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Summary of S.1630 Clean Air Legislation

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Summary of S. 1630, Clean Air Legislation as Reported by the
Environment and Public Works Committee on November 16, 1989

TITLE I: NONATTAINMENT

PROVISIONS FOR ATTAINING HEALTHY AIR STANDARDS

Currently over 100 areas in the United States do not meet health standards under the Clean Air Act for ozone (smog); more than 40 areas are failing to attain the carbon monoxide standard; and an estimated 58 areas exceed the health standard for particulate matter (PM-10). State (and local) governments have a major responsibility for implementing measures that will reduce pollution to levels that do not threaten health; the Federal government sets certain minimum requirements.

Title I of S.1630 divides areas that fail to meet any one of the pollutants into categories, depending on the severity of the pollution problem, and sets out requirements of different levels of stringency for each category. Following is a summary of the requirements in the bill:

- Vehicle inspection and maintenance programs must be upgraded in ozone and carbon monoxide areas that already have such programs and must be instituted in most other nonattainment areas that do not yet have them.
- Depending on the severity of the pollution problem, nonattainment areas for any of the pollutants must attain the health standard within five or ten years for PM-10 or carbon monoxide, and within five, ten, or fifteen years (twenty years for Los Angeles) for ozone.
- Nonattainment areas for each of the pollutants must achieve specified increments of progress from the present until the standard is achieved. For example, ozone areas must reduce emissions of volatile organic compounds (VOCs), a precursor of ozone, by 4% per year. for first 6 yrs + 3%/yr. thereafter.
- A ban on construction of new sources of a pollutant, limited use of Federal highway funds, and possible withholding of Federal air pollution funds are the consequences of failing to meet the deadlines in the bill. NEPA must impose one of these sanctions.
- The Environmental Protection Agency is required to issue control requirements for a number of sources of pollution, including commercial and consumer ^{solvents} ~~solvents~~ [and agricultural and forest burning].

G. defn of major source? / compromise Retains CURRENT LAW defn.

Compromise allows netting of A + B when a plant is modified.

- Emitters of any pollutant must pay \$75 per ton for emissions. The fees are to be collected and used by local air pollution control agencies.
- In ozone and carbon monoxide nonattainment areas, the owner of each vehicle registered in the area must pay a \$2.00 annual fee, which will be used to pay the costs of running the State or local air pollution control program.
- In the most seriously polluted ozone and carbon monoxide areas employers of 100 or more people must undertake to increase the vehicle occupancy rate of their employee commuting trips and must invest as much in such a program as the employer invests in parking facilities or subsidies for employees.

TITLE II: MOTOR VEHICLE-RELATED PROVISIONS

Cars and trucks currently account for almost 50% of the smog (ozone) pollution and 90% of the carbon monoxide pollution in urban areas in the United States. Motor vehicles also emit approximately 25% of the nation's CO₂, a greenhouse gas. It is not only the vehicles but the fuel they use that cause the pollution.

The bill contains the following measures to reduce these pollutants:

Tailpipe Standards for Cars and Trucks

- Requires auto manufacturers to reduce tailpipe emissions of hydrocarbons and oxides of nitrogen, which form smog (ozone), by 22% and 60%, respectively, beginning with vehicles in 1993, ^{40% of sold in} and to reduce those emissions plus emissions of carbon monoxide ^{to 100% in 1995} by an additional 50% each, beginning in 2003. ^{reg'd if 11/29 worst remain nonattain. also if >25% above valid std. must meet 2004 emissions by}
- Requires reductions comparable to the ^{above} 1993 requirements for cars for light trucks, e.g., pickups and vans.
- Requires truck and car manufacturers to install systems to alert drivers when an emission control system is malfunctioning.
- Requires new transit buses, beginning in ¹⁹⁹¹ 1993, to use cleaner fuel, such as natural gas or methanol.
- Requires manufacturers to install canisters on vehicles to capture hydrocarbons that would otherwise be emitted into the atmosphere during refueling.

* Suspended for 2 yrs. if EPA study shows unsafe.
* Cong. to vote under expedited procedure. Still to require.

- 004 -
- Requires fuel economy improvements from an average of 27.5 miles per gallon currently, to 33 miles per gallon for new cars in 1996, and to 40 miles per gallon in 2000.
 - Requires service stations ^{diseensing 20,000 gal/month} in smog areas to install equipment on gasoline pumps to reduce emissions of hydrocarbons, the so-called Stage II equipment.
 - Requires fuels sold in areas with unhealthy levels of carbon monoxide to contain a specified level of oxygen, which reduces emissions of carbon monoxide from vehicles. The oxygen can be increased through additives such as ethanol, which is made from corn or other agricultural products, or derivatives of natural gas.
 - Gives the Environmental Protection Agency authority to regulate the quality of fuel, e.g., gasoline or diesel fuel, and to regulate emissions from nonroad engines such as those used in construction equipment or locomotives.

