schedule a time to consider bill S 856 as soon as possible

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr Thomas one of his secretaries

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which referred to the appropriate committees

(The nominations received today are printed at the end of the Senate proceedings)

MESSAGES FROM THE HOUSE

At 12 08 p m a message from the House of Representatives delivered by Ms Coetz one of its reading clerks announced that the House has passed the following bill in which it requests the concurrence of the Senate

H R 2425 An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program

ENROLLED BILLS SIGNED

The following enrolled bills previously signed by the Speaker of the House were signed on today October 20 1994 by the President pro tempore [Mr THURMOND]

S 227 An act to amend title 17 United States Code to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes

S 268 An act to authorize the collection of fees for expenses for triploid grass carp certification inspections and for other purposes

S 1111 An act to amend title 35 United States Code with respect to patents on biotechnological processes

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated

H R 2425 An act to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program to the Committee on Finance

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 20 1995 he had presented to the President of the United States the following enrolled bills

S 227 An act to amend title 17 United States Code to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes

S 268 An act to authorize the collection of fees for expenses for triploid grass carp certification inspections and for other purposes

S 1111 An act to amend title 35 United States Code with respect to patents on biotechnological processes

REPORTS OF COMMITTEES

The following reports of committees were submitted

By Mr STEVENS from the Committee on Governmental Affairs with an amendment in the nature of a substitute

S 929 A bill to abolish the Department of Commerce (Rept No 104–164)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced read the first and second time by unanimous consent and referred as indicated

By Mr ABRAHAM (for himself Mr HEFLIN Mr LOTT Mr NICKLES Mrs HUTCHISON Mr CRAIG and Mr KYL)

S 1346 A bill to require the periodic review of Federal regulations to the Committee on Governmental Affairs

By Mr COATS

S 1347 A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Captain Dave* and for other purposes to the Committee on Commerce Science and Transportation

S 1348 A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango* and for other purposes to the Committee on Commerce Science and Transportation

S 1349 A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat* and for other purposes to the Committee on Commerce Science and Transportation

By Mr FEINGOLD

S 1350 A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities and for other purposes to the Committee on Governmental Affairs

By Ms MOSELEY BRAUN

S 1351 A bill to encourage the furnishing of health care services to low income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct and for other purposes to the Committee on the Judiciary

By Mr D AMATO (for himself and Mr MOYNIHAN)

S 1352 A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System to the Committee on Environment and Public Works

By Mr DORGAN (for himself Mr BUMPERS Mr DEWINE and Mr LAUTENBERG)

S 1353 A bill to amend title 23 United States Code to require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles and for other purposes to the Committee on Environment and Public Works

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read and referred (or acted upon) as indicated

By Mr FEINGOLD

S Res 187 A resolution to express the sense of the Senate that Congress should vote on the deployment of U S Armed Forces in the Republic of Bosnia and Herzegovina to the Committee on Foreign Relations

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr ABRAHAM (for himself Mr HEFLIN Mr LOTT Mr NICKLES Mrs HUTCHISON Mr CRAIG and Mr KYL)

S 1346 A bill to require the periodic review of Federal regulations to the Committee on Governmental Affairs

THE REGULATORY REVIEW ACT OF 199

• Mr ABRAHAM Mr President I rise in support of the Regulatory Review Act of 1995 which I introduce today on behalf of myself and Senators HEFLIN LOTT NICKLES HUTCHISON CRAIG and KYL

It is only common sense that the utility of a rule may change as circumstances change Under current law however a rule enjoys eternal life unless the agency that promulgated it takes affirmative steps to terminate it And in fact agencies rarely choose to burden themselves with the task of reexamining the rules they have promulgated As a result our rulebooks are littered with rules that are obsolete inconsistent with other rules or just plain unnecessary

The weight of this heap of outdated rules rests most heavily on the small businesses of this country Unlike larger firms small businesses cannot spread the costs of regulation over a large quantity of output Nor can they pass their regulatory headaches on to an accounting department legal counsel or human resources division Instead in case after case the entrepreneur himself must spend innumerable hours attempting to comply with the mandates of Federal regulators It comes as no surprise then that problems relating to regulation and Government paperwork were the fastest growing areas of concern in a recent survey conducted by the National Federation of Independent Businesses

The Regulatory Review Act would solve the problems caused by unnecessary rules Under the act the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget would coordinate and supervise agency reviews of covered rules which largely would be rules that impose annual costs of $100 million or more Covered rules not reviewed by the end of their review period would terminate The duration of review periods under the act would be up to 7 years plus a possible extension of 6 months Finally the act itself would sunset after 10 years

