility development is separate from the overall commercial space industry. In the United States, the available parts of the market are launch bases, boosters, and satellites. The missing piece of the puzzle is a facility for the launches and timing is important. It is imperative that spaceport development progress quickly in order to maintain the other elements of the market.

In America today, there are only two existing spaceports, but many more who want to become active spaceports. I would encourage all States who are interested in developing spaceports to get involved. Commercial spaceports means jobs—many jobs. Jobs in building the spaceports; manufacturing rockets and satellites; research, training, and education.

Commercial spaceports produce positive economic return. In California for example, the growth of a spaceport helps in the revitalization of the high-tech industries which have been hurt by defense cuts. This means more high paying jobs, added business for local service providers, new hotels, homes, shopping centers, education centers, and research facilities.

In America we want to do it a little differently than other nations. We want to reach a point where government acts as a facilitator not an obstacle. We want the government to be primarily a customer rather than a provider. We want to give States the flexibility necessary to develop commercial spaceports and attract private industry support. We want to encourage greater private industry support through tax-exempt bond financing. We want spaceport development to progress free of the traditional regulatory barriers imposed by Government.

Mr. Speaker, commercial spaceport development is in the national economic interest. It is an issue of transportation and it should be pursued as part of a national transportation policy. It means jobs, it means economic opportunity, and it requires American leadership.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

[Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

A SMALLER, MORE EFFICIENT FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. BROWNBACK] is recognized for 5 minutes.

Mr. BROWNBACK. Mr. Speaker, for the first time today in 26 years, something very, very unusual has happened. That is, this morning at 1:05 a.m., the Committee on the Budget of the House of Representatives proposed a balanced budget, a balanced budget, one so that in 7 years our kids and grandkids won't be having more debt to pay off because we were not willing to face the tough task and make the tough choices now to be able to cut things back.

I think this is a grand moment that we are finally addressing this most critical of problems. This year alone the Federal debt is going to $5 trillion. If we don't balance the budget, going on the current projection path we have, if we don't put our oar into the water to make this happen, it is going to be at $7 trillion by the year 2002. It is time we do it.

There is only one way we are going to be able to balance the budget. That is, creating a smaller, more focused, more efficient Federal Government, one that was originally intended by the Founding Fathers, one that is not into all functions and tries to do everything for everybody but a limited government, a focused Federal Government, one I think that Thomas Jefferson would be proud of, one that I would hope that Peter Drucker, the management guru, would be proud of for its efficiency, and one most of all that I would hope the American people would be proud of for what it delivers of services of what they call on their Government to do.

We have had a Federal Government this past quarter of a century that has grown out of control and everybody has contributed to it, everybody in this country, and in this institution here on both sides of the aisle. It is time to get it back into control. It is time to cut it back. It is time to recreate the limited Government that was always intended by our Founding Fathers.

The Federal Government was not meant to be all things to all people. James Madison wrote early on in the founding of our country this:

''The powers delegated by the proposed Constitution to the Federal Government are few and defined.''

We must get the Federal Government back to its core functions of what it was originally intended to be and not flung out here into so many different things but focused, efficient, and smaller so that we can be able to cut back on the spending, so that we can be able to not deliver so much debt to our children, so that we can hold the dream out and push toward even paying off the debt, the nearly $5 trillion in debt that has been accumulated.

There are a number of proposals that have been put forward. Some of them call for the elimination of whole agencies in the Federal Government, agencies such as the Department of Commerce and Energy, HUD and Education, keeping certain of the core functions that are functions of the Federal Government and should be done by the Federal Government and eliminating other portions, privatizing some functions and sending some functions back to State and local units of government so that at the end of the day we have a smaller, more focused, more efficient Federal Government.

This is an absolute need, if for no other reason than for our children and grandchildren, so that they can have a future, not saddled with this huge debt, not saddled with such an enormous mortgage on America.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise with great concern over the administration's action in Haiti. On March 31, 1995, President Clinton turned over control of the Multi National Force [MNF] in Haiti, to the United Nations, under the auspice of the U.N. Mission in Haiti [UNMIH]. UNMIH, although still under American command, differs from the previous U.S. operation in two respects. The net effect of these changes is a U.S. commander and U.S. forces under the control of the U.N. Special Representative, Mr. Lakhdar Brahimi and a U.N. mandate for rules of engagement [ROE] which dictate the use of force by U.S. troops.

