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Dear Colleague - S. 870, 871, 872

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S. 870
Consumer Ozone Protection Act of 1989

SUMMARY: The Bill would label, regulate, and -- in some cases -- eliminate the sale of certain consumer products that contain manmade substances that have been shown to deplete the stratospheric ozone layer. In addition, it promotes the development of a Chlorofluorocarbon and Halon Reclamation Plan for the purpose of encouraging recapture and recycling of ozone-depleting substances.

SPECIFIC PROVISIONS INCLUDE:

o Mobile Air Conditioners.

- Regulates auto air conditioner servicing, to ensure that chlorofluorocarbons (CFCs) are recaptured and recycled, and not unnecessarily vented to the atmosphere. (About 30% of U.S. emissions of CFC-12 originate from auto air conditioners, and three-quarters of those emissions occur during maintenance and recharging.)

- Eliminates the sale of CFC-containing air conditioner recharge cannisters smaller than 30 pounds. (This provision is intended to limit the sale of CFC-containing air conditioner fluid to bulk purchasers -- servicers -- only.)

- Requires that any servicer who recharges an auto air conditioner with CFC-containing fluids, first test the system for leaks and repair those leaks.

o Fire Extinguishers for Consumer Applications.

- Eliminates the sale of fire extinguishers that contain ozone-depleting substances for consumer applications, except for those applications required by Federal law.

o Nonessential Consumer Products Containing Chlorofluorocarbons.

- Eliminates the sale of certain nonessential CFC-containing consumer products (e.g., party streamers, noise horns, certain cleaning fluids.)

o Labeling.

- Labels consumer products that contain ozone-depleting chemicals, or use such chemicals in their manufacture or operation. The label would warn that the product's contents or manufacturing process pose a danger to

the stratospheric ozone layer, and that depletion of the ozone layer could lead to increased risk of skin cancer and damage to natural systems, including food production.

o Chlorofluorocarbon and Halon Reclamation Plan.

- Calls for a Chlorofluorocarbon and Halon Reclamation Plan, for the purpose of determining the most effective way to ensure widespread reclamation, recycling, or regulated disposal of the ozone-depleting chemicals covered by the Act,

-Referred to Commerce Committee.

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S. 871
Ozone Layer Conservation Act of 1989

SUMMARY: The Bill calls for a manufacturers' excise tax on certain chemicals that deplete the stratospheric ozone layer; establishes an Ozone Layer Conservation Trust Fund in the Treasury Department; and directs half of the revenues from the excise tax into the Trust Fund for the purpose of promoting research, development, and market incentives for technological alternatives to ozone-depleting chemicals.

SPECIFIC PROVISIONS INCLUDE:

o Manufacturers' Excise Tax on Chemicals that Deplete the Stratospheric Ozone Layer.

- Amends the Internal Revenue Code of 1986 to impose a manufacturers' excise tax on certain chemicals that deplete the stratospheric ozone layer. The amount of the tax is adjusted for each chemical, depending upon the chemical's potential for depleting stratospheric ozone.

- A similar bill has been introduced in the House of Representatives by Rep. Stark, with 59 co-sponsors; according to a Joint Committee on Taxation study, this measure would raise 0.4 billion in the first year, 0.8 billion in the second year, 1.1 billion in the third year, 1.3 billion in the fourth year, and 1.5 billion in the fifth year.

o Ozone Layer Conservation Trust Fund.

- Would receive one-half of the revenues from the manufacturers' excise tax.

- Expenditures from the Trust Fund would provide for government-industry cooperation in research, development, and market incentives for non-ozone-depleting chemical and technological alternatives (such as new refrigerator and air conditioner designs) to ozone-depleting substances.

- In addition, the federal government would investigate the means by which it might assist United States manufacturers of such alternative technologies, in exporting the equipment for applications in developing and developed countries.

-Referred to Finance Committee.

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S. 872
Upper-Ozone Chemicals Act of 1989

SUMMARY: The Bill provides for a five-year phaseout of six substances that deplete the stratospheric ozone layer (CFC-11, CFC-12, CFC-113, halon-1211, halon-1301, carbon tetrachloride), and a ten-year phaseout of other ozone-depleting substances (CFC-22, CFC-114, CFC-115, methyl chloroform, methylene chloride), with exceptions for medical and national security reasons. There are provisions for certifying that nations from which we import products that contain ozone-depleting chemicals have a similar phaseout program in place, and a requirement for safe disposal of ozone-depleting substances. Finally, the bill calls for developing a safe alternatives policy, for replacing the substances to be phased out with chemicals, product substitutes, or alternative manufacturing processes that reduce overall risk to public health and the environment.

