

(B) in paragraph (12) by inserting "and the Committee on Rules and Administration" after "concerned"; and

(3) in section 8 by adding at the end the following: "There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Special Committee from May 17, 1995 through February 29, 1996, to be paid from the appropriations account for 'Expenses of Inquiries and Investigations' of the Senate."

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

(Amendment No. 1719 is reproduced for the RECORD of July 14, 1995.)

PACKWOOD AMENDMENT NO. 1719

(Ordered to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

Strike page 2, line 15 through page 3, line 7 and add at page 2, line 15, the following:

"(a) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to every rulemaking, according to the provisions thereof, except to the extent there is involved—

"(i) a matter pertaining to a military or foreign affairs function of the United States;

"(ii) a matter relating to the management or personnel practices of the agency;

"(iii) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency;

"(iv) a rule relating to the acquisition, management, or disposal of an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(2) APPLICATION TO THE DEPARTMENT OF THE TREASURY.—In the case of rulemaking of the Department of the Treasury, this section applies to Treasury Regulations.

HARKIN AMENDMENTS NOS. 1726-1727

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

AMENDMENT NO. 1726

On page 36, line 3, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

AMENDMENT NO. 1727

On page 37, line 11, insert after "environment" the following: "or to the achievement of statutory rights that prohibit discrimination".

BOXER AMENDMENTS NOS. 1728-1729

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her

to amendment No. 1487, supra; as follows:

AMENDMENT NO. 1728

At the end of Section 622(e)(1) add the following new paragraph:

"(G) In conducting a cost-benefit analysis, the agency shall include an analysis of how the proposed rule or subject of the analysis will affect vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups; and shall consider, address and describe the persons or classes of persons likely to receive benefits under (c)(2)(A) of this section or likely to bear costs under (c)(2)(B) of this section."

AMENDMENT NO. 1729

At the end of Section 633(f) add the following new paragraph:

"(4) The head of an agency in presenting risk assessment conclusions shall describe how the agency will address the risk to health or safety which is the subject of the rule, on vulnerable subpopulations including: infants, children, pregnant women, the frail elderly, immunocompromised and other vulnerable groups."

CRAIG (AND HEFLIN) AMENDMENT NO. 1730

(Ordered to lie on the table.)

Mr. CRAIG (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 96, between lines 20 and 21, insert the following:

SEC. . REGULATORY AGREEMENTS.

(a) IN GENERAL.—Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"§ 557a. Regulatory agreements

"(a) DEFINITION.—In this section, the term 'regulatory agreement' means an agreement entered into under this section.

"(b) GENERAL AUTHORITY.—An agency that is authorized or directed by law to issue a rule (with or without a hearing on the record) that would govern an activity of any person, may, prior to commencing a proceeding to issue such a rule or an amendment to such a rule under the rulemaking procedure that would otherwise apply under that law or this subchapter—

"(1) enter into a regulatory agreement with a person or group of persons engaged in those activities; or

"(2) enter into separate regulatory agreements with different persons or groups of persons engaged in the activity if the agency determines that separate agreements are appropriate in view of different circumstances that apply to different persons or groups of persons.

"(c) REQUEST FOR NEGOTIATIONS.—Negotiations for a regulatory agreement may be commenced at the instance of a person or group of persons engaged in the activity to be regulated, by the submission to the agency by such a person or group of persons of a request for negotiations, which may be accompanied by a proposed form of regulatory agreement or by a general description of the proposed terms of a regulatory agreement.

"(d) DETERMINATION WHETHER TO PROCEED WITH NEGOTIATIONS.—

"(1) IN GENERAL.—Not later than 60 days after receiving a request for negotiations under subsection (c)(1), an agency shall publish in the Federal Register a determination whether to conduct negotiations for a regulatory agreement, accompanied by a statement of reasons for the determination.

"(2) CRITERIA.—An agency may determine not to conduct negotiations for a regulatory agreement under this section—

"(A) if the agency finds that the number of persons that have expressed willingness to participate in negotiations, as a proportion of the number of persons whose activity would be governed by the rule, is not sufficient to justify negotiation of a regulatory agreement; or

"(B) for any other reason, within the sole discretion of the agency.

"(3) NO JUDICIAL REVIEW.—A determination under paragraph (1) shall not be subject to judicial review by any court.

"(e) TERMS AND CONDITIONS.—A regulatory agreement shall contain terms and conditions that—

"(1) in the judgment of the agency, accomplish a degree of control, protection, and regulation of the activity to be regulated that is equivalent to the degree that would be accomplished under a rule issued under the rulemaking procedure that would otherwise apply;

"(2) provide for the addition as parties to the regulatory agreement, with or without a reopening of negotiations, of persons that did not participate in the negotiations;

"(3) provide for renegotiation of the regulatory agreement, at a stated date or from time to time, as renegotiation may become appropriate in view of changed circumstances or for any other reason; and

"(4) specify the provisions of law for the purposes of which the regulatory agreement shall, or shall not, be treated as a rule issued under section 553 or sections 556 and 557, as the case may be.

"(f) ENFORCEMENT.—A regulatory agreement shall provide for injunctive relief and penalties for noncompliance that, in the judgment of the agency, are adequate to deter parties from noncompliance.

"(g) CONSIDERATION OF COMMENT BY THE GENERAL PUBLIC.—

"(1) NOTICE.—Before executing a regulatory agreement, an agency shall publish a notice of the terms of the agreement in the Federal Register and solicit comments on the regulatory agreement for a period of not less than 60 days.

"(2) DECISION.—Not later than 120 days after the close of the comment period, an agency shall publish in the Federal Register a decision that includes—

"(1) a response to all comments received; and

"(2) an explanation of the agency's decision to—

"(A) enter into the regulatory agreement as agreed on in negotiations or as modified in response to public comment; or

"(B) decline to enter into the regulatory agreement.

"(h) CONTINUING AGENCY AUTHORITY AND RESPONSIBILITY.—The making by an agency of a determination not to proceed with negotiations or the entry by an agency into a regulatory agreement with fewer than all of the persons that are engaged in the activity regulated by the agreement shall not relieve the agency of its statutory authority or responsibility with respect to the activity or persons engaged in the activity.

"(i) JURISDICTION.—The United States district courts shall have jurisdiction to enforce a regulatory agreement in accordance with the terms of the regulatory agreement."

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 5, United States Code, is amended by inserting after the item for section 557 the following:

"Sec. 557a. Regulatory agreements."

REID AMENDMENT NO. 1731

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to amendment No. 1487, *supra*; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—REGULATORY TRANSITION

SEC. 101. SHORT TITLE.

This title may be cited as the "Regulatory Transition Act of 1995".

SEC. 102. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 103. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

- (i) a copy of the rule;
- (ii) a concise general statement relating to the rule; and
- (iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

- (i) a complete copy of the cost-benefit analysis of the rule, if any;
- (ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96-354;
- (iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104-4; and
- (iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 104(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

- (i) the Congress receives the report submitted under paragraph (1); or
- (ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 104 relating to the rule, and the President signs a veto of such resolution, the earlier date—

- (i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 104 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 104.

(b) TERMINATION OF DISAPPROVED RULE-MAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 104.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

- (A) necessary because of an imminent threat to health or safety or other emergency;
- (B) necessary for the enforcement of criminal laws; or
- (C) necessary for national security.

(3) WAIVER NOT TO AFFECT CONGRESSIONAL DISAPPROVALS.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 104 or the effect of a joint resolution of disapproval under this section.

(d) TREATMENT OF RULES ISSUED AT END OF CONGRESS.—

(1) ADDITIONAL OPPORTUNITY FOR REVIEW.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 104 shall apply to such rule in the succeeding Congress.