* ALT. FUELS *

TITLE III: THE TOXICS RELEASE PREVENTION ACT

Routine Emissions from Major Sources

List of Pollutants and Source Categories:

- List of approximately 200 chemicals taken from the Administration's bill,
- EPA is to establish a list of source categories for the purpose of promulgating standards. Any source emitting any one of the listed pollutants in quantities greater than 10 tons or any combination greater than 25 tons is classified as a major source and subject to regulation under the bill.
- EPA is to revise the list of pollutants from time to time and act upon petitions to add or delete substances from the list.

MACT Standard

- For each category of sources, EPA will promulgate a standard which requires the installation of maximum achievable control technology (MACT) by the sources in the category. ~~MACT is generally the best available control technology, taking cost into account.~~
- Standards are to be promulgated within 2, 3, 5, and 10 years of date of enactment, depending upon the source category. The

standards for specified organic solvents are required within 2 years.

- Existing sources must comply with MACT standards not later than 3 years after promulgation.

- exempt if pose < 1/1,000,000 risk - utilities

Voluntary Reduction

- Any source making a voluntary reduction of 90% ~~by December 31, 1992~~ below 1985 (post-Bhopal) emissions levels ~~may~~ be exempted from the MACT standards. Shall

Residual Risk

- Under some circumstances, MACT may not provide enough public health protection.
- If, after installation of MACT, a significant risk remains, EPA must promulgate health-based standards 5 years after initial promulgation of the MACT standard.
- For non-carcinogens, the standard must be set at a level that provides an ample margin of safety to protect the public health. Cost may not be considered.

*only to go into effect as default provisions

- For carcinogens, the bill establishes two residual risk standards. Cost may not be considered in the promulgation of these risk standards:

* A commission studies & reports & Congress votes on a std.

- The first standard for carcinogens is a standard that would reduce risks of contracting cancer to less than 1-in-1,000,000 for the most exposed individual. Sources may obtain a repeated exemption from that standard, if they can show it is not achievable. They must make such a showing every 5 years when the permit is renewed.
- The second standard is to eliminate all risks greater than 1-in-10,000. Sources may obtain a one-time, five-year extension to meet this standard, but compliance is eventually required of all sources or they must shut down.

Extensions

- Existing sources which already have installed either another acceptable control technology, or have voluntarily achieved a 90% reduction in emissions on or after January 1, 1993, but prior to the promulgation of a new standard under the bill, would be given 5-years after such reduction to comply with the new standard.

Permits

- yes*
air
- Each source subject to these standards will be required to apply for a permit. The permit program will be managed by the States, so long as they meet minimum Federal requirements.

Routine Emissions from Area Sources

- Based on the list mentioned above, EPA can also list an area source category just as the agency would list a major source category and require MACT. EPA also is authorized to require generally available control technology for area sources, which is less stringent than MACT.
- The bill establishes an area source control program to reduce the risks from area sources. Under the program EPA is to conduct a research program for area sources of air toxics, which is to include a monitoring program, and an ~~analysis~~^{inventory} of the sources of those toxics. ~~States with cities with populations over 250,000 persons also are to establish monitoring programs for toxics in those areas, and make reports.~~
- Five years after enactment, EPA is to propose a national urban air toxics strategy to significantly reduce risks associated with urban air toxics from areas sources. EPA is to report on reductions achieved in 8 and 10 year intervals. *goal is to be covered by 75%*

Sudden, Accidental Releases

- These provisions are designed to prevent chemical accidents.
- There is a general duty of the owner or operator of each facility handling extremely hazardous substances to operate safely.
- EPA is to publish a list of at least 50 ~~extremely hazardous air pollutants, of which approximately 20 are listed in the bill.~~
- ~~Each owner of a facility handling extremely hazardous substances must complete an engineering analysis of the facility or identify possible hazards to public health. These "hazard assessments" would be publicly available.~~
- The bill establishes a Chemical Safety Board to investigate chemical accidents, similar to the National Transportation Safety Board. *to make recommendations to EPA on industrial facilities.*

- EPA is authorized to promulgate accident prevention regulations.