Mr. Speaker, in his report to the U.N. Security Council on January 17, 1995, Secretary General Boutros Boutros-Ghali stated; ''UNMIH will consist of civilian, military and civilian police components under the control of my special representative, Mr. Lakhdar Brahimi.'' This statement by the Secretary makes it clear he expects that General Kinser will work under the direction of the United Nations. In his report to Congress on February 1, 1995, President Clinton indirectly acknowledged this by stating ''the UNMIH commander will work for the U.N. Special Representative of the Secretary General.''

The administration, Mr. Speaker, will respond to my concern by stating that General Kinzer will have operational control of all forces in Haiti. This is a considerable improvement over the situation in Somali, but it is still not good enough. We all remember Somalia, where United States soldiers were shot down and dragged through the streets while under a foreign command, in an event forever etched in American minds.

Mr. Speaker, my concern is best illustrated by the current situation in Bosnia. Lt. Gen. Rupert Smith has the same operational control in Bosnia that Gen. Kinzer has in Haiti. Serbian gunners attacked Butmir last weekend killing 10 and wounding 50. Mr. Speaker this area was well within the exclusion zone. Lt. Gen. Smith requested NATO support enforcing the U.N. resolution protecting Sarajevo by ordering air strikes. With the planes in the air U.N. Special Representative Akashi rejected the request. Mr. Speaker, I ask you how can Lt. Gen. Smith protect his troops and their commitments when his military judgment is overruled by a U.N. representative.

Mr. Speaker, operational control is simply not good enough. We must take additional steps to assure General Kinzer and our troops will not be overruled by the U.N. civilian command when ordering military action.

The second concern I have deals with the revised rules of engagement under UNMIH. The rules of engagement approved by the Security Council are significantly more restrictive than the rules under U.S. command of the Multi National Force. The rules of engagement of UNMIH were mandated by the United Nations; not by the United States. Any changes to the current rules of engagement must go through the Secretary General and the Security Council, not through Gen. Kinzer or any other American. Mr. Speaker, how can the administration assert U.S. command of our forces when policy is evolving not out of the Pentagon, but the United Nations.

The record of U.N. ''peacekeeping operations'', Mr. Speaker is poor at best. The situation in Bosnia illustrates multiple scenarios were operational control was called into question by the U.N. Special Representative. Moreover, we should never be forced to accept U.N. mandates for rules of engagement that place unreasonable restrictions on our forces. This is not what the House intended under the National Security Revitalization Act. We must take action to restore the integrity and safety of our forces. We must work quickly to protect our forces from the action taken by the administration, before we are forced to accept another tragedy at the hands of the United Nations.

□ 2045

The SPEAKER pro tempore (Mr. WELLER). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

[Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SAVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to give a brief review of how this Congress is fighting for our senior citizens across the country. First, we rolled back the Social Security tax increase of 1993. Second, we have raised the income eligibility level above $11,200 for those under 70. Over the next 5 years, Mr. Speaker, seniors will be able to earn income up to $30,000 without ever having a deduction from their Social Security. Third, Social Security is off the table, Mr. Speaker, when it comes to this budget. And fourth, now House Republicans are determined to save Medicare by using new approaches, new managements, and new technologies to improve it, preserve it, protect it, and eliminate the fraud and abuse.

The Clinton Administration's Trustees Report on Medicare warns that the Medicare trust fund starts to go broke in 1996 and could be bankrupt by 2002. The current Government-controlled Health Care Finance Administration system has much waste and fraud. The General Accounting Office estimates $44 billion a year in Medicare and Medicaid fraud.

Our legislation will obviously make sure that these changes are made so that a strong Medicare system is what we have restored.

We also want to give senior citizens an incentive to fight waste and fraud by paying them 25 percent of any waste or fraud that they find on their bills. We want to strengthen and empower our senior citizens.

Republicans will also increase Medicare spending from $4,700 per retiree today to $6,300 per retiree in 2002. That is a 34-percent increase in Medicare spending per retiree. There is absolutely no cut in Medicare spending.

