FOIA Number: 2017-1093-F

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Office of Environmental Initiatives

Series/Staff Member: Roger Ballentine

Subseries:

OA/ID Number: 19508

FolderID:

Folder Title:
[Climate Change] FY2001 Appropriations [2]

Stack:	Row:	Section:	Shelf:	Position:
S	61	7	11	2

KNOLLENBERG CLIMATE RIDER
THREATENS PUBLIC HEALTH AND THE ENVIRONMENT

The amendment represents a special-interest assault on common-sense programs. It would put U.S. climate policy in a straitjacket. Though it purports to merely prohibit implementation of the Kyoto Protocol in advance of Senate ratification (which the Administration has pledged not to do), it would, in practice, give naysayers in Congress a toe-hold to object to virtually all aspects of U.S. climate policies, even when they clearly save money for consumers and businesses. It would also seek to dictate the scientific process on climate research and education.

- **The amendment and report language could be used in attempts to roll back non-regulatory, bipartisan, voluntary and R&D programs to reduce energy waste and greenhouse gas emissions.** The new report language would expand the scope of the bill language by attempting to include non-regulatory "programs or initiatives" and prevent actions taken "in contemplation of preparing to implement" the Kyoto Protocol. This will be used to argue that any effort to reduce greenhouse gases constitutes implementation of the Protocol.

  - This new language could hinder ongoing bipartisan efforts to reduce greenhouse gases through voluntary programs that also reduce energy bills, improve the nation's energy security, and reduce local air pollutants.

  - This language conflicts with statements made by Rep. Knollenberg when the House originally considered the Kyoto restrictions in 1998: "Let us be clear. The language included in this bill does not do anything to interfere with valuable research, existing programs, or ongoing initiatives designed to carry out the United States' voluntary commitments under the 1992 Climate Change Convention."

  Examples of domestic programs potentially impacted include:

  – ***Energy Star Partnerships*** are designed to remove market barriers to the purchase of energy efficient products, services, and technologies. Energy Star products can save a typical American family up to $400 per year on their home energy bills. EPA estimates that by 2010 investments in Energy Star technologies and services already in place today will save consumers and businesses more than $13 billion in energy costs. If all consumers chose only Energy Star products for their purchases over the next 15 years, the nation's energy bill would be reduced by about $100 billion.
  – ***Energy Efficiency Standards for Equipment and Appliances*** save energy and reduce consumer utility bills. They apply to items ranging from heating and cooling equipment to water heaters to refrigerators. By 2010, the currently enacted standards will save consumers more than $50 billion.
  – ***Partnership for Advancing Technologies in Housing (PATH)*** works with the building industry to develop and deploy housing technologies to make new homes 50 percent more energy efficient and to make at least 15 million existing homes 30 percent more energy efficient within a decade. Meeting PATH's goals would save consumers $11 billion a year in energy costs.

– ***Partnership for a New Generation of Vehicles*** works with Detroit automakers aiming to develop attractive, affordable, family-size cars that meet all applicable safety and environmental standards while achieving up to 3X the fuel efficiency of today's cars. This would be mean that American drivers would be saving real money at the pump. The 21st Century Trucks initiative aims to apply many of these same technologies to heavy trucks.
– ***Industries of the Future*** works cooperatively with the nation's most energy-intensive industries – aluminum, glass, chemicals, forest products, mining, petroleum refining, and steel – on research to develop technologies that increase energy and resource efficiency. It is estimated that participating industries will realize more than $4 billion in energy cost savings by 2010.
– ***Climate Wise*** gives technical assistance to more than 500 individual manufacturing companies that have entered into voluntary partnership agreements with the Federal government to reduce ghg emissions, increase productivity and save money. By 2010 Climate Wise partners are projected to have saved $2 billion through their participation in the program.
– ***Methane Reduction Programs*** – including Landfill Methane Outreach, Coalbed Methane Outreach, Natural GasStar, AgSTAR, and Ruminant Livestock Efficiency – are all voluntary programs to encourage methane emissions reductions. It is estimated that investments already made by participating partners will save more than $1 billion.
– ***Motor Challenge, Steam Challenge, Combined Heat and Power Challenge, and Compressed Air Challenge*** are all voluntary partnership programs aimed at improving energy efficiency. By 2015, these initiatives are expected to generate $3 billion in annual cost savings.
– ***Renewable Energy R&D*** is driving down the cost of clean power. Programs such as Million Solar Roofs, Wind Powering America, Brightfields are deploying clean power across the country.
– Research on ***Integrated Coal Gasification Combined Cycle Power Plants*** holds the promise of long-range replacement technology for current coal burning power plants. They will increase efficiency by almost a factor of two, as well as reduce currently regulated pollutants to almost zero.
– ***Fuel cell technology R&D*** holds the promise of increasing efficiencies at small scale power plants. It may also be used in conjunction with coal gasification to increase efficiency as well as reduce pollutants to almost zero.
– ***Carbon sequestration R&D*** could help capture carbon dioxide emitted from burning fossil fuels and store it for long periods, as well as potentially capturing diffuse carbon dioxide from the atmosphere.

Internationally, the United States is implementing a wide variety of programs – pursuant to our obligations under the ratified UN Framework Convention on Climate Change – to help other nations reduce their ghg emissions. Examples of such programs potentially impacted by the amendment and report language include:

– **Indo-Business Dialogue on the Clean Development Mechanism**: This meeting of Indian and US industry leaders provided participants with a better understanding of the issues related to climate change mitigation, specifically regarding potential US-Indo partnerships under the Clean Development Mechanism. Participants stressed that industry around the world has a critical role to play in devising and implementing measures to mitigate the impact of global climate change, while sustaining a health economic growth and development. *[US companies who participated in this meeting include: Hagler Bailly, Illinova, Tri-Gen, US-India Business Council, National Electrical Manufacturers Association, Intel Corporation, US Energy Association, American Electric Power, Chevron USA, BP Amoco, Bechtel Systems and Infrastructure, Holnam Cement, Enron International, CH2M Hill, Illinois Power Company, Shell International, Southern Company, Public Service Electric and Gas Company, Arthur Andersen]*

- **Meeting on Developing Carbon Markets for the Confederation of Indian Industry (CII):** This special session of the CII was held to create awareness among CII member industries on the opportunities for new financial flows and technology transfer through partnerships with US industry using carbon trading. *[US industry representatives, Enron Corp and DuPont, participated in this event.]*

- **BCSE – USAID: Partnering with Business**: Under a cooperative agreement with USAID, the Business Council for Sustainable Energy is sponsoring outreach meetings and discussion forums which both provide for private sector input to U.S. government clean energy initiatives in developing countries and engage the private sector in support of policy reforms and the strengthening of enabling environment for investment in these markets. In close collaboration with USAID, the BCSE works with a broad range of host-country stakeholders to identify market barriers and promote the use of market mechanisms to expand the transfer of clean and efficient energy technologies in developing countries. They also conduct outreach to clean energy technology companies to promote investment opportunities in these markets. Many events draw a parallel between the emerging opportunities for clean energy investment and the benefits that would accrue in the form of reduced greenhouse gas emissions, including possibilities under the Clean Development Mechanism (CDM). BCSE often takes advantage of the large numbers of international private sector representatives who attend the climate change negotiations by holding outreach meetings and seminars at these events. Their current scope of work includes publishing two papers on issues such as the 'Clean Development Mechanism and Capacity Building,' from a private sector perspective, as well as a short paper on Greenhouse Gas Emissions Trading Activity. *[US companies involved in these meetings include: Enron, Honeywell, Pricewaterhouse Coopers, York International, Wisconsin Electric, Solar Electric Light, PG&E Corp, Applied Power Corp, Intel Corp, Electric Industries Alliance, FT Energy, Interstate Natural Gas Association, National Mining Association, American Electric Power, Lockheed Martin, Maytag, Sunoco, Shell International, United Technologies, Weyerhaeuser, Whirlpool, Entergy, DuPont, CH2Mhill, BP Amoco, Boeing]*

- **Climate Change Workshop for the Southern African Development Community (SADC) in Botswana:** This workshop was a US Country Studies Program/Climate Technology Initiative workshop for the Southern Africa Development Community

(SADC) countries. The purpose of the workshop was to provide advanced training in the country studies area, and to begin a regional needs assessment in the energy sector for the Climate Technology Implementation Project (CTIP) that is taking place for SADC countries. Training on emissions inventory, vulnerability and adaptation assessment methodologies, was provided in the first part of the workshop, while educational training on the Clean Development Mechanism was provided during the second part of the workshop. *[US companies involved in this activity include: Chemonics, Shell International, Siemans, Solar Hart]*

- **Dakar Government-Industry Workshop on the Clean Development Mechanism:** In conjunction with the Government of Senegal, USAID supported this capacity building workshop to discuss developed and developing country government and private sector representatives' views on the Clean Development Mechanism. *[US companies involved in this activity include: Chevron, Shell International and BP Amoco].*

- **First Session of the U.S. – Ukraine Sub-Group on Climate Change:** The Sub-Group on Climate Change was organized under the auspices of the U.S. – Ukraine Bi-National Commission. The Sub-Group was established to provide a forum for bilateral dialogue on climate change policy and to foster the coordination of joint activities related to climate change. The meeting addressed the following topics: 1) Ukraine's current activities and plans; 2) Status of international negotiations on climate change; 3) Ukrainian sectoral analysis; 4) Potential joint activities and cooperation with other parties; 5) Mechanisms for administering and managing global climate change programs in Ukraine; 6) Public involvement. *This meeting was limited to government-only representatives.*

- **Second Session of the U.S. – Ukraine Sub-Group on Climate Change, Kiev, Ukraine:** This was the second meeting of the global climate change Sub-Group meeting under the US-Ukraine Binational Commission. The meeting addressed the following topics: 1) Administrative structure for Ukraine's climate change programs; 2) Ukrainian development of a national strategy and the national systems needed for implementation, such as monitoring, evaluation, reporting, and verification; 3) Exchange of information about technologies relevant to climate change and U.S. experience in designing and administering domestic market-based programs; 4) Training needs for Ukrainian officials; 5) Priority sectors for Ukrainian GHG mitigation activities, and methods to attract private sector investors; 6) Development of the policy, legislative and regulatory framework needed to implement global climate change programs; 7) Cooperation with other countries and organizations; and 8) Participation in international negotiations and meetings. *This meeting was limited to government-only*

- **The amendment and report language could be used in attempts to interfere with EPA's authority to implement and enforce the Clean Air Act.** The proposed language is so broad that its meaning could have dangerous and presumably unintended consequences. For instances, the restrictions could undercut EPA's authority to implement and enforce the Clean

Air Act. The proposed ban on "actions" and "initiatives" could block EPA enforcement actions because the steps that firms may take to clean up those air pollutants may incidentally also reduce greenhouse gases. The language could also undermine EPA's authority to reduce public exposure to conventional pollutants, such as smog, sulfur dioxide, oxides of nitrogen and toxic air pollutants because such actions might incidentally reduce greenhouse gas emissions. The language could prevent EPA from even considering greenhouse gas emissions during rulemaking, even though such consideration was authorized by law and even though such emissions may pose a threat to public health or welfare.

- **The amendment and report language attempts to dictate the scientific process and block legitimate research and policy analysis.** The report language calling for "balance" on scientific panels – a bald attempt to legislate through the appropriations process – would require that a small minority of critics be given equal standing with mainstream scientists in educational seminars or activities -- even on questions about which there is broad scientific consensus. This is the kind of "balance" that tobacco companies used to fight for on the dangers of smoking.

  - A recent Commerce Committee hearing on climate change science would likely have failed a numerical "balance" test suggested in new report language. The Report states that people with viewpoints different from the Administration should be included "in numbers roughly equal to the participants representing the Administration's positions." At a recent Senate hearing organized by Sen. McCain, most of the scientists who appeared on the distinguished panel agreed with the consensus that global warming is occurring, and it is happening in part due to human activity, a view shared by Administration scientists.

  - In addition, there are many aspects of climate science that are extremely complex where there exists not one, but two, three or even four scientific viewpoints or interpretations (carbon sinks is one potential example). In these instances, how would one ensure that there is balance? Should it be Representative Knollenberg (or any other Member of Congress) who "decrees" when it has been achieved?

DRAFT

FY 2001 KYOTO PROTOCOL PROVISIONS -- June 16, 2000				
Bill (sponsor)	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Agriculture (Emerson, R-MO)	Bill and report language prohibit funds from being used to implement the Kyoto Protocol, including activities related to carbon emissions trading and the Clean Development Mechanism. This provision would become permanent as written. (Sec. 734)	No provision.	Provision may be unconstitutional in restricting the President's authority to negotiate international agreements. Might also limit current law activities to reduce greenhouse gases. Broader and more egregious than enacted FY 2000 "Knollenberg" language.	
VA/HUD (Knollenberg, R-MI)	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Bill language is the same as enacted FY 2000 language. Report language is broader and includes legislation, regulation, programs, and initiatives. (EPA Env Programs/Mgmt section)	No bill yet.	May well be unconstitutional if read to prevent EPA from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	

FY 2001 KYOTO PROTOCOL PROVISIONS -- June 16, 2000				
Bill (sponsor)	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Interior (Knollenberg, R-MI)	Bill and report language prohibit funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language (Sec. 330).	No bill yet.	May will be unconstitutional if read to prevent DOE or DOI from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	
Transportation	No provision.	Bill and report language prohibit funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language (Sec. 337).	May will be unconstitutional if read to prevent DOT from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification	

FY 2001 KYOTO PROTOCOL PROVISIONS -- June 16, 2000

Bill (sponsor)	FY 2001 HOUSE	FY 2001 SENATE	ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE	CONFERENCE/ FINAL
Foreign Operations	No bill yet.	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees, or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language. (Sec. 576)	May will be unconstitutional if read to prevent State or USAID from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	
Com/State/Justice (Knollenberg, R-MI)	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees, or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language. (Sec. 623)	No bill yet.	May will be unconstitutional if read to prevent State, DOJ, or DOC from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	

FY 2001 KYOTO PROTOCOL PROVISIONS -- June 15, 2000				
Bill (sponsor)	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Energy/Water (Knollenberg, R-MI)	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Bill language is the same as enacted FY 2000 language. Report language is broader and includes legislation, regulation, programs, and initiatives. (Sec. 605)	No bill yet.	May well be unconstitutional if read to prevent DOE from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	

DRAFT

KYOTO RIDER LANGUAGE
FY99 and FY00 Appropriations Bills

FY99

	HOUSE	SENATE	CONFERENCE
VA-HUD	bill report	bill report	bill 'compromise'[1] report

FY2000

	HOUSE	SENATE	CONFERENCE
VA-HUD	bill report[2]	bill 'compromise' report	bill no report
AG	bill No report	no bill no report	bill no report
E & W	bill No report	no bill report	bill no report
INTERIOR	bill No report	no bill report	bill no report
CJS	bill No report	no bill no report	bill no report
FOR.OPS	bill No report Notification language	bill report	bill no report
TREASURY	no bill No report	no bill report	no bill no report

[1] Bipartisan, House and Senate compromise language spearheaded by Senator Byrd (D-WV); explains that intent of language is to prevent funds from being used "to implement actions called for solely under the Kyoto Protocol." Also intended to ensure that restriction does not cover EPA's voluntary partnership programs to cut energy costs and prevent pollution.

[2] Report language breaches compromise language by dramatically expanding the prohibition to cover not only "rules, regulations, decrees, and orders" but also "non-regulatory actions, such as programs or initiatives." Also deletes the word "solely" from the sentence. The changes could prevent activities that limit ghg emissions even of part of a voluntary program – such as Greenlights or Energy Star – or that are authorized under law, such as U.S. obligations under the UNFCCC.

THE KNOLLENBERG BILL LANGUAGE states:

> "That none of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

HISTORY OF THE RIDER:

FY1999

Representative Knollenberg (R-MI) attached the rider to the FY99 VA/HUD.

Conference report language in the final bill, crafted in a bipartisan manner under the leadership of Senator Byrd (D-WV), explains that the intent of the language is to prevent funds from being used "to implement actions called for solely under the Kyoto Protocol."

There was also report language only in the Interior and Treasury/Postal bills on climate change programs generally.

FY2000

In FY2000 the Knollenberg bill language was retained in VA/HUD appropriations and added to five other appropriations bills: Agriculture, Energy & Water, Foreign Operations, Interior, and Commerce, Justice and State.

The House VA/HUD report language breached the FY99 compromise language by dramatically expanding the prohibition to cover not only "rules, regulations, decrees, and orders" but also "non-regulatory actions, such as programs or initiatives." Also, the word "solely" was deleted from the sentence. The changes could prevent activities that limit ghg emissions even of part of a voluntary program – such as Greenlights or Energy Star – or that are authorized under law, such as U.S. obligations under the UNFCCC.

