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LIST 2

LEGISLATION ANTICIPATED IN THE 95th CONGRESS ON  
IMPORTANT ISSUES FOR WHICH DEPARTMENT OF COMMERCE  
WILL HAVE A LEADING ROLE:

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GOVERNMENT

Government Reorganization  
Maritime Advisor in the White House  
Regulatory Reform  
International Navigational Rules Act

ENERGY

Outer Continental Shelf Lands Act

SCIENCE AND TECHNOLOGY

Aquaculture  
Deep Seabed Mining  
Patent Reform  
Voluntary Standards

MARITIME, TRADE, TARIFFS

Cargo Preference  
Commercial Nuclear Vessels  
Technology Transfer  
Jones Act Amendments/Virgin Islands  
Rhodesian Chrome  
Tourist Travel Promotion/Matching Grants  
U. S. and Foreign Joint Ventures related to 200-Mile Limit  
Use of Tariffs from Imported Fish Products

TAXES

Waterway User Fees



ENVIRONMENT

Materials R & D Conservation, Recycling and Reclamation  
Oil Pollution Liability

CONSUMER ISSUES

Consumer Product Testing  
Fisheries Products and Food Inspection

CORPORATE ISSUES

Federal Charters  
Multinationals, Controls and Codes of Conduct  
Product Liability  
Questionable Corporate Payments Abroad

OTHER

Release of Census Records by Archivist  
Voter Registration





Government Reorganization - Maritime Advisor in the White House

H.R. 14870 and the identical bill S. 2581 were introduced in the 94th Congress to establish an Office of Maritime Affairs Coordinator in the Executive Office of the President. The Coordinator would serve as a member of the National Security Council. The focus of the bills is on national security. The functions of the Coordinator would be (1) to develop and recommend to the President and Congress a National Maritime Strategy Program, including a civil-military shipbuilding program, (2) coordinate all Federal civil and military maritime research programs, (3) coordinate all other Federal maritime activities and make appropriate recommendations to assure adherence to existing law relating to domestic and foreign trade, (4) and represent maritime interests in national transportation planning. The chief purpose of the bill is to coordinate the activities of the Maritime Administration, the Navy, and the Department of Transportation (particularly the Coast Guard) with a view to wider participation of the American merchant marine in national security matters and the development of a national cargo policy that would assure the American merchant marine of a fair share in all United States trade. In this connection, the Democratic platform states:

"In order to revitalize our merchant marine fleet, the party pledges itself to a higher level of coordination of maritime policy; reaffirmation of the objectives of the Merchant Marine Act of 1936 and 1970; and the development of a national cargo policy which assures the U.S. fleet of a fair participation in all U.S. trade."

Regulatory Reform - International Navigational  
Rules Act

A treaty on this subject has been ratified. Implementing legislation (H.R. 5446) was passed by the 94th Congress. That legislation, while probably not affecting the status of the treaty, provided that any adjustments made in the rules pursuant to the treaty could be vetoed by either House of Congress. Because this provision would constitute an unconstitutional change in the method of ratification of treaties and a legislative encroachment, the President pocket vetoed the bill. The bill may come up in the next Congress since the implementing rules are important to U.S. adherence to the treaty provisions.



## Outer Continental Shelf Lands Act

The Outer Continental Shelf Lands Act is principally a matter within the jurisdiction of the Department of the Interior. However, amendments were proposed in the last Congress which would have substantially affected rapid development of energy resources on the Outer Continental Shelf (S. 521 - Jackson, Democrat of Washington - and H.R. 6218 - Murphy, Democrat of New York). These bills would have effected major changes in Outer Continental Shelf leasing procedures and the method of funding and administration of the coastal states fund because these would have conflicted with NOAA's responsibilities under the Coastal Zone Management Act. The Department of Commerce opposed the bills.

A more detailed analysis of this issue is contained in the consolidated issue book.



## Aquaculture Legislation

During the 94th Congress a number of bills relating to aquaculture were introduced (10 in the House, 3 in the Senate). The Fisheries and Wildlife Subcommittee of the House Merchant Marine and Fisheries Committee held several days of hearings on this issue and ordered a bill reported but it did not get to the House floor.

The original bill (H.R. 370) was designed as a coordination mechanism with Department of Commerce having the lead role for the Federal Government. It was intended that Department of Commerce coordinate all Federal and State activities in aquaculture without taking over any existing programs. At the House hearings, NOAA witnesses testified against the bill on OMB's instructions that additional legislation was unnecessary.

At the Committee's request, representatives of NOAA and the Fish and Wildlife Service met with staff to provide a drafting service to the Committee. The product of that effort was introduced as H.R. 14695. It would require the Secretary of Commerce to develop a national aquaculture plan with activities required to implement the plan to be carried out by both the Secretary of Commerce and the Secretary of the Interior, as appropriate. An interagency coordinating committee on aquaculture was to be established. A rather extensive financial assistance and insurance program would be established to assist in the growth and development of aquaculture in the United States.

A bill will be introduced in the 95th Congress and undoubtedly Department of Commerce will be asked to testify.