(2) TREATMENT UNDER SECTION 104.—

(A) In applying section 104 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

- (i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and
- (ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) TREATMENT OF RULES ISSUED BEFORE THIS ACT.—

(1) OPPORTUNITY FOR CONGRESSIONAL REVIEW.—The provisions of section 104 shall apply to any significant rule that is pub-

lished in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which this Act takes effect.

(2) TREATMENT UNDER SECTION 104.—In applying section 104 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 104.

(f) NULLIFICATION OF RULES DISAPPROVED BY CONGRESS.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 104 shall be treated as though such rule had never taken effect.

(g) NO INFERENCE TO BE DRAWN WHERE RULES NOT DISAPPROVED.—If the Congress does not enact a joint resolution of disapproval under section 104, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 104. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term "joint resolution" means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 103(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect." (The blank spaces being appropriately filled in.)

(b) REFERRAL.—

(1) IN GENERAL.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) SUBMISSION DATE.—For purposes of this subsection the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 103(a)(1); or

(B) the rule is published in the Federal Register.

(c) DISCHARGE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has

been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) **DEBATE.**—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) **FINAL PASSAGE.**—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) **APPEALS.**—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) **TREATMENT IF OTHER HOUSE HAS ACTED.**—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) **NONREFERRAL.**—The resolution of the other House shall not be referred to a committee.

(2) **FINAL PASSAGE.**—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) **CONSTITUTIONAL AUTHORITY.**—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 105. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) **IN GENERAL.**—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 104, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 103(a).

(b) **DEADLINE DEFINED.**—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 106. DEFINITIONS.

For purposes of this title—

(1) **FEDERAL AGENCY.**—The term "Federal agency" means any "agency" as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) **SIGNIFICANT RULE.**—The term "significant rule"—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of \$100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866;

(B) does not include any agency action that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

(3) **FINAL RULE.**—The term "final rule" means any final rule or interim final rule. As used in this paragraph, "rule" has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 107. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 108. APPLICABILITY; SEVERABILITY.

(a) **APPLICABILITY.**—This title shall apply notwithstanding any other provision of law.

(b) **SEVERABILITY.**—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 109. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 110. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

TITLE II—TERM GRAZING PERMITS

SEC. 201. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds that—

(1) the Secretary of Agriculture (referred to in this title as the "Secretary") administers the 191,000,000-acre National Forest System for multiple uses in accordance with Federal law;

(2) where suitable, one of the recognized multiple uses for National Forest System land is grazing by livestock;

(3) the Secretary authorizes grazing through the issuance of term grazing permits that have terms of not to exceed 10 years and that include terms and conditions necessary for the proper administration of National Forest System land and resources;

(4) as of the date of enactment of this Act, the Secretary has issued approximately 9,000 term grazing permits authorizing grazing on approximately 90,000,000 acres of National Forest System land;

(5) of the approximately 9,000 term grazing permits issued by the Secretary, approximately one-half have expired or will expire by the end of 1996;

(6) if the holder of an expiring term grazing permit has complied with the terms and conditions of the permit and remains eligible and qualified, that individual is considered to be a preferred applicant for a new term grazing permit in the event that the Secretary determines that grazing remains an appropriate use of the affected National Forest System land;

(7) in addition to the approximately 9,000 term grazing permits issued by the Secretary, it is estimated that as many as 1,600 term grazing permits may be waived by permit holders to the Secretary in favor of a purchaser of the permit holder's permitted livestock or base property by the end of 1996;

(8) to issue new term grazing permits, the Secretary must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws;

(9) for a large percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the Secretary has devised a strategy that will result in compliance with the National Environmental Policy Act of 1969 and other applicable laws (including regulations) in a timely and efficient manner and enable the Secretary to issue new term grazing permits, where appropriate;

(10) for a small percentage of the grazing permits that will expire or be waived to the Secretary by the end of 1996, the strategy will not provide for the timely issuance of new term grazing permits; and

(11) in cases in which ranching operations involve the use of a term grazing permit issued by the Secretary, it is essential for new term grazing permits to be issued in a timely manner for financial and other reasons.

(b) **PURPOSE.**—The purpose of this title is to ensure that grazing continues without interruption on National Forest System land in a manner that provides long-term protection of the environment and improvement of National Forest System rangeland resources while also providing short-term certainty to holders of expiring term grazing permits and purchasers of a permit holder's permitted livestock or base property.

SEC. 202. DEFINITIONS.

In this title:

(1) **EXPIRING TERM GRAZING PERMIT.**—The term "expiring term grazing permit" means a term grazing permit—

(A) that expires in 1995 or 1996; or

(B) that expired in 1994 and was not replaced with a new term grazing permit solely because the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has not been completed.

(2) FINAL AGENCY ACTION.—The term “final agency action” means agency action with respect to which all available administrative remedies have been exhausted.

(3) TERM GRAZING PERMIT.—The term “term grazing permit means a term grazing permit or grazing agreement issued by the Secretary under section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), section 19 of the Act entitled “An Act to facilitate and simplify the work of the Forest Service, and for other purposes”, approved April 24, 1950 (commonly known as the “Granger-Thye Act”) (16 U.S.C. 580I), or other law.

SEC. 203. ISSUANCE OF NEW TERM GRAZING PERMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, court order, or court sanctioned settlement agreement, the Secretary shall issue a new term grazing permit without regard to whether the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has been completed, or final agency action respecting the analysis has been taken—

(1) to the holder of an expiring term grazing permit; or

(2) to the purchaser of a term grazing permit holder's permitted livestock or base property if—

(A) between January 1, 1995, and December 1, 1996, the holder has waived the term grazing permit to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations; and

(B) the purchaser of the term grazing permit holder's permitted livestock or base property is eligible and qualified to hold a term grazing permit.

(b) TERMS AND CONDITIONS.—Except as provided in subsection (c)—

(1) a new term grazing permit under subsection (a)(1) shall contain the same terms and conditions as the expired term grazing permit; and

(2) a new term grazing permit under subsection (a)(2) shall contain the same terms and conditions as the waived permit.

(c) DURATION.—

(1) IN GENERAL.—A new term grazing permit under subsection (a) shall expire on the earlier of—

(A) the date that is 3 years after the date on which it is issued; or

(B) the date on which final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(2) FINAL ACTION IN LESS THAN 3 YEARS.—If final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws before the date that is 3 years after the date on which a new term grazing permit is issued under subsection (a), the Secretary shall—

(A) cancel the new term grazing permit; and

(B) if appropriate, issue a term grazing permit for a term not to exceed 10 years under terms and conditions as are necessary for the proper administration of National Forest System rangeland resources.

(d) DATE OF ISSUANCE.—

(1) EXPIRATION ON OR BEFORE DATE OF ENACTMENT.—In the case of an expiring term grazing permit that has expired on or before the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) not later than 15 days after the date of enactment of this Act.

(2) EXPIRATION AFTER DATE OF ENACTMENT.—In the case of an expiring term grazing permit that expires after the date of enactment of this Act, the Secretary shall

issue a new term grazing permit under subsection (a)(1) on expiration of the expiring term grazing permit.

(3) WAIVED PERMITS.—In the case of a term grazing permit waived to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations, between January 1, 1995, and December 31, 1996, the Secretary shall issue a new term grazing permit under subsection (a)(2) not later than 60 days after the date on which the holder waives a term grazing permit to the Secretary.

SEC. 204. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.

The issuance of a new term grazing permit under section 203(a) shall not be subject to administrative appeal or judicial review.

SEC. 205. REPEAL.

This title is repealed effective as of January 1, 2001.

KENNEDY AMENDMENTS NOS. 1732–1741

(Ordered to lie on the table.)