There are several reasons why OIRA should be given supervisory authority over the regulatory review process Obviously the review process will involve determinations as to whether the rules

(2) COVERED AGENCY —The term covered agency means any agency that on the date of enactment of this Act has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5 United States Code and any other agency that promulgates any such rule as of the date of enactment of this Act

(3) NO ACTION LETTER —The term no action letter means a written determination from a covered agency stating that based on a no action request submitted to the agency by a small entity the agency will not take enforcement action against the small entity under the rules of the covered agency

(4) NO ACTION REQUEST —The term no action request means a written correspondence submitted by a small entity to a covered agency—

(A) stating a set of facts and

(B) requesting a determination by the agency of whether the agency would take an enforcement action against the small entity based on such facts and the application of any rule of the agency

(5) RULE —The term rule has the same meaning as in section 601(2) of title 5 United States Code

(6) SMALL ENTITY —The term small entity has the same meaning as in section 601(6) of title 5 United States Code

(7) SMALL BUSINESS CONCERN —The term small business concern has the same meaning as in section 3 of the Small Business Act

(8) VOLUNTARY SELF AUDIT —The term voluntary self audit means an audit assessment or review of any operation practice or condition of a small entity that—

(A) is initiated by an officer employee or agent of the small entity and

(B) is not required by law

SEC 102 COMPLIANCE GUIDES

(a) COMPLIANCE GUIDE —

(1) PUBLICATION —If a covered agency is required to prepare a regulatory flexibility analysis for a rule or group of related rules under section 603 of title 5 United States Code the agency shall publish a compliance guide for such rule or group of related rules

(2) REQUIREMENTS —Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules

(B) contain a citation to the location of the complete rule or group of related rules in the Federal Register

(C) provide notice to small entities of the requirements under the rule or group of related rules and explain the actions that a small entity is required to take to comply with the rule or group of related rules

(D) be written in a manner to be understood by the average owner or manager of a small entity and

(E) be updated as required to reflect changes in the rule

(b) DISSEMINATION —

(1) IN GENERAL —Each covered agency shall establish a system to ensure that compliance guides required under this section are published disseminated and made easily available to small entities

(2) SMALL BUSINESS DEVELOPMENT CENTERS —In carrying out this subsection each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses concerns

(c) LIMITATION ON ENFORCEMENT —

(1) IN GENERAL —No covered agency may bring an enforcement action in any Federal court or in any Federal administrative proceeding against a small entity to enforce a rule for which a compliance guide is not published and disseminated by the covered agency as required under this section

(2) EFFECTIVE DATES —This subsection shall take effect—

(A) 1 year after the date of the enactment of this Act with regard to a final regulation in effect on the date of the enactment of this Act and

(B) on the date of the enactment of this Act with regard to a regulation that takes effect as a final regulation after such date of enactment

SEC 103 NO ACTION LETTER

(a) APPLICATION —This section applies to all covered agencies except—

(1) the Federal Trade Commission

(2) the Equal Employment Opportunity Commission and

(3) the Consumer Product Safety Commission

(b) ISSUANCE OF NO ACTION LETTER —Not later than 90 days after the date on which a covered agency receives a no action request the agency shall—

(1) make a determination regarding whether to grant the no action request deny the no action request or seek further information regarding the no action request and

(2) if the agency makes a determination under paragraph (1) to grant the no action request issue a no action letter and transmit the letter to the requesting small entity

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE —In any enforcement action brought by a covered agency in any Federal court or Federal administrative proceeding against a small entity the small entity shall have a complete defense to any allegation of noncompliance or violation of a rule if the small entity affirmatively pleads and proves by a preponderance of the evidence that the act or omission constituting the alleged noncompliance or violation was taken in good faith with and in reliance on—

(1) a no action letter from that agency or

(2) a compliance guide of the applicable rule published by the agency under section 102(a)

SEC 104 VOLUNTARY SELF AUDITS

(a) PROCEDURES —Each agency shall establish voluntary self audit procedures for small entities regulated by the agency

(b) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY —If action to address a violation is taken not later than 180 days after the date on which a voluntary self audit is concluded the evidence described in subsection (c)—

(1) shall not be admissible unless agreed to by the small entity in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court or

(B) administrative proceeding and

(2) may not be the subject of discovery in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court or

(B) administrative proceeding

(c) APPLICATION —For purposes of subsection (b) the evidence described in this subsection is—

(1) a voluntary self audit made in good faith and

(2) any report finding opinion or any other oral or written communication made in good faith relating to such voluntary self audit