## Deep Seabed Mining Legislation

During the 94th Congress, both Houses considered legislation designed to create a domestic program governing the research and development activities of U. S. mining companies as well as the Federal Government's role in managing such activities on the ocean floor. The key bills (S. 713 and H.R. 11879) would have created a system whereby the U. S. Government would control the activities of U. S. companies mining the deep seabed and at the same time encourage the industry to move ahead. S. 713 vested authority in the Secretary of the Interior and H.R. 11879 vested authority in the Secretary of Commerce.

The Administration opposed any legislation until the ongoing Law of the Sea Conference concluded its deliberations leading to an international treaty governing all ocean activities. The bills would have provided for the U. S. to move ahead unilaterally on this issue without regard to the LOS activities.

There was also lack of agreement within the Administration as to which agency or department should have the lead role if, or when legislation might be enacted. The DoC strongly argued that it should have the lead. DoI did likewise. At the conclusion of the 94th Congress, the issue was still unresolved. Within the Administration an interagency study is underway which will make recommendations concerning deep seabed mining policy issues.

Both Houses held extensive hearings on this legislation and it is anticipated that this will be one of the big issues in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

## Patent Reform Legislation

The 1966 President's Commission on the Patent System proposed 35 recommendations for modernization of our patent laws. The Administration first prepared a patent bill in 1967 based on the report of the Commission. Features of the initial bill were vigorously opposed by segments of industry, bar, and inventor groups. By 1969 a modified version of the bill had general support within the Administration and the private sector. In 1970, however, a dispute arose between the Commerce and Justice Departments over the provisions of the bill. Each department presented its independent views to the patent subcommittee of the Senate Judiciary Committee. Commerce generally supports additional incentives to inventors through patent reform while Justice is concerned that patent reform may prove it to be a vehicle to weaken antitrust law enforcement.

An Administration bill, developed through extensive negotiation by the Departments of Commerce and Justice, arbitrated by OMB at a very high level was transmitted to Congress in the fall of 1973.

There was immediate and strong opposition to this bill from segments of the private sector, including industrial organizations, patent law associations, and inventor groups. The bill, with slight modification, was re-introduced as S. 1308 in the beginning of the 94th Congress. In the fall of 1975 the Senate approved S. 2255, which is very similar to the Administration's bill. The House took no action and the bill died in the 94th Congress.

The former Administration bill, S. 1308, included several new features with which there is little controversy, such as opportunity for the public to present reasons why an invention is not patentable, encouragement of arbitration of patent disputes, and change to a 20-year term from the date of filing rather than a 17-year term from the date of grant. It also contained a great many additional procedural requirements which would be burdensome to the applicant and provide new grounds for invalidating the patent if the applicant carelessly or

through errors in judgment failed to comply with all technical requirements. Under this bill, protection could in some cases be denied on meritorious inventions for failure to get over the many procedural hurdles.

In September 1976, after unsuccessful efforts at OMB to modify the Administration position, the Secretary of Commerce wrote to House Judiciary Committee Chairman Rodino concerning pending legislation (the Administration bill). In his letter, the Secretary made the following points among others:

- The DoC feels changes are needed in S. 2255 to "achieve effective, acceptable, and viable patent law revision";
- The bill would increase costs to applicants to obtain a patent;
- The bill would provide opportunity for the public to challenge patents in a burdensome and costly form;
- DoC would delete sections of the bill providing for deferred examination;
- The bill fails to permit filing of applications by several inventors where they have jointly contributed to at least one claim - DoC would permit such filing;
- Administrative provisions of the bill should make clear that the Patent Office should stay in DoC under the Assistant Secretary for Science and Technology; and
- Finally, the bill should refrain from re-writing sections of existing law where there is no clear intent to change existing law.

In October the Patent and Trademark Office proposed rule changes that would accomplish administratively some of the same objectives as the legislation but with far less expense. A hearing on the rule changes will be held on December 7. The staff currently is preparing a draft bill for possible introduction in the next Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

Voluntary Standards and Certification Act of 1976 - S. 3555

"To foster competition and consumer protection policies in the development of product standards, the testing and certification of products, the accreditation of testing, inspection and certification laboratories, the use in marketing of standards and certifications, and for other purposes."

Title I of S. 3555, Voluntary Standards and Certification Act of 1976 would have provided for the development of a uniform national standardization system for all standards and certification activities undertaken by the private sector. The Federal Trade Commission was directed in Title I to promulgate rules which set criteria for standards development and product certification and the Secretary of Commerce was directed to establish a procedure by which any private standards organization must obtain a certificate for the purpose of conducting standards activities. Title II of the bill covered international standards and international certification programs. Title III of S. 3555 directed the Secretary of Commerce to establish a National Voluntary Laboratory Accreditation Program for the purpose of accrediting certification laboratories.

The Department felt that the Title I regulatory framework would result in cost increases to private sector standard setting entities, and others, from manufacturers to consumers, and was cumbersome and lengthy. The Department urged that before enacting S. 3555 a proper assessment of costs and benefits be undertaken. It was the Department's view that the Federal Trade Commission already had sufficient authority under Section 5 of its act to deal with aberrations in the voluntary standards system.