Mr. KENNEDY submitted 10 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT NO. 1732

On page 71, strike out lines 13 through 23 and insert in lieu thereof the following new subsection:

(c) SENSE OF THE SENATE REGARDING REFORM OF THE DELANEY CLAUSE.—It is the sense of the Senate that—

(1) the Delaney Clause in the Federal Food, Drug, and Cosmetic Act governing carcinogens in foods must be reformed;

(2) any such reform of the Delaney Clause—

(A) should reflect the care and deliberativeness due to a subject as important as whether and to what extent infants and children shall be exposed to carcinogens through the food they consume; and

(B) should not undermine other safety standards.

(3) advances in science and technology since the Delaney Clause was originally enacted in 1958 have prompted the need to refine the standards in current law with respect to pesticide residues, and may have limited the appropriateness of such standards with respect to food additives and animal drugs;

(4) the Delaney Clause should be replaced by a contemporary health-based standard that takes into account—

(A) the right of the American people to safe food;

(B) the conclusions of the National Academy of Sciences concerning the special susceptibility of infants and children to the effects of pesticide chemicals and the cumulative effect of the residues of such pesticide chemicals on human health;

(C) the importance of a stable food supply and a sound agricultural economy; and

(D) the interests of consumers, farmers, food manufacturers, and other interested parties; and

(5) prior to the end of the first session of the 104th Congress, after appropriate consideration by the committees of jurisdiction, the Senate should enact legislation to reform the Delaney Clause.

AMENDMENT NO. 1733

On page 71, strike out lines 13 through 23, and redesignate the remaining subsections and cross references thereto accordingly.

AMENDMENT NO. 1734

On page 71, strike out lines 15 through 16, and insert the following: “TESTING.—In ap-

plying the proviso in section 409(c)(3)(A), or in applying section 512(d)(1) or 721(b)(5)(B), of the Federal Food, Drug, and Cosmetic”.

AMENDMENT NO. 1735

On page 71, strike out lines 15 through 17, and insert the following: “TESTING.—In applying section 409(c)(3)(A) or 512(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A) and 360b(d)(1)),”.

AMENDMENT NO. 1736

On page 71, strike out lines 15 through 17, and insert the following: “TESTING.—In applying the proviso in section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A)),”.

AMENDMENT NO. 1737

On page 71, strike out lines 15 through 17, and insert the following: “TESTING.—In applying the proviso in section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A)) with respect to pesticides,”.

AMENDMENT NO. 1738

On page 71, line 23, insert before the period the following: “: *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not place at risk the long-term health of infants and children”.

AMENDMENT NO. 1739

On page 71, line 23, insert before the period the following: “: *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not increase the incidence of cancer in the United States”.

AMENDMENT NO. 1740

On page 71, line 23, insert before the period the following: “: *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not expose infants and children to cancer-causing chemicals through the food such infants and children consume”.

AMENDMENT NO. 1741

On page 71, line 23, insert before the period the following: “: *Provided*, That this subsection shall not take effect until the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency have certified that the implementation of this subsection will not place at risk the long-term health of infants and children as a result of exposure to cancer-causing chemicals added to the food such infants and children consume”.

LIEBERMAN AMENDMENT NO. 1742

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 44, beginning with line 14, strike out all through line 4 on page 46 and insert in lieu thereof the following:

§ 629. Petition for alternative method of compliance

“(a) Except as provided in subsection (j) or unless prohibited by the statute authorizing a rule, any person subject to a rule may petition the relevant agency implementing the rule to modify or waive the specific requirements of a rule and to authorize an alternative compliance strategy satisfying the criteria of subsection (b).

“(b) Any petition submitted under subsection (a) shall—

“(1) identify with reasonable specificity the requirements for which the modification or waiver is sought and the alternative compliance strategy being proposed;

“(2) identify the facility to which the modification or waiver would pertain;

“(3) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, demonstrate that the alternative compliance strategy, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

“(A) a significantly better result than would be achieved through compliance with the rule; or

“(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule; and

“(4) demonstrate that the proposed alternative compliance strategy provides a degree of accountability, enforceability, and public and agency access to information at least equal to that of the rule.

“(c) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petition, the agency shall provide public notice and opportunity to comment.

“(d) The agency may approve the petition upon determining that the proposed alternative compliance strategy—

“(1) considering all the significant applicable human health, safety, and environmental benefits intended to be achieved by the rule, from the standpoint of the applicable human health, safety, and environmental benefits, taking into account all cross-media impacts, will achieve—

“(A) a significantly better result than would be achieved through compliance with the rule; or

“(B) an equivalent result at significantly lower compliance costs than would be achieved through compliance with the rule;

“(2) will provide a degree of accountability, enforceability, and public and agency access to information at least equal to that provided by the rule;

“(3) will not impose an undue burden on the agency that would be responsible for administering and enforcing such alternative compliance strategy; and

“(4) satisfies any other relevant factors.

“(e) Where relevant, the agency shall give priority to petitions with alternative compliance strategies using pollution prevention approaches.

“(f) In making determinations under subsection (d), the agency shall take into account whether the proposed alternative compliance strategy would transfer any significant health, safety, or environmental effects to other geographic locations, future generations, or classes of people.

“(g) Any alternative compliance strategy for which a petition is granted under this section shall be enforceable as if it were a provision of the rule being modified or waived.

“(h) The grant of a petition under this section shall be judicially reviewable as if it were the issuance of an amendment to the rule being modified or waived. The denial of a petition shall not be subject to judicial review.

“(i) No agency may grant more than 30 petitions per year under this section.

“(j) If the statute authorizing the rule that is the subject of the petition provides procedures or standards for an alternative method of compliance, the petition shall be reviewed solely under the terms of the statute.

ASHCROFT AMENDMENT NO. 1743

(Ordered to lie on the table.)

Mr. ASHCROFT submitted an amendment intended to be proposed by him to the bill S. 343; as follows:

At the end, add the following new title:

“TITLE II—URBAN REGULATORY RELIEF ZONES**SECTION 201. SHORT TITLE.**

This Act may be cited as the “Urban Regulatory Relief Zone Act of 1995”.

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for a new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to a such degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) empower qualifying cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an

Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent of more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The major or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISIONS.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) an explanation of the reasons that the waiver of a regulation would economically benefit the city and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(a) **SELECTION OF REGULATIONS.**—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) **REQUEST FOR WAIVER.**—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination.

(c) **REVIEW OF WAIVER REQUEST.**—No later than 60 days after receiving the request for waiver, the Office of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with explanation of the basis for such determination.

(d) **MODIFICATION OF WAIVER REQUESTS.**—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) **WAIVER DETERMINATION.**—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) **AUTOMATIC WAIVER.**—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) **LIMITATION.**—No provision of this Act shall be construed to authorize any Federal agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) **APPLICABLE PROCEDURES.**—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) **EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.**—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) **EXPIRATION OF WAIVERS.**—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) “regulation” means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) “Urban Regulatory Relief Zone” means an area designated under section 205;

(3) “qualifying city” means a city which is eligible to establish an Economic Development Commission under section 204;

(4) “industrial or commercial area” means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) “poverty line” has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

PACKWOOD AMENDMENTS NOS. 1744–1747

(Ordered to lie on the table.)

Mr. PACKWOOD submitted four amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

AMENDMENT No. 1744

Beginning on page 2, line 15, strike all through page 3, line 7, and insert the following:

“(a) **APPLICABILITY.**—(1) This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

“(A) a matter pertaining to a military or foreign affairs function of the United States;

“(B) a matter relating to the management or personnel practices of an agency;

“(C) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

“(D) a rule relating to the acquisition, management, or disposal by an agency of

real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

“(2) In the case of rulemaking involving the internal revenue laws of the United States, this section applies only to rules subject to section 7805(f) of the Internal Revenue Code of 1986 of general applicability that substantially alter or create rights or obligations of persons outside the agency.

