105TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 105–574
Part 1

FASTENER QUALITY ACT AMENDMENTS

JUNE 9, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on Science, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3824]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 3824) amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

59–006

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I. AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AMENDMENT.

Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting "(a) TRANSITIONAL RULE.—" before "The requirements of this Act"; and

(2) by adding at the end the following new subsection:

"(b) AIRCRAFT EXEMPTION.—

"(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

"(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.".

SEC. 2. DELAYED IMPLEMENTATION OF REGULATIONS.

The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology covering the same or similar subjects, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Congress a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act; and

(2) any changes in that Act that may be warranted because of the changes reported under paragraph (1).

The report required by this section shall be transmitted to the Congress by February 1, 1999.

II. PURPOSE OF THE BILL

The purpose of the bill as reported is to amend the Fastener Quality Act (FQA) (PL 101–592) to exempt from coverage certain fasteners approved by the Federal Aviation Administration (FAA), and to delay the implementation of FQA rule until June 1, 1999,

or 120 days after the Secretary of Commerce has issued a report on changes needed to the law, whichever is later.

III. Background and Need for the Legislation

The FQA was signed into law in 1990. It requires all threaded, metallic, through-hardened fasteners of one-quarter inch diameter or greater that directly or indirectly reference a consensus standard to be tested or documented by a National Institute of Standards and Technology (NIST) certified laboratory.

Despite its enactment in 1990, regulations to carry out the provisions of the Act have not been implemented. NIST's current final rule, published April 14, 1998, includes revisions to earlier proposed regulations which reflect legislative changes adopted to the Act in 1996 as part of the National Technology Transfer and Advancement Act (P.L. 104–113). NIST's April 16, 1998, final rule takes effect on July 27, 1998.

H.R. 3824, amends FQA by exempting fasteners produced to the standards and specifications of aviation manufacturers from the Act's regulations, so long as they are not specifically represented by their manufacturers to have been manufactured in conformance with standards or specifications established by a consensus standards organization or federal agency other than the FAA. Proprietary fasteners of aviation manufactures are currently subject to the federal quality assurance programs of the FAA. Aviation manufacturers are already required to demonstrate to the FAA that they have a quality control system which ensures that their products, including fasteners, meet design specifications. According to testimony taken by the Technology Subcommittee, both NIST and the FAA agree that requiring such fasteners to fall under FQA regulations would create duplicative and potentially confusing regulations that would not assist the Federal Government in its efforts to ensure the safety of the flying public. Furthermore, neither the FAA nor the National Transportation Safety Board are aware of any fatal aviation accidents caused by a substandard proprietary fastener.

H.R. 3824 addresses this unnecessary duplicative regulatory burden, and, as amended, delays implementation of the April 16, 1998, rule to give the Secretary of Commerce the opportunity to review the law to ensure that other sectors of our manufacturing economy are not harmed by outdated or unneeded regulation.

IV. Summary of Hearings

On May 7, 1998, the Subcommittee on Technology held a hearing on "Aviation Manufacturing and the Fastener Quality Act." The hearing was held to review FQA and determine if Congress should recognize the FAA as the quality authority for proprietary fasteners of aviation manufacturers. Witnesses included: The Honorable Don Fuqua, President, Aerospace Industries Association, Washington, DC.; The Honorable Ray Kammer, Director, NIST, Gaithersburg, MD; Mr. Thomas McSweeney, Director, Aircraft Certification, Federal Aviation Administration, Washington, DC.; Mr. Ed Bolen, President, General Aviation Manufacturers Association, Washington, DC.

The Honorable Don Fuqua, testifying as President of the Aerospace Industries Association (AIA), commented on the fact that under NIST's FQA rule, airplane parts, including fasteners, currently regulated by the FAA still fall under FQA. This places an onerous and perhaps dangerous burden on aircraft manufacturers but does not add any value to aviation safety. Most importantly, the testing requirements for FQA are redundant as FAA already has in place its own stringent requirements for testing of aircraft parts. These requirements equal or exceed that of FQA. Additionally, Mr. Fuqua asserted that there are insufficient accredited laboratories to serve the needs of the aerospace industry in conforming to FQA. Mr. Fuqua stated that AIA believes that dual regulation of the aerospace manufacturing process, which includes fasteners, is unnecessary.

The Honorable Ray Kammer, testifying as Director of NIST, explained that the intention of FQA is to improve fastener quality and reduce the danger of fastener failure. Additionally, the Act serves to protect public safety by requiring fasteners to conform to uniform specifications and be tested by accredited laboratories. Mr. Kammer further emphasized that NIST worked closely with affected industries to develop the necessary testing procedures, while attempting to reduce the cost of compliance. He testified that the original law would have had a $1 billion impact on industry, but NIST has streamlined the procedures so that the impact will be minimal. Mr. Kammer stated that with regard to aircraft manufacturing, NIST agrees that civil aviation manufacturers should not be bound by FQA, since the FAA currently assures quality and suitability for proprietary aircraft fasteners. Mr. Kammer, under questioning by the Subcommittee membership, stated that passage of FQA may have occurred because of anecdotal reports about fastener failures and not analytical studies. He additionally suggested that portions of FQA may no longer be needed. Additionally, he submitted a letter on June 2, 1998, further clarifying the Administration's position. A copy of the letter can be found in Section XIX of this report.

Mr. Thomas E. McSweeney, testifying as Director of the Aircraft Certification Service of the FAA, spoke to the process by which the FAA assures the quality of all aviation parts, including fasteners. First, the FAA, after approval of a design for an aircraft part, requires the manufacturer to establish and maintain a production and quality control system that ensures the production of conforming duplicates. Second, the FAA monitors manufacturers continuing production of aircraft parts through regular surveillance and periodic (every 18–24 months) formal audits. Mr. McSweeney emphasized that this process assures fastener safety at a level necessary for their use in state-of-the-art airplanes and engines. FQA, on the other hand, is intended to apply to a much wider variety of fasteners. He stated that while different, the FAA system clearly meets or exceeds the safety standards generated by FQA and that subjecting the aviation industry to FQA would cause significant delays and financial losses to the industry without any added safety benefits. A copy of the FAA's letter to NIST on needed changes to FQA can be found in Section XIX of this report.

Mr. Edward Bolen, testifying as President of the General Aviation Manufacturers Association (GAMA), stated that the General Aviation (GA) manufacturing industry is seriously threatened by NIST's implementing regulations for FQA. Complying with FQA would force production lines to stop and safety to be compromised. Mr. Bolen emphasized that subjecting the aviation manufacturers to the requirements of FQA is unnecessary because the fasteners are already subject to the stringent quality program of the FAA. FAA's oversight has clearly worked and should be continued. Mr. Bolen also stated that requiring GA compliance with FQA may actually undermine safety as FQA and FAA approaches differ greatly and cannot necessarily be reconciled. A further concern with compliance, according to Mr. Bolen, is that neither FQA nor the implementing regulations define the key terms "nut," "bolt," "stud" or "screw." This forces companies to develop their own definitions causing confusion. In conclusion, Mr. Bolen articulated GAMA's position that proprietary fasteners of aviation manufacturers should continue to be regulated solely by the FAA.

V. Committee Actions

On May 13, 1998, the Committee on Science convened to markup H.R. 3824. An Amendment in the Nature of a Substitute was adopted by voice vote. An Amendment in the Nature of a Substitute was offered and withdrawn.