Final passage: No conference report language appears in these six appropriations bills.

06/19/00 4:47 PM

SENATE ACTION

	Subcommittee Markup	Out?	Committee Markup	Floor Action	Floor Vote	Amendments of concern offered	Amount we asked for	Amount we got	SAP
Agriculture *S 2536*	5/4; out 5/4	Yes 5/4	5/10; yes 5/10						
CJS			(Thurs 6/15)			Just bill lang			
Defense *HR 4576*	5/17	Yes	5/18; yes 5/18	6/8; 6/9; 6/13	PASSED 6/13 (95-3)	S2593 (defense) will be considered 6/14			
District	Tues 6/13 11:00am								
Energy & Water									
Foreign Ops *S 2522*	No	No	5/9; yes 5/9	5/18, (Week of 6/19)					
Interior			(Thurs 6/22)						
Labor-HHS-Ed *S. 2553*	5/10	Yes 5/10	5/11; yes 5/11	(week of 6/19)		No probs			
Legislative *S. 2603*	No	No	5/18; yes 5/18	5/23, TBD					
Military Const *HR. 4425*			5/9; yes 5/9		PASS 5/18 (96-4)			$8.6 Bil	
Transporation *HR 4475*	Tues 6/13; out 6/13		Tues 6/13; yes 6/13	Wed 6/14; 6/15	PASS 6/15 (99-0)	No CAFÉ change, sub for text of S2720			
Treasury									
VA/HUD			(Thurs 6/15)	(6/26)					

06/19/00 4:47 PM

HOUSE ACTION

Approps Bill	Subcommittee Markup	Committee Markup	Floor Action	Floor Vote	Amendments/other of concern	Amount we asked for	Amount we got	SAP
Agriculture *HR 4461*	5/4 out 5/4	5/10; out 5/10	(week of 6/19)					
CJS *No number*	Tues 6/6; out 6/6	Tues 6/14; out 6/14	(6/21)					
Defense *HR 4576*	5/11 out 5/11	Thurs 5/25; out 5/25	Wed 6/7	PASS 6/7 367-58				
District	(6/22)	(6/29)	(7/11)					
Energy & H2O	Monday 6/12; out 6/12	(Tues 6/20)	(6/27)		$17.3 bil for DoE ($852.8 below request), $350.5mil for renewables, $231.8mil nuclear			
Foreign Ops *No #*	(Tues June 20, time TBD)	(Tues 6/20)	(6/28)		Expecting $1.8 bil under request			
Interior *HR 4578*	5/17; out 5/17 NO AMENDS	Thurs 5/25; out 5/25	Wed 6/14 6/15	PASS 6/15 (204-172)	PASSED (207-204) **Slaughter (D-NY)** amend to increase the amount for clean coal technology by $22 mil from $67 to $89 mil. PASSED (voice) **Sanders (I-VT)** amend to increase funding for efficiency investments by $45 mil, including $20 mil for the Weatherization Assistance Program and $3.5 mil for	$1.7 bil		*[Rules SAP sent 6/9: senior advisors veto recommendation]*

					the State Energy Program by reducing funding for the Fossil Fuel Energy Research and Development program by $45 mil. FAILED (193-195) **Sanders (I-VT)** amend to provide $10 mil in funding for the creation of a Home Heating Oil Reserve. NO Amend oldkbg; **($164 of $600 request for LWCF**); PASSED (214-211) Sununu (R-NH) amendment to provide $40 mil ($10 mil to each program) to the PILT, the Land and Water Conservation Fund, State-side Grant Program, and National Forest and Park Service maintenance accounts while **eliminating $126.5 mil for PNGV** and thus their portion of the DoE's budget $40 mil.			
Labor-HHS-Ed *HR 4577*	5/10; out 5/10	Wed 5/24; out 5/24	Thurs 6/8; 6/13, 6/14	PASS 6/14 217-214				*POTUS will veto over inadequate resources and for ergonomics*

								regulation prohibition]
Legislative *HR 4516*	5/3; out 5/3	5/9; out 5/9	(Week of 6/19)					
Military Const. *HR 4425*	5/2; out 5/2	5/9; out 5/9	5/16	Pass 5/16 386-22				
Transporation *HR 4475*	5/8; out 5/9	5/16	Fri 5/19	Pass 5/19 395-13		$16.154 bil. ($15.376 bil. In discretionary)		
Treasury								
VA/HUD	Tues 5/23; out 5/23 Old kbg $103 CCTI $20.6 Global CC research	Wed June 7; out 6/7	(Tues 6/20 afternoon)		19-31 [Vote 4], on Mollohan, amd. to clarify language in bill report that appeared to make it impossible for the United States to continue to study, conduct research and discuss ways to work with other countries to curb the greenhouse gases that most scientists say are contributing to global warming. Walsh and Rep. John Peterson, R-Pa., argued that the language was meant not to halt study of global warming but to ensure that the president did not try to move too fast in forging an international agreement on abating air pollution -- under the	$84.5bil discr. $86.2bil outlay		*[SAP under development: senior advisors veto recommendation expected]*

DRAFT

June __, 2000
(House Floor)

<u>H.R. 4635 – DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FY 2001</u>
(Sponsors: Young (R), Florida; Walsh (R), New York)

This Statement of Administration Policy provides the Administration's views on the Veterans, Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 2001, as approved by the House Committee. Your consideration of the Administration's views would be appreciated.

The President's FY 2001 Budget is based on a balanced approach that maintains fiscal discipline, eliminates the national debt, extends the solvency of Social Security and Medicare, provides for an appropriately sized tax cut, establishes a new voluntary Medicare prescription drug benefit in the context of broader reforms, expands health care coverage to more families, and funds critical investments for our future. An essential element of this approach is ensuring adequate funding for discretionary programs. To this end, the President has proposed discretionary spending limits at levels that we believe are necessary to serve the American people.

Unfortunately, the FY 2001 congressional budget resolution provides inadequate resources for discretionary investments. We need realistic levels of funding for critical government functions that the American people expect their government to perform well, including education, national security, law enforcement, environmental protection, preservation of our global leadership, air safety, food safety, economic assistance for the less fortunate, research and technology, and the administration of Social Security and Medicare. Based on the inadequate budget resolution, this bill fails to address critical needs of the American people.

The Committee allocation is $6 billion below the President's program level request. In order to approve a bill at the level of this allocation, the Committee has eliminated the Corporation for National and Community Service, and has severely reduced funding from the requests for the Department of Housing and Urban Development, the National Science Foundation, the National Aeronautics and Space Administration, the Environmental Protection Agency's basic environmental and public health programs, the Federal Emergency Management Agency, and other Administration priorities.

The Administration strongly opposes the Committee's action to terminate the Corporation for National and Community Service, including the AmeriCorps program. Eliminating funding for the Corporation would deny over one million young Americans the opportunity to provide vital community services and become better citizens as participants in the Corporation's AmeriCorps (62,000 participants) and Learn and Serve (1 million participants) programs. If the final bill presented to the President were to provide inadequate funding for the Corporation for National and Community Service, his senior advisers would recommend that the President veto the bill.

The Committee bill would also limit our ability to address poverty and the shortage of affordable housing, undermine investments in our future through space research and science and technology, reduce our ability to pursue critical opportunities in basic research through the National Science Foundation, adversely affect the environment and public health, and adversely affect our ability to respond quickly and fully to unforeseen disasters. Further, the Committee bill includes objectionable language provisions, such as anti-environmental riders, efforts to hamper the Department of Veterans Affairs ability to support the tobacco litigation using current statutory authority, and language limiting HUD's efforts to deliver vital services to the American people. For these reasons, if the bill were presented to the President in its current form, the President's senior advisers would recommend that he veto the bill.

Detailed discussions of certain of these issues, as well as additional Administration concerns with the Committee bill, are provided in the attachment. We look forward to working with the House to address our mutual concerns.

Attachment

Attachment
(House Floor)

**DEPARTMENT OF VETERANS AFFAIRS/HOUSING AND URBAN DEVELOPMENT/
INDEPENDENT AGENCIES APPROPRIATIONS BILL, FY 2001
(AS APPROVED BY THE HOUSE COMMITTEE)**

Corporation for National and Community Service

The Administration is deeply concerned that the House Committee bill terminates the Corporation for National and Community Service, including the AmeriCorps program. In FY 2001, the Committee bill would deny 62,000 Americans the opportunity to meet pressing education, public safety, and human and environmental needs in exchange for help with college costs through participation in AmeriCorps. This action would eliminate the President's goal of reaching 100,000 AmeriCorps participants a year by FY 2004. In addition, in FY 2001, the bill would prevent more than one million students from participating in service-learning programs that provide substantial academic and social benefits, including the opportunity to learn responsible citizenship. The Administration strongly urges the House to fully fund the Corporation at the requested level of $534 million.

Department of Housing and Urban Development

The Committee bill provides $29.9 billion for the Department of Housing and Urban Development (HUD), an overall programmatic reduction of $2.5 billion from the President's request, excluding proposed offsets. This reduction would eliminate most of the increases that the President has requested to help HUD address poverty and the shortage of affordable housing.

Housing Assistance. The bill provides no net new housing assistance. The Committee bill also fails to address the shortage of affordable housing to help homeless and low-income families, low-income elderly, the disabled, and people with HIV/AIDS.

- The Committee bill fails to fund the Administration's request for 120,000 incremental rental assistance vouchers at a time when a record 5.4 million unassisted low-income households have "worst-case" housing needs and spend over 50 percent of their income on rent. This would add to the growing backlog of families who cannot afford decent, safe, and sanitary housing. In fact, the bill calls for a rescission of $275 million -- endangering funding for either renewals of existing vouchers or tenant protections.

- The Committee bill would cut the request for housing for the elderly and disabled by $78 million and would cut requested assistance for people with HIV/AIDS by $28 million. The Administration encourages the House to restore requested funding to meet the needs of low-income elderly, the disabled, and people with HIV/AIDS. The bill also cuts the request for the HOME program by $65 million, which would mean 2,425 fewer households would receive critical assistance.

- Reductions of $155 million in public housing programs, including some cuts below enacted levels, would reduce capital improvements, resulting in tens of thousands of additional public housing units developing moderate to severe physical problems. Such a large decrease in funding would only increase the rate of deterioration and accumulation of needs over time. This would be compounded by the failure to fund $54 million in operating subsidies for housing authorities and $60 million in HOPE VI funds to replace distressed housing projects.

- The Administration is very concerned about the Committee bill's authorization of a new program to permit local housing authorities to spend reserve funds to increase rents and provide additional services in selected areas where the lease-up rates for housing vouchers may be experiencing problems. This costly new provision is overly permissive and has few controls. When fully implemented, it would increase costs as much as $500 million per year if local housing authorities opted to use it for only 10 to 15 percent of all housing vouchers. While more flexibility is needed to make housing vouchers work better, the Administration believes its more limited proposal for a $50 million Voucher Success Fund would accomplish the same goal more efficiently and without the risk of rapid cost increases.

- The Committee bill does not provide sufficient funds for housing counseling and does not include provisions to create a new hybrid adjustable rate mortgage and increase the loan limit for FHA single family guarantees. The Administration urges the adoption of these measures to increase homeownership opportunities and reduce costs.

Community and Economic Development. The Committee bill fails to provide requisite funding to carry out the recent bipartisan agreement between the President, the Speaker of the House, and other congressional leaders to implement bold and innovative programs -- including the New Markets Initiative and America's Private Investment Companies -- to help those places in America our booming economy has left behind.

- To help communities and people most in need, the Administration urges the House to fund the following specific initiatives as part of the bipartisan effort to help distressed communities and make investments in the untapped markets of America's inner cities, rural areas, and Native American reservations: America's Private Investment Companies (APIC), Regional Connections, funding for the Mississippi Delta, Community and Interfaith Partnerships, and the New Markets University Partnerships.

- The Committee bill would cut the Community Development Block Grant program (CDBG) and other housing and economic activity by $295 million relative to the enacted level. As a result, about 36,000 fewer people would receive housing rehabilitation, construction, and homebuyer assistance. About 12,000 fewer jobs would be created by CDBG.

- The Committee bill does not include the $22 million requested for housing assistance, economic revitalization, and community development initiatives in the Delta. This funding, part of the Delta Regional Initiative, would be awarded competitively through the Community Development Grant program.

- The Committee bill would cut requested homeless assistance by $180 million, including $105 million for rental assistance vouchers. The President's request would provide critical assistance to help homeless families who would otherwise have the greatest difficulty finding housing move to permanent housing with supportive services.

- The bill also cuts the President's request for funds to provide new jobs and affordable housing for American Indians and Native Alaskans by $30 million. This request is part of the Administration's Native American Initiative.

Community Builders. The Committee bill terminates the Community Builder program, cuts $90 million from HUD's operating budget request, and delays expenditures for training, technical assistance, and management improvement funds (Section 421). These actions would hamstring the Department's efforts to deliver vital services to the American people. HUD's streamlining efforts over the past few years have already achieved significant staff reductions. The Committee bill's Community Builder provision is inconsistent with an agreement reached with the Committee during the FY 2000 appropriations process and could eliminate up to 800 existing positions. Instead of focusing on improving services and responsiveness, HUD would now be forced to manage a large personnel reduction and redefine roles throughout the Department.

Other Concerns.

- Report language accompanying the Committee bill would undercut the Department's discretion to manage its own budget by lowering staffing agency-wide and making HUD operate without the ability to travel, purchase supplies, and perform other basic agency functions. The Administration objects to these actions and strongly urges the House to provide an adequate operating budget -- free of micro-management -- that will permit proper stewardship of these important programs and prompt delivery of services to needy families.

- The Committee provides only a $2.5 million increase for the Office of Federal Housing Enterprise Oversight (OFHEO). The Administration supports an increase of at least $4 million over the Committee level to ensure that OFHEO has the necessary capacity to provide effective oversight of enterprises that are growing and becoming more complex.

- The Committee bill does not increase funding for the Lead Hazard Control program. The Administration's requested increase is vital to supporting a strategy to virtually eradicate lead poisoning in children by 2010.

- The bill ignores the urgent need to address the problems of crime and drugs in public housing. The Committee bill fails to fund the President's $35 million request for the Public Housing Drug Elimination Program, including $30 million for gun safety and violence reduction.

- The Administration encourages the House to fully fund the Office of Policy Development and Research, which contributes directly to improving the quality of HUD's policy decisions and programs, as well as the Department's Partnership for the Advancement of Technology in Housing (PATH) program to accelerate technologies that will improve the performance, energy efficiency, and affordability of America's housing.

National Science Foundation

The Administration strongly opposes the Committee's funding recommendations for the National Science Foundation (NSF). The Committee's bill would jeopardize our investment in the future by cutting NSF investments in science, engineering, and education by $508 million, 11 percent below the requested level. This reduction would seriously undermine priority investments in cutting-edge research and eliminate funding for almost 18,000 researchers and science and mathematics educators -- slowing innovation and reducing the number of well-trained students needed by the Nation's high tech industries. This reduction would also skew the balance among the different sciences within our R&D portfolio, eliminating physical science, mathematics, and engineering research that are needed, for example, to make our biomedical research investments much more productive.

- Research Priorities. The Committee reduction would seriously undermine priority investments in Information Technology, Nanotechnology, and Biocomplexity. External advisory committees have emphasized the vital importance of sustained and adequate Federal investments for long-term, fundamental research in these key areas. By failing to provide the Administration's request in these priority areas, the House would severely undercut support for the basic research that serves as the foundation for breakthroughs in health care, environmental protection, energy, food production, communications, and a host of technology dependent industries.

- Research Facilities. The Committee's deletion of funding for Earthscope and the National Ecological Observatory Network (NEON) would delay the development of large-scale research equipment to enable us to understand better and predict earthquakes and threats to sensitive ecological regions. The Committee's refusal to fund a second terascale computer would significantly hamper the burgeoning demand from researchers across the country for high speed computer applications. The Administration is concerned by the Committee's decision to provide unrequested funding for the lower-priority High-Performance Instrumented Airborne Platform for Environmental Research aircraft instead of funding the second terascale computer, NEON, and Earthscope, all of which went through significant review prior to approval and endorsement by the National Science Board.

- Education. The Administration is troubled by the Committee bill's inadequate funding for undergraduate education, which is $30 million, or 21 percent, below the Administration's request, and five percent below the FY 2000 enacted level. The Committee bill would provide no funds for the Scholarships for Service initiative, which is intended to educate the next generation of Federal information technology managers by awarding scholarships for the study of information assurance and computer security in exchange for federal service.

- Opportunity Fund. The Committee bill would eliminate the Opportunity Fund, hindering NSF's ability to react to a rapidly changing research environment. The Fund allows NSF to fund innovative research that could lead to significant discoveries in new and emerging fields of science and engineering.