We will preserve the current Medicare system for seniors who want it, but no one will of course be forced into a system they do not want. We will create a series of new choices so senior citizens can control their own future, Mr. Speaker. Any good ideas citizens have would be appreciated by their Representative on Commerce and Ways and Means Committees as they develop a new and improved Medicare system.

As for me, Mr. Speaker, I will be heading a Medicare preservation task force for the purpose of preserving, improving, and protecting our Medicare system for our seniors.

Together we can create a Medicare system that offers the best care at the lowest cost with the senior citizens having the greatest control over their own health care. We will improve Medicare so it can be protected and saved.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

[Mr. BECERRA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, we have heard comments today about the action of the House Budget Committee early this morning in enacting a budget resolution which basically sets the spending goals for Congress for the next year. But before I address that, I would like to remind those who are listening that just a few weeks ago on the floor of this House of Representatives, as part of the so-called Republican Contract With America, the Republicans by and large with a few Democratic votes enacted a tax cut, yes, a tax cut during a period of high Federal deficits.

Many people, including a number of Republicans, questioned the wisdom of cutting taxes when in fact we are in the red. But the Republicans were determined to do it and went ahead with their plan. Their plan, unfortunately, did not cut taxes primarily for middle-income and working families. No; primarily the tax breaks went to wealthy corporations and wealthy individuals. In fact, for 1.71 million Americans the Republican plan will result in a $20,000 tax break.

Now you cannot give away those Federal taxes without it costing you something, and in fact over the next 7 years that Republican tax break is going to

cost taxpayers an additional $345 billion. Over and above the deficits that we run each year, we are adding another $345 billion dollars to the national debt for this tax cut package.

Why did we do it? A lot of people wonder. Of course it is good news for a politician to go home and say, guess what, I got a tax break for you. But people at home I think are a little wiser and understand at a time of deficits a tax break, particularly for the wealthy people and corporations, is certainly not the right medicine for the patients.

So now let us fast-forward to 1 a.m. this morning when the House Budget Committee decides to put out their House Budget Resolution and lay out the spending goals for Congress for the next year.

Well they had a problem. They not only had to deal with the deficit, they had to figure out how to pay for that tax break, and so they had to make deeper cuts in spending in order to take care of the Republican tax break, and to come out with the so-called balanced budget when it is all said and done.

So, where did they turn to make the cuts in Federal spending to pay for the tax break for wealthy individuals and profitable corporations? They turned to Medicare. In fact, they cut over a 7-year period of time $283 billion from Medicare. Medicare of course is the health insurance plan for America's senior citizens.

What does that mean when you make a $283 billion cut in Medicare? It means that during that 7-year period of time, every senior citizen in America will be asked to pay an average of $3,500 more in premiums in Medicare. So you have the seniors, many of them in very low income situations if any income, paying more, so that they can in fact compensate for the Republican tax break.

That to me raises some serious questions of fairness. And make no mistake, we are talking about cuts in Medicare. Many Republicans will stand up and say it is not really a cut, you Democrats have it wrong all over again. We are increasing spending.

Well, let me try to tell you what they mean by that. Assume for a minute that you get a notice from your bank or savings and loan that your mortgage payment just went up $100 a month. That is a source of real concern for most families. But then your boss tells you, incidently I am giving you a raise of $50 a month.

Well you thank your boss. You think to yourself, I am still $50 short. What the Republicans are doing is providing the $50 a month in Medicare increases when the cost of Medicare is going up $100, and the same thing is going to be happening in the out years. The cost of Medicare goes up, but the Republicans do not provide enough money for it because they have to take care of this tax break that they passed.

And then take a look at what they did on Social Security. We stood on this floor, passed a resolution and said no, not never, never will we cut Social Security, not even to achieve a balanced budget. Just count on it. And everybody ceremoniously voted, went home and put out a press release and told the seniors they never, never have to worry, we are never going to touch Social Security.

Guess what, 1 a.m. this morning in comes the House Republican budget resolution and it cuts Social Security.

It reduces the COLA, the cost-of-living adjustment for Social Security. So here you have the senior citizens getting hit in both directions. First they do not get the cost-of-living adjustment they anticipated for Social Security, and then have to pay for more Medicare.