SUMMARY OF MUNICIPAL WASTE COMBUSTION

Air Emissions

- EPA is to promulgate performance standards for air emissions from new municipal waste combustion units. These will require the greatest degree of emissions control achievable with the best available technology.
- Technologies considered best available include: electrostatic precipitators; baghouses, acid gas scrubbers, negative air flow (odor control); and good combustion (including use of auxiliary fuel during startup and shutdown).
- Emissions standards are mandated for particulates; acid gases; SO₂; NO_x; CO; heavy metals; lead; cadmium; organics; dioxins and dibenzofurans. They may be set for a series of other pollutants.
- Minimum standards are set for new sources at 50 ppm CO; 0.015 grains particulates; 40 ppm SO₂, 70 percent reduction; 30 ppm HCl with 90 percent reduction; 1800 degrees for one second combustion.
- Standards are effective 18 months after promulgation.
- Beginning 3 years after enactment cities or counties seeking permits for incinerators must be certified as having a program which results in 25% recycling of the solid waste stream.
- Existing facilities have to be in compliance with somewhat less stringent standards within 6 years of their issuance.
- The standards will include periodic monitoring requirements for the regulated pollutants and are to be implemented through permits, which are to be reviewed every five years.
- States can take over enforcement responsibility and set more stringent standards.
- EPA is to develop a model training program for the personnel who operate the incinerators.
- EPA is authorized to regulate products containing constituents which contribute to the toxicity of the ash.

Ash Disposal

- The bill amends the Solid Waste Disposal Act to establish a management regime for the ash from municipal incinerators. Ash handled according to this new section of RCRA is exempt from requirements of the hazardous waste provisions of subtitle C.
- EPA is to promulgate handling, treatment, transportation, recycling and disposal regulations for ash.
- Facilities receiving ash for land disposal are to have two liners, leachate collection systems, and ground water monitoring.
- Monofills with single composite liners are acceptable if they take only ash.
- Ash may be deposited in sanitary landfills, if the fly ash component is first treated to fix the metals that might otherwise leach.
- Ash must be tested to assure that it does not fail a toxicity test and if it does it cannot go to a sanitary landfill or single lined monofill, even if treated.
- Additional ash management provisions with respect to reuse, corrective action, export and post-closure care are included.

TITLE IV: ACID RAIN PROVISIONS

Acid rain causes serious adverse environmental and health problems. According to the past president of the American Public Health Association, airborne sulfates cause 50,000 premature deaths annually in the United States and Canada. Without additional acid rain controls, this number could triple.

Reduction Requirements

- The bill requires a 10 million ton reduction in sulfur dioxide emissions below 1980 levels by the year 2000.
- National utility sulfur dioxide emissions are then capped at their year 2000 levels.
- New plants that cannot secure the needed offsets will be able to purchase them from a special EPA reserve.
- In Phase I, all utility power plants emitting at a rate above 2.5 pounds of sulfur dioxide per million Btu will have to

reduce emissions to a level equal to 2.5 lbs./mmBtu multiplied by their average 1985-1987 fuel consumption measured in Btu. This category includes the largest 107 utility emitters, in 18 Eastern states. The reductions must be achieved by January 1, 1995.

- In Phase II, all utility power plants emitting at a rate above 1.2 lbs./mmBtu will have to reduce emission to a level equal to 1.2 lbs./mmBtu multiplied by their average 1985-1987 fuel consumption measured in Btu. These reductions must be achieved by January 1, 2000.
- 2.7 million tons of oxides of nitrogen reduced by the year 2000 (new ozone smog provisions in the bill will achieve additional NOx reductions).
- States that have invested in pollution control technology have no interim reduction requirement in recognition of this investment. This includes states where the statewide 1985 utility SO2 emissions total is less than 150,000 tons and 50% of electricity production is from sources employing emissions control technology.
- Nationwide, plants that emit SO2 at a low rate will be able to increase their emissions between now and the year 2000 by roughly 20% and will then be limited to that level in order to maintain the nationwide cap at the 10-million-ton reduction level.
- The 1977 percentage reduction requirement is repealed once the emissions cap goes into effect. EPA is directed to revise the emissions performance standard for new sources without a percentage reduction requirement.

Marketable Allowances

- In addition to its pollution control permit, each source will receive allowances equal to the tons of pollution it is permitted to emit.
- If a source reduces its pollution more than required, it will have left-over allowance it can sell to another source -- which would permit the second source to emit more than required while remaining in compliance.

TITLE V: PERMITS

The existing Clean Air Act only requires a construction permit for facilities, although many States have chosen to adopt

an operating permit system. The permits provisions, based on the President's proposal, require operating permits.

- Five year operating permits are required for sources regulated under the bill, including sources regulated under the air toxics, nonattainment and acid rain titles.
- States are authorized to collect fees of \$75 per ton in order to fund their permit programs.

TITLE VI: THE STRATOSPHERIC OZONE AND CLIMATE PROTECTION ACT OF 1989

The ozone depleting chemicals subject to controls under this bill are also powerful greenhouse gases contributing approximately 20% to the global warming problem. The provisions of this title will help address two related but distinct environmental problems -- global climate change resulting from an accelerated greenhouse effect and destruction of the stratospheric ozone layer.