National Aeronautics and Space Administration (NASA)

The Administration appreciates the Committee's effort to fund the International Space Station program, Space Shuttle safety upgrades, and Space and Earth Science research. Likewise, we appreciate that the Committee has included no earmarks for projects that have not been subject to competitive selection and encourage the House to maintain this standard as it develops its bill.

However, the Administration strongly opposes the Committee bill's elimination of the $290 million requested for NASA's Space Launch Initiative, a program that is critical to the long-term future of NASA. The initiative promises to dramatically lower the cost of future space launch vehicles while significantly increasing safety and reliability. This program will enable new opportunities in space exploration as well as enhance the international competitiveness of the U.S. commercial launch industry. The Committee's action would also terminate two experimental launch vehicles, the X-34 and X-37, in which NASA has already invested more than $200 million in preparation for launches over the next three years. The Administration urges full restoration of funding for this critical initiative.

The Administration has several other concerns regarding NASA. First, the Administration opposes the elimination of the $20 million funding request for the "Living with a Star" initiative. This initiative would enhance our understanding of the sun and its impact on Earth and the environment, and would also help provide early warning against solar flares and mass ejections that can damage critical infrastructure such as civil, national security, and commercial satellites. Second, the Administration objects to the $55 million reduction to NASA's aeronautical research efforts that promise new technologies to reduce air traffic congestion. Third, the Administration requests removal of bill and report language preventing NASA from funding joint research projects with the U.S. Air Force. This limitation would greatly impair NASA and U.S. Air Force research efforts in aeronautics and space technology, forcing unnecessary duplication of efforts between both agencies.

The Administration strongly opposes three amendments that may be offered on the floor. The first amendment would terminate the International Space Station, an important new capability that promises major advances in science and technology. The second amendment would remove the Russian Government as a partner in the Station program. The Russians, who are preparing a critical element for launch to the Station next month, are valued partners on the program and removal would result in very costly delays and signification harm to our important relationship with them. The third amendment would place a statutory cost limitation on development and assembly of the Station. The Administration shares the interest of Congress in maintaining cost controls over the program and NASA has begun to institute such measures. However, this statutory cost cap would reduce planned spending to assemble the Station and could limit NASA's ability to deal with safety and unforeseen technical problems as they may arise.

Environmental Protection Agency

The Administration appreciates the Committee's decision not to include earmarked, special interest projects within the Environmental Protection Agency's (EPA's) budget. In previous years, the funding of this type of unauthorized, unrequested projects has severely squeezed funding for core environmental and statutorily required programs. The Administration hopes to work with the Congress to maintain restraint throughout the appropriations process. Despite the Committee's restraint on special interest projects, we have several major concerns with the funding provided for EPA in the Committee bill.

In particular, the Administration strongly opposes the $199 million or nearly ten-percent reduction to the Administration's request for EPA's basic environmental and public health programs, which are the backbone of the Agency's work. Unless reversed, a cut of this magnitude would seriously affect EPA's ability to provide American communities with cleaner water, cleaner air, and an improved quality of life. Major cuts are targeted at:

- Environmental Enforcement. The Committee's reduction would deprive EPA of critically needed funding and undermining enforcement of environmental laws by capping specific expenditures for criminal and civil enforcement and compliance inspections. As a result, serious pollution problems caused by noncompliance would go unaddressed;

- Climate Change Technology Initiative (CCTI). A cut of this magnitude would damage EPA's common sense voluntary programs designed to mitigate global climate change, improve the Nation's energy efficiency, reduce U.S. dependence on foreign oil, and save consumers money. The Committee bill also has made reductions that would set back efforts to develop fuel efficient automobiles, sport utility vehicles, and trucks;

- Information Integration Initiative. The Committee bill would eliminate funding for a major effort to integrate environmental data bases, which is designed to give EPA and the States the tools to use environmental data more efficiently and cost-effectively in cleaning up the environment.

While the Administration appreciates the increases provided for the Clean Water Action Plan, we strongly urge restoration of funding for the Great Lakes Initiative. This funding is critically needed to address contaminated "areas of concern" in the Great Lakes. The Administration likewise urges restoration of funding for section 319 non-point source pollution control grants, to provide needed assistance in combating polluted runoff -- the largest remaining source of water pollution today -- and for State grant funding for the specific purpose of protecting water quality through Total Maximum Daily Load (TMDL) allocations. In addition, the Administration urges that all of the increased State grant funding in the bill be accompanied by increases in State matching funds, a requirement that the current Committee language does not ensure.

The Administration opposes the $67 million reduction to the request for Superfund funding available to the EPA, which under this Administration has operated at a record pace to clean up hazardous waste sites. This reduction would needlessly jeopardize the public health for citizens living near affected sites by eliminating virtually all new cleanup starts and making it difficult to meet the President's 900-site construction completion goal by FY 2002. Further, the Administration objects to the Committee's proposal to finance half of the appropriation from general revenue. Such financing is contrary to the "polluter pays" principle and would be unfair to the general public, who would be forced to pay for the irresponsible actions of polluters.

The Administration also objects to the elimination of funding for the Clean Air Partnership Fund. This Fund would provide grants to State and local governments for innovative projects that reduce multiple air pollutants, such as toxics, soot, and smog, as well as reducing greenhouse gases. This Fund would support a wide range of projects that would mean cleaner air and savings for consumers.

The Administration strongly objects to several anti-environmental riders:

- Total Maximum Daily Load (TMDL) Water Pollution Rule. The Administration strongly objects to language blocking implementation of a pending revision to EPA's TMDL water pollution rule, which is intended to provide an effective, common-sense framework for cleaning up remaining polluted waters. This legislative rider would significantly slow efforts to clean up the almost 20,000 bodies of water nationwide that States have identified as still too polluted for fishing and swimming. Stronger TMDL regulations are critical to delivering on the promise of the original Clean Water Act.

- Kyoto Protocol. The Administration opposes Committee bill and report language relating to the Kyoto Protocol. This language is unnecessary as the Administration has no intent of implementing the Protocol prior to congressional ratification. To the extent that this provision could be read to prevent EPA from assisting the President in carrying out his Constitutional authority to conduct international negotiations, it would be disruptive to those efforts and may well be unconstitutional.

- Pesticide Tolerance Fees. The Administration strongly opposes Committee bill language preventing implementation of a statutorily required rule to charge pesticide tolerance fees. This language would cripple efforts to protect the public from dangerous pesticides by preventing collection of user fees intended to fund a major portion of the tolerance reassessment program in FY 2001. Further, the language would let pesticide manufacturers, who currently pay only one-tenth of the cost of issuing pesticide tolerances, off the hook for paying to protect the public from their products. It is also contrary to last year's conference report, which indicated that this rule would not be blocked in FY 2001.

- Title VI Interim Guidance. The Administration is concerned that the Committee bill has retained the language regarding EPA's Title VI interim guidance. As a matter of principle, the language is a problem because it restricts our ability to effectively process and resolve complaints. The Administration continues to object to this language and notes that revised draft guidance is expected to be available shortly for public review and comment.

- Protective Standards for Radon In Drinking Water. The House should delete Committee report language intended to prevent EPA from fulfilling its obligations under the bipartisan Safe Drinking Water Act Amendments of 1996 to develop protective standards for radon in drinking water, which the National Academy of Sciences has confirmed poses a cancer risk. The Committee language attempts to thwart EPA's efforts to protect public health, while providing the States with statutorily authorized flexibility to use a multi-media approach in limiting the public's exposure to radon.

- Contaminated Sediments. In addition, the House should delete Committee report language intended to restrict EPA's ability to cleanup contaminated sediment sites that pose a threat to public health and the environment. The report language is broader in scope and more restrictive than previous report language. The Administration is very concerned that this language could stop or delay the cleanup of Superfund sites and other contaminated sediment sites across the country.

- **The Administration understands that an amendment may be offered to clarify congressional intent with regard to objectionable Committee report language on contaminated sediments, radon, and arsenic. We support such an amendment because of the potential adverse environmental impacts of this report language, if**

add Visclosky

EPA were to delay cleanups of contaminated sediments, issuance of a health protective drinking water rule for radon, and enforcement of an existing arsenic standard. Also, we would oppose an amendment that would stop the process of designating and informing the public about areas not attaining clean air standards until resolution of pending litigation, thereby delaying achievement of cleaner air. The proposed amendment would block initial procedural steps needed to clean the Nation's air that the court has allowed to proceed pending resolution of litigation related to new clean air standards.

Council on Environmental Quality

The Administration appreciates the additional $95,000 for FY 2001 provided in the Committee bill, but believes full funding of the requested increase of $204,000 is needed for the Council on Environmental Quality (CEQ) to fulfill its statutory responsibilities. The Administration opposes the limit included in Committee report language of 22 FTEs for CEQ, instead of the 26 estimated FTEs that were requested. This limitation would hamper CEQ's ability to provide for the optimal level of staff to run the agency efficiently.

Federal Emergency Management Agency

The Administration appreciates the efforts of the Committee to provide funds needed for the operation of the Federal Emergency Management Agency (FEMA). However, the Administration strongly urges the House to provide the full $2.6 billion in contingent emergency funding requested. These funds are needed to ensure FEMA's ability to respond quickly and fully to disasters in FY 2001.

With 600,000 Americans homeless, the Administration strongly urges the House to provide the full request of $140 million for the Emergency Food and Shelter Program. Failure to provide the full request would lead to 25 million fewer meals served and more than one million nights of temporary lodging that would not be provided. The Administration appreciates the Committee's support for FEMA's mitigation programs. However, rather than providing the full request for pre-disaster mitigation (Project Impact) and repetitive loss buyouts, the Committee has elected to pursue an "either-or" strategy that will lead to reductions in pre-disaster mitigation, or fewer buyouts of repetitively flooded homes, or both. This strategy would only lead to increased long-term disaster costs. In addition, the Administration urges the House to fund the $23.6 million requested for FEMA's headquarters building requirements.

Community Development Financial Institutions Fund

The Administration is concerned with the House Committee's decision to fund the Community Development Financial Institutions (CDFI) Fund at $105 million, $20 million below the request. This reduction would result in approximately 30 fewer organizations receiving awards than assumed in the request. We urge the House to fully fund CDFI at the President's request of $125 million. The requested level will enable CDFI to meet the increasing demand by financial institutions to leverage investments, make loans, and provide technical assistance and other financial services in some of the country's most distressed communities.

Department of Veterans Affairs

- Tobacco Litigation. The Administration strongly objects to this special interest provision that is intended to prohibit VA from transferring funds to the Department of Justice to support litigation against tobacco companies. VA spends more than $1 billion annually treating veterans suffering from tobacco-related conditions and is committed to helping the Federal Government recover these funds. As one of the three major client agencies in this litigation, VA would receive a share of any recoveries and would directly apply them to medical services for our Nation's veterans. **The Administration supports an amendment expected to be offered to strike this provision.**

- Medical Care -- Operation and Maintenance of Facilities. The Administration has serious concerns about the $3 billion limit on Medical Care funds that may be used for the operation and maintenance of facilities. There is no clear definition of the terms "operation and maintenance," so it is impossible to know the repercussions of such a limit. The Administration will work with the Congress to develop appropriate definitions and cost methodologies.

- Medical Care -- Collections. The Committee has funded the President's Medical Care request, which includes full funding for new Millennium Bill benefits. However, the Committee has rejected the medical care collections proposal. As a result, total medical care funding comes at the expense of other critical VA programs.

- Medical Care -- Hepatitis C. The Administration understands the importance of encouraging VA medical centers to reach out to more veterans with Hepatitis C. However, the Administration is concerned that integrating Hepatitis C patients in the current Complex Care category may significantly alter and disrupt the proper allocation of veteran medical resources across the Nation. Therefore, VA is creating a separate Complex Care allocation factor for Hepatitis C under Veterans Equitable Resource Allocation (VERA), and will calculate Veterans Integrated Service Network (VISN) resources using this new methodology.

- Construction. The Administration opposes the $62 million reduction in Minor Construction funding, which would adversely affect all VA operations, ranging from patient safety and maintenance in VA medical centers to gravesite development in some national cemeteries.

- Veterans Benefits Administration. The Committee bill reduces the President's request by $28 million, which represents a cut of almost three percent. Because the Committee would require VA to continue aggressively hiring new claims examiners, this cut would need to be taken in critical information technology initiatives, severely inhibiting the ability to modernize claims adjudication and expedite and improve processes.

- Vocational Rehabilitation and Employment. The Administration is concerned by the Committee's rejection of our proposed one-time $30 million adjustment from the Readjustment Benefits account to the General Operating Expenses account to fund administrative services correctly.

Consumer Product Safety Commission

The Administration is concerned with the Committee's $1.5 million reduction to the President's request of $52.5 million for the Consumer Product Safety Commission. This reduction could impede the Commission's efforts to protect children and families against unreasonable risks of injury and death from consumer products.

Critical Infrastructure Protection/Cyber Crime

The Administration urges the House to fully fund the President's request for critical infrastructure protection/cyber crime for the National Science Foundation and Federal Emergency Management Agency (FEMA). These funds are a crucial component of the national, interagency effort to protect infrastructure -- particularly information systems -- in both Government and the private sector that is essential to the functioning of our economy, national defense, and the safety of the population. Specifically, the Administration urges the House to fund the President's request of $43 million, including $11.2 million for Scholarships for Service, for the National Science Foundation's critical infrastructure protection activities. The Scholarships for Service effort is intended to develop the next generation of Federal information technology managers by awarding scholarships for the study of information assurance and computer security in exchange for Federal service. Additionally, we urge the House to provide the President's request of $673,000 for FEMA to assess current internal vulnerabilities and several cyber protection issues.

FY 2001 APPROPRIATIONS BILLS: SCHEDULE OF ACTION
(Week of June 19th)

Date	Appropriations Bill	Action
HOUSE		
Monday, June 19th- Tuesday, June 20th	VA/HUD/Independent Agencies	Floor action (begin 4:00 p.m.)
Tuesday, June 20th	Commerce/Justice/State	Rules Committee (5:00 p.m.)
	Energy/Water Development	Full Committee mark-up (9:30 a.m.)
	302(b) Reallocation	" " "
	Foreign Operations	Subcommittee mark-up (following E/W)
Wednesday, June 21st	Commerce/Justice/State	Floor action (following VA/HUD)
Thursday, June 22nd	Legislative Branch	Floor action (possible)
Week of June 19th	Agriculture	Floor action (not likely)
SENATE		
Tuesday, June 20th	Foreign Operations	Floor action (begin 2:00 p.m.)
Tuesday, June 20th	Interior	Subcommittee mark-up (2:15 p.m.)
Thursday, June 22nd	Interior	Full Committee mark-up
Week of June 19th	Labor/HHS/Education	Floor action (possible)
CONFERENCE		
Week of June 19th	Military Construction (possible) → supp added here?	

Ag Bill possible

STATUS REPORT: FY 2001 APPROPRIATIONS ACTS

Appropriations Bills	House Action: Subcom.	House Action: Committee	House Action: Floor	Senate Action: Subcom.	Senate Action: Committee	Senate Action: Floor	Conference Report: Conf.	Conference Report: House	Conference Report: Senate	Signed P.L. #
Agriculture/Rural Development...... (H.R. 4461/S. 2536)	5/4	5/10		5/4	5/9					
Commerce/Justice/State............... (H.R. xxxx)	6/6	6/14	(6/21 begin)							
Defense.. (H.R. 4576)	5/11*	5/25	6/7	5/17	5/18	6/8-9; 6/12-13				
District of Columbia....................... (H.R. xxxx)										
Energy/Water Development.......... (H.R. xxxx)	6/12*	(6/20)								
Foreign Operations........................ (H.R. xxxx/S. 2522)	(6/20)			---	5/9	(6/20)				
Interior.. (H.R. 4578)	5/17	5/25	6/13-15	(6/20)	(6/22)					
Labor/HHS/Education................... (H.R. 4577/S. 2553)	5/10	5/24	6/8; 6/12-14	5/10	5/11					
Legislative .... (H.R. 4516/S. 2603)	5/3	5/9	(6/22 possible)	---	5/18					
Military Construction...................... (H.R. 4425/S. 2521)	5/2	5/9	5/16	---	5/9	5/11; 5/15-18	(week of 6/19, possible)			
Transportation............................... (H.R. 4475/S. 2720)	5/8	5/16	5/19	6/13	6/13	6/14-15				
Treasury/General Government...... (H.R. xxxx)										
VA/HUD/Ind. Agencies.................. (H.R. 4635)	5/23	6/7	(6/19-20)							
FY 2000 Emergency Supplemental (Nat. Disasters/Kosovo/Colombia (H.R. 3908)	---	3/9	3/30	(incorporated in Ag., Foreign Ops., and Milcon bills)						

* Denotes closed mark-up.
Dates shown in ( ) represent expected or ongoing action.