For what? To pay for the Republican tax break. That to me is upside down. If we are going to balance the budgets, let us do it in a fair way and not nail Medicare and Social Security.

A MOTHER'S DAY TRIBUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, this Sunday, May 14, 1995, we will have another very joyous occasion to celebrate and commemorate a very special day for Americans, and so I thought it appropriate during the course of deliberation and sometimes making very difficult decisions on behalf of all of our citizens to simply take a moment to part the waters and stop for a moment and pause and simply say happy Mother's Day, happy Mother's Day to the mothers, to grandmothers, to mothers-in-law, to stepmothers, to foster mothers, those mothers who take in children, mothers who have adopted, and act as mothers, those women with no relation by blood or law but have really mothered someone somehow, somewhere, and certainly to those mothers in your neighborhoods and cities and towns and our counties and our States and our churches and synagogues and parishes and mothers who are always there to help someone. I simply want to say to you and to all Americans let us make May 14, 1995 a very special time, a very close time, a very rewarding time for that woman who has been so very special to you. Let us make sure we say to each and every one of those mothers and I certainly want to say to all of those in the 18th Congressional District of Texas happy Mother's Day to you. You deserve it and we could not have done it without you.

COME SHOP WITH ME FOR MOTHER'S DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this Sunday America celebrates Mother's Day. And families all over our country will gather on this day to honor the women who strive every day both inside and outside the home to keep the families of America strong; a celebration they richly deserve.

□ 2100

We all know that American women are working more and more inside the home and outside the home, and what we may not know is that many of them are working for less money.

For women in many industries, textiles, apparel footwear, for instance, their pay has actually dropped nearly 5 percent over the last 10 years in spite of the fact that they are working harder and working longer. In fact, one-third of America's working women earn poverty-level wages.

Ironically, many of the gifts which we traditionally give our mothers on Mothers' Day as expressions of our gratitude turn out to be the products of industries which depend on the depression of wages, primarily women's wages, both at home and abroad, products such as new shoes or new handbags or new outfits and, yes, even roses.

Last Tuesday, I had the privilege of participating in a press conference at which we pointed out the discrepancies in wages between products made in our country and the same products made overseas, in fact, products made by U.S. companies that have outsourced production abroad. We, to demonstrate our point, dressed a mannequin in many of these foreign goods, and on the mannequin we had a Coach handbag, where American women used to earn $7.42 an hour, not high wages by any standards, but today those bags are being made by Korean workers being paid $1.64 an hour, and those Coach bags cost nearly $200. So who is making the profit off those women?

Or Naturalizer shoes; women in our country used to make $6.95 an hour in manufacturing Naturalizer shoes, but their wages and jobs are gone, and those shoes are now made in Brazil, where women there earn 47 cents an hour, but, of course, Naturalizer shoes cost well over $50. So who is making the profit off those women?

Or take this sweater, a Chaus sweater that used to be manufactured in the United States, where women earned $7.88 an hour. Now this very same sweater made by that same company in China, where women work for pennies, but, of course, the sweater is not cheap. In fact, the price tag on this one is over $40. Who is making the profit off those women?

Or take this skirt, manufactured by the At Last Company. This skirt used to be made in the United States of America. Women workers earned $7.49 an hour. Now this skirt is being made in India, and chances are if a child in India helped make that skirt, which is very likely, no wages were paid.

So it being Mothers Day, we provided our mannequin with a dozen roses. Roses are grown in this country, and they are harvested, and the average wage of farm workers is $5 an hour. But, of course, the roses that are available in this community today are provided through Colombia, where workers earn 55 cents an hour. But if you try to buy your mom a dozen roses in Washington this week, it is going to cost you $75. So ask yourself, who is making the money off of these women?

But are we getting a real bargain for all of this value for our money? A break for the consumer? Well, I ask you, is a bargain a Coach handbag at $200 or Naturalizer shoes at $50 or a Chaus sweater at $40 or roses at 75?

The Come Shop With Me campaign asks: Is it worth it? Are we really getting a good deal? Can the 7,300 people who have lost their jobs making handbags here in America afford a $200 Coach handbag made in Korea? Can the 17,700 women who have lost their jobs in our country in the footwear industry buy Naturalizer shoes made in Brazil that cost $50? And can the women of Brazil or the women of Korea or the women of India, can they buy those products on the wages they earn? Absolutely not.