SPECIFIC PROVISIONS INCLUDE:

o A Production Phaseout.

- Five-year phaseout for CFC-11, CFC-12, CFC-113, halon-1211, halon-1301, carbon tetrachloride.

- Ten-year phaseout for CFC-22, CFC-114, CFC-115, methyl chloroform, and methylene chloride.

- There is an exception to the production phaseout for medical and national security reasons.

o Certification of Equivalent Foreign Phaseout Programs.

- Requires certification by the Secretary of State that foreign countries have equivalent phaseout programs in place before allowing their products that contain or are manufactured with ozone-depleting substances, to be exported to the United States.

o Disposal of Ozone-Depleting Substances, and of Products That Contain Ozone-Depleting Substances.

- Requires ozone-depleting substances to be disposed of in a way that ensures that the substances will not be released to the environment.

- Requires that ozone-depleting substances be removed from appliances, machines, or other goods before those goods are disposed of, and that the substances be disposed of as indicated above.

o Safe Alternatives Policy.

- Establishes the policy that the substances to be phased out will be replaced, to the maximum extent possible, by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to public health and the environment.

- Calls on EPA to review and report on the alternatives being considered, and assess their risks to public health and the environment.

-Referred to Environment and Public Works Committee.

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SPECIFIC PROVISIONS INCLUDE:

o A Production Phaseout.

- Five-year phaseout for CFC-11, CFC-12, CFC-113, halon-1211, halon-1301, carbon tetrachloride.

- Ten-year phaseout for CFC-22, CFC-114, CFC-115, methyl chloroform, and methylene chloride.

- There is an exception to the production phaseout for medical and national security reasons.

o Certification of Equivalent Foreign Phaseout Programs.

- Requires certification by the Secretary of State that foreign countries have equivalent phaseout programs in place before allowing their products that contain or are manufactured with ozone-depleting substances, to be exported to the United States.

o Disposal of Ozone-Depleting Substances, and of Products That Contain Ozone-Depleting Substances.

- Requires ozone-depleting substances to be disposed of in a way that ensures that the substances will not be released to the environment.

- Requires that ozone-depleting substances be removed from appliances, machines, or other goods before those goods are disposed of, and that the substances be disposed of as indicated above.

o Safe Alternatives Policy.

- Establishes the policy that the substances to be phased out will be replaced, to the maximum extent possible, by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to public health and the environment.

- Calls on EPA to review and report on the alternatives being considered, and assess their risks to public health and the environment.

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Metz on all
3 CFC bills

To Tighten Timetable

At the end of the day, they agreed with him, adopting a declaration that agrees "to phase out the production and the consumption of chlorofluorocarbons controlled by the Montreal Protocol as soon as possible, but not later than 2000," and to tighten the timetable agreed upon in the protocol.

The consensus is essentially a declaration of intent. The meeting, sponsored by the United Nations, was called to review the protocol, but delegates cannot change its terms. The nations that signed the protocol are to meet in the spring or summer of 1990 to discuss amendments, and the declaration indicates that they would favor changes. In fact, delegates here said that by then, there could be agreement for an even tighter timetable.

At the meeting, the United States also pressed for a commitment to phase out production and use of halon gases, which are used as fire extinguishing agents, said Eileen Claussen, Deputy Assistant Administrator of the Environmental Protection Agency. President Bush announced a ban in the United States in March. But today's declaration only pledges the participants to phase them out "as soon as feasible."

Chlorofluorocarbons are widely used as coolants in refrigerators and air conditioners, as solvents in the manufacture of electronic components like silicon chips, and as foaming agents to create plastic insulation. In Europe, though but not any longer in the United States, they are used as aerosol propellants, though companies are scrambling to replace them.

Lawyer From Washington

David D. Doniger, a senior lawyer for the Natural Resources Defense Council in Washington, who is attending as an observer, said, "Most of the discussion has been probing around about ways to help the developing world comply with stricter limitations, but there's only an indirect reference in the declaration today to other harmful chemicals not covered in the treaty."