06/19/2000
07:56 AM
status01.123

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

DRAFT

NRES AND NOAA AGENCY TOTALS

AS OF JUNE 19, 2000

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999	2000	2001					
	Actual	Enacted	Budget	House Action	Mark-up Status	Senate Action	Mark-up Status	Conf
USDA (NRD Programs)								
Agriculture & Rural Development	7,934	8,259	8,660	8,045	FC	8,407	FC	
Interior and Related Agencies	2,652	2,812	3,110	2,740	FC			
Total	**10,586**	**11,071**	**11,770**	**10,785**				
DOI								
Interior and Related Agencies	7,010	7,392	8,333	7,318	F			
Energy and Water (BuRec & CUP, Net)	789	764	804	733	SC			
Total	**7,799**	**8,156**	**9,137**	**8,051**				
DOE								
Interior and Related Agencies	1,251	1,236	1,298	1,339	F			
Energy and Water	16,603	16,104	17,641	16,739	SC			
Total	**17,854**	**17,340**	**18,939**	**18,077**				
EPA (VA/HUD Bill)								
EPA (without Superfund HHS funding)	**7,453**	**7,433**	**7,144**	**7,149**	FC			
HHS Superfund funding	**136**	**130**	**113**	**130**	FC			
EPA (with Superfund HHS funding)	**7,589**	**7,563**	**7,257**	**7,279**	FC			
ARMY CORPS								
Energy and Water	**3,990**	**4,113**	**4,064**	**4,124**	SC			
NOAA								
Commerce, State, Justice	**2,212**	**2,328**	**2,784**	**2,231**	FC			

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999	2000	2001					
	Actual	Enacted	Budget	House Action	Mark-up Status	Senate Action	Mark-up Status	Conf
MULTI-AGENCY INITIATIVES:								
Lands Legacy Initiative								
DOI	240	344	735	193	F			
USDA								
Interior and Related Agencies	155	217	236	92	F			
NOAA	78	165	429	165	SC			
Total	473	726	1,400	450				
Farm Conservation Initiative (USDA)								
Conservation Security Program	---	---	600	0	FC	0	FC	
Wetlands Reserve Program	113	165	259	46	FC	46	FC	
Conservation Reserve Program	1,462	1,477	1,690	1,690	FC	1,690	FC	
Environmental Quality Incentives Program	174	174	325	174	FC	174	FC	
Farmland Protection Program	---	---	65	0	FC	0	FC	
Wildlife Habitat Incentives Program	20	0	50	0	FC	0	FC	
Technical Assistance	28	35	110	0	FC	0	FC	
Total (mandatory)	1,797	1,851	3,099	1,910	FC	1,910	FC	
International Clean Energy Initiative								
USAID	68	79	109			79	FC	
DOE								
Energy and Water	6	3	32					
Interior and Related Agencies	---	---	20	13	FC			
DOC	---	---	4	0	FC			
Trade & Development Agency	16	16	21			16	FC	
Eximbank	---	---	15			0	FC	
Total	90	98	201					
Biobased Products & Bioenergy								
DOE								
Energy and Water	99	100	130					
Interior and Related Agencies	10	25	44	15	FC			
USDA								
Agriculture & Rural Development	60	57	94	62	FC	60	FC	
Interior and Related Agencies	9	9	19	9	FC			
Total	178	191	287					

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999 Actual	2000 Enacted	2001 Budget	2001 House Action	2001 Mark-up Status	2001 Senate Action	2001 Mark-up Status	2001 Conf
Greening the Globe Initiative								
USAID	60	62	100			100	FC	
Treasury	---	13	37			0	FC	
USDA	3	3	10	5	FC			
DOI	2	2	3	2	F			
Total	65	80	150					
Livability Initiative								
Mass Transit (DOT)	5,390	5,785	6,321	6,271	F	6,271	F	
Congestion Mitigation & Air Quality (DOT)	1,408	1,509	1,557	1,636	F	1,636	F	
Transportation Enhancements (DOT)	632	685	719	719	F	719	F	
Trans. & Comm. & System Presev. Pilot (DOT)	14	35	52	27	F	27	F	
C/FIP								
DOI	2	2	32	0	F			
USDA	0	0	5	0	F	0	FC	
Other	15	13	13					
Non-Environmental Components	65	125	618					
Total	7,526	8,154	9,317					
Climate Change Technology Initiative								
DOE								
Energy and Water	345	348	451	341	SC			
Interior and Related Agencies	545	632	718	531	F			
EPA	109	103	227	103	FC			
USDA								
Agriculture & Rural Development	0	0	11	0	FC	3	FC	
Interior and Related Agencies	0	0	13	0	F			
DOC	0	2	0	0	FC			
HUD	10	10	12	10	FC			
Tax Incentives	0	0	(201)	0				
Total (excludes tax incentives)	1,009	1,095	1,432	985				

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999	2000	2001					
	Actual	Enacted	Budget	House Action	Mark-up Status	Senate Action	Mark-up Status	Conf
Partnership for a New Generation of Vehicles								
DOE	134	135	149	7	F			
NSF	40	42	47	47	FC			
EPA	28	26	40	26	FC			
DOC	30	23	16	7	FC			
DOT	3	0	4	0	FC	0	F	
Total	235	226	256	87				
Clean Water Action Plan								
EPA	605	603	762	767	FC			
USDA								
Agriculture & Rural Development	1	20	91	29	FC	40	FC	
Interior and Related Agencies	503	542	627		F			
DOI	348	362	395	363	F			
NOAA	17	15	22	15	FC			
Corps	106	117	145					
Everglades	221	284	334					
-- DOI	(144)	(145)	(144)	(73)	F			
-- Corps	(45)	(114)	(158)	(146)	SC			
-- Other	(32)	(29)	(34)					
California Bay-Delta Ecosystem Restoration	75	60	60	0	SC			
Total (minus double counts)	1,870	1,997	2,431					
Montreal Protocol								
EPA	11	12	21	12	FC			
State	34	28	28			23 1/	FC	
Total	45	40	49					
GLOBE								
NASA	5	5	5	5	FC			
NOAA	3	3	5	0	FC			
EPA	0	1	1	0	FC			
NSF	2	2	2	2	FC			
Total	10	11	13	7				

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999	2000	2001					
	Actual	Enacted	Budget	House Action	Mark-up Status	Senate Action	Mark-up Status	Conf
Endangered Species Act								
DOI	91	108	115	112	F			
NOAA	38	44	55	43	FC			
Total	129	152	170	155				
Salmon								
NOAA	0	68	160	58	FC			
Corps	95	68	91	80	SC			
DOI	0	5	0	0	F			
State	0	10	0	0				
Total	95	151	251	138				

ENVIRONMENTAL SCORECARD -- FY 2001 BUDGET

(Discretionary budget authority and tax incentives unless otherwise noted; in millions of dollars)

	1999	2000	2001					
	Actual	Enacted	Budget	House Action	Mark-up Status	Senate Action	Mark-up Status	Conf
Army Corps of Engineers:								
Clean Water Action Plan	106	117	145	125	SC			
Everglades	45	114	158	146	SC			
Salmon	95	68	91	80	SC			
TREASURY:								
Global Environmental Facility (GEF)	168	36	176			50	FC	
STATE/AID:								
Multilateral and Bilateral Assistance	278	279	301			244 3/	FC	
NASA:								
Earth Science (Global Change Research)	1,155	1,173	1,149	1,149	FC			
CEQ:	2.7	2.8	3.0	2.9	FC			

Mark-up Status
SC -- Subcommittee mark-up
FC -- Full Committee mark-up
F -- Floor action

Notes:
1/ Estimate based on pro-rata reduction in IO&P account.
2/ FY 2000 enacted and the FY 2001 request is adjusted for comparability purposes to reflect the budget structure adopted by the House, rather than the structure proposed in the budget.
3/ $100 million is double counted with USAID Greening the Globe funding.

DRAFT

Tracking of FY 2001/FY 2000 Supp Environmental Funding and Riders

Second Session/106th Congress

June 19, 2000

Contacts: Wesley Warren (395-4561)
Ron Cogswell (395-4586)

(Close hold; not for general distribution; changes in bold)

Table of Contents
FY 2001/FY 2000 Supp Appropriations and Riders

DRAFT

FY 2000 EMERGENCY SUPPLEMENTAL APPROPRIATIONS -- June 19, 2000				
RIDER	**FY 2000 HOUSE**	**FY 2000 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Army Corps of Engineers (Sen. Stevens, R-AK) (Sen. Domenici, R-NM)	No provision	Prohibits funds to be spent to restructure, reorganize, abolish, transfer, consolidate, or otherwise modify the organizational or management structure of the Army Corps of Engineers. (Sec. 3102)	Prohibits clarifying accountability of senior Corps officials in accordance with existing law. Also, attempt to micromanage executive agency and impede Administration's ability to implement management reforms and organizational changes.	
Oregon Inlet (NC) Jetty (Sen. Helms, R-NC)	No provision.	Requires, within 60 days of enactment, Interior to transfer lands within a national seashore and a national wildlife refuge to the Army Corps of Engineers for a jetty and sand transfer system. (Sec. 3108)	Prejudges and overrides an ongoing EIS process and ignores potential detrimental environmental impacts to a national seashore and a national refuge.	
Hardrock Mining Surface Management Rule, "Section 3809" (Sen. Murkowski, R-AK) (Sen. Craig, R-ID)	No provision.	Limits modifications to the current rules to only the specific regulatory gaps identified at pages 7 through 9 of the NRC report, preventing Interior from adopting all of the NRC's recommendations. (Sec. 3105)	Would result in weakened and inadequate rules governing the management of hardrock mining on public lands. Similar riders in the last four Interior and Related Agencies appropriations bills have delayed this rulemaking.	

DRAFT

FY 2000 EMERGENCY SUPPLEMENTAL APPROPRIATIONS -- June 19, 2000				
RIDER	**FY 2000 HOUSE**	**FY 2000 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Central Arizona Project (CAP) (Sen. Kyl, R-AZ)	No provision	Limits the Interior Secretary's CAP authority to reallocate Central Arizona Project water or to complete related NEPA analyses. (Sec. 3103)	Creates adverse precedent of interfering with Sec. of the Interior's existing authority. Undermines NEPA process, recent courrt-approved settlement, and Secretary's Tribal trust responsibilities.	
Glacier Bay National Park (AK) Fishing Compensation (Sen. Stevens, R-AK)	No provision.	Requires interim compensation be made by June 15, 2000, to anyone negatively affected by the crabbing closures and fishing restrictions in Glacier Bay park waters. (Sec. 3107)	Administratively unattainable to make interim payments before a process to determine eligibility has been completed. The process is estimated to be finished by 12/00, with payments made by 6/01. The timing of the process was determined in part by the fishing industry.	

DRAFT

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
National Monuments **(Rep. Hansen, R-UT)**	Prohibits funds to be used for the purposes of design, planning, or management of Federal Lands as Nat'l Monuments under the Antiquities Act that have been designated Monuments since FY 1999. (Sec. 335). **By a 243-177 margin, the House on June 15 deleted the rider, approving an amendment offered by Rep. Dicks (D-WA).**	No bill yet.	Undermines long-standing Presidential authority to establish national monuments to protect significant natural, prehistoric, historic, and scientific resources on Federal Lands. Would affect eight new designations, including the Sequoia and Hanford National Monuments, (plus one expanded monument -- Pinnacles).	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Interior Columbia Basin Ecosystem Management Project (ICBEMP), affecting WA/OR/MT/ID watersheds. (Rep. Nethercutt, R-WA)	Prohibits ICBEMP Supplemental Environmental Impact Statement (SEIS) and Record of Decision (ROD) from being issued before the end of FY 2001, by subjecting ICBEMP to the Small Business Regulatory Enforcement Fairness Act (SBREFA) , and therefore requiring (1) a regulatory flexibility analysis, and (2) the proposal being sent to Congresss for a 60-day review period -- before publication of the final supplemental SEIS and ROD. (Sec. 334) **During separate votes on June 15, the House first deleted (221-206) and then restored (197-180) this rider.**	No bill yet.	Blocks completion of ICBEMP, and therefore improvement of Federal land management agencies environmental in these WA/OR/MT/ID watersheds. USDA/DOI have invested $50 million in scientific analyses and public outreach, responded to thousands of public comments, and worked over seven years to complete ICBEMP, the most ambitious, comprehensive, and inclusive Federal land management planning effort ever undertaken by the Federal Government. Also, adverse precedent in applying SBREFA to Forest Service (and BLM) land-use planning.	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
American Heritage River (AHR) **(Rep. Chenoweth - Hage, R-ID)**	Would prevent funds from being used to support CEQ in coordinating the AHR Program; would cover this and previous appropriations for agencies funded in this bill. The rider is identical to the FY 2000 enacted compromise provision. (Sec. 327). **On June 15, a Rep. Kelly (R-NY) amendment was adopted by voice vote to modify the rider bill language to make it acceptable to the Administration.**	No bill yet.	Unecessarily restricts coordination of a major Administration initiative to improve waterways, coordinate federal actions, and enhance river communities.	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Kyoto Protocol **Rep. Knollenberg (R-MI)**	**Bill and report language prohibit funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language (Sec. 330).**	No bill yet.	**May well be unconstitutional if read to prevent DOE or DOI from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.**	
Prohibit Establishing Kankakee River (IL/IN) National Wildlife Refuge (NWR) **Rep. Buyer (R-IN)**	Prohibits funds to be used to establish a NWR in the Kankakee River watershed in northern Illinois and Indiana that is inconsistent with Corps of Engineers flood control and siltation efforts. Identical to the final FY 2000 provision. (Sec. 119).	No bill yet.	Infringes on the Interior Department's ability to protect and preserve migratory bird species by circumventing the public process for establishing refuges.	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Prohibit Establishing North Delta/Yolo Bypass (CA) National Wildlife Refuge (NWR) **Rep. Ose (R-CA)**	Prohibits funds to be used to establish a NWR in the Yolo Bypass in the North Delta area of the San Francisco Bay. (Sec. 122). **During June 2000 House floor debate, Rep. Ose dropped this rider, following a discussion between the Rep. and Fish and Wildlife Service Director Jamie Clark, who reportedly told him the FWS is not going to establish the refuge until flood control issues were worked out.**	No bill yet.	Infringes on DOI's ability to protect and preserve migratory bird species by circumventing the public process for establishing refuges.	

DRAFT

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Tribal Contract Moratorium	Prohibits BIA, IHS, and other agencies from entering into new or expanded self-determination contracts or self-governance compacts with tribes. Existing contracts and compacts would not be affected by the tribal contract moratorium. The rider is identical to the FY 2000 Senate rider later dropped in end-game, and an enacted FY 1999 Supplemental rider. (Sec. 331).	No bill yet.	The rider interferes with the long-standing objective of tribal self-determination and self-governance. It is contrary to the government-to-government policy the Federal Government has with tribes.	
Grazing Permits	Automatically extends BLM/NPS grazing permits expiring in FY 2001 under the current lease provisions, until environmental assessments are completed, at which time DOI can amend, suspend, or cancel the permit. Similar to the enacted FY 2000 provision. (Sec. 116).	No bill yet.	Extends grazing permits that are up for renewal for 10 years, even though all necessary NEPA requirements have not been completed. Could be incentive for grazing operations to delay processing NEPA compliance.	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Restrictions on National Forest Management Plans	Limits the use of funds for new or revised plans until the pending final Forest Planning rule (to be promulgated this fiscal year) is completed. Similar riders enacted in FYs 1998, 1999, and 2000. (Sec. 321)	No bill yet.	Should be moot if the final Forest Planning rule is issued on schedule. Otherwise in FY 2001, the rider would continue to block the Forest Service from incorporating the latest science into its forest plans.	
Pennsylvania Avenue Improvements (DC) **Rep. Norton (D-DC)**	Continues the FY 1998 prohibition on planning, design, or construction of improvements to the closed portion of Penn. Ave. without advance Committee approval. (Sec. 325).	No bill yet.	This rider was accepted in previous years. It could preclude working with all parties to resolve concerns about the closure and review planning and design alternatives, but funding for projects would require Committee approval regardless of the rider.	

FY 2001 INTERIOR BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Alaska Red Cedar	Attempts to link the export of certain high-value timber from the Tongass National Forest, to attainment of the annual Tongas allowable sales quantity (ASQ). Identical to FY 2000 enacted compromise provision and similar to FYs 1998 and 1999 riders. (Sec. 329).	No bill yet.	Establishes (under certain complex circumstances) incentives for non-Alaska interests to support reaching Tongass ASQ, by leveraging the amount of Western Red Cedar available for export to the lower 48 (mostly WA) and to international markets. Per Forest Service experts, provision is unnecessary and unmanageable.	
Urban Resources Partnership	Forest Service appropriations language (plus report language) prohibits funds to used to carry out this portion of the Urban Community Forestry Program.	No bill yet.	The rationale for blocking the program - a damaging USDA OIG report - has been removed, with reforms initiated.	