Over the last decade in our country, nearly 300,000 women workers have lost jobs in the textile industry alone, mostly to foreign competition.

Mr. Speaker, let me end by saying the Come Shop With Me campaign will continue over the next few months to draw our attention to the human cost of trade.

Tonight I say to the mothers of America and the world, ''Happy Mother's Day. We will not forget you.''

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the majority leader.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

[Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today after 4:15 p.m., on account of illness.

Mr. PASTOR (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of personal business.

Mr. TANNER (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of official business.

Mr. BONO (at the request of Mr. ARMEY), for today and May 12, on account of medical leave.

Ms. DUNN of Washington (at the request of Mr. ARMEY), for today after 3:30 p.m. and the balance of the week, so that she may attend the graduation of her son Reagan from Arizona State University.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. BECERRA, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. BROWNBACK, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, on May 16 and 17.
Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. COLEMAN.
Mr. DURBIN.
Mr. RUSH.
Mr. FOGLIETTA.
Mr. GORDON.
Mr. BAESLER.
Mr. TOWNS.
Mrs. THURMAN.
Mr. MONTGOMERY.
Mr. REED.
Ms. KAPTUR.
Mr. MANTON.
Mr. JACOBS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. DUNCAN.
Mr. MARTINI in two instances.
Mr. WALSH.
Mr. PACKARD.
Mr. BILIRAKIS.
Mrs. ROUKEMA.
Mr. DORNAN.
Mr. YOUNG of Florida.
Mr. FORBES.
Mr. HUNTER.
Mr. GOODLING.
Mr. GUNDERSON.
Mr. MCKEON.
Mr. HORN in two instances.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mr. UPTON.
Mrs. FOWLER.
Mr. GOODLATTE.
Mr. TRAFICANT.
Mr. RAHALL.
Mr. MFUME.
Mr. KIM.
Ms. MCCARTHY.
Mr. STOKES.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Friday, May 12, 1995, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 144. Resolution providing for the consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas (Rept. 104–116). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 145. Resolution providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa (Rept. 104–117). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 146. Resolution providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility (Rept. 104–118). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows;

By Mr. THOMAS (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. CARDIN, Mr. MCCRERY, Mr. MCDERMOTT, Mr. ENSIGN, Mr. KLECZKA, Mr. CHRISTENSEN, Mr. LEWIS of Georgia, Mr. CRANE, Mr. HOUGHTON, and Mr. SAM JOHNSON):

H.R. 1610. A bill to amend the Internal Revenue Code of 1986 to require employer-provided group health plans to credit coverage under a prior group health plan against any preexisting condition limitation; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 1611. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to assist in alleviating housing shortages for active duty personnel through interest rate buy downs, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky (for himself, Mr. JOHNSTON of Florida, Mr. OWENS, Mr. PARKER, Mr. MCKEON, and Mr. TRAFICANT):

H.R. 1612. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 1613. A bill to amend the United States Housing Act of 1937 to require the Secretary of Housing and Urban Development to administer a program of construction and revitalization of public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. DURBIN (for himself, Mr. KLECZKA, Mrs. MEEK of Florida, Mr. PALLONE, Mr. ACKERMAN, Mr. WAXMAN, Mr. MCDERMOTT, Ms. PELOSI, Mr. FROST, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, Mr. STARK, Mr. OLVER, Mr. GENE GREEN of Texas, Mr. COLEMAN, Mr. GONZALEZ, Mr. OBERSTAR, Mr. YATES, and Mr. HILLIARD):

H.R. 1614. A bill to amend the provisions of title XVIII of the Social Security Act relating to medigap policies to eliminate age rating in premiums, and for other purposes; to the Committee on Commerce.

By Mr. GOODLATTE (for himself, Mr. INGLIS of South Carolina, Mr. POSHARD, Mr. HANCOCK, Mr. FRANK of Massachusetts, and Mr. BARTLETT of Maryland):

H.R. 1615. A bill to require that a monthly statement of costs charged against the official mail allowance for persons entitled to use the congressional frank be kept and made available to the public, and to reduce the amount of that allowance for any Member of the House of Representatives; to the Committee on House Oversight.