In addition, the declaration has only a fleeting reference to the contribution that ozone-depleting substances make to the global warming effect, which is also becoming a preoccupation of Europe's political leaders. Prime Minister Margaret Thatcher of Britain had half her cabinet attend an all-day seminar last week on the greenhouse effect, as the warming effect of industrial gases is called.

At the meeting, the West German delegate, Klaus Töpfer, Minister for the Environment, proposed a worldwide convention on the protection of the global climate, with specific limits on production of carbon dioxide and methane, the major contributors to the greenhouse effect.

The Dutch delegation here also proposed limiting the substitute chemicals now being developed to replace the chlorofluorocarbons and halons that cause the most harm to the ozone layer. That suggestion will be discussed later this week, as the parties that signed the protocol and the 1985 Vienna Convention for the Protection of the Ozone Layer continue to meet.

Sergei L. Stepanov, executive secretary of the Soviet interagency ozone committee, also proposed a global ban on methyl chloroform, which along with carbon tetrachloride is not covered by the Montreal Protocol. Both are believed to contribute significantly to the damage to the ozone layer.

80 NATIONS FAVOR BAN TO HELP OZONE

End of Production of Certain Chemicals Urged by 2000 to Protect Atmosphere

By CRAIG R. WHITNEY

Special to The New York Times

HELSINKI, Finland, May 2 — As concern grows that manmade chemicals are destroying the ozone layer in the atmosphere, 80 nations indicated today that they would favor banning production of certain harmful substances by the end of the century.

The consensus goes far beyond a treaty, known as the Montreal Protocol, that was reached in 1987 and called for production of the chemicals to be cut in half by 1998.

Effectively, the nations have acknowledged that the protocol, which went into force only four months ago, is already out of date. Indeed, the United States and the European Community countries independently decided at the beginning of March to eliminate production and use of chlorofluorocarbons, the most harmful category of chemicals covered by the 1987 protocol, by the end of the century.

The declaration was adopted by consensus. All 36 countries that have ratified the Montreal Protocol, including the Soviet Union, joined in the declaration. Delegations from others that have not yet ratified it, including India and China, are also participating in the meeting.

In Upper Atmosphere

Over the last several months at various meetings around the world, scientists have presented mounting evidence about the extent and irreversibility of the damage that chlorofluorocarbons and other chemicals are doing to the ozone layer.

Ozone in the upper atmosphere keeps harmful solar radiation from reaching animals and plants on the surface of the earth. As the chemicals produced on earth rise through the atmosphere, they interact with the help of sunlight to deplete the layer. And as the public grows more aware, politicians are growing bolder.

"In September 1987, by the skin of its teeth, the Montreal Protocol was an acceptable document," said Dr. Mostafa K. Tolba, executive director of the United Nations Environment Program, which oversees the accord.

"In light of everything that has happened since, and the projection of what will happen, its provisions are now unacceptable," he told the meeting.

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environmentalists, while opposed by industry.

The issue first arose at the end of last year, when officials in EPA's office of emergency & remedial response, responsible for implementing the Superfund program, became concerned that the TCLP would set cleanup levels at sites which were unnecessarily stringent (Inside EPA, Dec. 16, 1988, p1). OERR argues that it is not necessary to achieve these levels at sites in order to be environmentally protective. Sources also maintain that the levels established under the TCLP are more stringent than substances that are naturally occurring in "background" levels at sites. By attempting to meet these levels the agency sacrifices necessary site-by-site flexibility, the office argued. OERR officials have long maintained that no two Superfund sites are identical and have consequently pushed for policies which give them site-by-site flexibility, which they say is necessary for each cleanup decision.

Office of solid waste sources call OERR's arguments "flimsy." These sources say that OERR is more concerned with conserving Superfund monies than with implementing the land ban requirements and protecting human health. One source says that it is "ridiculous to assume that the levels set by the TCLP are more stringent than background levels." These sources praise EPA's decision not to grant a variance, and argue that the agency is "implementing the [RCRA] program the way that Congress intended."