FY 2001 AGRICULTURE BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
American Heritage Rivers (AHR)	Prohibits funds in bill from carrying out activities related to AHR (in NRCS bill language).	No provision.	Restricts Administration initiative to improve waterways, coordinate federal actions, and enhance river communities.	
Kyoto Protocol (Rep. Emerson, R-8-MO)	Prohibits funds in the bill from being used to implement the Kyoto Protocol, including carbon emissions trading. (Sec. 734)	No provision.	Provision may be unconstitutional in restricting President's authority to negotiate international agreements. It could also limit current law activities to reduce greenhouse gases. Broader than enacted FY00 enacted "Knollenberg" language.	
Climate Change	Prohibits funds in bill from implementing climate change activities (in NRCS report language).	No provision.	Blocks Administration initiative, notably soil carbon sequestration work by NRCS as proposed in the FY01 Budget.	
Farm Loans in Arkansas Flood Plains (Rep. Dickey, R-4-AR)	Prevents USDA from barring agriculture loans for operations in floodplains. (Sec. 742)	No provision.	USDA environmental assessments needed for loan approval would be inconsistent with NEPA.	

DRAFT

FY 2001 AGRICULTURE BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Ft. Reno, OK, Research Facility Surplus Property (Sen.Nickles, R-OK)	No provision.	Prohibits USDA from disposing of or transferring any surplus land from its Ft. Reno research facility without Congressional approval. (Sec. 733)	Bars USDA from restoring land to Indian Tribe via DOI to be held in trust for tribe. Identical to enacted FY00 language, which Administration opposed.	

FY 2001 VA/HUD APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
EPA's TMDL Water Pollution Rule (Rep. Dickey, R-AR)	No FY 2001 or prior-year funds can be used in FY 2001 to make a final determination on or implement any new EPA TMDL (Total Maximum Daily Loads) water pollution rule.	No bill yet.	Would significantly slow the cleanup of the almost 40% of the nations waters that are still polluted for fishing and swimming. The President announced the proposed TMDL rule in Aug. 1999. The final rule (expected to be promulgated in FY 2000) clarifies and strengthens the existing TMDL water pollution planning program, while giving states flexibility in cleaning up waters. The rider would encourage further litigation, which the rule is attempting to avoid, and would potentially put the courts in charge of the cleanup process. (Note: EPA has signed consent decrees requiring it to do TMDLs in approximately 20 states if the state doesn't.)	

FY 2001 VA/HUD APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Kyoto Protocol (Knollenberg, R-MI)	Bill and report language prohibit funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language.	No bill yet.	May well be unconstitutional if read to prevent EPA from assisting the POTUS in carrying out his constitutional authority to conduct international negotiations. The Adm. has no intent to implement the Protocol prior to Senate ratification.	
Pesticide Tolerance Fees	Prohibits EPA from promulgating a final rule that will significantly raise the user fees charged for issuing pesticide tolerances (i.e. the allowable level of residual pesticide on food). The provision is being scored as a $27 million outlay increase against the VA/HUD approps bill. (Sec.423)	No bill yet.	Would result in a significant funding shortfall for the program, and lets manufacturers off the hook for paying a statutorily required fee. The provision is also contrary to last year's conference report, which indicated that FY 2000 was the last year for such a rider.	

FY 2001 VA/HUD APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Title VI ("Environmental Justice") Interim Guidance (Knollenberg, R-MI)	Prohibits expenditure of funds to implement EPA's Feb. 5, 1998, Interim Title VI Guidance to resolve discrimination complaints related to environmental permitting for complaints filed after Oct. 21, 1998.	No bill yet.	Restricts EPA's ability to timely resolve 1964 Civil Rights Act Title VI discrimination complaints. EPA is working to finalize the Title VI Guidance, and could have it done before an appropriation bill is signed, making issue moot.	
Radon in Drinking Water Multi-media Rule (Walsh, R-NY)	Report language directs that final promulgation of the radon in drinking water rule be postponed until Congress has time to consider legislation. There are currently bipartisan efforts to introduce such legislation.	No bill yet.	The bipartisan 1996 Safe Drinking Water Act Amendments require EPA to finalize a radon in drinking water rule by October 2000. The rule would give states statutorily authorized flexibility to implement a multi-media (drinking water and air) approach to reducing radon, which can reduce the risk at much lower cost than by only treating drinking water. When the Amendments passed, the multi-media approach to radon had bipartisan support and was considered very innovative.	

FY 2001 VA/HUD APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Contaminated Sediments at Superfund Sites	Provides that EPA can take no action to order the use of dredging or other invasive remedial technologies for contaminated sediments at Superfund sites (with exceptions for voluntary agreements and urgent threats to public health) until the findings of a National Academy of Sciences study (expected September 2000) are incorporated into EPA procedures.	No yet bill.	Prevents EPA from cleaning up contaminated sediments or ordering potentially responsible parties (PRPs) to conduct cleanups. This rider is more restrictive than FY 2000 language because it could restrict capping and contaminant sampling as well as dredging. The exception for urgent threats to public health does not define "urgent" or cover threats to the environment. EPA believes this rider could compromise cleanup at the Fox River site in Wisconsin, the Hudson River site in New York, and other Superfund sites nationwide.	
Limit CEQ to 22 FTE	Limits CEQ to 22 FTE, below the 26 FTE it requested.	No bill yet.	Hampers CEQ's ability to provide optimal number of employees to run the agency efficiently.	

FY 2001 TRANSPORTATION APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Kyoto Protocol	No provision.	Bill and report language prohibit funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language (Sec. 337).	May well be unconstitutional if read to prevent DOT from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	
Corporate Average Fuel Economy (CAFE)	Prohibits funds to prepare, prescribe, or promulgate new CAFE Standards for automobiles (Sec. 318)	No similar provision. The Senate adopted a motion to commission a study of the safety, employment, and economic impacts of CAFE standards.	Adm strongly objects to the continuation of the prohibition on CAFE standards, since it leads to more energy consumption and would increase both environmental and energy security risks.	

FY 2001 COMMERCE, STATE, JUSTICE BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Kyoto Protocol (Knollenberg, R-MI)	**Bill language prohibits funds from being used to propose or issue rules, regulations, decrees, or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language. (Sec. 623)**	**No bill yet.**	**May well be unconstitutional if read to prevent State, DOJ, or DOC from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.**	

FY 2001 FOREIGN OPS BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Kyoto Protocol	No bill yet.	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees, or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Same as enacted FY 2000 language. (Sec. 576)	May well be unconstitutional if read to prevent state or USAID from assisting the POTUS in carrying out his constitutional authority to conduct international negotiations. The Admin. has no intent to implement the Protocol prior to Senate ratification.	

FY 2001 ENERGY & WATER BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	FY 2001 HOUSE	FY 2001 SENATE	ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE	CONFERENCE/ FINAL
Kyoto Protocol (Knollenberg, R-MI)	Bill language prohibits funds from being used to propose or issue rules, regulations, decrees or orders for the purpose of implementing or in preparation for implementing the Kyoto Protocol prior to Senate ratification. Bill language is the same as enacted FY 2000 language. Report language is broader and includes legislation, regulation, programs, and initiatives. (Sec. 605)	No bill yet.	May well be unconstitutional if read to prevent DOE from assisting the President in carrying out his constitutional authority to conduct international negotiations. The language is unnecessary since the Adm. has no intent to implement the Protocol prior to Senate ratification.	
National Monuments	Report language states there is no DOE funding in this bill to coordinate, integrate or implement a management plan or any other activity related to a national monument designated in Washington State.	No bill yet.	Would affect the recent Hanford Reach designation, and could affect DOE oversight and clean-up of contaminated lands within the external boundaries of the new Monument.	

DRAFT

FY 2001 DEFENSE BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	FY 2001 HOUSE	FY 2001 SENATE	ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE	CONFERENCE/ FINAL

DRAFT

FY 2001 D.C. BILL APPROPRIATIONS RIDERS -- June 19, 2000				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**

FY 2001 DEFENSE AUTHORIZATION BILL				
RIDER	**FY 2001 HOUSE**	**FY 2001 SENATE**	**ADMIN. POSITION ON WHY THE PROVISION IS OBJECTIONABLE**	**CONFERENCE/ FINAL**
Environmental Fines and Penalties (Stevens, R-AK)	No similar provision.	Sec.342 of S. 2549 requires DOD to seek specific Congressional authorization to pay legitimately imposed environmental fines and penalties whether assessed by Federal, State, or local jurisdiction, if the fine is greater than $1.5M or includes an economic benefit provision. Virtually all Federal fines include such a provision.	Strongly oppose. Treats DOD differently than all other Federal agencies with regard to paying environmental fines and penalties. Creates an administrative burden for DOD to request specific authorization. Similar provision enacted in FY 2000.	
NEPA and Low Level Flight Training	Sec. 312 of H.R. 4205 states that environmental impact statements (EISs) prepared by the military are deemed to meet NEPA requirements. Thus foreclosing legal challenge as to their adequacy. Actions may be defined so narrowly as to never trigger NEPA applicability.	No similar provision.	SAP urges deletion of this provision arguing that DOD believes its environmental documents comply with NEPA. It's important that the public has confidence in DOD's military preparedness and environmental concern. Separate application of NEPA will ignore cumulative effects.	

06/15/00 12:39 PM

SENATE ACTION

	Subcommittee Markup	Out?	Committee Markup	Floor Action	Floor Vote	Amendments of concern offered	Amount we asked for	Amount we got	SAP
Agriculture *S 2536*	5/4; out 5/4	Yes 5/4	5/10; yes 5/10						
CJS			(Thurs 6/15)			Just bill lang			
Defense *HR 4576*	5/17	Yes	5/18; yes 5/18	6/8; 6/9; 6/13	PASSED 6/13 (95-3)	S2593 (defense) will be considered 6/14			
District	Tues 6/13 11:00am								
Energy & Water									
Foreign Ops *S 2522*	No	No	5/9; yes 5/9	5/18, (TBD)					
Interior			(Thurs 6/22)						
Labor-HHS-Ed *S. 2553*	5/10	Yes 5/10	5/11; yes 5/11	(week of 6/12)		No probs			
Legislative *S. 2603*	No	No	5/18; yes 5/18	5/23, TBD					
Military Const *HR. 4425*			5/9; yes 5/9		Pass 5/18 96-4			$8.6 Bil	
Transporation *No number*	Tues 6/13; out 6/13		Tues 6/13; yes 6/13	Wed 6/14; 6/15		No probs			
Treasury									
VA/HUD			(Thurs 6/15)	(6/26)					

06/15/00 12:39 PM

HOUSE ACTION

Approps Bill	**Subcommittee Markup**	**Committee Markup**	**Floor Action**	**Floor Vote**	**Amendments/other of concern**	**Amount we asked for**	**Amount we got**	**SAP**
Agriculture *HR 4461*	5/4 out 5/4	5/10; out 5/10	(week of 6/12) likely slip					
CJS *No number*	Tues 6/6; out 6/6	Tues 6/14	(6/21)					
Defense *HR 4576*	5/11 out 5/11	Thurs 5/25; out 5/25	Wed 6/7	PASS 6/7 367-58				
District	(6/22)	(6/29)	(7/11)					
Energy & H2O	Monday 6/12; out 6/12	(6/20)	(6/27)		$17.3 bil for DoE ($852.8 below request), $350.5mil for renewables, $231.8mil nuclear			
Foreign Ops *No #*	(Tues June 20, time TBD)	(6/20)	(6/28)		Expecting $1.8 bil under request			
Interior *No number*	5/17; out 5/17 NO AMENDS	Thurs 5/25; out 5/25	Wed 6/14 6/15		NO Amend oldkbg; **($164 of $600 request for LWCF)**; PASSED (214-211) Sununu (R-NH) amendment to provide $40 million ($10 million to each program) to the PILT, the Land and Water Conservation Fund, State-side Grant Program, and National Forest and Park Service maintenance accounts while **eliminating**	$1.7 bil		*[Rules SAP sent 6/9: senior advisors veto recommendation]*

					$126.5 million for the Partnership for a New Generation of Vehicles program and thus their portion of the DoE's budget $40 million.			
Labor-HHS-Ed *No #*	5/10; out 5/10	Wed 5/24; out 5/24	Thurs 6/8; 6/13, 6/14	6/15				*POTUS will veto over inadequate resources and for ergonomics regulation prohibition]*
Legislative *HR 4516*	5/3; out 5/3	5/9; out 5/9	(Wed 6/14 or Thurs 6/15) likely slip					
Military Const. *HR 4425*	5/2; out 5/2	5/9; out 5/9	5/16	Pass 5/16 386-22				
Transporation *HR 4475*	5/8; out 5/9	5/16	Fri 5/19	Pass 5/19 395-13		$16.154 bil. ($15.376 bil. In discretionary)		
Treasury								
VA/HUD	Tues 5/23; out 5/23 Old kbg $103 CCTI $20.6 Global CC research	Wed June 7; out 6/7	Rules 6/13, floor (Thurs 6/15)		19-31 [Vote 4], on Mollohan, amd. to clarify language in bill report that appeared to make it impossible for the United States to continue to study, conduct research and discuss ways to work with other countries to curb the	$84.5bil discr. $86.2bil outlay		*[SAP under development: senior advisors veto recommendat ion expected]*

					greenhouse gases that most scientists say are contributing to global warming. Walsh and Rep. John Peterson, R-Pa., argued that the language was meant not to halt study of global warming but to ensure that the president did not try to move too fast in forging an international agreement on abating air pollution -- under the Kyoto Protocol -- without Congress' permission.			

CONFERENCE

Approps Bill	Scheduled for Markup	**Vote**	**Amendments of concern offered**	**Amendments on it**	**Amount we asked for**	**Amount we got**	**SAP**
Agriculture							
CJS							
Defense	Before July 4 recess						
District							
Energy							
Foreign Ops							
Interior							
Labor-HHS-							

Kyoto Report Language

The conferees have again included bill language prohibiting the use of funds to take certain unauthorized and inappropriate actions for the purpose of implementation of the Kyoto Protocol. The Byrd-Hagel Resolution (S. Res. 98), which passed unanimously in 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Although the conferees are committed to ensuring that the Administration not implement the Kyoto Protocol without Congressional consent, the conferees recognize that there are also longstanding programs that could have positive effects on energy use and the environment. The conferees do not intend to preclude these programs from proceeding, provided they have been funded by Congress. The Conferees also do not purport to limit actions taken pursuant to the President's Constitutional authority to negotiate international agreements or conduct foreign policy.

The bill language is intended to prohibit funds provided in this Act from being used to take unauthorized and inappropriate actions called for solely under the Kyoto Protocol, prior to its ratification. The conferees are aware that the Administration is developing mechanisms such as the Clean Development Mechanism and carbon emissions trading, which are cited in the Kyoto Protocol, as part of its climate-related negotiations with the developing world. Although the conferees do not object to discussions and development of these mechanisms, the Administration may not impose any new restrictions or requirements on U.S. citizens or U.S. businesses, via rule, regulation, decree or order, based on authorities derived solely from the Kyoto Protocol, prior to its ratification. The conferees further note that this provision is not intended to restrict the President's constitutional authority to negotiate international agreements and does not apply to regulatory activities otherwise authorized by law.

Draft -- 6/13/00 11:04 AM
AMENDMENT(S) OFFERED BY MR. MOLLOHAN

2 versions have been drafted:

No. 1: Insert general reference to activities otherwise authorized on law, after existing Kyoto proviso under EPA:

On page ____, line _____, after the word "Protocol", insert:

Provided further, That any limitation imposed under this Act on funds made available by this Act for the Environmental Protection Agency shall not apply to activities related to the Kyoto Protocol where such activities are otherwise authorized by law.

No. 2: Insert reference to FY 1999 conference report as basis for effect of current Kyoto proviso under EPA:

On page ____, line _____, after the word "Protocol", insert:

Provided further, That any limitation imposed under this Act on funds made available by this Act for the Environmental Protection Agency shall not apply to activities related to the Kyoto Protocol where such activities are authorized by law, ~~except~~ as previously described ~~provided for~~ in Public Law 105-276 (H. Rept. 105-769).