By Mr. UPTON (for himself and Mr. BOUCHER):

H.R. 1616. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide a process for the allocation of liability among potentially responsible parties at Superfund sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CUNNINGHAM, Mr. GUNDERSON, Mr. RIGGS, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. MCINTOSH, Mr. PETRI, Mrs. ROUKEMA, Mr. FUNDERBURK, Mr. SOUDER, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. HOEKSTRA, Mr. CASTLE, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. TALENT, Mr. GREENWOOD, Mr. HUTCHINSON, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. WELDON of Florida, Mr. NORWOOD, and Mr. DAVIS):

H.R. 1617. A bill to consolidate and reform workforce development and literacy programs, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. GUTKNECHT (for himself, Mr. METCALF, Mr. BROWNBACK, Mr. FOX, Mr. WAMP, Mr. RIGGS, Mr. NEUMANN, Mr. ENGLISH of Pennsylvania, Mr. SOUDER, Mr. DAVIS, Mr. SANFORD, Mr. KLUG, Mr. SMITH of Michigan, Mr. COBURN, Mr. CHRISTENSEN, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. LOBIONDO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. HAYWORTH, Mrs. SMITH of Washington, and Mr. LARGENT):

H.R. 1618. A bill to amend title 5, United States Code, to impose certain limitations relating to participation by a Member of Congress in the Civil Service Retirement System or the Federal Employees' Retirement System; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOLINARI (for herself, Mrs. MALONEY, Mr. WILSON, and Mr. PAXON):

H.R. 1619. A bill to amend section 227 of the Housing and Urban-Rural Recovery Act of 1983 to prohibit owners and managers of federally assisted rental housing from preventing elderly residents of such housing from owning or having household pets in such housing; to the Committee on Banking and Financial Services.

By Mr. REGULA (for himself, Mr. VISCLOSKY, Mr. TRAFICANT, Mr. LIPINSKI, Mr. DOYLE, Mr. SERRANO, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. KLINK, Ms. PELOSI, Mr. LATOURETTE, Mr. ENGLISH of Pennsylvania, and Mr. MURTHA):

H.R. 1620. A bill to authorize the Administrator of the Environmental Protection Agency to establish a pilot project providing loans to States to establish revolving loan funds for the environmental cleanup of sites in distressed areas that have the potential to attract private investment and create local employment; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1621. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS:

H.R. 1622. A bill to require the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns; to the Committee on Commerce.

By Mr. NEUMANN (for himself, Mr. SOLOMON, Mr. CHRYSLER, Mr. TIAHRT, Mrs. CUBIN, Mr. SOUDER, Mr. COBURN, Mr. DREIER, Mr. GOSS, Mr. ZELIFF, Mr. UPTON, Mr. BARTLETT of Maryland, Mr. GRAHAM, Mr. ROTH, Mr. HILLEARY, Mr. FRISA, Mrs. SMITH of Washington, Mr. STOCKMAN, Mr. COOLEY, Mr. BARTON of Texas, Mr. METCALF, Mr. SCARBOROUGH, Mr. BROWNBACK, Mr. DORNAN, Mr. SMITH of Michigan, Mr. CHRISTENSEN, Mr. SAM JOHNSON, Mr. GILCHREST, Mr. HOSTETTLER, Mr. COMBEST, and Mr. HORN):

H. Con. Res. 66. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

MEMORIALS

Under clause 4 of rule XXII,

79. The SPEAKER presented a memorial of the Legislature of the State of Alaska, relative to medical savings account legislation; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. BRYANT of Tennessee.

H.R. 62: Mr. HOSTETTLER.

H.R. 123: Mr. SAXTON, Mr. KASICH, Mr. MCCRERY, Mr. HOKE, Mr. EWING, Mr. RAHALL, Mr. MCCOLLUM, Mr. ZELIFF, Ms. DUNN of Washington, Mr. CHAMBLISS, Mr. CREMEANS, Mr. METCALF, Mr. RADANOVICH, Mrs. JOHNSON of Connecticut, Mr. SALMON, and Mr. WHITFIELD.

H.R. 373: Mr. HILLIARD and Mr. RADANOVICH.

H.R. 485: Mr. COYNE.