AMENDMENT No. 1745

On page 9, line 5, strike “rule.” and insert “rule. This subsection shall not apply to rules subject to section 7805(f) of the Internal Revenue Code of 1986.”

AMENDMENT No. 1746

On page 12, line 10, insert “(other than a decision relating to a rule subject to section 7805(f) of the Internal Revenue Code of 1986)” after “(l)”.

AMENDMENT No. 1747

On page 69, line 10, strike “petition.” and insert “petition. In the case of a certification, analysis, or failure to prepare an analysis of a rule involving the internal revenue laws of the United States, a petition for judicial review shall be submitted to the Administrator of the Small Business Administration and shall not be in order if the Administrator certifies within 30 days that such petition—

“(I) involves a certification, analysis, or failure to prepare an analysis that does not involve a material issue warranting judicial review, or

“(II) is made for a purpose described in section 6702(a)(2)(B) of the Internal Revenue Code of 1986 (without regard to the filing of a return).

LEVIN AMENDMENTS NOS. 1748–1769

(Ordered to lie on the table.)

Mr. LEVIN submitted 22 amendments intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

AMENDMENT No. 1748

On page 22, line 24, after “scientific evaluation,” insert “cost estimates.”

AMENDMENT No. 1749

On page 22, line 19, after “scientific evaluations,” insert “cost estimates.”

AMENDMENT No. 1750

On page 3, line 7, strike the period and insert the following: “; or

“(5) a rule relating to government loans, grants or benefits.”

AMENDMENT No. 1751

On page 11, strike line 5 through line 19.

AMENDMENT No. 1752

On page 12, strike line 9 through line 12.

AMENDMENT No. 1753

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

AMENDMENT No. 1754

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

AMENDMENT No. 1755

On page 16, lines 15 and 16, strike “a rule or agency action that authorizes the introduction into” and substitute “the introduction into or removal from.”

AMENDMENT NO. 1756

On page 16, line 25, strike "or that provides relief, in whole or in part, from a statutory prohibition," and all that follows through page 17, line 4.

AMENDMENT NO. 1757

On page 49, line 11, strike "a rule or agency action that authorizes the introduction into" and substitute "the introduction into or removal from".

AMENDMENT NO. 1758

On page 37, line 19, strike paragraph (3).

AMENDMENT NO. 1759

On page 33, at the end of line 13, insert "or repeal".

AMENDMENT NO. 1760

On page 37, line 18, strike "; and" and insert ".".

AMENDMENT NO. 1761

On page 37, at the end of line 5, insert "and".

AMENDMENT NO. 1762

On page 37, line 10, strike "nonquantifiable".

AMENDMENT NO. 1763

On page 36, line 11, strike paragraph (4).

AMENDMENT NO. 1764

On page 36, line 10, strike "; and" and substitute ".".

AMENDMENT NO. 1765

On page 36, line 2, strike "nonquantifiable".

AMENDMENT NO. 1766

On page 34, line 24, strike "the head of the agency" and all that follows through the end of the sentence and insert in lieu thereof the following: "the rule shall be subject to the congressional disapproval procedure under section 802 as of the date of the deadline, and shall terminate by operation of law upon the enactment of a joint resolution of disapproval pursuant to such section."

AMENDMENT NO. 1767

On page 34, line 17, after "modify" insert "or repeal".

AMENDMENT NO. 1768

On page 34, line 11, after "to amend", insert "or repeal".

AMENDMENT NO. 1769

On page 33, line 17, strike "or repeal".

ROTH AMENDMENT NO. 1770

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

Insert after section 637 the following:

§ 638. Research and training in risk assessment

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

"(1) Research to reduce generic data gaps, to address modelling needs (including im-

proved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

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

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

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

"(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

GRAHAM AMENDMENT NO. 1771

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 94, insert after line 11, "(C) an analysis of the potential of flexible regulatory options, including performance-based standards, to provide greater efficiency in the use of national economic resources for regulation."

GRAHAM AMENDMENT NO. 1772

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 4, line 18, insert before the semicolon the following: ", including, where practicable, performance-based standards".

LEVIN AMENDMENT NO. 1773

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to an amendment to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . SMALL BUSINESS COMPLIANCE INCENTIVES.

(A) SHORT TITLE.—This section may be cited as the "Small Business Compliance Incentive Act".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—SMALL BUSINESS COMPLIANCE INCENTIVES

"§ 597. Definition

"For purposes of this subchapter, the term 'small business' means a person, corporation, partnership, or other entity that employs 100 or fewer individuals on a company-wide basis.

"§ 597a. Small business compliance assistance

"Each regulatory agency shall establish a comprehensive compliance assistance strat-

egy consisting of such elements as the provision of information, consultation, technical assistance, and educational guidance. The strategy shall be well publicized and disseminated to small businesses.

"§ 597b. Penalty waivers for small businesses

"(a) Except as provided in section 597c, each agency shall ensure that its regulatory enforcement program includes—

"(1) a full waiver of administrative or civil judicial penalties against a small business for violations that are disclosed to the agency for the first time through compliance assistance or other self-disclosure mechanism established by the agency if—

"(A) the small business has made a good faith attempt to comply with the law;

"(B) the small business is not in violation of a regulatory requirement for which the small business has received a warning letter, notice of violation, field citation, enforcement action, or other notification from the agency within the 5 years preceding the request for compliance assistance;

"(C) the small business has not been subject to 2 or more Federal or State enforcement actions for violations of the same statute in the 5 years preceding the request for compliance assistance;

"(D) the small business corrects the violations within 60 days or within an alternative compliance period not to exceed 180 days specified by the agency under which the small business compliance assistance program operates, subject to the condition that any agreement between the agency and the small business to establish a compliance period of more than 60 days shall be in writing and shall set forth the steps to be undertaken by the small business to achieve compliance; and

"(E) the small business meets all other conditions for waiver of penalties established under this paragraph; and

"(2) a partial waiver of administrative or civil judicial penalties against a small business for violations that are disclosed to the agency for the first time through a compliance assistance program or other self-disclosure mechanism established by the agency when a small business has made a good faith effort to comply with all applicable regulatory requirements.

"(b) Nothing contained in this section shall be construed to—

"(1) require or prohibit imposition of a penalty for a violation where a penalty may not be waived for a violator under subsection (a) (1) or (2); or

"(2) discourage the development of other agency programs to assist small businesses to achieve regulatory compliance.

"§ 597c. Exceptions and limitation

"(a) The penalty waivers in section 597b shall not apply to—

"(1) violations—

"(A) that involve criminal conduct or the detection thereof;

"(B) that have caused actual harm, or a significant threat of future harm, to public health or safety, private property, or the environment;

"(C) of a rule that involves the internal revenue laws of the United States, or the assessment or collection of taxes, duties, or other revenues or receipts;

"(D) of a rule that implements an international agreement, including trade agreements, to which the United States is a party;

"(E) of the Federal acquisition regulations;

"(F) that involve national security or foreign affairs functions;

"(G) that are first disclosed through Federal, State, or local enforcement inspections;

"(H) that are first disclosed to Federal, State, or local officials by third parties;

"(I) that are reported to Federal, State, or local officials as required by applicable regulations or permits; or

“(J) that are not within the scope of eligible violations for these incentives under regulations promulgated pursuant to section 597b; and

“(2) any injunctive, remedial, corrective, or forfeiture action, or criminal enforcement authorities of any Federal agency to which this subchapter applies.

“(b) A small business shall not be entitled to a penalty waiver under section 597b regarding a particular enforcement issue for 60 days after the entity has had an agency-initiated contact regarding such issue.”.

(c) TECHNICAL AMENDMENT.—The analysis for chapter 5 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VI—SMALL BUSINESS COMPLIANCE INCENTIVES

“Sec.