Kyoto Report Language

The conferees have again included bill language prohibiting the use of funds to take certain unauthorized and inappropriate actions for the purpose of implementation~~, or in preparation for implementation,~~ of the Kyoto Protocol. The Byrd-Hagel Resolution (S. Res. 98), which passed unanimously in 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Although the conferees are committed to ensuring that the Administration not implement the Kyoto Protocol without Congressional consent, the conferees recognize that there are also longstanding programs that could have positive effects on energy use and the environment. The conferees do not intend to preclude these programs from proceeding, provided they have been funded by Congress. The Conferees also do not purport to limit actions taken pursuant to the President's Constitutional authority to negotiate international agreements or conduct foreign policy.

The bill language is intended to prohibit funds provided in this Act from being used to take unauthorized and inappropriate ~~implement~~ actions called for solely under the Kyoto Protocol, prior to its ratification. The conferees are aware that the Administration is developing mechanisms such as the Clean Development Mechanism and carbon emissions trading, which are cited in the Kyoto Protocol, as part of its climate-related negotiations with the developing world. Although the conferees do not object to discussions and development of these mechanisms, the Administration may not impose any new restrictions or requirements on U.S. citizens or U.S. businesses, via ~~propose or issue~~ rule~~s~~, regulation~~s~~, decree~~s~~ or order~~s~~, based on authorities derived solely from the Kyoto Protocol, prior to its ratification. The conferees further note that this provision is not intended to restrict the President's constitutional authority to negotiate international agreements and does not apply to regulatory activities otherwise authorized ~~under current~~ by law.

F:\M6\INSLEE\INSLEE.019 H.L.C.

Debbie

Substitute

Offered by Mr. Inslee of Washington For the Amendment Offered By Mr. Knollenberg of Michigan

(Page and line numbers refer to H.R. 4461, as reported)

2

solely

Strike section 734 (page 72, beginning line 5), and insert the following:

SEC. 734. None of the funds appropriated or otherwise made available by this Act shall be used to ~~propose~~ ~~or~~ issue rules, regulations, decrees, or orders to implement the Kyoto Protocol. The preceding sentence shall not apply to any actions taken under current law or any other authority to conduct international relations or negotiations. ~~on climate change.~~ — 3

1

must do 1 and/or 2 and 3

Status of Climate Riders
FY2001 Appropriations Bills

1. AG APPROPS

HOUSE – bill and report language, taken together, are quite possibly unconstitutional

Bill Language: "Sec. 734. Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanisms that are found solely in the Kyoto Protocol and nowhere in the laws of the United States."

Report Language:

"Section 734: Language is included that provides that hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere in the laws of the United States."

"Title VII – General Provisions

Section 734: The Committee reminds the Administration of the Constitutional power of the Senate to advise and consent to treaties. The Committee notes with disapproval that this Administration exhibited disdain for the will of the Senate when the Administration signed the Kyoto Protocol in contravention of Senate Resolution 105-98, knows as the Byrd-Hagel Resolution, which was approved by a vote of 95 ayes and 0 nays.

The Committee notes with disapproval that nearly three years after the Kyoto Protocol was adopted on December 11, 1997, it still has not been submitted to the Senate for advice and consent as to ratification. The Committee is concerned that such protracted refusal to make submission to the Senate flouts the powers and prerogatives of the Congress as a whole. The Committee directs that within three years of the date of adoption, the Kyoto Protocol shall be submitted by the Administration to the Senate for advice and consent as to ratification. The Committee also notes that the Kyoto Protocol has not yet entered into force pursuant to Article 25 of the Protocol.

This year the Committee has clarified that funds shall not be spent for items found solely in the Kyoto Protocol and nowhere in the laws of the Untied states. These items include carbon emissions trading schemes and the Clean Development Mechanism. The Committee has taken keen note of the Administration's comments that there has been confusion regarding this funding limitation. The Committee notes with disapproval dozens of expenditures by the Administration for the Kyoto protocol mechanisms. The Committee encourages United States exports to improve the environment of foreign nations and dose so with express reference to the Untied Nations Framework Convention on Climate Change (UNFCCC). Likewise all other provisions of the UNFCCC which have legislative enactment are encouraged."

Status: Mr. Knollenberg has filed an amendment to strike and replace bill language, on the floor, with FY2000 bill language.

Mr. Inslee is preparing a substitute amendment, to strike and replace bill language with new bill language.

Floor Action: pending week of June 12, but likely to slip; next week possible.

SENATE

Bill Language: FY2000

Report Language: NONE (?)

Status: No actions planned.

Floor Action: unknown; contentious provisions unresolved

2. TRANSPORTATION APPROPS

HOUSE

Bill Language: NONE

Report Language: NONE

Floor Action:

SENATE

Bill Language: FY2000

Report Language: "Section 337. Includes a provision which prohibits the use of funds in this account from being used to implement the Kyoto Protocol prior to its ratification." (as read over the phone by Lautenberg staff)

Status: Nothing happened in SC (6/13 am); FC markup 6/13 in afternoon. No action anticipated.

Floor Action:

3. INTERIOR APPROPS

HOUSE

Bill Language: FY2000

Report Language: "Section 330 prohibits the use of funds to propose or issue rules, regulations, decrees or orders for implementing the Kyoto Protocol prior to Senate ratification."

Status: Lloyd Doggett is reportedly preparing an amendment to strike FY2000 bill language on the floor.

Floor action: possible 6/13 or 6/14

SENATE

Bill Language: [Byrd's staff indicate FY2000 will be included]

Report Language: [Byrd's staff indicate FY2000 will be included]

Status: SC markup pending (may move if House passes bill)

4. VA-HUD APPROPS

HOUSE – problematic report language in bold

Bill Language: FY2000

Report Language: "The Committee has again this year included bill language which prohibits the use of funds to take certain actions for the purpose of implementing **or in contemplation of preparing to implement,** the Kyoto Protocol. Although the Agency may under the current prohibition continue to conduct education seminars and activities, it should ensure balance in those programs. Balance does not mean merely that there is an acknowledgment of viewpoints different from those of the Administration, but that qualified representatives of those viewpoints are included in the programs and in numbers roughly equal to the participants representing the Administration's positions. One dissenting voice in what is otherwise an obviously stacked or biased program does not constitute balance.

The bill language is intended to prohibit funds provided in this bill from being used to implement actions called for under the Kyoto Protocol, prior to its ratification. Based on an identical provision in the 1999 Appropriations Act, the bill language prohibits the proposing or issuing of rules, regulations, decrees or orders, for the purpose of implementing, or in preparation of implementing, the Kyoto Protocol.

The Byrd-Hagel Resolution (S. Res. 98), which passed with a vote of 95-0 in July 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Through the prohibition contained herein, the Committee is committed to ensuring that the Administration not implement the Kyoto Protocol without prior Congressional consent, including approval of any implementing legislation, regulation, **programs, or initiatives."** .

__**Status**__: Mollohan to offer floor amendment to reach back and strike report language.

__**Floor action**__: possible 6/14 or 6/15

SENATE

__**Bill Language:**__

__**Report Language**__:

5. FOREIGN OPS APPROPS

HOUSE

__**Bill Language**__: FY2000

__**Report Language:**__ Knollenberg is crafting language; apparently contains "balance" argument, and language on 'other ways to achieve clean energy.' (minority staff does not have hard copy yet).

__**Status**__: SC markup likely afternoon of 6/14

SENATE

__**Bill Language**__: FY2000

__**Report Language:**__ "SEC. 567. (a) Funds made available in this Act to support programs or activities the primary purpose of which is promoting or assisting country participation in the Kyoto Protocol to the Framework Convention on Climate Change (FCCC) shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(b) The President shall provide a detailed account of all Federal agency obligations and expenditures for climate change programs and activities, domestic and international obligations for such activities in fiscal year 200a, and any plan for programs thereafter related to the implementation or the furtherance of protocols pursuant to, or related to negotiations to amend the FCCC in conjunction with the President's submission of the Budget of the United States Government for Fiscal Year 2002; Provided, That such report shall include an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix: Provided further, That such report shall identify with regard to the Agency for International Development, obligations and expenditures by country or central program and activity."

Status:

6. COMMERCE, JUSTICE, STATE APPROPS

HOUSE

Bill Language: NONE

Report Language: NONE

Status: FC markup 10 pm on 6/13; Knollenberg is prepared to offer FY2000 bill and unknown report language in markup (per minority staff).

SENATE

Bill Language:

Report Language:

7. ENERGY AND WATER APPROPS

HOUSE – problematic report language in bold

Bill Language: FY2000

Report Language: "Kyoto Protocol.—Section 605 prohibits the use of funds to take certain actions for the purpose of implementing, **or in contemplation of preparing to implement, the Kyoto Protocol**. Although the agency may under the current prohibition continue to conduct educational seminars and activities, it should ensure balance in those programs. Balance does not mean merely that there is an acknowledgment of viewpoints different from those of the Administration., but that qualified representatives of these viewpoints are included in the programs and in numbers roughly equal to the participants representing the Administrations' positions. One dissenting voice in what is otherwise an obviously stacked or biased program does not constitute balance.

The bill language is intended to prohibit funds provided in this bill from being used to implement actions called for under the Kyoto Protocol, prior to its ratification. The bill language prohibits the proposing or issuing of rules, regulations, decrees, or orders, for the purpose of implementing, or in preparation of implementing, the Kyoto Protocol.

The Byrd-Hagel Resolution (S. Res. 98), which passed with a vote of 95-0 in July 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Through the prohibition contained herein, the Committee is committed to ensuring that the Administration not implement the Kyoto Protocol without prior Congressional consent, including approval of any implementing legislation, regulation, **programs, or initiatives.**

Status:

SENATE

Bill Language:

Report Language:

Status:

8. LABOR-HHS APPROPS

HOUSE – no language

SENATE – no language

9. DEFENSE APPROPS

HOUSE – no language

SENATE – no language

10. MILCON APPROPS

HOUSE – no language

SENATE – no language

11. DC APPROPS

HOUSE

SENATE

12. LEGISLATIVE

HOUSE

SENATE

13. TREASURY POSTAL APPROPS

HOUSE

SENATE

Debra Reed
06/12/2000 01:37:42 PM

Record Type: Record

To: Roger S. Ballentine/WHO/EOP@EOP

cc:
Subject: Sally Chadbourne's email and phone

Roger -- her phone number is 225-3481 -- tell whoever answers who you are -- otherwise she is not taking calls.

Her email is "sally.chadbourne@mail.house.gov"

Thanks -- I'll call when I get out of this meeting with Biden's staff.

White House Climate Change Task Force

734 Jackson Place, N.W. • Washington, DC 20503

FACSIMILE TRANSMISSION SHEET

To	ROGER BALLENTINE BOB DAMUS	**From**	DEBBIE REED
Office	ENV. INIT'S OMB -GC	**Date**	12 June 00
Fax Number	61736 & 57289	**Fax Number**	~~395-2311~~ 2342
Office Number		**Office Number**	~~395-2310~~ 2332

Comments:

* See attached language (1 pg, handwritten) — that Mr Knollenberg is seeking to add in House Energy & Water SC markup @ 5:30 today!

Pages: 4, including this cover sheet.

IF TRANSMITTAL IS INCOMPLETE, PLEASE PHONE

Suggested
by Pl[illegible]

The Committee notes that the clean development mechanism of the Kyoto Protocol and the trading of carbondioxide emissions equivalents have not been authorized.

[redacted]

Neither the [redacted] bill language nor any of the report language shall be read to restrict the President's constitutional authority to negotiate international agreements or to restrict [redacted] activities that are authorized under existing United States law.

HARRY

V DOD
AGE

what ?
NOW

TITLE VI

GENERAL PROVISIONS

The Committee recommendation includes several general provisions pertaining to specific programs and activities funded in the Energy and Water Development Appropriations bill.

Prohibition on Lobbying.—Section 601 provides that none of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of Title 18, United States Code.

Buy American.—Section 602 requires that American-made equipment and goods be purchased to the greatest extent practicable.

Drainage of the San Luis Unit.—Section 603 provides language clarifying the funding requirements for the San Luis Unit.

Extension of Authority for Nuclear Regulatory Commission to Collect Fees and Charges.—Section 604 provides a one-year extension of the authority of the Nuclear Regulatory Commission to collect fees and charges to offset appropriated funds.

Kyoto Protocol.—Section 605 prohibits the use of funds to take certain actions for the purpose of implementing, or in contemplation of preparing to implement, the Kyoto Protocol. Although the agency may under the current prohibition continue to conduct educational seminars and activities, it should ensure balance in those programs. Balance does not mean merely that there is an acknowledgment of viewpoints different from those of the Administration, but that qualified representatives of these viewpoints are included in the programs and in numbers roughly equal to the participants representing the Administration's positions. One dissenting voice in what is otherwise an obviously stacked or biased program does not constitute balance.

The bill language is intended to prohibit funds provided in this bill from being used to implement actions called for under the Kyoto Protocol, prior to its ratification. The bill language prohibits the proposing or issuing of rules, regulations, decrees, or orders, for the purpose of implementing, or in preparation of implementing, the Kyoto Protocol.

The Byrd-Hegel Resolution (S. Res. 98), which passed with a vote of 95–0 in July 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Through the prohibition contained herein, the Committee is committed to ensuring that the Administration not implement the Kyoto Protocol without prior Congressional consent, including approval of any implementing legislation, regulation, programs, or initiatives.

This provision does not restrict the President's constitutional authority to negotiate international agreements and does not apply to

VerDate 11-MAY-2000 ... 29 Jun 08 2000 Jkt 066812 PO 00000 Frm 00139 Fmt 6601 Sfmt 6601 E:\HR\OC\SR124.050 pfrm02 PsN SR124

any activities authorized under existing United States laws. The Committee notes that Congress has not enacted implementing legislation authorizing any agency to regulate greenhouse gases and likewise has not authorized the clean development mechanism of the Kyoto Protocol.

THE WHITE HOUSE

WASHINGTON

June 13, 2000

MEMORANDUM FOR JOHN PODESTA
KAREN TRAMONTANO
SYLVIA MATHEWS

CC: GEORGE FRAMPTON

FROM: ROGER BALLENTINE

RE: Climate Change Appropriations Strategy

Along with Lands Legacy, climate change is the top environmental legislative priority for the remainder of this Administration. To be successful in addressing this priority in the appropriations context, we need three things: 1) adequate funding; 2) no new riders; and 3) a "successful" debate and fight on either/both the House or Senate floor.

In the past, of course, our goal was only the first two – and we have been remarkably successful. But now, however, I think we need more than a quiet, end game oriented strategy. This Administration has pushed this issue forward faster than the Congress would otherwise move, and the next way to do that is to craft a more open fight.

Amendment/Resolution Strategy

In either house, subject to parliamentary limitations, we could push an amendment in the context of appropriations riders. This does not necessarily mean we push an amendment that directly strikes the "compromise" language we have signed in the past. But we could perhaps craft an amendment that "clarifies" that such language "does not limit vigorous efforts domestically and internationally to address the threat of global warming (yada, yada)". This is a way that we could draw the line with R efforts to push us further and further beyond our original tacit "deal". In the House, Members like Inslee and Doggett have expressed an interest in something like this, but we would need to push leadership support. In the Senate, we have a number of Members who would do this, but again, we would need strong leadership support (as well as some R's), especially since Byrd is a wild card.

In the Senate, Lautenberg has for some time been shopping a resolution along the lines of a Sense of the Senate that climate change is a serious problem and that we need serious action, etc. He tried to get such language attached to the Transportation bill, but failed (and even allowed the Kyoto Knollenberg rider language added, even though it is not in the House

Transportation bill). We could seek to add it to another bill in Committee or force a vote on the floor (even though it might be on a vote to overturn the ruling of the Chair). Even a close vote on relatively strongly worded language would be helpful vis a vis our international negotiations, given that the 95-0 Byrd-Hagel vote of 1997 is the Senate's record on the climate change issue.

Message Events

The President is already well on message on the importance of this issue – all the more reason to take a visible and strong stand in the appropriations process. An additional POTUS event focused on opportunities (perhaps with business leaders) *and* criticizing Congress would be helpful. We are submitting a scheduling request this week.

Secretary Albright is willing to weigh in on the anti-Kyoto riders. We have held this back in the past, but we may want to do this now. She could do a message event, or, more likely, she could send a letter to the Hill. A letter could perhaps purport to update on diplomatic progress (India, China, Russia, etc.) and then strongly urge positive legislative action and criticize the riders.

We could also have the Chief of Staff give a speech or send a letter with this same type message (Press Club, perhaps).

Timing

A House amendment strategy would require immediate engagement from Legislative Affairs, OMB, and others. A Senate resolution strategy is slightly less urgent, but we would need the same WH players to engage very soon. The more bills that begin to pass with rider language in them without our vocalizing about this issue, the harder it will be to later construct a good fight. Therefore, we need prompt resolution on this strategy.