With respect to Title II, the Department, recognizing that standards are of vital importance in international trade, strongly supported the concept contained in Title II of S. 3555, with the qualification that the provisions of Title II should be analyzed and redrafted with respect to the criticisms brought forth by the Department at the hearings in 1974 on S. 1761 (H.R. 7506), the "International Voluntary Standards Cooperation Act of 1973."

With respect to Title III, the Department pointed out that the program which it had already established administratively to accredit laboratories for testing specific products, the National Voluntary Laboratory Accreditation Program removed any necessity for legislation in this area at this time. Accordingly, the Department supported only so much of the program set out in Title III as would establish accreditation procedures to assure that laboratories are competent to test specific products.

A more detailed analysis of this issue is contained in the consolidated issue book.



## Cargo Preference

Legislation to require a minimum percentage of gross tonnage of oil transported for import to the United States on U.S. bottoms was passed in the 93rd Congress. It was vetoed by President Ford because of its adverse effect on the national economy and on international relations. Similar bills were introduced in the 94th Congress (S. 579 - Hollings, Democrat of South Carolina, and H.R. 1071 - Sullivan, Democrat of Missouri).

Less than 2 percent of the petroleum and petroleum products imported into the United States are carried in American flag vessels. The foreign flag vessels used are almost entirely of Liberian registry. During the recent Arab-Israeli war, Liberia prohibited vessels of its registry to trade with either party. The object of the bills is to obtain United States control over a minimum number of the tankers that trade to the United States and to provide fair participation for American flag tankers in the United States foreign trade.

The Democratic Platform states that the party pledges itself to the development of a national cargo policy which assures the U.S. fleet of fair participation in all U. S. trade.

A more detailed analysis of this issue is contained in the consolidated issue book.



## Commercial Nuclear Vessels

H.R. 247 (Downing), H.R. 3466 (Mosher), H.R. 13505 (Downing et al) were introduced in the 94th Congress. No action was taken on any of the bills. These bills would provide Federal financial assistance to operators undertaking to construct nuclear-powered merchant vessels for American flag operation.

The first U.S. nuclear merchant vessel, the N.S. SAVANNAH, was authorized by P.L. 84-848 (July 30, 1956). The ship was turned over to a private operator under general agency agreement (i.e. a private corporation operated the vessel for the Maritime Administration's account, the private company handling the details of crewing, securing cargo etc. with Marad paying the costs and a fee to the corporation for its services ) on May 1, 1962. From August 1965 to July 1970 it was operated under bareboat charter (a private company leasing the vessel for \$1 dollar a year manning it, securing cargo etc. and operating the vessel for its own account ) but receiving subsidy from Marad ranging from \$1 million to almost \$2 million per year. The vessel has been laid up since then.

The Department has from time to time since then considered proposing a nuclear merchant vessel program but budgeting restrictions have been such that legislation has not been forwarded to the Congress. Principal requirements of a program would include not only assistance in financing construction and perhaps operation of nuclear vessels, but the problem of indemnification or insurance for any nuclear incidents which might occur. The SAVANNAH had no adverse incidents during its eight year operating life. Problems of licensing, rising costs of nuclear fuel and collision hazards must also be considered. An incidental problem also will be the question of manning and pay scales for a crew specially trained for operating this specialized propulsion system.

## Technology Transfer

S. 2374 (Montoya, Democrat of New Mexico) would have established an agency within DoD to assess and evaluate the technology developed by DoD and make such technology available to government agencies and the private sector; would have established a Technology Transfer Agency within DoD with regional offices for dissemination, liaison and other purposes; called for review of DoD technologies, publication of reports on unclassified DoD technological information and their markets, continued review of DoD technology for declassification, and continued review of DoD patent policies with regard to contractor's rights to use technological information developed in DoD R & D contracts; would have established a commission to study the need for a centralized government-wide technology transfer program for all Federal government departments and agencies; and called for the formulation of a cooperative interagency technology information exchange program within the Federal government and a study of the practicality of DoD conducting R & D projects jointly with other Federal government departments and agencies.

DoC never developed a position on the proposed legislation.

A more detailed analysis of this issue is contained in the consolidated issue book.

## Jones Act Amendments/Virgin Islands

The Jones Act (section 27 of the Merchant Marine Act, 1920; 46 U.S.C. 883) provides that no merchandise shall be transported between points in the United States, including Districts, Territories, and possessions to which the Act applies, in any other vessel than a vessel built in the United States, documented under the laws, and owned by citizens of the United States. Section 21 of the Merchant Marine Act, 1920 (46 U.S.C. 877) applies section 27 of that Act to all Districts, Territories and possessions of the United States except the Virgin Islands until or unless the President by proclamation makes the Jones Act applicable. The reason for exclusion of the Virgin Islands is that adequate United States flag service between the United States and those Islands did not exist. Since then, large refineries have been built in the Virgin Islands and these refineries have an advantage over refineries elsewhere in the United States in that they can transport their refined products to points in the United States in foreign-flag vessels. These vessels cost only about one-half as much to build and about one-fourth as much to operate as Jones Act vessels. While there are now plenty of Jones Act tankers to transport these products to points in the United States, a number of factors have discouraged a Presidential proclamation under Section 27 of the Merchant Marine Act mentioned above. These factors include: a possible rise in oil prices to the Northeast if the Jones Act was applied; the proclamation would apply to all shipments - not oil selectively; and, the posture of certain refineries in the Virgin Islands which are important to the economy of the Islands.