“597. Definition.

“597a. Small business compliance assistance.

“597b. Penalty waivers for small businesses.

“597c. Exceptions and limitation.”.

LIEBERMAN AMENDMENT NO. 1774

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1523 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

“(6) the term ‘major rule’ does not include a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements. This paragraph shall take effect one day after the date of the enactment of this subchapter;

LIEBERMAN AMENDMENT NO. 1774

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1530 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

“(6) the term ‘major rule’ does not include a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements;

LIEBERMAN AMENDMENT NO. 1776

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to amendment No. 1544 proposed by Mr. CAMPBELL to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

“or

“(xiii) a rule that approves, in whole or in part, a plan or program adopted by a State that provides for the implementation, maintenance, or enforcement of Federal standards or requirements. This clause shall take effect 1 day after the date of the enactment of this subchapter.

KYL AMENDMENT NO. 1777

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to

amendment No. 1513 proposed by Mr. BUMPERS to the bill S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

“(c) In reviewing an agency construction of a statute made in a rulemaking or an adjudication, the court shall independently review the interpretation without giving the agency any deference and shall—

“(1) hold erroneous and unlawful an agency interpretation that fails to give effect to the intent of Congress; or

“(2) if the statute is silent or ambiguous with respect to a specific issue, hold arbitrary and capricious or an abuse of discretion an agency action for which the agency has refused to consider a permissible construction of the statute or has failed to explain in a reasoned analysis why the agency selected the interpretation it chose and why it rejected other permissible interpretations of the statute.

“(d) Notwithstanding any other provision of law, the provisions of subsection (c) shall apply to, and supplement, the requirements contained in any statute for the review of final agency action that is not otherwise subject to this section.

MOYNIHAN AMENDMENTS NOS. 1778–1779

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to an amendment to the bill, S. 343, supra; as follows:

AMENDMENT NO. 1778

At the end of the pending amendment insert the following:

Notwithstanding any other provision of this act the procedure for reviewing existing risk assessments will be as follows:

PLAN FOR THE REVIEW OF RISK ASSESSMENTS.—

(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish, after notice and public comment, a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

(b) A plan under subsection (a) shall—

(1) provide procedures for receiving and considering new information and risk assessments from the public; and

(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

(3) provide a schedule for the review of risk assessments. This schedule shall be revised as appropriate based on new information received under (b)(1) and reviewed under criteria developed in accordance with paragraph (b)(2).

(c) The head of each covered agency shall review risk assessments according to the schedule published by the agency under paragraph (a).

AMENDMENT NO. 1779

Notwithstanding any other provision of this act the procedure for reviewing existing risk assessment will be as follows:

PLAN FOR THE REVIEW OF RISK ASSESSMENTS.—

(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish, after notice and public comment, a plan to review and revise any risk assessment published before

the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

(b) A plan under subsection (a) shall—

(1) provide procedures for receiving and considering new information and risk assessments from the public; and

(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

(3) provide a schedule for the review of risk assessments. This schedule shall be revised as appropriate based on new information received under (b)(1) and reviewed under criteria developed in accordance with paragraph (b)(2).

(c) The head of each covered agency shall review risk assessments according to the schedule published by the agency under paragraph (a).

STEVENS AMENDMENTS NOS. 1780–1783

(Ordered to lie on the table.)

Mr. STEVENS submitted four amendments intended to be proposed by him to an amendment to the bill S. 343, supra; as follows:

AMENDMENT NO. 1780

In lieu of the matter proposed to be inserted, insert the following:

78aaa et seq.;

“(xii) a rule that involves the international trade laws of the United States;

“(xiii) a rule intended to implement section 354 of the Public Health Service Act (42 U.S.C. 263b) (as added by section 2 of the Mammography Quality Standards Act of 1992); or

“(xiv) a rule that involves hunting under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) or fishing under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

AMENDMENT NO. 1781

In lieu of the matter proposed to be inserted, insert the following:

“(1) whether the rule is or is not a major rule within the meaning of section 621(5)(A) or 621(5)(C), or has been designated a major rule under subsection (b); and

“(2) if the agency determines that the rule is a major rule, whether the rule requires or does not require the preparation of a risk assessment under section 632(a).

“(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A) or 621(5)(C), the President or a person to whom the President has delegated authority under section 642 (hereinafter the ‘President’s designee’) may determine that the rule is a major rule or designate”.

AMENDMENT NO. 1782

In lieu of the matter proposed to be inserted, insert the following:

“(B)(i) When the President or the President’s designee has published a determination or designation under subsection (b) that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.”

AMENDMENT NO. 1783

In lieu of the matter proposed to be inserted, insert the following:

plexity of the decision and any need for expedition;

“(5) the term ‘major rule’ means—

“(A) a rule or set of closely related rules that the agency proposing the rule or the President determines is likely to have a gross annual effect on the economy of \$100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at the Director’s sole discretion, to account for inflation);

“(B) a rule that is otherwise designated a major rule by the President or the President’s designee under section 622(b) (and designation or failure to designate under this clause shall not be subject to judicial review); or

“(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subparagraph I;

“(6) the term ‘market-based mechanism’ means—

DOMENICI (AND OTHERS) AMENDMENT NO. 1784

Mr. DOMENICI (for himself, Mr. BOND, Mr. BINGAMAN, Mr. COHEN, Mrs. HUTCHISON, and Mr. ROTH) proposed an amendment to amendment No. 1533 proposed by Mr. DOMENICI to the bill, S. 343, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—AGENCY RESPONSIVENESS TO SMALL BUSINESSES

SUBTITLE A—SMALL BUSINESS ADVOCACY REVIEW

SEC. 201. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) AGENCY.—The term “agency” means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Environmental Protection Agency (EPA); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Occupational Safety and Health Administration of the Department of Labor (OSHA).

(2) AGENCY HEAD.—The term “agency head” means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the Administrator of the Environmental Protection Agency; and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the Assistant Secretary for Occupational Safety and Health of the Department of Labor.

(3) CHAIRPERSON.—The term “chairperson” means—

(A) with respect to the Environmental Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(a); and

(B) with respect to the Occupational Safety and Health Small Business Advocacy Review Panel, the chairperson of such review panel designated under section 202(b).

(4) CHIEF COUNSEL FOR ADVOCACY.—The term “Chief Counsel for Advocacy” means the Chief Counsel for Advocacy of the Small Business Administration.

(5) FINAL RULE.—The term “final rule” means any final rule or interim final rule issued by an agency for which a review panel has been established under section 202(e)(1).

(6) OFFICE.—The term “Office” means the Office of Advocacy of the Small Business Administration.

(7) REVIEW PANEL.—The term “review panel” means—

(A) with respect to a significant rule of the Environmental Protection Agency, an Environmental Small Business Advocacy Review Panel established under section 202(e)(1); and

(B) with respect to a significant rule of the Occupational Safety and Health Administration of the Department of Labor, an Occupational Safety and Health Small Business Advocacy Review Panel established under section 202(e)(1).

(8) DESIGNATED REPRESENTATIVES.—The term “designated representatives” means individuals selected by the Chief Counsel for Advocacy to make presentations to, and to engage in discussions with, a review panel on behalf of small entities with a common interest in the subject rulemaking, including entities that are—

(A) small businesses that would be impacted by the significant rule;

(B) small business sectors or industries that would be especially impacted by the significant rule; or

(C) organizations whose memberships are comprised of a cross-section of small businesses.

(9) RULE.—The term “rule”—

(A) means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of the agency; and

(B) does not include any rule that is limited to agency organization, management, or personnel matters.

(10) SIGNIFICANT RULE.—The term “significant rule” has the same meaning as the term “major rule” as defined in sec. 621(5) of title 5.