In a related matter, OSWER has stuck by its decision to grant an exemption from the TCLP for the UST program (Inside EPA, Feb. 24, p1). However, EPA sources say that the decision is not final and is still being opposed by some agency officials. The sources say that a final call on the exemption is likely to fall into the hands of EPA administrator William K. Reilly.

STATE OCEAN DUMPERS CHALLENGE EPA'S ABILITY TO IMPOSE PENALTIES FOR VIOLATIONS

A group of New Jersey ocean dumpers have challenged EPA's authority to impose penalties for violations of the federal Ocean Dumping Act, which prohibits the dumping of sewage sludge and industrial waste after Dec. 31, 1991. The companies argue that because they will have ceased to dump waste that they cannot be penalized under the law. But EPA contends that unless the companies develop a long-range alternative plan, outlining where the waste will be disposed of in the future, the penalties still apply.

The New Jersey dumping authorities filed a complaint against EPA on April 19 in the U.S. district court for the district of New Jersey, stating that they cannot be penalized because they are currently in compliance with the law. The Ocean Dumping Act passed by Congress last year (Inside EPA, Oct. 7, 1988, p15) imposes steadily increasing fees on dumpers, beginning in 1989 through 1992 (Inside EPA, Oct. 7, 1988, p15). The fees can be waived if the dumpers enter into a compliance agreement with EPA to cease dumping by 1991 and submit a long-term alternative plan.

The NJ dumpers contend that because they will no longer be dumping in the ocean as of Dec. 31, 1991 they should not be subject to enforcement, but rather compliance. EPA's reading of the law, however, says that regardless of the cessation of ocean dumping, the dumpers must submit a long-term alternative plan or are otherwise subject to the enforcement fees. The fees, which run at \$100.00 per dry ton of waste in

1989, \$150.00 in 1990 and \$200.00 in 1991, will place an unfair burden on the ratepayers, the dumpers argue. The six dumping authorities -- Passaic Valley Sewerage Commissioners, Middlesex County Utilities Authority, Bergen County Utilities Authority, Essex and Union Counties, Rahway Valley Sewerage Authority and Linden Roselle Sewerage Authority -- maintain that they wish to comply with the Ocean Dumping Act but are seeking only to save ratepayers' money, which could amount to \$25-million in fees.

EPA asserts that full implementation of a long-term alternative to ocean dumping before Dec. 31, 1991 -- rather than relying on short-term methods -- is required under the statute as a precondition to the right of a compliance agreement. An EPA Region II source says that the New Jersey situation dictates enforcement because it will be 1996 or 1997 before the authorities have a long-term alternative in place -- well beyond the Dec. 31, 1991 deadline.

EPA is unlikely to change its position on the enforcement fees required in the absence of a long-term alternative, an agency source predicts. "It's a simple issue with two diametrically opposed readings of the law," explains this source, referring to the dumpers' interpretation of eligibility for a compliance agreement. These people feel as though if they are no longer dumping as of Dec. 31, 1991, the enforcement fees should be waived -- says this source, but adds that the law as passed by Congress mandates the implementation of a long-term alternative.

GORE LAUNCHES OZONE PROTECTION PROGRAM WITH INTRODUCTION OF THREE BILLS

Sen. Albert Gore (D-TN), chairman of the Commerce, Science & Transportation science, technology & space subcommittee, this week introduced three separate bills aimed at protecting the earth's stratospheric ozone layer. The bills have been introduced as an international meeting on the state of the ozone layer

takes place in Helsinki, Finland (Inside EPA, April 28, p13). Three bills comprise Gore's ozone layer protection package: one requiring the labelling and eventual phaseout of consumer products that release ozone-destroying chemicals; another mandating a phaseout of the most dangerous ozone-destroying chemicals within five years; and the third imposing a manufacturers' excise tax on ozone-destroying chemicals. Gore staffers say the legislation is designed to compliment the World Environment Policy Act, S. 201, introduced Jan. 25, which calls for a complete phaseout of chlorofluorocarbons by 2000 (Inside EPA, Feb. 17, p15).