Legislation to extend the coastwise laws to the transportation of petroleum products was introduced in the 94th Congress (S. 2422 and H.R. 13251). S. 2422 was reported to the Senate, but no further action was taken. There was no action on H.R. 13251.

A more detailed analysis of this issue is contained in the consolidated issue book.

### Rhodesian Chrome

A bill, H.R. 1287 (Fraser, Democrat of Minnesota) was defeated on the House floor in the 94th Congress. It would have provided for U.S. support of U.N. sanctions on Rhodesia's export of chrome. The Administration generally supported the bill. The Department expressed concern about the economic impact of cessation of Rhodesian chrome imports.

Tourist Travel Promotion/Matching Grants

H.R. 13438 was introduced in the 94th Congress (Lehman, Democrat of Florida) to authorize the DoC to make grants to public or non-profit entities to promote domestic travel. This would be a new program activity for the Travel Service. DoC opposed as inconsistent with the President's budget.

A more detailed analysis of this issue is contained in the consolidated issue book.

## U.S. and Foreign Joint Ventures Related to 200 Mile Limit

The 200 mile limit, extended jurisdiction legislation, was enacted during the 94th Congress. There has been an increase in recent years of U.S. -foreign joint ventures in fisheries and there has been considerable concern that such joint ventures may circumvent the intent of the extended jurisdiction legislation. The Administration has opposed any legislation designed to limit the extent of foreign investment in U.S. businesses. However, the Department supported legislation enacted as P.L. 94-472 authorizing the President to institute programs to collect information on the extent of foreign investment in U. S. businesses. At the time of consideration and passage of P.L. 94-472, a number of statements were made considering the collection of foreign investment data relating to the U.S. fishing industry. We are aware that Congressman AuCoin (Democrat of Oregon) is developing legislation for introduction in the 95th Congress which would limit the extent to which a foreign enterprise could control a U.S. business. His principal concern is the fishing industry.

A more detailed analysis of this issue is contained in the consolidated issue book.

Amendment of Saltonstall-Kennedy Act Relative to Customs  
Duties Collected on Imported Fisheries Products

During the 94th Congress, a bill to amend the Saltonstall-Kennedy Act (15U.S.C. 713-3) was introduced (S. 3797). The bill would change the existing program under which the Department of Agriculture transfers to DoC funds in the amount equal to 30% of the gross receipts from duties collected under the customs laws on imported fisheries products -- approximately \$7 million in FY '76. Those funds are to be used by the Secretary for fisheries R&D.

The bill would have an amount of money equal to 100% of the customs duties on fisheries products appropriated to DoC -- approximately \$24 million to be transferred directly from the Secretary to the eight Regional Fisheries Management Councils, created by the Fishery Conservation and Management Act of 1976 (P.L. 94-265) "to increase the efficiency or otherwise improve the capability of United States commercial fishermen and of the United States commercial fishing industry to harvest, process, and market fish and fish products". A financial assistance program would also be provided for.

DoC has not been asked for its opinion on this legislation. However, past OMB objections to "earmarking" funds and support for a specific industry are obviously involved and DoC would raise administrative problems with the bill as drafted in any views transmitted.

A new bill will be introduced in the 95th Congress and DoC will be asked to present its position on the legislation.



## Waterway User Fees

Bills containing provisions to establish a system of user charges to be paid by commercial cargo vessels using federally built or maintained inland waterways were introduced in the 94th Congress (S. 3823 - Gravel, Democrat of Alaska, and H.R. 8590 - Skubitz, Republican of Kansas). The Administration took no position on the issue of waterway user taxes.

The subject of user taxes has been before the last several Congresses and is likely to come up in the next Congress. The inland waterways include 25,000 miles of waterways that have been improved by the Federal Government and 212 navigational locks and dams that were built by the Federal Government and are operated by the Federal Government. This has been done without cost to the vessels that use them. The purpose of imposing user charges is to retrieve part of this cost.

Trucks contribute to the cost of construction of the roads they use, and the Federal Government makes no contribution to the construction of rail trackage. S. 3823 passed the Senate containing a user fee provision, but the provision was deleted in the House and was not reinstated in conference. The provision is vigorously opposed by the companies that use the inland waterways.

A more detailed analysis of this issue is contained in the consolidated issue book.





## Materials R&D Conservation, Recycling and Reclamation

In 1973 the National Commission on Materials Policy and again in 1974, the National Academy of Sciences recommended that the Department of Commerce administer a civilian materials R&D program to encourage the development of materials, based upon abundant resources, which might be substituted for materials produced from scarce, non-regenerative or uncertain resources. Further, in order to conserve resources and assure adequate future supplies, they recommended that such program encourage improvement in the recyclability of products and in the efficiency of materials processing.