(11) SMALL BUSINESS.—The term “small business” has the same meaning as the term “small business concern” in section 3 of the Small Business Act.

SEC. 202. SMALL BUSINESS ADVOCACY CHAIRPERSONS AND ESTABLISHMENT OF REVIEW PANELS.

(c) CHAIRPERSON OF ENVIRONMENTAL REVIEW PANELS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate an employee of the Environmental Protection Agency, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Environmental Small Business Advocacy Review Panel and to carry out this subtitle with respect to the Environmental Protection Agency.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Administrator of the Environmental Protection Agency shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(b) CHAIRPERSON OF OSHA REVIEW PANEL.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate an employee of the Occupational Safety and Health Administration of the Department of Labor, who is a member of the Senior Executive Service (as that term is defined in section 2101a of title 5, United States Code) and whose immediate supervisor is appointed by the President, to serve as the chairperson of each Occupational Safety and Health Small Business Advocacy Review

Panel and to carry out the purposes of this subtitle with respect to the Occupational Safety and Health Administration.

(2) DISABILITY OR ABSENCE.—If the employee designated to serve as chairperson under paragraph (1) is unable to serve as chairperson because of disability or absence, the Assistant Secretary for Occupational Safety and Health of the Department of Labor shall designate another employee who meets the qualifications of paragraph (1) to serve as chairperson.

(c) INITIAL DETERMINATION AND NOTIFICATION.—

(1) TIMING.—The chairperson shall take the actions described in paragraph (2) not later than 45 days before the date of publication in the Federal Register by an agency of a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, or any other provision of law.

(2) ACTIONS.—With respect to a proposed rule that is the subject of a publication described in subparagraph (A) or (B) of paragraph (1), the chairperson shall—

(A) determine whether the subject proposed rule constitutes a significant rule, as defined in section 201(10); and

(B) if the proposed rule is determined to constitute a significant rule, notify the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and the Chief Counsel for Advocacy to appoint review panel members for evaluation of the subject significant rule, and for the Chief Counsel for Advocacy to identify and select designated representatives.

(C) provide the Chief Counsel for Advocacy with materials related to the subject proposed rule. Information made available to the designated representatives shall be made available to the public upon request and at the cost of reproduction.

(d) DUTIES OF THE CHIEF COUNSEL FOR ADVOCACY.—

(1) Not later than 15 days after receiving notice under subsection (c)(2)(B), or such longer period as the chairperson may allow, the Chief Counsel for Advocacy shall identify and select not less than 2 and not more than 6 designated representatives for review of the subject significant rule.

(2) Not later than 45 days before the issuance of a significant final rule, the Chief Counsel for Advocacy shall identify and select not less than 2 and not more than 6 previously selected, or new, designated representatives for review of the subject significant final rule.

(e) ESTABLISHMENT OF REVIEW PANELS.—

(1) IN GENERAL.—Not later than 15 days after receiving notice under subsection (c)(2)(B), or such longer period as the chairperson may allow, review panel members shall be appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel for Advocacy, and the chairperson in accordance with section 203(b).

(2) EXCEPTIONS.—A review panel shall be established in accordance with paragraph (1) unless the chairperson, in consultation with the Chief Counsel for Advocacy, determines (and notifies the agency in writing of such determination) that

(A) a good faith effort to identify and select designated representatives with respect to the subject significant rule was unsuccessful; and

(B) compliance with this subtitle is not required with respect to the subject significant rule due to a lack of availability of designated representatives.

(f) DUTIES REGARDING FINAL RULE.—

(1) IN GENERAL.—Not later than 45 days before the issuance of a significant final rule, the chairperson shall—

(A) notify panel members of the intent of the agency to issue a final rule;

(B) provide panel members with a dated draft of the final rule to be issued;

(C) solicit comments from panel members in connection with the issues described in section 203(a);

(D) provide the Chief Counsel for Advocacy with materials related to the subject final rule. Information made available to the designated representatives shall be made available to the public upon request and at the cost of reproduction.

(E) solicit comments from designated representatives in connection with the issues described in section 203(a); and

(F) if the chairperson determines that such action is necessary, call one or more meetings of the review panel and, if a quorum is present, direct the review panel to review, discuss, or clarify any issue related to the subject final rule or the preparation of the report under paragraph (2).

(2) REPORT.—Except as provided in section 204(b), not later than 5 days before the issuance of a final rule, the chairperson shall submit a report in accordance with section 204(a).

SEC. 203. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) GENERAL DUTIES.—Before any publication described in subparagraph (A) or (B) of section 202(c)(1) of a proposed significant rule, and again before the issuance of such rule as a final rule, the review panel shall, in accordance with this subtitle provide technical guidance to the agency, including guidance relating to the following issues—

(1) the applicability of the proposed rule to small businesses;

(2) compliance with the rule by small businesses;

(3) the consistency or redundancy of the proposed rule with respect to other Federal, State, and local laws or regulations and recordkeeping requirement imposed on small businesses; and

(4) any other concerns posed by the proposed rule that may impact significantly upon small businesses.

(b) MEMBERSHIP.—Each review panel shall be composed wholly of full-time officers or employees of the Federal Government, and shall include—

(1) the chairperson;

(2) not less than 1 nor more than 3 members appointed by the chairperson from among employees of the agency who would be responsible for carrying out the subject significant rule;

(3) 1 member appointed by the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget from among the employees of that office who have specific knowledge of or responsibilities of the agency that would be responsible for carrying out the subject significant rule; and

(4) 1 member appointed by the Chief Counsel for Advocacy from among the employees of the Office.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each review panel member, other than the chairperson, shall be appointed for a term beginning on the date on which the appointment is made and ending on the date on which the report or written record is submitted under section 204.

(2) VACANCIES.—Any vacancy on a review panel shall not affect the powers of the review panel, but shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum for the conduct of business by a review panel shall consist of 1 member appointed from each of paragraphs (2) through (4) of subsection (b).

(e) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the meetings of the review panel shall be at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 15 days after all review panel members necessary to constitute a quorum have been appointed under section (b), the chairperson shall conduct the initial meeting of the review panel.

(f) POWERS OF REVIEW PANEL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—A review panel may secure, directly from any Federal department or agency, such information as the review panel considers necessary to carry out this subtitle, other than any material described in section 552(b) of title 5. Upon request of the chairperson, the head of such department or agency shall furnish such information to the review panel.

(2) POSTAL SERVICES.—A review panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) NONCOMPENSATION OF MEMBERS.—Members of the review panel shall serve without compensation in addition to that received for their services as officers or employees of the Federal Government.

(h) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to a review panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(i) CONSULTATION WITH OTHER ENTITIES.—In carrying out this subtitle, the chairperson shall consult and coordinate, to the maximum extent practicable, the activities of the review panel with each office of the agency that is responsible for the provision of data or technical advice concerning a significant rule.

SEC. 204. REPORT.

(a) IN GENERAL.—Except as provided in subsection (b), the chairperson shall, in accordance with section 202(f)(2), submit to the appropriate employees of the agency who would be responsible for carrying out the subject significant rule and to the appropriate committees of the Senate and the House of Representatives a report, which shall include—

(1) the findings and recommendations of the review panel with respect to the significant rule, including both the majority and minority views of the review panel members, regardless of the consensus of opinions that may derive from the meetings of the review panel;

(2) a summary of the views and recommendations of each individual designated representative with respect to the significant rule, including each individual designated representative's recommendation with respect to whether a survey should be conducted under section 205; and

(3) recommendations of the review panel regarding whether a survey with respect to the subject significant rule should be conducted under section 205, and—

(A) If so—

(i) a timeframe during which the survey should be conducted, taking into account the time required to implement the rule and to gather appropriate data; and

(ii) any recommendations of the review panel regarding the contents of the survey; and

(B) if not, the reasons why the survey is not recommended.