Debra Reed
06/13/2000 09:17:41 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Energy and Water Language

The most onerous of the report language that Mr. Knollenberg tried to introduce on energy and water last night was blocked; that language said:

"The Committee notes that the clean development mechanism of the Kyoto Protocol and the trading of carbon dioxide emissions equivalents have not been authorized. Neither the bill language nor any of the report language shall be read to restrict the President's constitutional authority to negotiate international agreements or to restrict activities that are authorized under existing United States law."

Three paragraphs of report language did survive, however, including "...prohibits the use of funds to take certain actions for the purpose of implementing, or in contemplation of preparing to implement, the Kyoto Protocol."

and

""Through the prohibition contained herein, the Committee is committed to ensuring that the Administration not implement the Kyoto Protcol without prior Congressional consent, including approval of any implementing legislation, regulation, programs, or initiatives."

Below is a clip from Congress Daily on the Markup:

Energy and Water Programs Approved In Closed-Door Session

By Bill Ghent
National Journal News Service

WASHINGTON (June 12, 2000) -- House appropriators approved a $21.7 billion fiscal 2001 spending package for a multitude of energy and water programs during a closed-door meeting of the Energy and Water Subcommittee late Monday.

The bill, which provides money to the U.S. Army Corps of Engineers, the Bureau of Reclamation and the Energy Department, is an increase of $546 million over current-year funds but nearly $950 million below the president's request.

The panel approved one amendment during the meeting -- en bloc language offered by Subcommittee Chairman Ron Packard, R-Calif., consisting of mostly technical changes to the underlying bill.

Among the bill's highlights:

The Corps of Engineers' flood control, navigation and shoreline protection programs would receive $4.12 billion, just slightly more than fiscal 2000 and some $60 million above the president's request.

The Bureau of Reclamation would receive $730.5 million under the bill, a $70 million reduction from the president's request and $36 million below fiscal 2000. In a move that will surely anger environmentalists, the panel chose not to provide funds for the CALFED Bay-Delta restoration project in California, noting that its authorization lapsed in Fiscal 2000.

The recommendation for the Energy Department is $17.3 billion, a $686.5 million increase above fiscal 2000 but still $852.8 million short of the president's request.

Among the highlights within the DOE budget are:

-- $350.5 million for renewable energy programs, a decrease of $11.7 million below fiscal 2000.

-- $231.8 million for nuclear energy programs, which is about even with current year appropriations.

-- $301.4 million for uranium facilities, an increase of $13.7 million over fiscal 2000 but $43 million less than the budget request.

-- $2.83 billion for DOE science programs, an increase of $43.3 million over fiscal 2000 but $320 million less than the president proposed. Basic energy sciences took the biggest hit under this account, receiving $791 million, a $224.8 million cut below the budget request. Most of those cuts were targeted at the Spallation Neutron Source, which received last year's total of $100 million rather than the $160 million increase requested by the administration.

-- $413 million for the Yucca Mountain nuclear waste suitability program, an increase of $61.8 million over fiscal 2000 but $25 million below the budget request.

Funds for the DOE's atomic energy activities received $12.82 billion, an increase of $850.4 million above fiscal 2000 but $189.6 million below the budget request.

That figure includes:

-- $6.16 billion for the newly established National Nuclear Security Administration, which includes nuclear weapons programs, defense nuclear nonproliferation accounts and naval reactors. That figure is a $331 million increase over fiscal 2000 and $12.9 million less than the budget request.

-- $5.86 billion for the defense environmental cleanup activities, an increase of $148 million over fiscal 2000 and $283.8 million below the budget request. The reduction primarily reflects a revised fiscal 2001 requirement for the Hanford facility in Washington, according to committee documents.

Debra Reed
06/12/2000 09:55:26 AM

Record Type: Record

To: Wesley P. Warren/OMB/EOP@EOP, Roger S. Ballentine/WHO/EOP@EOP, Judy Jablow/CEQ/EOP@EOP

cc: Angela C. Mizeur/WHO/EOP@EOP, Sykes.Kathy@epamail.epa.gov
Subject: Waxman amendment for VA/HUD

VA-HUD

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Waxman:

Page 59, after line 12, insert:

Any limitation on funds in this Act for the Environmental Protection Agency
or the Council on Environmental Quality shall
not apply to:

(1) regulatory determinations for mercury emissions from utilities;

(2) utilizing dredging as a remediation tool;

(3) implementation of the Food Quality Protection Act;

(4) implementation of the Regional Haze Program; or

(5) cleanup requirements for facilities licensed by the Nuclear Regulatory
Commission;
where such activities are authorized by law.

- Inslee amend

- Martha / Portman

- Phil Shiliro

0

David Gardiner
06/09/2000 06:13:30 PM

Record Type: Record

To: Roger S. Ballentine/WHO/EOP@EOP, Wesley P. Warren/OMB/EOP@EOP, Rosina M. Bierbaum/OSTP/EOP@EOP, Debra Reed/CEQ/EOP@EOP

cc:
Subject: Interior Amendments

Howard Geller reports that Rep. Sununu will offer an amendment to cut $126 million from the PNGV program. The amendment has the backing of some enviros, including USPIRG and Green Scissors groups.

Sanders, Boehlert, Udall, Greenwood, and others will offer an amendment to cut all fossil funding that is higher than the President's request, and put the $45 million into efficiency. Because Regula has combined the efficiency and fossil accounts, the amendment actually will limit how much can be spent on fossil.

Anybody know more about these or other amendments?

- Morley
- Stanton → Beier

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

F

June 9, 2000
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 4578 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2001

(Sponsors: Young (R) Florida; Regula (R) Ohio)

This Statement of Administration Policy provides the Administration's views on the Department of the Interior and Related Agencies Appropriations Bill, FY 2001, as approved by the House Committee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The President's FY 2001 Budget is based on a balanced approach that maintains fiscal discipline, eliminates the national debt, extends the solvency of Social Security and Medicare, provides for an appropriately sized tax cut, establishes a new voluntary Medicare prescription drug benefit in the context of broader reforms, expands health care coverage to more families, and funds critical investments for our future. An essential element of this approach is ensuring adequate funding for discretionary programs. To this end, the President has proposed discretionary spending limits at levels that we believe are necessary to serve the American people.

Unfortunately, the FY 2001 congressional budget resolution provides inadequate resources for discretionary investments. We need realistic levels of funding for critical government functions that the American people expect their government to perform well, including education, national security, law enforcement, environmental protection, natural resource conservation, preservation of our global leadership, air safety, food safety, economic assistance for the less fortunate, research and technology, and the administration of Social Security and Medicare. Based on the inadequate budget resolution, this bill fails to address critical needs of the American people.

The Administration appreciates the efforts by the Committee to accommodate a part of the President's priorities within the 302(b) allocation, such as increased funding over the FY 2000 enacted levels for national park and other land management operations. However, the allocation is simply insufficient to make the necessary investments in programs funded by this bill. As a result, the bill severely underfunds the President's Lands Legacy Initiative, the Native American Initiative, the Clean Water Action Plan, programs for clean and efficient energy, National Foundation on the Arts and Humanities, and other critical programs discussed below. The bill also includes several legislative riders that are highly objectionable to the Administration, such as provisions concerning the Interior Columbia Basin Ecosystem Management Project and the prohibition of funding for the management of or planning related to

Management Project and the prohibition of funding for the management of or planning related to national monuments designated by the President. The Committee's failure to fund key programs sufficiently and its inclusion of damaging riders would lead the President's senior advisors to recommend a veto if the bill were presented to the President in its current form.

Below is a discussion of our specific concerns with the Committee mark-up. We look forward to working with the Committee to resolve these concerns as the bill moves forward.

Objectionable Legislative Riders

The Administration strongly opposes the environmental and other authorization provisions in the Committee bill, which are inappropriate for inclusion in an appropriations act. Such riders rarely receive the level of congressional and public review required of authorization language, and they often override existing environmental and natural resource protections.

The Administration believes that the following are among the most objectionable provisions.

- National Monument Designation (Sec. 335). This rider would undermine long-standing Presidential authority by denying funds for any national monuments designated after 1999. It represents a back-door attempt to nullify five recent designations, which the American public has strongly endorsed, and to prevent the President from moving decisively in the future to protect and preserve other sites for future generations.

- Interior Columbia Basin Ecosystem Management Project (ICBEMP) (Sec. 334). This provision would unnecessarily block ICBEMP completion, after seven years of work and approximately $50 million invested in scientific analyses and public hearings. The rider would halt the improvement in Federal land management in the Columbia River Basin designed to protect rangeland, forestland, wildlife, and fish habitat.

- American Heritage Rivers (Sec. 327). The provision would diminish opportunities for inter-agency coordination and cooperation, thereby preventing the participating Federal agencies funded in this bill from offering the most effective assistance to river communities throughout the country.

- Urban Resource Partnership. This language would prohibit funding for the Urban Resource Partnership, an innovative environmental justice initiative, that delivers needed technical assistance and funding for natural resource projects in under-served urban communities.

- Kyoto Protocol (Sec. 330). This section purports to prohibit Federal agencies funded in this bill from implementing the Kyoto Protocol. It is unnecessary, as the Administration has no intent to implement the Protocol prior to congressional ratification. To the extent this language might reach expenditures for negotiations with foreign governments, it would raise serious constitutional concerns, because the Constitution commits to the President the power to decide whether to engage in such negotiations.

- Prohibit Establishment of Two National Wildlife Refuges (Secs. 119 and 122). By preventing the use of funds to establish new National Wildlife Refuges on the Kankakee River in Illinois and Indiana, and in the Yolo Bypass of the San Francisco Bay in California, these provisions would infringe on the Interior Department's ability under current law to protect and preserve migratory birds and endangered species. The Fish and Wildlife Service is working on both of these proposals with the Army Corps of Engineers and many State and local groups.

- Tribal Contract Moratorium (Sec. 331). The House would again place a one-year moratorium on the Bureau of Indian Affairs and the Indian Health Service from entering into new or expanded self-determination contracts, grants, or compacts with Tribes. This provision would interfere with the long-standing objective of tribal self-determination and self-governance and would be contrary to the government-to-government policy the Federal Government has with Tribes. A moratorium provision was introduced in the Senate in FY 2000, but later dropped during final negotiations.

- Grazing Permits (Sec. 116). This rider would automatically extend for up to 10 years any permit to graze livestock on public lands that expires in FY 2001, unless the Interior Secretary has completed environmental reviews under the National Environmental Policy Act (NEPA). There is no demonstrated need for this provision, because the Bureau of Land Management (BLM) will complete in FY 2001 the processing of all permits scheduled to expire in that fiscal year. This provision would give an incentive for grazing operations with a poor environmental record to delay processing compliance in hopes of winning an automatic renewal.

- Infringement on Executive Authority. The Administration objects to a number of provisions in the bill that would require congressional approval before Executive Branch execution. The Administration will interpret these provisions to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in INS v. Chadha.

The Administration urges the Committee to report a clean bill that does not attempt to roll back environmental protections or tribal policies, benefit special interests, or circumvent authorization or administrative procedures by attaching riders to appropriations bills.

Lands Legacy Initiative/Land and Water Conservation Fund (LWCF)

The Administration strongly opposes the Committee decisions not to fund major portions of the President's Lands Legacy Initiative. Such reductions are unacceptable. The FY 2001 congressional budget resolution has placed these important conservation programs in jeopardy by rejecting the Administration's request for a dedicated funding stream. The Committee has followed with a insufficient overall funding level for the initiative that represents a 75-percent cut to the Administration's request and a 56-percent reduction from the FY 2000 enacted level. These reductions would undermine Federal land conservation efforts to protect national treasures, such as the Everglades, Lewis and Clark National Historic Trail, California Desert, Lake Tahoe Basin, Giant Sequoia groves, Silver Mountain tundra, Colorado Sand Dunes, and various Civil War Battlefields. State and community conservation efforts would also suffer due to inadequate Federal support for State and local programs to acquire and protect environmentally-sensitive lands, enhance forests and wildlife habitat, promote urban forests and outdoor recreation, and address sprawl. These reductions would foreclose opportunities to protect those priority locations, such as the great Northern Forests, that are vulnerable to development pressures. It would be short-sighted not to provide adequate support for the important Lands Legacy Initiative, given the bipartisan recognition of the need for the Federal Government, the States, and the private sector to protect open spaces and preserve America's great places.

Department of Energy

The Administration strongly opposes the Committee's decision to underfund critical programs at the Department of Energy to enhance our energy efficiency. The Committee funds these programs at a level below even last year's level and $120 million below the President's request. Particularly at this time of increased focus on our energy security and energy infrastructure, it would be irresponsible for the Congress not to adequately fund this important part of the Administration's energy policy. The important breakthroughs in energy efficiency technologies and practices that these programs support will help make America more energy independent, enhance reliability, and save money for businesses and consumers. Examples of important programs seriously affected include efforts to increase the energy efficiency of vehicles and home weatherization assistance to help reduce energy bills for low-income households.

In the past several years, the Committee has repeatedly attempted to mask dramatic cuts below the Administration's budget for energy conservation by moving programs between the Fossil Energy R&D and Energy Conservation accounts. This year, the Committee is proposing to merge those two accounts completely. Such a merger would make budgeting and financial management more difficult and appears primarily intended to mask once again severe cuts to the Energy Conservation request. The Administration opposes the merger of these accounts.

Native American Programs

The Administration appreciates the Committee's continued support for Indian trust funds management improvements but is concerned over the Committee's limited allocations for critical Native American programs. Although the Committee provides a modest $18 million increase over the FY 2000 enacted level for the operations of the Bureau of Indian Affairs (BIA), this level is simply inadequate to fund the current level of services and undercuts the Administration's Government-wide Native American Programs Initiative. Of particular concern is the Committee's decision to reduce funding for BIA construction $13 million below the FY 2000 enacted level and $182 million below the President's request. The Committee's funding reduction would seriously undercut BIA's ongoing efforts to maintain safe schools, provide enhanced educational opportunities for nearly 50,000 Indian children, improve school accountability and performance, strengthen tribal college operations, improve public safety throughout Indian Country, and assist in improving quality of life on reservations through the housing improvement and road maintenance programs. The Administration urges the Committee to support the Native American Programs Initiative.

The Administration is very concerned that the Committee has significantly underfunded health care services to Native Americans and Alaska Natives. Native Americans continue to experience health disparities -- mortality rates for alcoholism, tuberculosis, diabetes, and accidents are all more than three times higher for Indian people than they are for all Americans. The Indian Health Service (IHS) finances access to health care for 1.5 million Native Americans. The Committee has included only $30 million of the $230 million increase requested to improve access to health care for Native Americans. The President's FY 2001 Budget proposes to support an additional 1,460 hospitals days and 57,200 additional visits to doctors and dentists purchased from the private sector through Contract Health Services. The budget also seeks increased support for tribally-operated facilities and services for diabetes, cancer, heart diseases, emergency medical services, and dental and mental health. The Committee allocation would force IHS to absorb anticipated cost increases in FY 2001 and cause a further reduction in health services.

Clean Water Action Plan

The Administration is concerned with reductions to other key programs, including Clean Water Action Plan (CWAP). Such reductions would halt the substantial progress made to date in improving water quality and watershed health. Efforts to improve or restore over 11,000 miles of stream corridor by FY 2005, accelerate range allotment planning, and clean up miles of polluted streams caused by past coal mining practices under the Administration's Appalachian Clean Stream Initiative would be in jeopardy. Further, the reductions in science assistance to Federal, State, and local agencies would hinder efforts to assess water quality and meet responsibilities for water quality protection. Similarly, the decrease in Forest Service CWAP funding would dramatically affect road maintenance and decommissioning, rangeland vegetation management, fish habitat and wildlife inventory and monitoring activities, watershed improvements, and the Stewardship Incentive Program.

Land Management Operations

The Administration commends the Committee for taking steps to address some operational and maintenance needs of land management agencies in the Department of the Interior and the Forest Service in the Department of Agriculture. The funding levels provided, however, still fail to address adequately many priority maintenance and operational needs identified in the President's budget, including the Forest Service recreation and tourism initiative, the National Park Service's Natural Resource Challenge, Fish and Wildlife Service law enforcement, and BLM management of the Headwaters Forest and other specially designated areas.

In addition, by failing to include the requested funds for forest planning, the bill would contribute to the backlog of land management plans needing revision and prevent the Forest Service from integrating current science and public priorities into forest plans. Species inventory and monitoring funding would be reduced by 27 percent from the President's budget. This reduction could undermine the credibility and legal defensibility of natural resource projects that provide goods and services to the American people. Furthermore, adequate funding for survey and manage activities, a requirement for most projects in the Pacific Northwest, has not been incorporated.

The bill funds forest products at a level of $25 million, or eleven percent, above the request, at the expense of the wildlife management and ecosystem planning programs. The Administration urges the Committee to redirect unrequested funds to these high priority programs.