1. Mrs. Morella offered an Amendment in the Nature of a Substitute to add a new provision to H.R. 3824 delaying the implementation of FQA Rule until June 1, 1999, or 120 days after the Secretary of Commerce transmits a report to Congress on recommended changes to the Act, whichever is later.

2. Mr. Bartlett offered an Amendment in the Nature of a Substitute striking the provisions of H.R. 3824 and replacing them with a repeal of FQA. The Amendment was withdrawn.

With a quorum present, Mr. Barcia moved that H.R. 3824, as amended, be reported. The Motion was adopted by voice vote.

VI. Summary of Major Provisions of the Bill

- H.R. 3824 exempts from the requirements of FQA fasteners specifically manufactured or altered for use on aircraft if the quality and suitability of those fasteners, for that specified use, has been approved by the FAA.
- Delays the implementation of NIST's April 14, 1998, FQA rule until June 1, 1999, or 120 days after the Secretary of Commerce transmits a report to Congress on recommended changes to the Act, whichever is later.

VII. Section-by-Section Analysis and Committee Views

Section 1. Amendment

Section 1 amends Section 15 of FQA (15 USC 5414) to exempt from the requirements of FQA fasteners specifically manufactured or altered for use on aircraft, if the quality and suitability of those fasteners, for that specified use, has been approved by the FAA. The exemption does not apply to fasteners represented by their

manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a federal agency other than the FAA.

Committee Views

The Committee notes that the FAA promotes aviation safety through comprehensive regulations that require FAA approval of civil aircraft design and civil aircraft production. In light of this regulatory oversight, the Committee believes that certain fasteners used in the production of civil aircraft and aircraft components should be exempt from the requirements of FQA. The bill is intended to provide such an exemption.

FAA regulations include strict requirements and procedures to assure the quality and suitability of fasteners used in the design and production of civil aircraft components. The FAA approves the design of aircraft and aircraft components, including the selection and use of fasteners in that design. To this end, FAA engineers review product design to assure compliance with established FAA regulations. Once a design is approved, a manufacturer of civil aircraft or aircraft components is required to establish and maintain an FAA-approved production and quality assurance system to assure that fasteners used in the production meet the requirements of the FAA-approved design. These requirements must be satisfied before any aircraft or aircraft component may enter service. FAA inspectors and engineers subsequently monitor these approved systems through surveillance and periodic audits to assure continuing compliance with the FAA requirements. These FAA regulations should ensure that fasteners used in the production of civil aircraft and aircraft components conform to the requirements of FAA-approved design and comply with FAA production system requirements, including quality assurance requirements.

Because of this stringent FAA oversight, the Committee believes that proprietary fasteners of aviation manufactures should not be regulated by NIST under FQA. Proprietary fasteners include those fasteners manufactured or altered to standards or specifications of original equipment manufacturers regardless of whether they are manufactured by a subcontractor or sold by the original equipment manufacturer as spare parts, so long as the fasteners in question remain the subject of FAA's quality control programs.

The Committee supports subjecting aviation fasteners to the provisions of FQA if they are not proprietary fasteners but manufactured by fastener manufacturers to conform specifically with standards established by consensus standards organizations or federal agencies other than the FAA.

Section 2. Delayed Implementation of Regulations

Section 2 delays the implementation of the NIST April 14, 1998, FQA rule until June 1, 1999, or 120 days after the Secretary of Commerce transmits a report to Congress on recommended changes to the Act, whichever is later.

The Secretary's Report shall include:

1. A discussion of changes in the fastener manufacturing process that have occurred since the original enactment of FQA in 1990; and

2. Recommendations for changes that should be made to FQA as a result of improvement in the fastener manufacturing process.

Committee Views

The Committee believes that much has changed since the passage of FQA in 1990. Both companies that manufacture or contract for the manufacture of fasteners and federal regulatory bodies with oversight responsibility for the safety of consumer products have improved the manner in which they assure the quality of not only fasteners, but also the products which require fasteners.

According to both industry and NIST, since 1990, fastener quality assurance procedures have evolved substantially beyond the lot sampling procedure that forms the basis of FQA.

In its final rule, NIST attempted to accommodate the new "process control" quality approaches into the lot-sampling based requirements of the Act. However, the Committee is concerned that the NIST rule may be overly restrictive and may not fully accommodate advances in quality control procedures.

Major industrial users of fasteners such as the auto industry typically have fasteners produced to their own proprietary standards by designated suppliers in a "closed loop" process. Such processes may meet the same safety requirements FQA was designed to address.

Under Section 2, no regulations promulgated under FQA shall take effect until June 1, 1999, or the expiration of 120 days after the Secretary's report is submitted, whichever is later. The Committee has approved this delay in the implementation of NIST's regulations in light of testimony before the Technology Subcommittee that modern fastener quality assurance systems (QAS) can be both more reliable and less costly than testing techniques used when the Act was first passed.

Indeed, in connection with its recent issuance of regulations under the Act and the 1996 amendments to the Act, NIST itself noted the "strong evidence that QAS/SPC [statistical process control] reduces the defect rate in the fastener manufacturing process." [1]

Based on these changes, and testimony taken by the Technology Subcommittee which indicates that many, if not all, of FQA's requirements may no longer be necessary, the Committee believes that the Secretary of Commerce should conduct a thorough review of FQA's provisions and recommend elimination of any of its requirements that are no longer needed to ensure public safety. The Committee has specifically directed the Secretary of Commerce to carry out this study and does not intend for this authority to be delegated back to NIST.

The Committee also requests the Secretary to consider other FQA drafting and implementation issues that are brought to his attention in a timely manner, including issues that may be raised in Congressional hearings on this subject held subsequent to the filing of this Committee Report, and to include in his submission to Congress recommended legislative or administrative solutions to those issues as well. Finally, in preparing the report, the Secretary

[1] 63 Fed. Reg. 16259, at 16261 colt 2 (Apr. 14, 1998). NIST

should consult with impacted industries including, but not limited to, the auto industry, the aviation industry and fastener manufacturers, and, to the extent the Secretary deems necessary, federal agencies involved in the investigations that led to to the passage of FQA in 1990 to ascertain if a problem with counterfeit fasteners still exists.

The Committee notes that if the Secretary feels that he cannot conduct the study solely within his office, he has the authority to establish a task force to conduct the review. The task force should be established at the Assistant Secretary level and may include representatives from other agencies, including agencies such as the FAA and the National Highway Traffic Safety Administration (NHTSA) which regulate the safety of products which include large numbers of fasteners, and agencies involved in the original investigation of counterfeit fasteners.

The Committee would like to reemphasize that the review should not be conducted or directed by NIST. This is not an indictment of the worked conducted by NIST. Rather, the Committee believes that Secretarial level review will avoid any perceived conflict of interest that may arise when an agency is asked to review its own work.

VIII. Committee Cost Estimate

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires each Committee report accompanying each bill or joint resolution of a public character to contain: (1) an estimate, made by such Committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the 5 fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than 5 years); (2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such Committee with an estimate of such costs made by any government agency and submitted to such Committee; and (3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law. However, clause 7(d) of that Rule provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under Section 403 of the Congressional Budget Act of 1974 has been submitted prior to the filing of the report and included in the report pursuant to clause 2(l)(3)(C) of Rule XI. A cost estimate and comparison prepared by the Director of the Congressional Budget Office under Section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of this report and included in Section IX of this report pursuant to clause 2(l)(3)(C) of Rule XI.

Clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives requires each Committee report that accompanies a measure providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures to contain a cost estimate, as required by Section 308(a)(1) of the Congressional Budget Act of 1974 and, when practicable with respect to estimates of new budget

authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law. H.R. 3824 does not contain any new budget authority, credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 3824 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section IX of this report.

IX. Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 21, 1998.

Hon. F. James Sensenbrenner, Jr.,
Chairman, Committee on Science,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3824, a bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

June E. O'Neill, *Director.*

Enclosure.

H.R 3824—A bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft

H.R. 3824 would amend existing law regarding the regulation of fasteners. The bill would direct the National Institute of Standards and Technology (NIST) to submit a report to the Congress by February 1, 1999, on trends in manufacturing fasteners and on legislative changes that may be needed to reflect current conditions. Implementation of NIST's regulations on fasteners would be delayed until June 1, 1999, or 120 days after submission of the report, whichever is later. Under this bill, fasteners made for aircraft would be exempt from those regulations if the suitability and quality of the fasteners have been approved by the Federal Aviation Administration.

Based on information provided by the agency, CBO estimates that NIST would spend about $100,000 in 1999 to complete the study required by the bill, assuming appropriation of the necessary funds. Because H.R. 3824 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 3824 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Kathleen Gramp. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

X. Compliance With Public Law 104–4

H.R. 3824 contains no unfunded mandates.

XI. Committee Oversight Findings and Recommendations

Clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives requires each Committee report to include oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no oversight findings.

XII. Oversight Findings and Recommendations by the Committee on Government Reform and Oversight

Clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives requires each Committee report to contain a summary of the oversight findings and recommendations made by the House Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings and recommendations have been submitted to the Committee in a timely fashion. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

XIII. Constitutional Authority Statement

Clause 2(l)(4) of rule XI of the Rules of the House of Representatives requires each report of a Committee on a bill or joint resolution of a public character to include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article I, Section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 3824.

XIV. Federal Advisory Committee Statement

H.R. 3824 does not establish any new advisory committees.

XV. Congressional Accountability Act

The Committee finds that H.R. 3824 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of Section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

XVI. Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 15 OF THE FASTENER QUALITY ACT

SEC. 15. APPLICABILITY.

(a) Transitional Rule.—The requirements of this Act shall be applicable only to fasteners fabricated 180 days or more after the Secretary issues final regulations required under sections 5, 6, and

8, except that the Secretary may extend such time period if the Secretary determines that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required. Upon any such extension, and every 6 months thereafter during such extension, the Secretary shall submit a report to the Congress explaining the reasons for such extension and the steps being taken to ensure the accreditation of a sufficient number of laboratories.

(b) AIRCRAFT EXEMPTION.—

(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.

XVII. COMMITTEE RECOMMENDATIONS

On May 13, 1998, a quorum being present, the Committee favorably reported H.R. 3824, a bill to amend the Fastener Quality Act to exempt from coverage certain fasteners approved by the Federal Aviation Administration, and for other purposes, by a voice vote, and recommends its enactment.

XVIII. EXCHANGE OF COMMITTEE CORRESPONDENCE

ONE HUNDRED FIFTH CONGRESS

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JAMES E. DERDERIAN, CHIEF OF STAFF

U.S. House of Representatives
Committee on Commerce
Room 2125, Rayburn House Office Building
Washington, DC 20515–6115

June 3, 1998

The Honorable F. James Sensenbrenner, Jr.
Chairman
House Committee on Science
2320 Rayburn House Office Building
Washington, DC 20515

Dear ~~Chairman Sensenbrenner~~ Jim:

On May 13, 1998 the Committee on Science ordered reported H.R. 3824, a bill amending the Fastener Quality Act of 1990 (15 U.S.C. § 5401 *et al*) to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft. As you know, the Committee on Commerce was named as an additional committee of jurisdiction and has had a longstanding interest in the issue of fastener quality and the Fastener Quality Act. This interest goes back to the 100th Congress, at which time the Committee undertook an investigation of counterfeit and substandard fasteners. This investigation resulted in the issuance of a unanimously approved Subcommittee report entitled "The Threat from Substandard Fasteners: Is America Losing Its Grip?" which ultimately led to the approval by our respective committees of the Fastener Quality Act of 1990.

H.R. 3824, as ordered reported, would amend the Fastener Quality Act in two ways. First, the bill exempts fasteners approved for use in aircraft by the Federal Aviation Administration from the requirements of the Act. Secondly, it delays implementation of the final regulations until the Secretary of Commerce and the Congress have had an opportunity to consider developments in manufacturing and quality assurance techniques since the law was enacted.

Because of the important and timely nature of these amendments to the Fastener Quality Act, I recognize your desire to bring this legislation before the House in an expeditious manner. I also understand that you have agreed to address several technical issues raised by this Committee in a manager's amendment to be offered on the Floor. Therefore, with that understanding, I will waive consideration of the bill by the Commerce Committee. By agreeing to waive its consideration of the bill, the Commerce Committee does not waive its jurisdiction over these provisions. In addition, the Commerce Committee reserves its authority to seek

The Honorable F. James Sensenbrenner, Jr.
June 3, 1998
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conferees on these and any other provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I would seek your commitment to support any request by the Commerce Committee for conferees on amendments to the Fastener Quality Act or related legislation.

I would appreciate your including this letter as a part of the Committee's report on H.R. 3824 and as part of the record during consideration of this bill by the House.

Sincerely,

Tom Bliley
Chairman

TJB/hnh

cc: The Honorable George E. Brown, Jr., Ranking Minority Member
Committee on Science

The Honorable John D. Dingell, Ranking Minority Member
Committee on Commerce

The Honorable Charles W. Johnson, III
Parliamentarian

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June 4, 1998

The Honorable Thomas J. Bliley, Jr., Chairman
House Committee on Commerce
Washington, D.C. 20515

Dear Chairman Bliley,

Thank you for your letter of June 3 regarding H.R. 3824, the recently passed Science Committee amendments to the Fastener Quality Act (FQA) of 1990 (15 U.S.C. § 5401 et seq.).

I appreciate your willingness to work with us to examine the need to amend the FQA.

As you note in your letter, the Committees on Commerce and Science have long shared jurisdiction over FQA. By agreeing to the expeditious consideration of H.R. 3824 on the House floor, the Committee on Commerce does not waive any of its jurisdictional rights. Should the Committee on Commerce seek conferees on provisions of the bill within its jurisdiction, I will support such a request.

The Committee on Science will include this exchange of letters within the report of the Science Committee and will work with you to ensure that the technical amendments to the bill requested by your Committee are included in the bill when H.R. 3824 is brought before the full House for its consideration.