(b) FAILURE TO SUBMIT REPORT.—If the chairperson fails to submit a report under subsection (a), not later than the date on which the final rule is issued, the chairperson shall—

(1) prepare a written record of such failure detailing the reasons therefore; and

(2) submit a copy of such written record to the head of the agency and to the appropriate committees of the Congress.

SEC. 205. SURVEY.

(a) IN GENERAL.—If a review panel makes a recommendation in any report submitted under section 204(a) that a survey should be conducted with respect to a significant rule, the agency shall contract for an independent private sector survey of a cross-section of the small businesses affected by the rule.

(b) CONTENTS OF SURVEY.—Each survey conducted under this section shall address the impact of the significant rule on small businesses, including—

(1) the applicability of the rule to various small businesses;

(2) the degree to which the rule is easy to read and comprehend;

(3) the costs to implement the rule;

(4) any recordkeeping requirements imposed by the rule; and

(5) any other technical or general issues related to the rule.

(c) AVAILABILITY OF SURVEY RESULTS.—The results and costs of each survey conducted under this section shall be made available—

(1) to each interested Federal agency; and

(2) upon request, to any other interested party, including organizations, individuals, State and local governments, and the Congress.

SEC. 206. JUDICIAL REVIEW.

No action or inaction of a review panel, including any recommendations or advice of a review panel or any procedure or process of a review panel may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

SUBTITLE B—REGULATORY OMBUDSMEN

SEC. 211. SMALL BUSINESS AND AGRICULTURE OMBUDSMEN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

“SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

“(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) BOARD.—The term ‘Board’ means a Small Business Regulatory Fairness Board established under subsection (c).

“(2) OMBUDSMAN.—The term ‘ombudsman’ means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

“(3) REGION.—The term ‘region’ means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

“(4) RULE.—The term ‘rule’ has the same meaning as in section 601(2) of title 5, United States Code.

“(b) OMBUDSMAN.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall designate Regional Small Business and Agriculture Ombudsmen in accordance with this subsection.

“(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

“(A) solicit and receive comments from small business concerns regarding the enforcement activities of federal agencies and maintain such comments on a confidential basis;

“(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each federal agency as appropriate;

“(C) publish periodic reports compiling the comments received under subparagraph (A);

“(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

“(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).”.

SEC. 212. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 211 of this Act) is amended by adding at the end the following new subsection:

“(C) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Comprehensive Regulatory Reform Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

“(2) DUTIES.—Each Board established under paragraph (1) shall—

“(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

“(B) issue advisory findings and recommendations with respect to small business concerns;

“(C) review and comment on, prior to publication—

“(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

“(ii) each periodic report prepared under subsection (b)(2)(C); and

“(D) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

“(3) MEMBERSHIP.—Each Board shall consist of five members appointed by the Administrator for terms of three years.

“(4) VACANCIES.—Any vacancy on the Board—

“(i) shall not affect the powers of the Board; and

“(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

“(5) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board.

“(6) MEETINGS.—

“(A) IN GENERAL.—The Board shall meet at the call of the Chairperson.

“(B) INITIAL MEETING.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

“(7) QUORUM.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

“(8) POWERS OF THE BOARD.—

“(A) HEARINGS.—The Board may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board determines to be appropriate.

“(B) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

“(C) INFORMATION FROM FEDERAL AGENCIES.—Upon the request of the Chairperson, the Board may secure directly from the head of any Federal department or agency such information as the Board considers necessary to carry out this section, other than any material described in section 552(b) of title 5, United States Code.

“(D) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(E) DONATIONS.—The Board may accept, use, and dispose of donations of services or property.

“(9) BOARD PERSONNEL MATTERS.—

“(A) COMPENSATION.—Members of the Board shall serve without compensation.

“(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.”.

SEC. 213. JUDICIAL REVIEW.

(a) PROHIBITION.—No action or inaction of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, including any recommendation or advice of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board or any procedure or process of a Regional Small Business and Agriculture Ombudsman or a Small Business Regulatory Fairness Board, may be subject to judicial review by a court of the United States under chapter 7 of title 5, United States Code, or any other provision of law.

(b) DEFINITION.—For purposes of this section—

(1) the term “Regional Small Business and Agriculture Ombudsman” means any ombudsman designated under section 30(b) of the Small Business Act, as added by section 211 of this Act.

(2) the term “Small Business Regulatory Fairness Board” means any board established under section 30(c) of the Small Business Act, as added by section 212 of this Act.

**MCCAIN (AND LIEBERMAN)
AMENDMENT NO. 1785**

Mr. HATCH (for Mr. MCCAIN, for himself and Mr. LIEBERMAN) proposed an amendment to amendment No. 1487, proposed by Mr. DOLE, the bill, S. 343, supra; as follows:

At the end of the amendment and insert the following new section:

SEC. . REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(A) REPEAL.—

(1) IN GENERAL.—Section 13581 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(2) APPLICATION OF THE SOCIAL SECURITY ACT.—The Social Security Act shall be applied and administered as if section 13581 of the Omnibus Budget Reconciliation Act of 1993 (and the amendments made by such section) had not been enacted.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the “Secretary”) shall conduct a study on how to achieve the objectives of the data bank described in section 1144 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) in the most cost-effective manner, taking into account—

(A) the administrative burden of such data bank on private sector entities and governments,

(B) the possible duplicative reporting requirements of the Health Care Financing Administration in effect on such date of enactment, and

(C) the legal ability of such entities and governments to acquire the required information.

(2) REPORT.—The Secretary shall report to the Congress on the results of the study described in paragraph (1) by not later than 180

days after the date of the enactment of this Act.

ASHCROFT AMENDMENT NO. 1786

Mr. ASHCROFT proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

At the end, add the following new title:

“TITLE II—URBAN REGULATORY RELIEF ZONES

SECTION 201. SHORT TITLE.

This Act may be cited as the “Urban Regulatory Relief Zone Act of 1995”.

SEC. 202. FINDINGS.

The Congress finds that—

(1) the likelihood that a proposed business site will comply with many government regulations is inversely related to the length of time over which a site has been utilized for commercial and/or industrial purposes in the past, thus rendering older sites in urban areas the sites most unlikely to be chosen for new development and thereby forcing new development away from the areas most in need of economic growth and job creation; and

(2) broad Federal regulations often have unintended social and economic consequences in urban areas where such regulations, among other things—

(A) offend basic notions of common sense, particularly when applied to individual sites;

(B) adversely impact economic stability;

(C) result in the unnecessary loss of existing jobs and businesses;

(D) undermine new economic development, especially in previously used sites;

(E) create undue economic hardships while failing significantly to protect human health, particularly in areas where economic development is urgently needed in order to improve the health and welfare of residents over the long term; and

(F) contribute to social deterioration to such a degree that high unemployment, crime, and other economic and social problems create the greatest risk to the health and well-being of urban residents.

SEC. 203. PURPOSES.

The purposes of this title are to—

(1) enable qualifying cities to provide for the general well-being, health, safety and security for their residents living in distressed areas by empowering such cities to obtain selective relief from Federal regulations that undermine economic stability and development in distressed areas within the city; and

(2) authorize Federal agencies to waive the application of specific Federal regulations in distressed urban areas designated as Urban Regulatory Relief Zones by an Economic Development Commission—

(A) upon application through the Office of Management and Budget by an Economic Development Commission established by a qualifying city pursuant to section 205; and

(B) Upon a determination by the appropriate Federal agency that granting such a waiver will not substantially endanger health or safety.

SEC. 204. ELIGIBILITY FOR WAIVERS.