The Upper Ozone Chemicals Act of 1989 would mandate a five-year phaseout of six substances associated with stratospheric ozone depletion -- CFC-11, CFC-12, CFC-13, halon-1211, halon 1301, and carbon tetrachloride; and a 10-year phaseout of other ozone-depleting substances -- CFC-22, CFC-114, CFC-115, methyl chloroform, and methylene chloride. The bill would make exceptions in cases of medical and national security concern. The bill would also require certification by the Secretary of State that foreign countries have parallel phaseout programs in place before allowing products containing ozone-destroying substances to be exported to the U.S. The bill mandates safe disposal of ozone-eating substances and requires that such substances be removed from appliances, machines, or other goods before those goods are disposed of, and that they be safely disposed. The bill also calls for the development of a safe alternatives policy and requires EPA to review and report on the alternatives under consideration, and assess their risks to human health and the environment.

The Consumer Ozone Protection Act of 1989 would require labelling, regulation, and in certain instances a ban on the sale of consumer products that contain ozone-depleting substances. The bill would also promote the creation of a CFC and halon reclamation plan to encourage the recapture and recycling of ozone-depleting substances. Auto air conditioner servicing would be regulated to ensure that CFCs are recaptured and recycled and not unnecessarily allowed to escape into the atmosphere. The bill would ban from sale CFC-containing air conditioner recharge canisters smaller than 30 pounds, to limit the sale of CFC-containing AC fluid to bulk purchasers and servicers. The bill would also require that any servicer recharging an auto AC with CFC-containing fluids first test the system for leaks and repair them. The bill would ban the sale of fire extinguishers containing ozone-depleting substances for consumer applications, except for those required by federal law.

The Ozone Layer Conservation Act of 1989 would impose a manufacturers' excise tax on certain chemicals that deplete the stratospheric ozone layer and set up an ozone layer trust fund within the Treasury Dept. Half of the revenues from the excise tax would be used to promote research, development and market incentives for technological alternatives and substitutes to the ozone-destroying chemicals. The bill's tax would be adjusted to the chemical's ozone-depleting potential. The bill would also call upon the federal government to look into assisting U.S. manufacturers of alternative technologies in the export of such equipment for applications in developing and developed countries.

SENATE APPROPRIATIONS ADVOCATES \$9-MILLION FY-90 EPA INCREASE OVER BUSH BUDGET

The Senate Appropriations VA-HUD & independent subcommittee suggests a \$9-million fiscal year 1990 increase over the Bush Administration's budget request, in its comments on the Senate Budget Committee's April 19 budget resolution. The Budget Committee's report sets out overall funding levels for government spending. The Appropriations subcommittees use those ceilings to appropriate exact spending levels for each government agency, such as EPA. The Appropriations subcommittee says that the \$9-million increase is necessary in order to maintain most EPA programs at current levels and to increase funding in a "few areas," including the agency's construction grants program.

The subcommittee's comments are the first indication of the direction in which it may proceed this year on EPA funding. Although at this point, it is unclear how the House Appropriations VA-HUD & independent agencies subcommittee -- which marks up EPA funding first -- may proceed. In the past, the Senate and House subcommittees have not always agreed on agency funding levels. The House subcommittee initiated a \$175-million cut in the Superfund program last year (Inside EPA, June 10, 1988, p1).

Commenting in the Senate Budget's April 27 committee report, the Senate subcommittee says that "once again" the Administration is not proposing funding for the asbestos loans and grants program, for which Congress appropriated \$47.5-million in fiscal year 1989. "The Committee [Senate Appropriations] believes that there will be pressure to fund this program at current levels," says the report.

The subcommittee also chastises the Administration's budget for only funding half of the authorized level for EPA's construction grants program. It suggests funding for the grant program of \$2.1-billion up from the \$1.2-billion included in Bush's budget.

The subcommittee agrees with the Administration's plan to increase EPA's operating programs by 5%, to hike the Superfund program by 10.8% and double the underground storage tank trust fund program from \$50-million in FY-89 to \$100-million in FY-90.