I look forward to continuing to work with you on this and other matters.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

Committee on Transportation and Infrastructure

Congress of the United States

Bud Shuster
Chairman

House of Representatives
Washington, DC 20515

James L. Oberstar
Ranking Democratic Member

June 5, 1998

The Honorable F. James Sensenbrenner
Chairman
Committee on Science
2320 Rayburn Building
Washington, DC 20515

Dear Mr. Chairman:

I understand that the Committee on Science recently ordered reported H.R. 3824, a bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

In recognition of your Committee's desire to move this legislation expeditiously through the House of Representatives, the Committee on Transportation and Infrastructure agrees to waive its referral of the bill. However, this action should not be construed as waiving or otherwise diminishing the Committee on Transportation and Infrastructure's jurisdiction over the bill or issues associated with H.R. 3824. In addition, should a conference on H.R. 3824 or a similar measure become necessary, I would ask you to support the Committee on Transportation and Infrastructure being represented on the conference committee. Finally, I ask that you make this letter a part of the Committee on Science's report on the bill.

Once again, it has been a pleasure working with you and your staff, and I look forward to seeing H.R. 3824 scheduled for Floor consideration very soon.

With warm personal regards I am

Sincerely,

BUD SHUSTER
Chairman

cc: The Honorable Charles W. Johnson, III

(202) 225-9446 Room 2165, Rayburn House Office Building http://www.house.gov/transportation/

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U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
TTY: (202) 226-4410
http://www.house.gov/science/welcome.htm

June 4, 1998

The Honorable Bud Shuster, Chairman
House Committee on Transportation and Infrastructure
Washington, D.C. 20515

Dear Chairman Shuster,

Thank you for helping expedite consideration of H.R. 3824, the recently passed Science Committee amendments to the Fastener Quality Act (FQA) of 1990 (15 U.S.C. § 5401 et seq.), by agreeing not to request a sequential referral on the bill. I agree that through this action the Committee on Transportation and Infrastructure does not waive any of its jurisdictional rights associated with the bill.

Additionally, the Committee on Science will include this exchange of letters within the report of the Science Committee.

I look forward to continuing to work with you on this and other matters.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

XIX. ADMINISTRATIVE CORRESPONDENCE

UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899-0001
OFFICE OF THE DIRECTOR

JUN 2 1998

The Honorable Constance Morella
Chairwoman
Subcommittee on Technology
Committee on Science
House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

This is in follow-up to my recent testimony before the Subcommittee on Technology on the aviation industry and the Fastener Quality Act (FQA). The FQA (Public Law 101-592 as amended by Public Law 104-113) is a public safety related law that came into existence to deter introduction of nonconforming fasteners into commerce, to improve traceability of fasteners used in commerce, and to provide customers with assurance that fasteners meet stated specifications. This law was intended to respond to accidents and loss to the U.S. economy in the mid-1980's caused by defective fasteners. There was concern at that time that the safety of Americans was threatened by the sale in commerce and to government establishments of mismarked, substandard, and counterfeit fasteners. The Industrial Fastener Institute studied this problem in 1985 and concluded that 70 percent of the Grade 8 fasteners collected across the United States contained substitute materials, were not marked according to standards and specifications, and there was an absence of manufacturer identification. In July 1988, the House Commerce Subcommittee on Oversight and Investigations released a report, "The Threat From Substandard Fasteners: Is America Loosing Its Grip," that contained numerous examples of problems caused by substandard and counterfeit fasteners. This report concluded among other things that government agencies and industry could not purchase fasteners for critical applications with any certainty that they conformed to chemical, physical, or dimensional specifications, and there was a disastrous effect on the readiness of our armed forces because of the defective fasteners installed on a host of Army vehicles and Navy ships. It is true that the industry has now addressed some of the problems that were the root cause of the passage of FQA.

The Act was passed in 1990, and we are just about to implement it on July 26, 1998. In the early 1990's, at industry's request, the Congress, with the support of the National Institute of Standards and Technology (NIST), began a legislative process to simplify the Act and reduce regulatory burdens and industry's cost of implementation. While NIST, along with industry representatives, testified that there was no need for the legislation, NIST also stated the Administration would not object to a bill that would simplify the Act and was generally consistent with existing NIST programs. In 1996, the Congress enacted amendments to the FQA that permit distributors to commingle fasteners, chemical tests of either fasteners or raw materials, and sale of fasteners with "minor flaws." In addition, in response to industry concerns, NIST has modified its implementing regulations to allow manufacturers to use registration of their Quality Assurance Systems (QAS) to certify fasteners, and to start testing and certification of fasteners in accordance with the FQA in advance of the Act's implementation to alleviate pre-existing inventory problems. QAS employs on-line process control techniques to assure the quality of the product being manufactured. The modifications to the NIST implementing regulations offer fastener manufacturers who use QAS manufacturing techniques another way to comply with the FQA. It allows manufacturers the option to continue to practice QAS

manufacturing and on-line testing, instead of the traditional route of final end-of-line sampling and product testing in an accredited laboratory. Of course, traditional end-of-line sampling may also be used at the discretion of the manufacturer. We believe these amendments and modifications have transformed the original law into a more workable and cost-effective legislation.

During this long process, the fastener industry and one of its major users, the automobile industry, have worked with NIST and the Department of Commerce and provided input to the needed amendments and implementing regulations.

NIST is a leading agency within the Federal Government responsible for standards development, and we recognize that we are not a regulatory agency. We have handled this regulatory responsibility as assigned by the Congress with the same diligence and consideration for the affected industries as we do with other industries affected by our primary mission. We have worked very closely with various sectors of the $6 billion fastener industry in the past 8 years, and we have come to understand the industry well.

We believe that the FQA responsibilities fit with our newly assigned responsibility under the 1996 National Technology Transfer and Advancement Act (Public Law 104-113) (NTTAA). Under this law, NIST is responsible for coordinating the use by Federal agencies of private sector standards, emphasizing where possible the use by the Federal Government of standards developed by private consensus standards organizations. Our implementation of the FQA is similar; the fastener manufacturer decides which private sector consensus standards to use in the manufacture of fasteners and certifies that the fasteners meet those specified standards by testing in an accredited laboratory. The FQA does not mandate more testing than that prescribed in the standards to which the fasteners are manufactured. We also believe, in the long run, that laboratory accreditation, one of the requirements of the FQA, will contribute to the production of high-quality fasteners.

As long as the law is on the books, we will do all that is necessary to carry out the intent of the Congress and perform our function with the utmost concern for the industry we are asked to regulate.

Sincerely,

Raymond Kammer
Director, National Institute of
Standards and Technology

Amanda DeBusk
Assistant Secretary for
Export Enforcement

cc: Dr. William A. Koetzle
Office of Representative J. Dennis Hastert

U.S. Department
of Transportation
Federal Aviation
Administration

800 Independence Ave., SW.
Washington, DC 20591

APR 2 2 1998

Mr. Raymond Kammer, Director
The National Institute of Standards and Technology
Gaithersburg, MD 20899

Dear Mr. Kammer:

This is pursuant to the recent release of the final rule of the Procedures for Implementation of the Fastener Quality Act (FQA), Docket Number 970724177-8057-02, on 15 April 1998. As has been discussed with the NIST staff prior to the final rule, the Federal Aviation Administration (FAA), Aircraft Certification Service, now formally proposes that certain aviation organizations be exempt from the requirements of the rule. The FAA submits that those organizations, which design and manufacture proprietary fasteners, are sufficiently regulated by the FAA. Subjecting such organizations to the FQA would impose double regulation and, as described below, may even undermine the level of safety provided by the FAA.