H.R. 499: Mr. NEY, Mr. BONO, and Mr. STEARNS.

H.R. 500: Mr. CALVERT and Mr. KIM.

H.R. 539: Mr. TAUZIN, Mr. SABO, Mr. WICKER, Mr. INGLIS of South Carolina, and Mr. MINGE.

H.R. 540: Mr. RAHALL, Mr. LEWIS of Georgia, Mr. BERMAN, Mr. CAMP, Mr. SAXTON, Mr. OWENS, Ms. MOLINARI, Mr. LIPINSKI, Mr. FOGLIETTA, Ms. SLAUGHTER, Mr. LAFALCE, Mr. FROST, Ms. LOWEY, and Mr. MOAKLEY.

H.R. 575: Mr. BROWNBACK, Mr. BROWN of Ohio, and Ms. FURSE.

H.R. 580: Mr. ABERCROMBIE and Mr. DIAZ-BALART.

H.R. 582: Mr. HUNTER and Mr. FILNER.

H.R. 659: Mr. REYNOLDS, Mr. FOLEY, Ms. FURSE, Mr. HANSEN, Mr. FATTAH, Mr. SENSENBRENNER, Mr. MARTINEZ, Mr. HANCOCK, and Mr. CLEMENT.

H.R. 719: Mr. RANGEL, Mr. MASCARA, Mr. JACOBS, Mrs. MEEK of Florida, Ms. LOWEY, and Mr. BROWN of Ohio.

H.R. 743: Mr. CUNNINGHAM, Mr. RIGGS, Mr. CASTLE, and Mr. HANCOCK.

H.R. 747: Mr. LAFALCE and Mr. LEWIS of Georgia.

H.R. 752: Mr. DURBIN, Mr. HEFLEY, Mr. LAUGHLIN, Mr. MCCOLLUM, Mr. ROTH, and Mr. VOLKMER.

H.R. 769: Mr. DAVIS.

H.R. 789: Mr. MANZULLO, Mr. INGLIS of South Carolina, Mr. BLUTE, and Mr. GANSKE.

H.R. 910: Mr. MINETA.

H.R. 928: Mr. CRANE.

H.R. 946: Mr. BUNN of Oregon.

H.R. 958: Mr. PALLONE, Mr. FOLEY, Mr. KENNEDY of Rhode Island, Mr. FRANK of Massachusetts, and Mr. QUINN.

H.R. 972: Mr. FOX.

H.R. 991: Mr. LEWIS of Georgia and Mr. WYDEN.

H.R. 994: Mr. LATHAM and Mr. WILSON.

H.R. 1020: Mr. OXLEY, Mr. TORKILDSEN, Mr. GOODLATTE, Mr. BARTLETT of Maryland, Mrs. JOHNSON of Connecticut, Mr. CREMEANS, Mr. GUTKNECHT, Mr. MCHALE, Mr. PETRI, Mr. QUILLEN, Mr. GUTIERREZ, Mr. BUNNING of Kentucky, Mr. YOUNG of Florida, Mr.

MANZULLO, Mr. RAHALL, Mr. MCINTOSH, Mr. ROBERTS, Mr. SKEEN, Mr. DUNCAN, Mr. BARTON of Texas, Mrs. CLAYTON, Mr. CLINGER, Mr. FLANAGAN, Mr. DEUTSCH, Mr. PACKARD, and Miss COLLINS of Michigan.

H.R. 1085: Mr. HOEKSTRA.

H.R. 1103: Mr. EVERETT.

H.R. 1118: Mr. SCHAEFER.

H.R. 1173: Mr. BATEMAN.

H.R. 1202: Mr. FRANKS of New Jersey, Mr. ROMERO-BARCELO, Mr. DOYLE, Mr. FAWELL, Mr. JONES, and Ms. PRYCE.

H.R. 1242: Mr. MILLER of Florida, Mrs. WALDHOLTZ, and Mr. HASTINGS of Washington.

H.R. 1264: Mr. FRANK of Massachusetts and Mr. FRAZER.

H.R. 1278: Ms. VELÁZQUEZ, Mr. TORRES, Mr. KANJORSKI, Mr. HILLIARD, and Mr. OLVER.

H.R. 1293: Mr. MINGE.