Concerned that EPA's test goes too far

COALITION GROUP DEVELOPING ALTERNATIVE TO CURRENT WASTE TESTING SYSTEM

A national society that establishes industry materials-testing standards is developing an alternative method to the main test used to assess whether wastes are considered hazardous under the Resource Conservation & Recovery Act, concerned that a portion of EPA's test may regulate more wastes than necessary. The American Society for Testing Materials (ASTM), which includes industry, government, and environmental members who develop consensus industry testing standards, expressed concern at an April 11-12 Science Advisory Board meeting over a possible EPA move to require that solidified hazardous wastes be ground before being tested using the agency's "toxicity characteristic leachate procedure (TCLP)." The TCLP, currently undergoing final agency review, is a test procedure for determining if a waste is hazardous under RCRA subtitle C and is expected to become the backbone of EPA's entire hazardous waste program. ASTM believes that grinding wastes will cause more wastes to be regulated than are necessary, leading to "unrealistic" assessments of hazard. The group plans to propose a different method, one which EPA proposed using but which ASTM believes the agency now may reject.

At issue is whether under EPA's TCLP a solidified hazardous waste should be ground before being exposed to leaching solutions or instead "tumbled" in a container to allow softer solids to break apart. Grinding would result in more wastes being classified as hazardous. EPA held a number of technical meetings with ASTM during the review of the TCLP and as a result on May 24, 1988, proposed to abandon its original plan to require grinding of wastes and instead to use a "tumbler" container called a "cage" in the TCLP. Now, says an ASTM source, EPA may be backing away from its May proposal.

A source with the Secondary Lead Smelters Assn., which also supports the "cage" method as a more "realistic" measure of waste leachability, says the agency wants to return to the grinding method because it believes enforcement is easier using that method, not because of new scientific findings. The chance that EPA may be shifting its position for enforcement rather than scientific reasons prompted the ASTM and SLMA to approach the SAB, which may respond to the industry concerns with a proposal of its own. Agency sources could not be reached for comment.

The ASTM is developing a procedure that would parallel EPA's TCLP but would use a plastic tumbler container rather than the stainless steel container suggested in EPA's May proposal. The procedure, which would apply to all solidified waste, would be proposed as a modification to the TCLP after that proposal is released as final, scheduled for July. With grinding, "You get a very unrepresentative sample," says the ASTM source, because many solidified wastes do not release hazardous constituents into the environment; the constituents remain "bound up" in the solid material. A source with the Hazardous Waste Treatment Council, however, says the grinding method exposes more waste to leaching solution and is therefore more protective than the tumbler method, which leaves waste in larger pieces.

GORE UNVEILS DEFENSE-LIKE INITIATIVE FOR GLOBAL PROTECTION

Sen. Albert Gore (D-TN) has urged the U.S. to adopt a "Strategic Environment Initiative" -- or an environmental equivalent of the military Strategic Defense Initiative -- to encourage coordination of government programs and the development of new technologies aimed at protecting the global environment. Gore, kicking off the National Academy of Sciences Forum on Global Change and Our Common Future on May 1, stressed that the U.S. and the international community needs to implement an SEI of sorts with the same focus and intensity of SDI. SDI takes a comprehensive, coordinated and protective approach to U.S. defense. Such an initiative on an environmental level, says Gore, would require similar levels of funding to deal comprehensively with acid rain, global warming, stratospheric ozone depletion, deforestation, air, ocean, water and groundwater pollution.

An SEI must encompass every major sector of the economy, according to Gore -- energy, agriculture, manufacturing, and transportation -- and identify effective new technologies. In the energy sector, for instance, Gore says the focus should be on producing energy for development without compromising the environment. Gore cites energy efficiency and conservation as near-term alternatives; solar power, new-generation nuclear power; biomass; and improved efficiency as mid-term alternatives; and for the long-term list of alternatives, nuclear fusion as well as more sophisticated versions of solar, biomass, nuclear energy and energy efficiency.

In the agricultural sector, Gore notes that a second "green revolution" is needed to focus on the needs of the Third World poor. Particularly, Gore says the focus should be on increasing productivity from small farms on marginal lands, with low-input agricultural methods. Such an effort would help to abate the land

hunger of the poor and also of those who are "slashing daily into the rainforest of Amazonia -- leaving behind the depleted soils of their first homesteads," explains Gore. Gore also encourages the safe development of biotechnology, and stresses that new industrial processes and increased use of sustainable materials will become crucial for "sustainable development."