Legislation providing for such a program was introduced in the 94th Congress, but was not reported out of Committee (S. 3350, Tunney, D-Calif). This bill would have provided for a program in the Department of Commerce under which grants could be made and contracts entered into for research, development and demonstration of technologies of potentially broad applicability which would promote or facilitate more efficient utilization, conservation and substitution of materials that are important to national or economic security. The program would have been directed toward technologies which are commercially applicable and would have encouraged wide commercial use. This program would have been somewhat related to current National Bureau of Standards materials programs and presumably administered by that organization.

The Department submitted to OMB a proposed report to the Senate Commerce Committee in general support of S. 3350, but recommending certain amendments and, in particular, objecting to the patent provisions. The Department, as it has in the past, opposed compulsory licensing of patents as inconsistent with the purpose of the patent system to provide incentives to inventors. No clearance was received from OMB.

A more detailed analysis of this issue is contained in the consolidated issue book.

## Oil Pollution Liability

In recent years a number of bills have been passed which have contained provisions concerning liability for oil spill damage and clean-up, especially from vessels and coastal oil terminals. The Alaska pipeline legislation sets liability provisions for spills of North Slope oil. The Deepwater Ports bill governs liability for spills around such off-shore ports. The Federal Water Pollution Control Act governs liability for clean-up, but not for third party damages. Some states have attempted to pass oil spill liability laws. The United States has signed, but not yet ratified, international conventions which would govern the liability of vessels in the international trade for oil spills. The various laws and treaties vary to such a degree that uniform, preemptive legislation, consistent with international agreements, is desirable to facilitate interstate and foreign commerce in petroleum products.

The Administration submitted legislation drafted by an interagency task force in the 94th Congress, (S. 2162 and H.R. 9294). It provided for uniform national standards of liability for vessels and on and off shore oil facilities, backed by a national fund supported by a levy upon crude oil. Vessel and facility owners would be liable for damages up to certain amounts in certain instances with excess coverage provided by the fund. The domestic fund and liability system was tailored to be compatible with the international liability system and fund created by convention.

Hearings on this rather complicated legislation were held by the House Merchant Marine and Fisheries Committee and a Committee compromise bill drafted in 1976 (H.R. 14862). This legislation will probably be reintroduced in the 95th Congress.



The Consumer Product Testing Act of 1975 - S. 643

S. 643, "The Consumer Product Testing Act of 1975" would have authorized the Federal Trade Commission (FTC) to establish a mandatory program whereby manufacturers would have been required to provide to retailers, who in turn would have been required to provide to consumers, copies of test results describing the performance characteristics of consumer products which had been subjected to "test protocols" (test methods) developed by the FTC under this bill. The bill would have provided for criminal and civil penalties for failure by the manufacturers or retailers to provide this information.

In commenting on S. 643, the Department stated that the bill's objectives - to provide meaningful information to consumers with respect to the performance of consumer products - were commendable, and made the following points:

- o The bill would provide the consumer with the same information which would have been required by a bill submitted to the Congress in 1969 by the Administration. The Administration bill would have established a voluntary program, whereas S. 643 would have been mandatory;
- o The Department opposed S. 643 because the mechanism it provided for accomplishing this purpose was mandatory, costly, and administratively complex;
- o The Department would support S. 643 if it were amended to conform generally to the earlier Administration bill and to the two prior very successful voluntary self-regulation programs of the Department of Commerce - the Voluntary Labeling Program for Household Appliances and the Voluntary Energy Reduction Program for Household Appliances.

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Since the Department's comment on S. 643, the Department published in the Federal Register on May 25, 1976, proposed procedures for carrying out the Department's proposed Consumer Product Information Labeling Program. Three public hearings were held for receiving testimony on the proposed program and procedures. These comments, together with the written comments the Department received, are now being reviewed.



## Fisheries Products and Food Inspection Legislation

There is presently no mandatory Federal inspection program, similar to the U.S.D.A. inspection programs for other food products, to assure safety and wholesomeness of fishery products. The one partial exception to this is an FDA shellfish sanitation program. During the 92nd Congress, the Administration introduced a bill (S. 700) which provided for inspection of fisheries products in a program separate from the U.S.D.A. program. A similar bill (S. 2824) was passed by the Senate during that Congress but it died in the House. Since that time there have been numerous fisheries product inspection bills introduced, but there has been little action.

Another approach to the problem, which has been suggested in recent years, would be to modify existing laws relating to food inspection programs to include fisheries products. In the 94th Congress such a bill was passed by the Senate (S. 641) but it died in the House.

DoC has been working with FDA and OMB to develop an Administration position on the "food inspection bills" that would adequately address problems in the fisheries area. Generally, the bill proposed by FDA and also those being considered in the Senate have not been adequate from the standpoint of the fisheries industry, the consumers, or DoC's role in these areas. DoC has testified on this measure in recent years and has been working to try to improve the legislation.

It is anticipated that legislation similar to S. 641 will be introduced in the 95th Congress. It is also possible that separate fisheries products inspection legislation will again be introduced, but it is likely that the legislation including fisheries products in the general food inspection program will move instead.



## Federal Charters

Two bills were introduced in the 94th Congress on this subject. Neither was acted upon by committee (H.R. 9026 and H.R. 7481, Stanton, Democrat of Ohio).