(d) EXCEPTIONS —Subsection (b) shall not apply if—

(1) the act or omission that forms the basis of the enforcement action is a violation of criminal law or

(2) the voluntary self audit or the report finding opinion or other oral or written communication was prepared for the purpose of avoiding disclosure of information required for an investigative administrative or judicial proceeding that at the time of preparation was imminent or in progress

TITLE II—MISCELLANEOUS PROVISIONS

SEC 201 PERFORMANCE MEASURES

No covered agency shall establish or enforce agency personnel practices that reward agency employees directly or indirectly based on the number of contacts made with small entities in pursuit of enforcement actions or on the amount of fines levied against small entities to enforce agency regulations

SEC 202 GRACE PERIOD FOR CORRECTION OF VIOLATIONS OF ENVIRONMENTAL PROTECTION AGENCY REGULATIONS

(a) IN GENERAL —Subject to subsection (b) for violations of regulations identified on or after the date of enactment of this Act the Administrator of the Environmental Protection Agency shall afford small entities 180 days after the date on which the violation is identified to correct such violation

(b) EXCEPTION —Subsection (a) shall not apply—

(1) if the Administrator of the Environmental Protection Agency determines that there is an imminent risk to public health or worker safety or

(2) to a violation of a regulation for which criminal liability may be imposed

SEC 203 WAIVER OF PUNITIVE FINES FOR SMALL ENTITIES

Notwithstanding any other law policy or practice a covered agency may waive all or part of a punitive fine that would otherwise be imposed on a small entity if—

(1) the fine is for a first time violation of a law or regulation and

(2) the small entity acts quickly and in good faith to correct the violation •

By Ms MOSELEY BRAUN

S 1351 A bill to encourage the furnishing of health care services to low income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct and for other purposes to the Committee on the Judiciary

THE CHARITABLE MEDICAL CARE ACT OF 1995

• Ms MOSELEY BRAUN Mr President I am pleased to introduce the Charitable Medical Care Act of 1995 This legislation is designed to ensure that licensed providers who in good faith provide medical treatment without compensation are not sued Currently because of malpractice concerns health care professionals have a disincentive to volunteer their services This act does not apply in situations of gross negligence or willful misconduct

Protection from liability for voluntarily providing uncompensated care is not a new idea Currently eight States including my home State of Illinois have laws in place that free doctors who practice voluntarily and in good faith from at least some part of malpractice liability These States include Virginia Utah North Carolina Florida Kentucky South Carolina Iowa and Washington DC

My legislation builds upon existing Good Samaritan laws Good Samaritan laws prevent an individual who acted

in good faith from liability in the event a mishap occurs In 1959 California enacted the Nation's first Good Samaritan statute Today all 50 States and Washington DC have adopted some form of a Good Samaritan statute These statutes exempt the volunteers from tort liability for ordinary negligence in rendering emergency aid to an individual The rationale for these laws is to encourage health professionals to aid persons in need of assistance

The need for free clinics and voluntarism by health professionals has never been more striking There were 41 million uninsured Americans in this country last year Voluntarism by health care professionals has been instrumental in providing health care to the uninsured Free clinics have a preventative and primary care focus They offer an alternative to emergency rooms which have become family doctors to far too many They also represent an enormous savings to the entire health care system In the tradition of family doctors these clinics offer a primary care continuum

Free clinics supplement community clinics that provide care to those without insurance as well as those on Medicaid Together these clinics provide the majority of care in underserved communities More than 1 500 free and community clinics serve over 10 million individuals each year in this country In my State of Illinois last year 17 350 people were served and over $600 000 worth of care was provided The potential impact of charitable care is not insignificant It is estimated that charitable medical care provides care to 30 percent of the currently uninsured population

Free clinics have served a valuable service and will continue to provide vital access to health care to the poor While I am a firm supporter of universal coverage it appears that at least for a while millions of Americans will remain uncovered The number of uninsured Americans increased from 37 4 million in 1993 to 41 million in 1994 an increase of nearly 4 million individuals Proposed changes in Medicaid and Medicare will most certainly increase this number

The role of free clinics and voluntarism by professionals is and will remain an important part of the health care delivery system This is particularly true in urban and rural underserved areas Thus far free clinics have been very successful in serving the community Their success is due to their broad based community support and the voluntarism of the medical community Medical liability suits are very rare