As described in the background section of the Procedures for Implementation of the FQA, the FQA was intended to protect the public safety by ensuring fasteners conform to the specification to which they are represented; establish an accreditation system for laboratories; and require inspection, testing and certification in accordance with standardized methods. NIST's press release, NIST 98-08, dated April 13, 1998 addresses these objectives with the example of ensuring fasteners in critical applications "such as attaching aircraft engines to fuselages."

Based on the contents of the recently issued Procedures for Implementation of the FQA, the FAA is unable to accept FQA-certified fasteners as meeting the requirements of the Federal Aviation Regulations (FAR) The FQA has a number of allowances that will not ensure fastener safety to the level already required by the FAR. Examples include the use of statistical process control with no controlling consensus standard; recognition of third-party registration without proven capability; no product recall methods for disqualified registrars, laboratories, and/or accreditors; the definition of "significantly altered" which will allow fastener alteration without subsequent integrity validation; as well as other concerns which are addressed in an attachment to this letter. These issues can potentially undermine aviation safety and will require the FAA to create additional guidance and policy which create an undue burden on the FAA and the industry. These concerns were formally submitted to NIST staff in response to your Notice of Proposed Rulemaking.

Under CFR 14 part 21, as required by Title 49, the FAA has a regulation-based system for approving product designs and production systems before any products may enter service, including some producers of proprietary fasteners for the U.S. civil aviation industry. Within this system, FAA engineers perform reviews of product design to assure compliance to established standards. Many of these engineering reviews include functional and destructive testing for safety and reliability.

Once the design is approved, the manufacturer is required to establish and maintain a production and quality system that will ensure the production of duplicates. These production systems must provide assurance over all aspects of the manufacturer's production organization, including the approval of their laboratories. For surveillance of the manufacturer's system, the FAA employs Aviation Safety Inspectors and Engineers to oversee production activities at manufacturers and their suppliers. This oversight may take the form of in-plant residency or scheduled and periodic on-site visits. All FAA production approval holders, and their priority part suppliers, are subject to scheduled and periodic quality management system evaluations.

In light of the worldwide recognized controls of the FAA, it is requested that the NIST immediately exempt FAA production approval holders from the FQA. The FAA production surveillance is sufficient to deal with complex facilities and processes that produce state-of-the-art engines and large airplanes — that surveillance can certainly assure the safety of fasteners.

In a less immediate sense the FAA would like to continue meeting with NIST to work out the concerns we have with the FQA. Our concerns mainly related to a further limiting of the definition of "significantly altered"; the use of non-rule based standards be controlled at the revision level; and the reliance on third-party registrars be reconsidered.

It is our opinion that collaboratively the NIST and FAA can establish rulemaking and policy which best serves the public safety with minimal impact on the government and industry resources. We are prepared to work with NIST toward that end.

Sincerely,

Thomas E. McSweeny

Thomas E. McSweeny
Director, Aircraft Certification Service

Attachment

ADDITIONAL VIEWS

XIX. Additional Views By Congressman George E. Brown, Jr.

When the Subcommittee held its hearing on the Fastener Quality Act, we did not have the perspective of history. The members, staff, and witnesses present for the hearing for the most part were not present in the 100th and 101st Congress. This resulted in some unfortunate characterizations of the work of earlier Congresses as being based solely on anecdotal evidence.

In actuality, the Fastener Quality Act was based on extraordinarily extensive investigative, legislative, and judicial records. The Oversight and Investigations Subcommittee of the Committee on Energy and Commerce conducted an 18 month investigation during the 100th Congress including 5 open and 2 closed hearings. The investigation also involved the U.S. Customs Service, the Defense Criminal Investigative Service, various federal Inspectors General, and a number of U.S. attorneys. Defective fasteners, largely of overseas origin, turned up in tanks, submarines, aircraft carriers, planes of all types, bridges, and even nuclear power plants. There were dozens of criminal prosecutions, civil actions, and debarments arising from the investigation. Then in the 101st Congress, legislation was introduced both in the Committee on Science, Space, and Technology and the Committee on Energy and Commerce and legislative hearings resulting in H.R. 3000 were held in both Committees. A majority of the Congress, including 41 out of 49 members of this Committee, signed on as cosponsors including all but one of the members still on this Committee who served in the 100th Congress. Clearly more than anecdotes is necessary for that wide a cross-section of the Congress to lend their names to a bill.

We face a much different situation in 1998 than we did in 1990. Eight years have passed since enactment without implementing regulations; now the effective date of the regulations is less than 2 months away. Major industries are representing that in the interim they have developed quality assurance systems which provide protections to the public comparable to those under the Fastener Quality Act, but at less cost. NIST, the agency charged with regulating fasteners, is saying that advancements during the 1990's in quality assurance practice may have made parts of the statute obsolete. There are fewer press stories about defective fasteners than during the 1980's. In the case of the aircraft manufacturing industry, industry and regulators alike testified that the Fastener Quality Act is redundant for fasteners regulated by the federal aviation industry. Yet despite widespread concern on our Committee that change was needed before promulgation of the regulations, the rapidly approaching effective date of the regulations

precluded the careful analysis that must precede the relaxation of a key public health and safety statute.

The Committee's solution is the best available under the circumstances. The effective date of FQA regulations is delayed from June 26, 1998, until the latter of June 1, 1999, or the expiration of 120 days after Congress receives the report required by this section. This will permit the Secretary of Commerce to study the extent to which the problems being addressed by FQA still exist including the potential for defective fasteners from overseas once again penetrating U.S. markets. It will also permit the Secretary to gather expert opinion on the degree of compatibility between the Fastener Quality Act and modern business practices and to make suggestions on how to update the Act. The Secretary has an awesome responsibility because he will be developing the main document that the Congress will use in deciding how to assure that the American public is shielded from the threat of loss, to defective fasteners, of life, limb, and property. The Secretary is to consider all FQA drafting and implementation issues that are brought to his attention in a timely manner during the moratorium period.

I sincerely hope that the Secretary will use this time to draw upon the best advice available to him including at NIST and at the agencies who investigated defective fastener problems during the 1980's in an effort to come up with a definitive report on the extent to which defective fasteners still threaten U.S. transportation, infrastructure, and defense and recommendations on the most effective way in 1999 to meet that threat. Then and only then will we have the knowledge base upon which to make an intelligent decision concerning the extent to which we still need a Fastener Quality Act and the extent to which Quality Assurance Systems can now provide the American public with the protections this Act was designed to provide.

GEORGE E. BROWN, Jr.

XX. PROCEEDINGS OF THE FULL COMMITTEE MARKUP

FULL COMMITTEE MARKUP OF H.R. 3824

WEDNESDAY, MAY 13, 1998

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m., in room 2318 Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr., Chairman of the Committee, presiding.

Chairman SENSENBRENNER. The Committee will be in order. The Chair notes the presence of a working quorum.

Good morning, pursuant to notice, the Committee on Science is meeting today to consider the following measures.

First, H.R. 3824, amendments to the Fastener Quality Act; second, H.R. 3332, the Next Generation Internet Research Act of 1988; third, H.R. 2544, the Technology Transfer Commercialization Act of 1997; and fourth, H.R. 3007, the Commission on the Advancement of Women in Science, Engineering, and Technology Development Act.

Before starting with the markup, we have two pieces of housekeeping. First, without objection, the Chair will be given authority to recess during votes in the House, and second, according to notice, we will also ratify Democratic Subcommittee assignments and I recognize the gentleman from California, Mr. Brown, for a motion.