The two bills are substantially identical. They would create a "Federal Corporate Chartering Commission" to establish a system of Federal charters for principal industrial corporations. Each such corporation engaged in interstate or foreign commerce would be required to apply for a Federal charter.

The bill would require disclosure of specified information by applicants and reorganization of the auto, petroleum, and steel industries to promote competition.

No reports were filed on the bills.



## Multinationals, Controls and Codes of Conduct

A number of bills were introduced on this subject during the 94th Congress. They would variously have required the Secretary of Commerce to do studies and publish information on multinational business enterprises (S. 2839, Inouye and Magnuson, Democrats of Hawaii and Washington and S. 3151, Church and Bayh, Democrats of Idaho and Indiana); asserted the position of Congress in favor of the Executive Branch negotiating with OECD and IMF on corporate conduct (H. Res. 1043, Hannaford, Democrat of California); made corporate bribes of foreign officials a crime (H.R. 11987, Mottl, Democrat of Ohio); terminated Federal Overseas Private Investment Corporation (OPIC) insurance for corporations engaging in bribery of foreign officials (H.R. 11532, Solarz, Democrat of New York).

Extensive hearings were held but no consensus was developed that would propel any of these proposals through the legislative process. Prospects for legislative activity in this area in the 95th Congress are strong.

## Product Liability

As a result of caselaw developing under Section 402a of the Restatement of Torts (Second), manufacturers have increasingly been confronted with products liability lawsuits and judgments which have been reflected in sharply increasing product liability insurance premiums in many industries. Many manufacturers have asserted that their continued existence is jeopardized because this product liability "crisis" has resulted in costly insurance premiums -- or the unavailability of any liability insurance at all. Those industries affected most -- machine tool manufacturers, automobile and aircraft component manufacturers, capital equipment manufacturers -- have urged that legislation incorporate a variety of "remedies" to alleviate their product liability problems.

An Interagency Task Force on Products Liability will probably complete its report early in 1977. As a result of this and last year's preliminary legislative activity, new proposed legislation on products liability in the 1st Session of the 95th Congress is likely. (During 1976 the Senate Small Business Committee conducted hearings on product liability.)

The report of the Interagency Task Force may provide impetus for further legislation either limited to the capital goods industry or broader legislation. Legislative activity on the State level is quite likely.

A more detailed analysis of this issue is contained in the consolidated issue book.

## Questionable Corporate Payments Abroad

The Senate passed an overseas corporate bribery bill September 15 by a vote of 86 to 0. This bill, S. 3664, introduced by Senator Proxmire would have:

- o Prohibited direct or indirect payments to foreign officials made for the purpose of inducing the official to use his influence to assist a U.S. -based corporation "in obtaining or retaining business for or with or directing business to any person or influencing legislation or regulations of that government."
- o Required corporations registered by the SEC to keep accurate books and records and to maintain a system of internal accounting controls to ensure that corporate management would be able to prevent payments prohibited by the bill.
- o Made it illegal to mislead an accountant either by lying or by making statements that excluded material facts.

Prior to passage the Senate rejected by a vote of 58 to 29 an amendment offered by Senator Church that would have required corporations to disclose all business related overseas payments, legal or otherwise. There were various other provisions of a complex nature including a requirement that the Department of State report annually to the Congress on the foreign policy impact of payments for which reports would have been required.

On August 3 the Administration had legislation introduced (S. 3741; H.R. 15149) which would have required reports to the Secretary of Commerce of any payments overseas in connection with "an official action, or sale to or contract with a foreign government." Such reports would be made public one year after their receipt unless the Secretary of State or the Attorney General, respectively, specifically determines that disclosure of a particular

report would be detrimental to foreign policy interests or would jeopardize an ongoing investigation. No hearings were held on the Administration bills.

S. 3664 was never acted upon in the House due to the short time between its Senate passage and adjournment.

A provision pertaining to the bribery question was incorporated into the Tax Reform Act of 1976 (H.R. 10612), which the President signed into law. The provision (Section 1066) which grew out of the Byrd amendment denies certain tax benefits attributable to bribe-produced income. Specifically, any foreign bribe paid by a foreign subsidiary of a U.S. company is treated as a deemed dividend for tax purposes and is not to be deducted from earnings or profits.

Representative Solarz's bill, H.R. 11532, passed the House but failed to be reported out of the Senate Foreign Relations Committee. It would have amended the Foreign Assistance Act of 1961 to require termination of O.P.I.C. investment insurance where the insured engages in bribery of a foreign official. It also would have prohibited O.P.I.C. from advising, encouraging or directing anyone to violate any laws.

A more detailed analysis of this issue is contained in the consolidated issue book.