Part A

Part A of this title has six main elements:

- It establishes as a national policy that the production and use of the five most destructive chlorofluorocarbons (CFCs) [#11, 12, 113, 114, and 115], the halons, and carbon tetrachloride should be reduced and eliminated "as expeditiously as possible".
- The Administrator is required to implement a phase-out schedule to control, reduce and eliminate production more rapidly than the schedule set forth in the Act if (1) new information suggests such an accelerated schedule may be necessary, (2) the Administrator determines, based on the availability of substitutes, that an accelerated schedule is attainable, or (3) the Montreal Protocol on Substances that Deplete the Ozone Layer is modified to include a schedule that is more stringent than that included in the Act.
- Subject to acceleration by the Administrator as outlined above, the provisions of this title place the five most destructive CFCs on a production phase-down schedule that tracks the Montreal Protocol (20% reduction in 1993 and 50% reduction in 1998), and adds an additional step: virtual elimination by not later than 2000;

- Where the Protocol will only freeze production of the halons and does not regulate carbon tetrachloride at all, powerful ozone depleters, the provisions of this title puts these chemicals on the same phase-out schedule as the most harmful CFCs;
- The Montreal Protocol will allow unlimited production and use of other, less potent ozone depleting chemicals such as methyl chloroform and HCFCs and, in turn, continue the threat to the ozone layer, the Act will place a limit on the production and use of such chemicals. The text of this provision has been "reserved" and will be offered as a floor amendment. The provision will:
 - (1) control the production and use of such chemicals to assure that such production and use will not:
 - contribute to an increase in peak chlorine loading;
 - reduce significantly the rate at which the atmospheric abundance of chlorine is projected to decrease on the basis of a year 2000 global phase-out of all halocarbon emissions (the base case); or
 - delay the date by which the average atmospheric concentration of chlorine is projected under the base case to return to a level of 2 parts per billion, the highest concentration at which repair of the Antarctic ozone hole may be possible;
 - (2) recognize the fact that achieving the goal of eliminating the potent, long-lived CFCs as rapidly as possible is, to some extent, dependent on the continued availability of HCFCs as intermediate substitutes, and
 - (3) provide the regulated community with the certainty needed to make investment decisions];
- The bill includes a supplement to the production phase-out: recognizing that it would be extremely difficult to eliminate all production and use of ozone depleting and greenhouse chemicals on a 2 to 3 year time frame, the Act provides for significant reductions in the emissions that are destroying the ozone layer and contributing to the greenhouse effect; to achieve this:
 - the practice of venting or releasing these chemicals from refrigeration and air-conditioning units into the environment will be prohibited as of January 1, 1992;

- EPA must promulgate standards to control emissions to the lowest achievable rate, including recapture and recycling regulations by July 1, 1991 and safe disposal regulations by January 1, 1994; and
- specific limitations and controls are prescribed for motor vehicle air-conditioning systems [(1) mandatory recapture and recycling by January 1, 1992, and (2) beginning with model year 1994, not less than 25% of the motor vehicles manufactured in or imported into the U.S. with air-conditioning systems must be equipped with systems that do not rely on CFC-12 and, beginning with model year 1996, not less than 50% of such motor vehicles must be so equipped] and nonessential consumer products containing CFCs [a ban on sale and distribution of items such as CFC-propelled plastic party streamers and noise horns one year after enactment], and
- Twelve months after this Act becomes law, importation of the five most destructive CFCs, halons and carbon tetrachloride in bulk or in products will be prohibited unless EPA certifies that the country of origin is a party to and in compliance with the Montreal Protocol; and persons subject to U.S. jurisdiction will be prohibited from transferring technology or investing in facilities to produce or or expand the use of such substances in countries that have not been certified.

Part B

Part B of this title is designed to develop information that is lacking on methane, one of the three most significant greenhouse gases (CFCs and carbon dioxide are the other two most significant greenhouse gases.) The Administrator of EPA, together with the Administrators of NOAA, NASA, and the heads of other relevant federal agencies, is directed to study and report to Congress on the factors causing atmospheric concentrations of methane to increase; the sources of methane emissions; and opportunities for reducing such emissions.

TITLE VII--ENFORCEMENT

The bill contains the following provisions to improve the enforcement of requirements of the Clean Air Act:

- The Environmental Protection Agency is given authority to assess penalties for violations of the Act without having to go to court.
- Both civil and criminal penalties for violations of the Act are increased.

- Civil penalties may be assessed in suits that citizens bring against violators of the Act; currently penalties are not available in citizen suits.