Mr. BROWN of California. Mr. Chairman, the House has appointed Ms. Lois Capps and Ms. Barbara Lee as new Democratic members of the Committee on Science. By direction of the Democratic Caucus, I move that the Full Committee ratify the Democratic members' Subcommittee assignments as set out in the materials before the members.

Chairman SENSENBRENNER. You've heard the motion. Without objection, the previous question is ordered. All those in favor signify by saying aye.

Opposed, no.

The ayes have it and the Subcommittee assignments are ratified.

The next order of business is amendments to the Fastener Quality Act, H.R. 3824.

[The amendment roster and the text of the amendments follow:]

COMMITTEE ON SCIENCE

FULL COMMITTEE MARKUP

MAY 13, 1998

AMENDMENT ROSTER

H.R. 3824, Amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

No.	Sponsor	Description	Results
1.	Mrs. Morella	Amendment inserts a new section on Delayed Implementation Of Regulations.	
2.	Mr. Bartlett	Amendment to repeal the Fastener Quality Act	

AMENDMENT TO H.R. 3824

OFFERED BY MRS. MORELLA

Page 2, after line 14, add the following new section:

1 **SEC. 2. DELAYED IMPLEMENTATION OF REGULATIONS.**

2 The regulations issued under the Fastener Quality
3 Act by the National Institute of Standards and Tech-
4 nology on April 14, 1998, and any other regulations issued
5 by the National Institute of Standards and Technology
6 covering the same or similar subjects, shall not take effect
7 until after the later of June 1, 1999, or the expiration
8 of 120 days after the Secretary of Commerce transmits
9 to the Congress a report on—

10 (1) changes in fastener manufacturing proc-
11 esses that have occurred since the enactment of the
12 Fastener Quality Act; and

13 (2) any changes in that Act that may be war-
14 ranted because of the changes reported under para-
15 graph (1).

16 The report required by this section shall be transmitted
17 to the Congress by February 1, 1999.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3824 OFFERED BY MR. BARTLETT OF MARYLAND

Strike all after the enacting clause and insert the following:

1 **SECTION 1. REPEAL.**

2 The Fastener Quality Act (15 U.S.C. 5401 et seq.)
3 is repealed.

Chairman SENSENBRENNER. And the Chair recognizes the gentlewoman from Maryland, Mrs. Morella, the Chairwoman of the Subcommittee, for 5 minutes for an opening statement.

Mrs. MORELLA. I thank you, Mr. Chairman. Mr. Chairman and members of the Committee. Last week the Technology Subcommittee held a hearing to examine the Fastener Quality Act in aviation manufacturing. There was wide agreement by the aviation industry, FAA, and NIST that there already is a federal quality assurance process in place to certify the quality and the safety of proprietary fasteners manufactured or altered specifically for use by aviation manufacturers. Adding another set of federal regulations and involving another federal agency in that process would hinder the efficiency of aviation manufacturing and add to its cost of production while degrading the level of safety currently provided by the FAA.

During the hearing, I asked the Director of NIST, Mr. Ray Kammer, if legislation exempting the proprietary fasteners of aviation manufacturers currently reviewed and certified by the FAA was necessary. Director Kammer stated that a legislative clarification would be useful to address the concerns and the confusion currently surrounding NIST's interpretation of the Fastener Quality Act.

Director Kammer went on to assure members that in his opinion the FAA currently undertakes a meticulous and rigorous certification process to ensure that safe fasteners are being used in the aviation industry. The FAA and the industry also agreed that legislation was necessary.

So I'm pleased to be a cosponsor of H.R. 3824 which addresses those concerns raised by the FAA and aviation industry in a manner that is acceptable to NIST. I urge all my colleagues to support this legislation which eliminates unnecessary and duplicative regulations on the aviation industry while protecting the safety of our Nation's flying public.

I would now like to, Mr. Chairman—I was going to yield to Mr. Gutknecht, but I will yield back my time, then, Mr. Chairman.

Chairman SENSENBRENNER. Who would like to make—the gentleman from Michigan, Mr. Barcia, is recognized for 5 minutes for an opening statement.

Mr. BARCIA. Thank you very much, Mr. Chairman, and I certainly won't take that long, but I did want to say that I'm very pleased to cosponsor this amendment with Chairwoman Morella.

Last week the Technology Subcommittee held a hearing on aviation industry-related amendments to the Fastener Quality Act and, however, anyone who attended that meeting would have noticed that the questions focused mainly on the impact of FQA regulations on the automotive industry. The result of those questions and subsequent consultations with NIST and the affected auto manufacturers resulted in the development of this amendment.

This amendment is an attempt to address the immediate concerns of those affected and to provide the Congress and the Administration the necessary time to review and, if necessary, amend the Fastener Quality Act to reflect current industry quality control practices.

While I recognize this amendment may not be perfect, we have tried to develop a pragmatic solution to address all the concerns that have been raised.

I want to thank Chairwoman Morella for working closely with the Minority members of the Subcommittee and other members, and, of course, the Majority members to craft this language in a very short time frame. I applaud her leadership on this issue and say that I am grateful that we can work together and would urge my colleagues to support this amendment. Thank you, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman's——

Mrs. MORELLA. Mr. Chairman, I was just going to suggest that my Ranking Member is always ahead of himself, and he was this time on the amendment, and I very much appreciate that.

Chairman SENSENBRENNER. Well, just an observation, we've developed a reputation of being kind of speedy in this Committee and today will be no exception.

The opening statements have been made. The bill is now open for amendment and by unanimous consent the bill will be open for amendment at any point. The first amendment on the roster is the amendment by the gentlewoman from Maryland and she is recognized to propose her amendment.

Mrs. MORELLA. Yes, thank you, Mr. Chairman. I ask unanimous consent that it be accepted as read.

Chairman SENSENBRENNER. The Clerk will designate the amendment, or read the amendment.

The CLERK. "Amendment to H.R. 3824, offered by Mrs. Morella"——

Chairman SENSENBRENNER. Without objection, the amendment will be considered as read and open for amendment at any point, the gentlewoman from Maryland is recognized for 5 minutes.

Mrs. MORELLA. Thanks, Mr. Chairman. You know the Fastener Quality Act was signed into law in 1990. It requires that all threaded metallic through hardened fasteners of one-quarter inch diameter or greater, that directly or indirectly reference the consensus standard, to be tested or documented by a National Institute of Standards and Technology certified laboratory.

Although the legislation has been on the books for 8 years, and counting, difficulty in developing the regulations of the Act have delayed NIST from implementing them until July of this year.

The legislation that I've introduced and that we're marking up today, H.R. 3824, amends the Fastener Quality Act by exempting fasteners produced to the standards and specifications of aviation manufacturers from the regulations of the act.

Legislation exempting the proprietary fasteners of aviation manufacturers from the Fastener Quality Act makes sense, considering that they are currently subject to the federal quality assurance programs of the FAA.

We've already discussed that and, therefore, in addition to that, the amendment that I am offering, with Mr. Barcia's cosponsorship, we discussed at the Technology Subcommittee hearing last week additional issues raised regarding the Fastener Quality Act. In addition to the Act's impact on the aviation industry, several members, including myself, raised questions about the Act's impact

on other industries. For example, the automotive industry projects the cost of compliance for the motor vehicle industry could be greater than $300 million, adding $20 to the cost of each vehicle manufactured.