## Release of Census Records by the Archivist

The issue of whether Census population records in the custody of the National Archives should be made public for genealogical and other research purposes will undoubtedly be the source of legislative concern in the 95th Congress. In spite of the fact that the Senate sponsor of the bill, Senator Frank Moss, was not re-elected and the retirement of Speaker Albert, whose interest in passage was largely responsible for favorable House action in the 94th Congress, pressure from genealogists and the Mormon Church will undoubtedly continue. A new factor has been added in that the new Chairman of the House Post Office and Civil Service Committee, Morris Udall, is a Mormon and may be supportive of any such legislation. Additionally, an informal commitment to the staff of the Senate Government Operations Committee was made by the Census Bureau during staff meetings concerning House bill, H.R. 10686, to work with them early in the 95th Congress in an attempt to arrive at a solution that would meet the needs of the genealogists and researchers and at the same time protect the privacy of the Census records so as not to negate the promises made in Presidential proclamations from 1910 forward at the time of each decennial census.

This is an issue of concern to the Census Bureau because of the feared adverse impact that any public release of records might have on public cooperation in the 1980 Census. If action is not taken by the Congress, the issue will continue to plague the Bureau because of an agreement, made in 1952 between the Census Director and the Archivist, that census records could be released after 72 years. In this regard, the Bureau plans to seek an opinion by the Justice Department as to the legality of releasing the 1910 and later census records.

## Voter Registration

Although there will undoubtedly be legislation in the 95th Congress to provide for a national voter registration system, it is anticipated that such legislation will not directly affect the Bureau of the Census. Even though the earliest legislation on this subject, first introduced by Senator Kennedy, provided for a Voter Registration Administration (VRA) to be established in the Bureau of the Census, the prevailing view appears to be that it would be improper to place any such activity, which could not help having political overtones, in the primary statistical gathering agency of the Federal Government.

It is quite likely that any new legislation might require the technical advice of the Bureau which should not be a problem. However, should there be a move to involve the Bureau operationally, the Bureau would oppose the legislation very vigorously as a serious threat to the integrity of its mission, which is solely to gather and report statistics.



LIST 3

OTHER CRITICAL ISSUES WHICH ARE OF MAJOR CONCERN  
TO THE DEPARTMENT OF COMMERCE:

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GOVERNMENT

Government Reorganization  
    Energy Consolidation  
    Environment and Oceans Department  
Regulatory Reform  
    Air  
    Motor  
    Sunset Laws

ENERGY

Commercial Production of Nuclear Fuel  
Decontrol of Petroleum Prices  
Deregulation of Natural Gas  
Emergency Petroleum Allocation  
Energy Conservation and Conversion  
Energy Facility Siting  
Oil Import Fees  
Pricing and Distribution of Alaska Crude Oil  
Surface Mining

SCIENCE AND TECHNOLOGY

Energy Fuel Resources  
    Nuclear, Breeder Reactor, Geothermal,  
    Solar, Coal, Wind Power Development  
Federal R & D Expenditure Levels  
Synthetic Fuels

MARITIME, TRADE, TARIFFS

Cotton and Textile Tariffs  
Most Favored National Treatment  
North/South Commodity Issues  
Nuclear Exports  
Third Flag Carriers

TAXES

ECONOMICS AND EMPLOYMENT

Common Situs Picketing  
Federal Reserve Credit Allocation  
Humphrey-Hawkins Bill  
Minimum Wage  
National Economic Planning  
Revision of Federal Grant Formulas  
Urban Revitalization and Neighborhood Development  
Wage and Price Controls

ENVIRONMENT

Aircraft and other Noise Pollution  
Clean Air Act Amendments  
Land Use Planning  
Water Pollution Control Act Extension  
Wetlands Protection

CONSUMER ISSUES

Consumer Protection Agency  
Fair Packaging and Labeling

CORPORATE ISSUES

Antitrust/Franchising Legislation  
    Other Franchise Legislation  
Cable TV Regulation  
Competition in Telecommunications Industry  
Defense Production Act Extension  
Petroleum Industry Competition Act (oil company divestiture)  
Petroleum Marketing Practices Act  
Renegotiation Act  
Robinson-Patman Act Revisions  
Strategic and Critical Materials Stockpiling Act





Government Reorganization - Energy Consolidation

Senators Abraham Ribicoff and Charles Percy, Chairman and Ranking Minority Members, respectively, of the Senate Government Operations Committee have indicated that they will develop legislation in the 95th Congress to reorganize and consolidate those agencies of the Federal Government dealing with energy.

Senator Percy released his proposal for energy reorganization and consolidation entitled the Omnibus Energy and Natural Resources Consolidation Act on October 4, 1976. The Percy proposal calls for the establishment of a White House Policy Council on Energy and the consolidation of major energy supply functions into one agency, separate from those units which deal with conservation.

Both the Administration and the Department of Commerce have stated that reorganization and consolidation of energy matters could produce a more effective and efficient handling of energy matters.

## Proposal to Create a Department of Environment and Oceans

Senator Ernest Hollings (D-S.C.) indicated on October 1, 1976, that he will work to create a new Department of Environment and Oceans. The Hollings proposal would transfer several existing agencies into the new Department, including the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, the Coast Guard, the marine and coastal regulatory and research functions of the Army Corps of Engineers and certain functions of the Department of the Interior.

Hollings stated that the purpose of the bill would be to consolidate the environmental and oceanic functions in government and bring oceans and environmental affairs into the Cabinet.

The Hollings proposal raises policy and jurisdictional questions over the treatment of environmental and oceans matters.