The transportation sector will require the most attention, suggests Gore, who notes that in the near-term efforts should be focused on improving vehicle mileage standards and encouraging Americans to curb their driving habits. Gore recommends alternative fuels -- such as biomass-based liquid fuels or electricity -- as a mid-term effort; and in the long-term, a reexamination of the entire transportation sector and "its inherent demand on the personal vehicle for efficient transport." Gore emphasizes Third World countries must be encouraged to be energy efficient and environmentally conscious through attractive international credit arrangements. He also recommends that the U.S. and other technology developers, together with international lending institutions, establish worldwide training centers with a core of environmentally educated planners and technicians. Such an effort would yield environmentally attractive technologies and practices, he says.

DOE RADWASTE FACILITY PLAN ALLOWS DISPOSAL BEFORE MEETING EPA STANDARDS

The Energy Dept. has released a controversial draft plan which would allow a disposal facility receiving radioactive waste mixed with hazardous waste to be filled up to 3% of its capacity before compliance with EPA standards. The plan has set off a wave of controversy among environmentalists, who argue that DOE has yet to justify placing any waste in the facility and has piqued the interest of congressional sources who question whether the plan actually allows more waste than the 3% figure to be placed in the facility.

The plan is the latest in a heated controversy over the Waste Isolation and Pilot Project, in Eddy County, NM, a radioactive waste disposal facility slated to be opened this fall. The facility has been the subject of intense congressional scrutiny in Congress over the amount of waste that should be allowed to be stored in the facility before compliance with EPA radioactive waste standards. Rep. Bill Richardson (D-NM) introduced a bill last Congress which stated that no waste could be stored at WIPP before compliance, and Sens. Jeff Bingaman (D-NM) and Pete Domenici (R-NM) offered a bill allowing the facility to be filled up to 3% of capacity before agency standards kicked in. Neither the congressman or the senators have introduced bills this session because they have been waiting for DOE to issue its plan outlining experiments to be conducted at the facility.

The draft plan released April 21 says that phase one of the plan -- the first three years of a five year demonstration -- would allow WIPP to be filled up to 3% of capacity in order to evaluate the overall safety and effectiveness of waste handling procedures, such as loading, unloading and transporting waste at the site. However, the performance assessment portion of the plan -- which would take place over the last two years of the experiments -- would allow the facility to be filled up to 8% of its capacity in order to "evaluate the long-term performance of the waste disposal system." The latter part of the plan is intended to ensure that WIPP can comply with EPA disposal standards for radioactive waste.

"At the very best the plan is confusing," says one congressional source. The source believes that DOE is touting the 3% figure as the amount of total capacity, while in actuality WIPP will be filled up to 8%. "DOE keeps talking about phase one as if that's the total picture," says the source, "well it isn't." Environmentalists are equally concerned that the plan is "confusing" and question whether the experiments have any merit. One source explains that the tests are intended to "mimic" a 10,000 year process, which is "impossible to do in five years."

DOE sources deny that the plan is misleading, and stand behind the 3% figure. They say that the figure was negotiated after the plan was issued and argue that 3%, not 8%, is the amount of waste that DOE will place in the facility.

Already the plan has caused some congressional posturing. The one bill introduced this session, by Reps. Richard Stallings (D-IN) and Joe Skeen (R-NM), calling for the facility to be filled up to 8% of capacity has been changed, now only allowing 3% capacity. Staffers for Stallings indicate that he believes the 3% figure outlined in the plan is the appropriate number. But it is yet unclear how Rep. Richardson and Sens. Bingaman and Domenici will react to the draft proposal. Many congressional sources say that the plan is so "shrouded in controversy" that it may not put to rest questions over whether there is a need to place any waste in the facility in the first place.

Vermont to Ban Autos' Use Of Ozone-Depleting Chemical

MONTPELIER, Vt., May 9 (AP) — Vermont is poised to become the first state to ban automobile air-conditioners that use a chemical linked to destruction of the atmosphere's ozone layer, which protects the Earth from harmful ultraviolet radiation.

The air-conditioners are the single largest source of the American contribution to ozone depletion, testimony before legislative committees has indicated.

Gov. Madeleine M. Kunin has hailed the bill, passed May 2, as "landmark legislation" and is expected to sign it in the next two weeks.

"We are a role model, and we may be a role model for the U.S. Congress," she said.

Starts With 1993 Models

Starting with the 1993 model year, the measure would ban the sale or registration of automobiles equipped with air-conditioners that use chlorofluorocarbons for coolant. Car air-conditioners were singled out partly because they use a form of the refrigerant considered by scientists to be the most damaging to the ozone layer.