However, it is not clear that if it is necessary to include the automobile industry under the Act since the National Highway Transportation Safety Administration is already involved in assuring the safety of motor vehicles, or if there are even enough NIST-certified laboratories for the industry to comply with the Act without causing delays in production. Therefore this amendment.

This amendment is very straightforward. First, it delays the regulations issued by NIST under the Fastener Quality Act on this subject until after June 1, 1999. Second, it requires the Secretary of Commerce to transmit to Congress a report on changes in fastener manufacturing processes that have occurred since enactment of the Fastener Quality Act and any changes to the act that may be warranted because of the changes.

Delaying NIST's regulations until next year gives us the opportunity to take a closer look at the Fastener Quality Act, especially considering it was crafted over 8 years ago. The Secretary's report to Congress will be a useful tool in our efforts. We may find that changes in the fastener manufacturing process have diminished the need for further regulations in this area.

I do, however, wish to make clear that my amendment in no way impacts the exemption from the Fastener Quality Act contained in H.R. 3824 for proprietary fasteners manufactured or altered specifically for aviation manufacturers. I agree with the FAA and NIST on the need for the legislation and support its passage.

So, this amendment, Mr. Chairman, and members of the Committee, simply gives us more time to examine the need and projected impact of the act before more federal regulations are implemented on other industries.

So I am offering this amendment in bipartisan cooperation with the Ranking Member of the Technology Subcommittee, Mr. Barcia of Michigan, and I urge all of our colleagues to support it. Thanks, Mr. Chairman.

Chairman SENSENBRENNER. The gentlewoman's time has expired. The gentleman from Michigan.

Mr. BARCIA. Mr. Chairman, I just——

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. BARCIA. Thanks. I apologize for my inattentiveness making my statement and ask that my previous statement be inserted in the appropriate place in the record and yield——

Chairman SENSENBRENNER. Without objection.

[The prepared statement of Mr. Barcia follows:]

Statement

Hon. James A. Barcia

Amendments to the Fastener Quality Act

Mr. Chairman,

I am pleased to co-sponsor this amendment with Chairwoman Morella.

Last week the Technology Subcommittee held a hearing on aviation industry related amendments to the Fastener Quality Act (FQA). However, anyone who attended the hearing would have noticed that the questions focused mainly on the impact of the FQA regulations on the auto industry.

The result of those questions and subsequent consultations with NIST and the affected auto manufactures resulted in the development of this amendment. This amendment is an attempt to address the immediate concerns of those affected and to provide the Congress and the Administration the necessary time to review and if necessary, amend the FQA to reflect current industry quality control practices.

While I realize that this amendment may not be perfect, we have tried to develop a pragmatic solution to address all the concerns raised. I want to thank Chairwoman Morella for working closely with me and other Members to craft this language in a very short time frame.

I urge my colleagues to support this amendment.

Chairman SENSENBRENNER. Further discussion on the amendment?

[No response.]

Hearing none, all of those in favor of the amendment by the gentlewoman from Maryland please signify by saying aye.

Opposed, no.

The ayes have it and the amendment is agreed to.

The next item is the amendment by Mr. Bartlett of Maryland. For what purpose does the gentleman from Maryland seek recognition?

Mr. BARTLETT. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. "Amendment in the nature of a substitute to H.R. 3824, offered by Mr. Bartlett of Maryland"——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read and opened for amendment at any point. The Chair reserves a point of order on the amendment and recognizes the gentleman from Maryland for 5 minutes.

Mr. BARTLETT. Thank you, Mr. Chairman. I would like, first, to address your reservation of a point of order. I know that whatever we do on this part of the bill may require a sequential referral. I've spoken to Mr. Tom Bliley, the Chairman of the Commerce Committee, and he assured me that he would bring this to a speedy vote in his Committee.

My amendment would simply repeal the Fastener Quality Act. This was enacted 8 years ago. It has never been implemented simply because those who are responsible for its implementation do not feel that it is a needed law and they do not want to implement it.

Ray Kammer, the head of NIST, who is now charged with the only regulatory function in NIST said 8 years ago in a hearing, "in conclusion we believe that the development of private-sector initiatives such as the one being launched by ASME for fasteners is the best way to deal with the underlying problem and misrepresentation of the quality and performance characteristics of high-strength and other special purpose fasteners. Accordingly we oppose H.R. 777."

Just last week in a hearing here he said that he was unaware then or now of any analytical study, anything that I would regard as a scientific study that was presented. There was in his view no basis for the initial passage of this legislation.

He has only certified a hundred-and-some labs that would require more than double this number to comply with the legislation. He noted that the industry already has an industry standard, the ASTM standard. The problem of counterfeits would not be addressed by this. Counterfeits are made by people who ignore the law and having this law would not have anything to do with counterfeits.

It has already been noted this would cost the automobile industry $300 million a year. This is a pro-business amendment. There is no scientific basis for this law; it has not been implemented now in 8 years. We're going to be pressured to exclude the auto industry, there's just no basis for this bill at all. And so I would ask for

a positive vote on this. It will go to the Commerce Committee. They will vote very quickly on it and they will sustain our position, I'm certain, on repealing this law.

Thank you very much. I yield back the balance of my time.

Chairman SENSENBRENNER. The gentlewoman from Michigan, Ms. Rivers——

Ms. RIVERS. Thank you, Mr. Chairman.

Chairman SENSENBRENNER (continuing). Is recognized for 5 minutes.

Ms. RIVERS. Thank you. Although I will not be voting for this, I have great sympathy for the arguments that Rep. Bartlett is putting forward. I was highly distressed in the Technology Subcommittee discussion last week when I asked a series of questions, looking for the supporting arguments for the passage of this bill originally and for the continuation of this bill and received virtually nothing from the Director of NIST.

He stated clearly that the evidence was anecdotal; there were no data that were compiled in a systematic way; that he could not explain what the problem to be solved by this bill was; and the kinds of concerns that were raised were about, as Rep. Bartlett suggested, counterfeiting rather than issues of safety or quality.

I was not in Congress when this bill was passed, which is the reason I'm not going to vote today to repeal; I've not had an opportunity to search the record. But I think that in a time when we are always supposed to be looking for legislation that has been passed inappropriately or with unintended consequences, this particular provision is a candidate for that and I think if there are not strong scientific and policy reasons to sustain this kind of imposition of cost and energy requirements on industry, we should not be moving this bill forward. So, as I said, I am very sympathetic and very supportive of the proposal but I am not going to vote for it only because I have not had a chance to research the original record.

Chairman SENSENBRENNER. Will the gentlewoman yield to me?

Ms. RIVERS. Yes.

Chairman SENSENBRENNER. Let me say that there is some urgency to move the bill as amended by the gentlewoman from Maryland today because if Congress doesn't act by, I believe, July 27, the onerous regulations will become effective, and my feeling is, is that we can get a bill on the President's desk and signed to delay these regulations until the Secretary of Commerce makes his report. But I do agree with both what the gentlewoman from Michigan and the gentleman from Maryland said is that I think this is a useless and onerous law and I certainly am not opposed to repealing it, but I am afraid that if we put the repealer in the mix, we're not going to be able to delay the regulation, so we will end up making a bad situation worse. Next year we'll have the time to look at the law on its merits, whatever they may be, and deal with it accordingly.