No substantive Administration action, aside from review and Department of Commerce comment on the Hollings proposal has occurred.

Senator Hollings is expected to seek action on his proposal through the Senate Commerce Committee early in the 95th Congress.

A more detailed analysis of this issue is contained in the consolidated issue book.

## Regulatory Reform - Air

On October 8, 1975 the President sent a draft bill to Congress to improve the economic regulation of domestic airlines. Entitled "The Aviation Act of 1975," it was the second of rail, air and motor carrier regulatory reform bills to be submitted. The bill was designed to limit C.A.B. authority to limit rate changes; ease restrictions on entry of new carriers; simplify C.A.B. procedures to speed up consideration of applications for service changes; permit discontinuation of service where costs could not be recovered; and otherwise increase competition in and the economic viability of the domestic airline industry.

The Administration's bill did not receive active consideration by the Congress.

Senator Howard Cannon (D-Nevada) stated this past September that he plans to introduce legislation early in the 95th Congress to deal with the subject of domestic airline regulation.

During the last few weeks of the 94th Congress, Senator Cannon released the bill he hopes to introduce in the early part of the 95th Congress for the purposes of public review and comment.

Senator Cannon stated that the bill will provide a framework for a major restructuring of the regulatory system which regulates the nation's domestic airlines. He also said that the bill would promote pricing freedom without CAB rigidity and allow easier entry into air markets.

The Aviation Subcommittee, chaired by Senator Cannon within the Senate Commerce Committee, is expected to hold additional hearings early in the 95th Congress. Passage of a major air deregulation bill in the 95th Congress is anticipated.

The issue put forward by the Cannon bill is the question of how much and what kind of deregulation will stimulate a more efficient and competitive air transportation system.

## Regulatory Reform - Motor

On November 17, 1975 the President sent to the Congress a bill providing changes affecting the regulation of commercial motor transport in the U. S.

Included in the bill, the "Motor Carriers Reform Act," were provisions to (1) provide earlier route certification to carriers; (2) eliminate inefficient routing requirements; (3) allow for easier entrance of minorities into the commercial sector transport field and (4) rescind outdated regulations such as regional rate bureaus in favor of open market competitive rate making.

The House Public Works Committee held perfunctory hearings on the Administration bill (essentially to reestablish precedent that it has jurisdiction for motor transport legislation) but did not give the proposal active or continued consideration.

The issue raised by the legislation deals with what changes of a regulatory nature can be effected to increase efficiency among motor carriers and reduce freight costs to the public.

While hearings on the subject are expected at some point in the 95th Congress, it is not anticipated that motor transport deregulation will be a high priority item for the Congress.

## Regulatory Reform - Sunset Laws

During the 94th Congress, Senator Edmund Muskie introduced legislation calling for the Congress to thoroughly and comprehensively review all Federal programs and agencies every five years. The review and evaluation would include the use of zero based budgeting guidelines for justification of program and agency requests for authorization and appropriations. Under the proposal, which has been popularly referred to as "sunset legislation", if any agency or program fails to justify its existence, that program or agency would be terminated. The bill related to direct expenditure programs, exempting Social Security and interest on the Federal debt.

Sunset legislation raises a number of issues spanning the areas of policy development, methodology for the review, analysis of programs and agency performance, and feasibility of such a comprehensive effort.

While the Administration strongly favors the adoption of legislation to restructure regulatory organization and increase the effectiveness of regulatory decision making and performance, the Administration did not formally endorse Senator Muskie's proposal.

Secretary Richardson testified before the Senate Government Operations Committee, and stated that he supported the concept of periodic review of agency and program performance but did not specifically endorse the procedure set forth in the Muskie proposal.

On May 13, 1976, the President sent a message to the Congress transmitting a draft of proposed legislation to set an agenda for government reform. This draft legislation was designed to establish a comprehensive four-year program to review Federal regulatory activity. The timetable in the draft specified that one general category of regulatory activity would be reviewed in each of four years beginning in January of 1978. The purposes of the proposed review would be to identify the purposes of each regulatory activity; identify the technological, social, or other conditions that justified the activity; evaluate its success; and analyze whether its relationship to other activities, its costs, alternative approaches, and other such considerations

justify its continuance. The President would provide such an analysis and make a recommendation in January of each year beginning in 1978.

The Administration bill differed from other proposals in that it excluded provisions for the automatic termination of agencies not specifically reauthorized; provided for a coordinated review of the cumulative impact of related activities by category rather than by specific agency or function; and omitted provision for Congressional veto of proposed rules.

Senator Muskie's "sunset" legislation was favorably reported out by the Senate Government Operations Committee, and was reported out without comment from both the Committees on Finance and Rules and Administration. The bill did not receive consideration on the Senate floor.

Senator Cannon has requested comments on the Senate Report on the Sunset bill. Most responses his staff have received have been favorable to the Report. The Report outlined a number of qualifications, across the board review including establishing some priorities for review of more troublesome or larger programs first, and the availability of techniques and trained personnel to carry out a meaningful effort on such a grand scale.

It is expected that Senator Muskie will introduce a similar "sunset" bill in the 95th Congress.