(a) ELIGIBLE CITIES.—The mayor or chief executive officer of a city may establish an Economic Development Commission to carry out the purposes of section 205 if the city has a population greater than 200,000 according to:

(1) the U.S. Census Bureau's 1992 estimate for city populations; or

(2) beginning six months after the enactment of this title, the U.S. Census Bureau's latest estimate for city populations.

(b) DISTRESSED AREA.—Any census tract within a city shall qualify as a distressed area if—

(1) 33 percent or more of the resident population in the census tract is below the poverty line; or

(2) 45 percent or more of out-of-school males aged 16 and over in the census tract worked less than 26 weeks in the preceding year; or

(3) 36 percent or more families with children under age 18 in the census tract have an unmarried parent as head of the household; or

(4) 17 percent or more of the resident families in the census tract received public assistance income in the preceding year.

SEC. 205. ECONOMIC DEVELOPMENT COMMISSIONS.

(a) PURPOSE.—The mayor or chief executive officer of a qualifying city under section 204 may appoint an Economic Development Commission for the purpose of—

(1) designating distressed areas, or a combination of distressed areas with one another or with adjacent industrial or commercial areas, within the city as Urban Regulatory Relief Zones; and

(2) making application through the Office of Management and Budget to waive the application of specific Federal regulations within such Urban Regulatory Relief Zones.

(b) COMPOSITION.—To the greatest extent practicable, an Economic Development Commission shall include—

(1) residents representing a demographic cross section of the city population; and

(2) members of the business community, private civic organizations, employers, employees, elected officials, and State and local regulatory authorities.

(c) LIMITATION.—No more than one Economic Development Commission shall be established or designated within a qualifying city.

SEC. 206. LOCAL PARTICIPATION.

(a) PUBLIC HEARINGS.—Before designating an area as an Urban Regulatory Relief Zone, an Economic Development Commission established pursuant to section 205 shall hold a public hearing, after giving adequate public notice, for the purpose of soliciting the opinions and suggestions of those persons who will be affected by such designation.

(b) INDIVIDUAL REQUESTS.—The Economic Development Commission shall establish a process by which individuals may submit requests to the Economic Development Commission to include specific Federal regulations in the Commission's application to the Office of Management and Budget seeking waivers of Federal regulations.

(c) AVAILABILITY OF COMMISSION DECISION.—After holding a hearing under paragraph (a) and before submitting any waiver applications to the Office of Management and Budget pursuant to section 207, the Economic Development Commission shall make publicly available—

(1) a list of all areas within the city to be designated as Urban Regulatory Relief Zones, if any;

(2) a list of all regulations for which the Economic Development Commission will request a waiver from a Federal agency; and

(3) the basis for the city's findings that the waiver of a regulation would improve the health and safety and economic well-being of the city's residents and the data supporting such a determination.

SEC. 207. WAIVER OF FEDERAL REGULATIONS.

(A) SELECTION OF REGULATIONS.—An Economic Development Commission may select for waiver, within an Urban Regulatory Relief Zone, Federal regulations that—

(1)(A) are unduly burdensome to business concerns located within an area designated as an Urban Regulatory Relief Zone; or

(B) discourages new economic development within the zone; or

(C) creates undue economic hardships in the zone; or

(D) contributes to the social deterioration of the zone; and

(2) if waived, will not substantially endanger health or safety.

(b) REQUEST FOR WAIVER.—(1) An Economic Development Commission shall submit a request for the waiver of Federal regulations to the Office of Management and Budget.

(2) Such request shall—

(A) identify the area designated as an Urban Regulatory Relief Zone by the Economic Development Commission;

(B) identify all regulations for which the Economic Development Commission seeks a waiver; and

(C) explain the reasons that waiver of the regulations would economically benefit the Urban Regulatory Relief Zone and the data supporting such determination;

(c) REVIEW OF WAIVER REQUEST.—No later than 60 days after receiving the request for waiver, the Officer of Management and Budget shall—

(1) review the request for waiver;

(2) determine whether the request for waiver is complete and in compliance with this title, using the most recent census data available at the time each application is submitted; and

(3) after making a determination under paragraph (2)—

(A) submit the request for waiver to the Federal agency that promulgated the regulation and notify the requesting Economic Development Commission of the date on which the request was submitted to such agency; or

(B) notify the requesting Economic Development Commission that the request is not in compliance with this Act with an explanation of the basis for such determination.

(d) MODIFICATION OF WAIVER REQUESTS.—An Economic Development Commission may submit modifications to a waiver request. The provisions of subsection (c) shall apply to a modified waiver as of the date such modification is received by the Office of Management and Budget.

(e) WAIVER DETERMINATION.—(1) No later than 120 days after receiving a request for waiver under subsection (c) from the Office of Management and Budget, a Federal agency shall—

(A) make a determination of whether to waive a regulation in whole or in part; and

(B) provide written notice to the requesting Economic Development Commission of such determination.

(2) Subject to subsection (g), a Federal agency shall deny a request for a waiver only if the waiver substantially endangers health or safety.

(3) If a Federal agency grants a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) describes the extent of the waiver in whole or in part; and

(B) explains the application of the waiver, including guidance for the use of the waiver by business concerns, within the Urban Regulatory Relief Zone.

(4) If a Federal agency denies a waiver under this subsection, the agency shall provide a written statement to the requesting Economic Development Commission that—

(A) explains the reasons that the waiver substantially endangers health or safety; and

(B) provides a scientific basis in writing for such determination.

(f) AUTOMATIC WAIVER.—If a Federal agency does not provide the written notice required under subsection (e) within the 120-day period as required under such subsection, the waiver shall be deemed to be granted by the Federal agency.

(g) LIMITATION.—No provision of this Act shall be construed to authorize any Federal

agency to waive any regulation or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, gender, or national origin.

(h) APPLICABLE PROCEDURES.—A waiver of a regulation under subsection (e) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. The Federal agency shall publish a notice in the Federal Register stating any waiver of a regulation under this section.

(i) EFFECT OF SUBSEQUENT AMENDMENT OF REGULATIONS.—If a Federal agency amends a regulation for which a waiver under this section is in effect, the agency shall not change the waiver to impose additional requirements.

(j) EXPIRATION OF WAIVERS.—No waiver of a regulation under this section shall expire unless the Federal agency determines that a continuation of the waiver substantially endangers health or safety.

SEC. 208. DEFINITIONS.

For purposes of this Act, the term—

(1) "regulation" means—

(A) any rule as defined under section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing under sections 556 and 557 of such title;

(2) "Urban Regulatory Relief Zone" means an area designated under section 205;

(3) "qualifying city" means a city which is eligible to establish an Economic Development Commission under section 204;

(4) "industrial or commercial area" means any part of a census tract zoned for industrial or commercial use which is adjacent to a census tract which is a distressed area pursuant to section 205(b); and

(5) "poverty line" has the same meaning as such term is defined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

PORTRAIT MONUMENT RESTORATION ACT

STEVENS AMENDMENT NO. 1787

Mr. HATCH (for Mr. STEVENS) proposed an amendment to the concurrent resolution (S. Con. Res. 21) directing that the "Portrait Monument" carved in the likeness of Lucretia Mott, Susan B. Anthony, and Elizabeth Cady Stanton, now in the Crypt of the Capitol, be restored to its original state and be placed in the Capitol rotunda; as follows:

Strike all after the resolving clause and insert: "That the Architect of the Capitol shall—

"(1) restore the "Portrait Monument" to its original state and place it in the Rotunda of the United States Capitol; and

"(2) make all necessary arrangements for the rededication ceremony of such statue in the Capitol Rotunda and procession connected therewith, in cooperation with the 75th Anniversary of Woman Suffrage Task Force.

"SEC. 2. The Rotunda of the Capitol is authorized to be used from 7 o'clock ante meridiem until 4 o'clock post meridiem on August 26, 1995, for such ceremony."