H.R. 1300: Mr. ENGLISH of Pennsylvania, Mr. BALLENGER, Mr. FOX, Mrs. MYRIK, Mr. ROSE, Mr. SCHAEFER, and Mr. HEFNER.

H.R. 1363: Mr. TANNER, Mr. HEFLEY, and Mr. INGLIS of South Carolina.

H.R. 1389: Mr. NADLER, Mr. EVANS, Mr. SERRANO, and Mr. GUTIERREZ.

H.R. 1406: Mr. MURTHA, Mr. FATTAH, and Mr. RAHALL.

H.R. 1448: Mr. CUNNINGHAM, Mr. SCHAEFER, Mr. ZELIFF, Mr. LIGHTFOOT, Mr. CREMEANS, Mr. HANSEN, Mr. GILCHREST, Mr. DORNAN, and Mr. TEJEDA.

H.R. 1559: Mr. EMERSON, Mr. GENE GREEN of Texas, Mr. HALL of Texas, Mr. HOBSON, Mr. KLINK, Mr. HILLIARD, Mr. JOHNSTON of Florida, Ms. LOFGREN, and Mr. LUTHER.

H.R. 1589: Mr. BARRETT of Nebraska.

H.R. 1594: Mr. CHABOT, Mr. FOLEY, and Mr. BALLENGER.

H.J. Res. 16: Mr. LEWIS OF KENTUCKY and Mr. DUNCAN.

H.J. Res. 70: Mr. ZIMMER, Mr. CUNNINGHAM, Mr. SHAYS, Ms. WOOLSEY, Mr. CARDIN, Mr. GEJDENSON, Mr. WALSH, Mr. MORAN, Ms. DELAURO, Mr. BARRETT of Wisconsin, Mr. BONIOR, Mr. MFUME, Mr. MEEHAN, Ms. LOWEY, Mr. BRYANT of Texas, Mr. FOGLIETTA, and Mr. QUINN.

H.J. Res. 79: Mrs. JOHNSON of Connecticut, Mr. SMITH of Michigan, Mr. DOOLEY, and Mrs. LINCOLN.

H. Con. Res. 47: Mr. FARR, Mr. FOX, Mr. HINCHEY, Mr. KENNEDY of Massachusetts, Mr. MCKEON, Mr. NORWOOD, and Mr. PALLONE.

H. Con. Res. 50: Mr. SOLOMON.

H. Con. Res. 63: Mr. BAKER of Louisiana.

H. Res. 39: Ms. WOOLSEY and Mr. GEJDENSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 357: Mr. LAHOOD.

H.R. 1143: Mr. BRYANT of Texas.

H.R. 1144: Mr. BRYANT of Texas.

H.R. 1145: Mr. BRYANT of Texas.

H.R. 1500: Ms. PELOSI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. DE LA GARZA

AMENDMENT NO. 63: On page 237, in line 11 after ''treatment works'' insert ''and appropriate connections''.

On page 237, strike line 14, and all that follows through ''(c)'' on line 19 and insert ''(b)''.

On page 237, on line 23 redesignate ''(d)'' as ''(c)''.

H.R. 961

OFFERED BY: MR. LARGENT

AMENDMENT NO. 64: Page 232, strike lines 13 through 17 and insert the following:

''(7) $2,250,000,000 for fiscal year 1996;

''(8) $2,300,000,000 for fiscal year 1997;

''(9) $2,300,000,000 for fiscal year 1998;

''(10) $2,300,000,000 for fiscal year 1999; and

''(11) $2,300,000,000 for fiscal year 2000.''.

Page 232, strike line 18 and all that follows through line 20 on page 234.

Conform the table of contents of the bill accordingly.

Page 32, line 6, strike ''$3,000,000,000'' and insert ''2,250,000,000''.

H.R. 961

OFFERED BY: MR. TAYLOR OF MISSISSIPPI

AMENDMENT NO. 65: Page 292, line 20, strike ''and''.

Page 292, after line 20, insert the following:

''(G) standards and procedures that, to the maximum extent practicable and economically feasible, require the creation of wetlands and other environmentally beneficial uses of dredged or fill material associated with navigational dredging; and

Page 292, line 21, strike ''(G)'' and insert ''(H)''.