Ms. RIVERS. Thank you.

Chairman SENSENBRENNER. The gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Chairman, with due respect to you and to the Chairman of the Subcommittee, sometimes a bad situation does have to get worse. I mean, I think that this was a bad idea when

it passed, the evidence was overwhelming, the people from NIST testified that essentially this came about as a result of a walkway down in Kansas City that collapsed.

And the argument was it was because of fasteners which were not adequate for the structural requirements. But NIST went ahead and did a study and found out that was not the case, but the bill had already passed. This is a solution seeking a problem. It is a classic example of a $50 solution to a $5 problem.

And, frankly, I think the answer is not to exempt the aviation industry and then exempt the automobile industry. If you are going to exempt people, we ought to exempt everybody except Congress and trial lawyers, and then we would have a bill that everybody could support, at least except the trial lawyers.

Chairman SENSENBRENNER. Will the gentleman yield?

Mr. GUTKNECHT. Yes.

Chairman SENSENBRENNER. Probably that lack of an exemption is because Congress and trial lawyers have many loose screws would——

[Laughter.]

Mr. GUTKNECHT. But this is a bad, the bill——

Chairman SENSENBRENNER. Yes, I'll let Mr. Davis respond.

Mr. GUTKNECHT. But this was a bad idea when it was originally passed, it was passed on flawed assumptions, and now we have groups who are beginning to realize that there, there are severe consequences of this. The real answer is not just to exempt people, the real answer is to repeal the law and so I support the Bartlett amendment and, in failing that, if this amendment fails, I would hope that the Chairman would allow us another opportunity to come back before July and pass a complete repeal. There's no, there's nothing in any of our rules that say that we couldn't pass this bill as well as pass a total repeal and let the President decide which one he wants to sign, if not both.

Mr. BARTLETT. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman's time—the gentleman from Maryland has already been recognized once and under the rules you can't be recognized more than once on the same question.

Mr. EHLERS. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Michigan, Mr. Ehlers——

Mr. EHLERS. Mr. Chairman——

Chairman SENSENBRENNER (continuing). Is recognized for 5 minutes.

Mr. EHLERS. Primarily as a courtesy to my colleague to yield time to him but I—following your line of speech, I can't help but note this is really a nuts and bolts issue. I notice everyone's attention is riveted on it. [Laughter.]

And I want to yield the remainder of my time to Mr. Bartlett so he can nail it down. [Laughter.]

Mr. BARTLETT. Thank you very much. Mr. Chairman. I do not want to, in your words, make a bad matter worse, and so if you would see fit to commit to holding a hearing to explore this issue further, with the view to—if the results of that hearing indicate

moving expeditiously to repeal this law, I will ask unanimous consent to withdraw the amendment at this time.

Chairman SENSENBRENNER. Well, I think we have a deal. The Subcommittee on Technology has so directed to hold the hearing and without objection, the amendment is withdrawn.

Mrs. MORELLA. And the Subcommittee will hold a hearing, Mr. Bartlett.

Mr. BARTLETT. Thank you very much.

Mr. BROWN of California. Mr. Chairman.

Chairman SENSENBRENNER. Are there further—the gentleman from California is recognized for 5 minutes.

Mr. BROWN of California. Mr. Chairman, I applaud you for working out this diplomatic settlement to this situation, but I am constrained to offer a short rebuttal to the apparent assumption that there was no basis for the enactment of this law and that it has done no good and that it should be summarily disposed of. I have in my hand here, as Sen. Joe McCarthy used to say, a document which documents the need for this bill in about 60-odd pages of examples of the damage caused by defective fasteners and that is convincing. I should point out that when the bill was originally passed, I think it was 41 out of the 49 members of the Committee at that time were cosponsors, including the present Chairman and the past three Chairmen and also Mr. Fawell, Mrs. Morella, Mr. Weldon, Mr. Rohrabacher, Mr. Boehlert, Mr. Hall, and Mr. Traficant who are still on the Committee.

All of whom were convinced at the time that the threat was serious and that it needed remedy. We may not have picked the perfect remedy. This, I'm willing to stipulate, and we need to review that, but I would make note of the fact as some of you probably already are aware, that Ford Motor Company has just recalled 1.7 million vehicles for faulty lug nuts which cause the wheels to fall off. And 1.7 million vehicles times the cost of recalling one vehicle, which I will estimate at $100 and it's probably more, is $1.7 billion and it is not proper to say that this is a situation which is no particular monetary concern or relevance because today's news indicates that it is a serious concern and something needs to be done.

Now I would prefer a private standard-setting solution to this problem and that is what we are moving in the direction of. I think, however, that sometimes these kinds of solutions move faster if there is some indication that the problem is important enough to warrant the Federal Government to look at the possibility of legislative changes.

If the private-sector solution is the one that's desired and can be worked out promptly, I certainly would have no objections to abolishing this piece of legislation, but I need to have some evidence that in fact, is occurring.

Chairman SENSENBRENNER. The gentleman's time has expired. For what purpose does the gentleman from Indiana seek recognition?

Mr. ROEMER. Mr. Chairman, just like——

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. ROEMER (continuing). Just as Mr. Brown has just commented on where you came to resolve this question, I do want to comment

on it very briefly. I applaud you for trying to resolve this with a hearing in the Subcommittee and hope that the hearing in the Subcommittee can enlighten us a little bit further on how to come up with a reasonable solution to a vexing problem.

The gentleman from Minnesota stated that it is a $50 solution to a $5 problem. He may be correct, but we still have a $5 problem. We've had 100 indictments, civil actions, and debarments in this matter, with phony fasteners coming into our markets. It is very difficult to tell the difference between a 15-cent or 20-cent fastener that comes in from a foreign country and a quality $2 or $3 fastener that is going to do the job and protect lives, whether that be on a construction project or whether that be on a fighter jet or in a submarine.

With the Asian problem now, and the Asian economies going through the turmoil that they are going through, we want to make sure that the Asian economies do not conduct themselves in unscrupulous fashion and flood our markets with low-cost counterfeit fasteners coming into the United States markets.

So, while Mr. Bartlett's solution may be to completely repeal the act, we may need to revise and modify the act so that it does solve a problem that exists out there. The current regulations may not be sufficient to address that, but the fact of the matter is that we continue to have a problem and we need a common-sense solution to that problem which we do not have at this point.

But we do have a vexing problem that I hope that the Committee can solve in a bipartisan way and one that might get worse if the economies in Asia continue to get worse and flood our markets with low-quality products. So with that, I hope that we can come up with a solution. I yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman's time has expired. Are there further amendments? If not, the Chair recognizes the gentleman from Michigan, Mr. Barcia, to make a motion to report the bill.

Mr. BARCIA. So moved, Mr. Chairman.

Chairman SENSENBRENNER. The question is on the motion and the Chair notes the presence of a reporting quorum. All of those in favor will signify by saying aye.

Opposed, no.

The ayes have it, and the bill is reported.

Without objection, the Minority will be given the appropriate number of days to file dissenting, additional, or supplemental views; without objection the bill will be reported in the form of a single Amendment in the Nature of a Substitute; and without objection, the Chair is given permission to make appropriate motions to go to conference pursuant to House Rule 20.

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