Leaks of the coolant, during car servicing, in accidents or when a car is junked, send molecules into the atmosphere where they damage the ozone layer 15 to 20 miles up.

While ozone at ground level is considered a pollutant, scientists say it acts as a shield in the upper atmosphere to radiation that causes skin cancer and eye disease and damages plants and animals crucial to the food chain.

The connection between chlorofluorocarbons and the ozone layer "is not being debated anymore," said state

Representative Curt McCormack, the bill's major sponsor. "The argument is when can you have air-conditioners" without them.

The auto industry is studying a substance without chlorofluorocarbons as a substitute. "Work is continuing as to what is the substance of choice," said Douglas Mark, an emission engineer for the General Motors Corporation.

But Mr. Mark said long-term health tests of the new chemical were expected to continue through 1992, when the 1993 model-year vehicles mentioned in the Vermont law will be in production.

Joan Mulhern, a lobbyist for the Vermont Public Interest Research Group, which supported the bill, cited reports prepared from data of the Federal Environmental Protection Agency showing that auto air-conditioners contributed 26.6 percent of the 330,000 tons of chlorofluorocarbons released into the atmosphere in the United States in 1985. The second-highest source was solvents, which accounted for 22.8 percent, while home refrigerants contributed 1.5 percent, she said.

Once Considered Ideal

An international agreement signed in 1987 called for halving chlorofluorocarbon emissions by 1999. But at a meeting in Finland last week, attended by delegates from 81 countries, scientists said ozone depletion was proceeding more rapidly than was previously believed.

The refrigerant, developed in 1920 by a General Motors chemist, were considered ideal chemicals because they are non-toxic and noncombustible.

The chemicals are widely used as coolants in refrigerators, freezers and other types of air-conditioners and as propellants in spray cans. The bill would also ban use of the chemicals next year for propellants in noisemakers and plastic party streamers and for cleaning private photographic or electronic equipment.

Hawaii Also Passed Bill

Supporters of the measure say it is the most far-reaching of the two dozen ozone-protection bills introduced in state legislatures this year. Only the Hawaii legislature has passed such a measure. Gov. John Waihe'e of Hawaii is expected to sign the bill, which would ban the sale of cartridges for recharging car air-conditioners with chlorofluorocarbon coolants and would raise standards for repair of car air-conditioners.

Auto dealers in a state where July high temperatures average only 70 degrees did not oppose the bill. Charles Ffolliott, the Vermont representative of the National Automotive Dealers Association, estimated that more than half of the new cars sold in Vermont were equipped with air-conditioning. Nationally, about 90 percent of all new cars have air-conditioning.

United States Senate

WASHINGTON, DC 20510

May 16, 1989

The Honorable Richard Bryan
United States Senate
Washington, DC 20510

Dear Dick:

I am writing to ask your support in our efforts to protect the earth's ozone layer. Specifically, I would like you to support and hold hearings on a piece of legislation that I have introduced, the Consumer Ozone Protection Act of 1989 (S. 870), which has been referred to the Consumer Subcommittee of the Commerce, Science, and Transportation Committee.

The bill focuses primarily on promoting consumer awareness of the potential harm to the earth's ozone layer that the manufacture and use of certain products present. It requires consumer products containing substances that contribute to the depletion of the ozone layer to be labeled, and regulates the sale, distribution, and use of ozone-depleting substances in consumer products. In some cases, these products are removed from the market. Because almost 30 percent of U.S. emissions of CFC-12 originate from auto air conditioners -- emissions occurring most often during the servicing of these units -- the bill also regulates the servicing of automobile air conditioners. Finally, the bill calls for a Chlorofluorocarbon and Halon Reclamation Plan to determine the most effective means of ensuring the reclamation, recycling, or regulated disposal of the compounds covered by the Act. The attached summary provides more details of the bill.

I would greatly appreciate your support in this effort, both by becoming a co-sponsor and by scheduling hearings in the Consumer Subcommittee as soon as possible. If your staff would like a briefing on the bill, I will have Rick Adcock of my staff meet with them. I look forward to discussing this matter with you soon.

With kind regards,



Albert Gore Jr.

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Series of meetings

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David H. Jones
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