Doctors and other medical personnel who voluntarily provide quality medical care to the poor are an essential component of free community clinics Free clinics can not provide services however if barriers to voluntarism remain One of the best ways to increase voluntarism is through some protection from liability It is critical that we encourage doctors to volunteer their services to those who cannot afford such care I believe the legislation I am introducing today will go a long way toward achieving this goal

I urge my colleagues to join me in support of this important legislation •

By Mr D AMATO (for himself and Mr MOYNIHAN)

S 1352 A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System to the Committee on Environment and Public Works

COASTAL BARRIER RESOURCES SYSTEM LEGISLATION

• Mr D AMATO Mr President I introduce legislation with my friend and colleague Senator MOYNIHAN which would correct a technical error that has prevented certain residents of my State from participating in the National Flood Insurance Program Specifically this bill would direct the Secretary of the Interior to make technical corrections in the current maps of the Coastal Barrier Resources System [COBRA] A companion to this bill H R 2005 was introduced in the House of Representatives by Congressman MICHAEL FORBES on July 11 1995 and was approved by the House Committee on Resources on September 27 1995 This necessary legislation is supported by the administration

In 1990 the Department of the Interior's Fish and Wildlife Service made a technical error when it designated part of the Point O Woods community on Fire Island in New York as part of an otherwise protected area [OPA] As a result of this technical error homeowners in this part of the country are restricted from protecting their properties through the purchase of Federal flood insurance

Mr President the Fish and Wildlife Service concedes that the designation of these residences as part of an OPA was erroneous The administration testified in support of the House version of this legislation before the Oceans Fisheries and Wildlife Subcommittee of the House Committee on Resources The inadvertent error in the COBRA map has greatly complicated community efforts to relocate houses away from high erosion zones and otherwise practice effective coastal barrier management This legislation would allow the Point O Woods community the opportunity which other American homeowners in similar areas currently have to participate in the Federal Flood Insurance Program The Federal Government actively encourages participation in this important program in order to minimize taxpayer costs in the event of a natural disaster

Mr President I ask unanimous consent that a copy of a letter written to me by the U S Fish and Wildlife Service in support of this correction and the text of the bill be printed in the RECORD

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

S 1352

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

SECTION 1 CORRECTION TO MAP

(a) IN GENERAL —The Secretary of the Interior shall before the end of the 30 day period beginning on the date of the enactment of this Act make such corrections to the map described in subsection (b) as are necessary —

(1) to move on that map the eastern boundary of the excluded area covering Ocean Beach Seaview Ocean Bay Park and part of Point O Woods to the western boundary of the Sunken Forest Preserve and

(2) to ensure that on that map the depiction of areas as otherwise protected areas does not include any area that is owned by the Point O Woods Association (a privately held corporation under the laws of the State of New York)

(b) MAP DESCRIBED —The map described in this subsection is the map that is included in a set of maps entitled Coastal Barrier Resources System dated October 24 1990 that relates to the unit of the Coastal Barrier Resources System entitled Fire Island Unit NY–59P

DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
Washington DC October 20 1995

Senator ALFONSE M D AMATO
U S Senate Washington DC

DEAR SENATOR D AMATO At the request of staff on the Senate Committee on Environment and Public Works and the Committee on Banking Housing and Urban Affairs I am writing to inform you of the position of the Department of the Interior on legislation to modify unit NY 59P of the Coastal Barrier Resources System This letter is consistent with testimony before the House Committee on Resources which I have enclosed

The House Resources Committee is in the process of reviewing H R 2005 a bill introduced by Congressman Forbes making technical corrections to maps relating to the Coastal Barrier Resources System The U S Fish & Wildlife Service supports passage of H R 2005 in its current form and agrees with the removal of a portion of unit NY59P from the Coastal Barrier System to correct a technical error However we would oppose the addition of other provisions dealing with any other units to this bill without full opportunity for Service review

H R 2005 seeks to remove a portion of unit NY59P Fire Island New York from the Coastal Barrier System This unit is part of the Fire Island National seashore and is mapped as an otherwise protected area Otherwise protected areas are defined by the CBRA as coastal barriers which are included within the boundaries of an area established under Federal State or local law or held by a qualified organization as defined in Section 170(h)(3) of the Internal Revenue Code of 1954 primarily for wildlife refuge sanctuary recreational or natural resource conservation purposes The Department of the Interior recommended to Congress that otherwise protected areas not be included in the System and therefore no further refinement of the mapped boundaries were made However with the passage of the 1990 legislation Congress prohibited the sale of Federal flood insurance within otherwise protected areas thus retaining these units in the System The property owned by the Point O Woods Association in unit NY59P is not part of this otherwise protected area and therefore was mistakenly included in the System