Construction Priorities

The Administration commends the Committee for directing most construction funds towards agency priorities. Unfortunately, the Committee's allocation is insufficient to maintain existing facilities, such as Indian schools and park historic structures, or to address new responsibilities, such as the National Constitution Center in Philadelphia. The Administration urges the House to provide additional funds to support the construction, major repair, and rehabilitation projects identified in the agencies' five-year priority lists.

Millennium Initiative to Save America's Treasures

The Administration objects to the Committee decision not to fund the $30 million Presidential initiative to commemorate the Millennium by preserving the Nation's historic sites and cultural artifacts that are America's treasures. We urge the Committee to restore funding for this highly successful program.

U.S. Territory Programs

The Administration objects to the Committee's decision not to provide the full $10 million reimbursement to Guam for costs imposed upon it by the U.S. Compact of Free Association with the Micronesian nations. The territorial government is incurring significant health, education, and other costs in providing essential services to citizens of the nations living in Guam by virtue of the compact. In addition, the Administration is disappointed that the Committee has refused to support the proposed $10 million advance appropriation for the Virgin Islands. This funding would provide the fiscally hard-pressed territorial government with needed aid and an incentive to continue reforming its budget practices.

National Foundation on the Arts and Humanities

The Administration strongly objects to the Committee-proposed funding levels for the National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), and the Institute for Museum and Library Services (IMLS). The Committee freezes these important cultural programs at their FY 2000 enacted level. This level would prevent NEA from moving forward with its Challenge America program to support, directly or in partnership with States, arts education and access to the arts in thousands of under-served communities throughout the country. NEH would not be able to expand its summer seminar series to provide professional development opportunities to our Nation's teachers, nor broaden the reach of its Rediscover America initiative to bring the humanities to more communities nationwide. IMLS would be precluded from moving forward on digitization efforts, and from expanding after-school programs in museums and on-line access to museums. We urge the Committee to provide the Administration's request for these important cultural, educational, and artistic programs for communities across America. The Administration supports an amendment expected to be offered to increase funding for NEA and NEH.

Smithsonian and Other Cultural Agencies

The Committee's $423 million overall funding level for the Smithsonian, which is $40 million less than the Administration's request and $15 million below the FY 2000 enacted level, would prevent the Institution from addressing critical repair and restoration needs. The National Gallery of Art and the U.S. Holocaust Memorial Museum have similar maintenance needs and should be funded at the President's requested levels. The Administration seeks to preserve and protect our Nation's treasures, as well as to provide safe and continued access to the public, and will work with the Committee to fund these important programs.

The Administration is concerned that the Committee provides no funding for continued operation of the Institute of American Indian Arts in Santa Fe, New Mexico, and cuts nearly in half the $15 million request for the Office of Navajo and Hopi Indian Relocation. We urge the Committee to fund the new $1 million District of Columbia Arts and Education Grants program within the Commission of Fine Arts, which is a community-based arts education program that will provide training and exposure in the arts to under-served young people and reinforce the importance of the arts as basic to education.

HOUSE

The Honorable C. W. Bill Young / Obey, Skeen & Kaptur
Chairman, Committee on Appropriations
U.S. House of Representatives
H-218, The Capitol
Washington, D.C. 20515-6015

Dear Bill:

As the House moves to Floor consideration of the Fiscal Year (FY) 2001 Appropriations Bill for the Department of Agriculture (USDA), the Director of the Office of Management and Budget will be providing you with a comprehensive review of the bill from the Administration's standpoint. I share his concern over a number of the bill's provisions, as expressed in his letter. I also share his view that the bill does not have sufficient discretionary funding for critical programs and contains highly objectionable legislative riders in a number of areas. However, I wanted to focus on three primary concerns from my perspective as Secretary of Agriculture. Specifically:

Assistance to Farmers. There is still a farm crisis. Prices are too low. Many farmers are struggling to make ends meet. The Administration included in its budget proposals and formally submitted to the Congress on May 3, 2000, detailed legislation to provide an improved farm safety net through counter-cyclical income payments, strengthened conservation programs, and other actions. The pending Appropriations Bill includes over $100 million in additional payments for apple and potato producers. While I have every sympathy for the people involved in these industries, I urge the Congress to enact a more comprehensive safety net and not
to deal with the emergency needs of farmers on an *ad hoc* basis through the appropriations process. The Congressional Budget Resolution establishes a reserve fund for agriculture of $5.5 billion in FY 2000 and $1.64 billion in FY 2001, which could be used to provide comprehensive help to those farmers who need it. I am mindful that substantial elements of the Administration's proposal could be implemented yet this year if the necessary authorizations were passed by Congress, and I strongly urge the Congress to do so.

I also note in the pending bill that the budget for the Foreign Agricultural Service (FAS) is frozen at the FY 2000 level. The Administration requested a modest increase of $4.4 million for the FAS to strengthen activities in support of agricultural trade, which is not provided in the bill. Further, the Administration's request for $10 million in outreach funds has been funded at only $3 million. As the farm crisis continues, many farmers have an urgent need for USDA credit
assistance, and we have a responsibility to assure that our assistance is made available equally to all eligible farmers. I would urge the House to provide more adequate levels for these programs. Finally, the Appropriations Committee has provided $25 million for the Common Computing Environment, a substantial increase over the $12.6 million provided in FY 2000, but far short of the Administration's request of $75 million for this activity, and frozen funding for Rural Development salaries and

expenses at a level which is $47 million below the request. Installation of improved technology and adequate staffing in our local offices are both crucial to our ability to deliver effective services to rural America, including those envisioned by the Congress in the "Freedom to E-File" bill; and I would urge the House to fund the Administration's request in this area.

Conservation. The pending bill provides $70 million less than the budget request for the Conservation Operations Program of the Natural Resources Conservation Service (NRCS). The bill and report include language prohibiting NRCS funds from being used for climate change, biomass, urban resource partnerships, the American Heritage Rivers initiative, or the Community Federal Information partnership. This will reduce the ability of the NRCS to provide technical assistance to farmers and other landowners in areas such as animal waste management, highly erodible land conservation, and soil carbon sequestration, as well as to help local communities in their voluntary efforts to improve resource conservation. The bill also legislates a $174 million cap on funding for the Environmental Quality Incentives Program compared with the Administration's request of $325 million for this important program which provides financial assistance to farmers who are willing to install important conservation measures on their land. I urge the House to fund these programs more generously and delete these unwise prohibitions.

Food Safety. The USDA components of the President's Food Safety Initiative are underfunded by $21 million and the bill is also $14 million below the budget for the meat and poultry program in the Food Safety Inspection Service (FSIS). The FSIS problem is aggravated by language mandating that inspection of ratities, such as emus and ostriches, currently paid for by industry, be provided at taxpayer expense. These actions will make it more difficult to successfully continue the implementation of the Hazardous Analysis and Critical Control Points program (HACCP). The HACCP system is greatly reducing the incidence of meat and poultry contamination, thereby improving food safety; and I urge the House to fully fund the Administration's request in this area, and to delete the mandate for taxpayer financed ratite inspection unless additional funding is provided for this activity. In addition, I urge the House to fully fund the President's Food Safety Initiative and to provide additional funding for implementation of the Food Quality Protection Act, particularly for a number of pesticide related activities in the Cooperative State Research, Education, and Extension Service.

I greatly appreciate your attention to these concerns. Identical letters are being sent to Congressmen Obey and Skeen and Congresswoman Kaptur.

Sincerely,

DAN GLICKMAN
Secretary

SENATE

The Honorable Ted Stevens / Byrd, Cochran & Kohl
Chairman, Committee on Appropriations
United States Senate
S-128, The Capitol
Washington, D.C. 20510-6025

Dear Ted:

As the Senate moves to Floor consideration of the Fiscal Year (FY) 2001 Appropriations Bill for the Department of Agriculture (USDA), I wanted to bring to your attention my views on three of the key areas covered by the bill. The Director of the Office of Management and Budget will be providing you with a more comprehensive review of the bill from the Administration's standpoint and I share his concerns as expressed in those letters, but I wanted to focus on three primary concerns from my perspective as Secretary of Agriculture. Specifically:

Assistance to Farmers. There is still a farm crisis. Prices are too low. Many farmers are struggling to make ends meet. The Administration included in its budget proposals and formally submitted to the Congress on May 3, 2000, detailed legislation to provide an improved farm safety net through counter-cyclical income payments, strengthened conservation programs, and other actions. The pending Appropriations Bill includes almost $1 billion in additional payments for dairy and livestock producers. While I have every sympathy for the people involved in these industries, I urge the Congress to enact a more comprehensive safety net and not
to deal with the emergency needs of farmers on an *ad hoc* basis through the appropriations process. The Congressional Budget Resolution establishes a reserve fund for agriculture of $5.5 billion in FY 2000 and $1.64 billion in FY 2001, which could be used to provide comprehensive help to those farmers who need it. I am mindful that substantial elements of the Administration's proposal could be implemented yet this year if the necessary authorizations were passed by Congress, and I strongly urge the Congress to do so.

I also note in the pending bill that the Administration's request for $4.5 billion in farm loans has been funded at only $3 billion, and the Administration's request for $10 million in outreach funds has been funded at only $3 million. As the farm crisis continues, many farmers have an urgent need for USDA credit
assistance, and we have a responsibility to assure that our assistance is made

available equally to all eligible farmers. I would urge the Senate to provide more adequate levels for these programs. Finally, the Appropriations Committee has provided $25 million for the Common Computing Environment, a substantial increase over the $12.6 million provided in FY 2000, but far short of the Administration's request of $75 million for this activity. In addition, Section 734 of the bill would block USDA from implementing a common support staff to service the entire county-based field organization. This would result in increased costs and inefficiencies, compounding the funding limitations. Installation of improved technology in our local offices is crucial to our ability to deliver effective services to farmers, including those envisioned by the Congress in the "Freedom to E-File" bill; and I would urge the Senate to fund the Administration's request in this area.

Conservation. The pending bill provides $33 million less than the budget request for the Conservation Operations Program of the Natural Resources Conservation Service (NRCS). This will reduce the ability of the NRCS to provide technical assistance to farmers and other landowners in areas such as animal waste management, highly erodible land conservation, and soil carbon sequestration. These are serious problems where the activities of the NRCS can benefit both individual farmers and the Nation as a whole. The bill also legislates a $174 million cap on funding for the Environmental Quality Incentives Program compared with the Administration's request of $325 million for this important program which provides financial assistance to farmers who are willing to install important conservation measures on their land. I would urge the Senate to fund these programs more generously.

Food Safety. I want to thank the Appropriations Committee for fully funding the USDA components of the President's Food Safety Initiative and also providing adequate funding for many components of the meat and poultry program in the Food Safety Inspection Service (FSIS). However, the Committee's funding level for FSIS is still about $10 million below the budget request, and will make it more difficult to successfully continue the implementation of the Hazardous Analysis and Critical Control Points program (HACCP). The HACCP system is greatly reducing the incidence of meat and poultry contamination, thereby improving food safety; and I would urge the Senate to fully fund the Administration's request in this area. I also note that the bill includes language prohibiting FSIS from conducting shell egg surveillance, an important part of the Egg Safety Action Plan. Salmonella illness from contaminated eggs and egg products continues to be an important health problem. I urge the Senate to delete this prohibition and allow us to move forward with this important food safety effort. In addition, I am also concerned about inadequate funding for implementation of the Food Quality Protection Act, particularly for a number of pesticide related activities in the Cooperative State Research, Education, and Extension Service.

I greatly appreciate your attention to these concerns. Identical letters are being sent to Senators Byrd, Cochran, and Kohl.

Sincerely,

DAN GLICKMAN
Secretary

White House Climate Change Task Force

734 Jackson Place, N.W. • Washington, DC 20503

FACSIMILE TRANSMISSION SHEET

To	MARTHA FOLEY, ROGER BALLENTINE	**From**	DEBBIE REED
Office	62271 61736	**Date**	
Fax Number		**Fax Number**	395-2311
Office Number		**Office Number**	395-2310

Comments:

(1) 2 pgs — VA/HUD FY 99 conference report language;

(2) 3 pgs — VA/HUD HOUSE FY 00 report language;

(3) Administration's letter to Bill Young (10/1/99) - FY00 VA/HUD → reference to Kyoto Bill & Report language (1 page)

Pages: ____________ , including this cover sheet.

IF TRANSMITTAL IS INCOMPLETE, PLEASE PHONE

VA HUD Conference Report FY99

ozone formation in the ambient air, including the process that forms pollutants in rural and cleaner urban environments, as recommended by the 1991 National Academy of Sciences/National Research Council's "Rethinking the Ozone Problem in Urban and Regional Air Pollution." The new large chamber will provide information that EPA and state regulators can use to develop more cost-effective strategies for controlling pollution. In particular, this chamber will allow more accurate measurements of positive and negative reactivity of VOC emissions from architectural coatings.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (EPA) shall enter into an agreement with the National Academy of Sciences (NAS) to conduct a comprehensive study of the effects of copper in drinking water on human health. Once completed, the Administrator of the EPA shall review the NAS study, and report to the Congress on what plans the agency has to review the copper action level pursuant to section 1412(b)(9) of the Safe Drinking Water Act.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

Appropriates $1,848,000,000 for environmental programs and management instead of $1,856,000,000 as proposed by the House and $1,840,500,000 as proposed by the Senate. The conferees have included bill language providing a limitation on the use of funds to implement or administer the interim guidance relating to title VI of the Civil Rights Act of 1964, with certain exceptions, as proposed by the House. The conferees note that this provision does not provide the Agency statutory authority to implement its Environmental Justice Guidance. Rather, it simply clarifies the applicability of the Interim Guidance with respect to certain pending cases as an administrative convenience for the Agency. With respect to any cases that may be pending before EPA and that are not or will not be covered by the Interim Guidance, the conferees urge EPA to resolve such cases as expeditiously as possible and without undue delay.

It is the conferees' understanding that the currently filed South Bronx complaint is covered by the Interim Guidance and should be dealt with expeditiously.

The conferees have also adopted new language prohibiting the use of funds to take certain actions for the purpose of implementing or preparing to implement the Kyoto Protocol, instead of language proposed by the House. The conferees note that this restriction on the use of funds shall not apply to the conduct of education activities and seminars by the Agency.

The conferees note that several programs funded through this Act conduct science and technology research that are associated partly with global climate change. To the extent that the conferees have funded this work, they have done so based on each program's individual merits of contributing to issues associated with domestic energy production, national energy security, energy efficiency and cost savings, related environmental assessments, and general energy emission improvements. The bill language is intended to prohibit funds provided in this bill from being used to implement actions called for solely under the Kyoto Protocol, prior to its ratification.

The Byrd-Hagel Resolution which passed in 1997 (S. Res. 98) remains the clearest statement of the will of the Senate with regards to the Kyoto Protocol, and the conferees are committed to ensuring that the Administration not implement the Kyoto Protocol without Congressional consent. The conferees recognize, however, that there are also longstanding energy research programs which have goals and objectives that, if met, could have positive effects on energy use and the environment. The conferees do not intend to preclude these programs from proceeding, provided they have been funded and approved by Congress.

To the extent future funding requests may be submitted which would increase funding for climate change activities prior to Senate consideration of the Kyoto Protocol (whether under the auspices of the Climate Change Technology Initiative or any other initiative), the Administration must do a better job of explaining the components of the programs, their anticipated goals and objectives, the justification for any funding increases, a discussion of how success will be measured, and a clear definition of how these programs are justified by goals and objectives independent of implementation of the Kyoto Protocol. The conferees expect these items to be included as part of the fiscal year 2000 budget submission for all affected agencies.

The conferees have agreed to the following increases to the budget request:

1. $2,500,000 for the Michigan Biotechnology Institute for continued development of viable cleanup technologies.

2. $1,300,000 for the Lake Wallenpaupack, Pennsylvania environmental restoration project.

3. $180,000 for the Saint Vincent watershed environmental restoration project.

4. $500,000 for continued activities of the Small Business Pollution Prevention Center at the University of Northern Iowa.

5. $1,300,000 for the Great Lakes National Program Office.

6. $750,000 for the painting and coating compliance project at the University of Northern Iowa.

7. $550,000 for continuation of the Idaho Water Initiative.

8. $1,700,000 for the Sacramento Regional County Sanitation District to continue the cost-shared Sacramento River Toxic Pollution Control Project. This appropriation and previously appropriated funds shall be administered by the Sacramento Regional County Sanitation District in accordance with the workplans submitted by the District.

9. $1,300,000 for continuation of a water reuse demonstration project in Yucca Valley ($500,000) and the continuation of a water distribution system study in Twentynine Palms ($800,000), California.

10. $600,000 for ongoing activities at the Canaan Valley Institute.

11. $8,000,000 for the Southwest Center for Environmental Research and Policy (SCERP).

12. $2,600,000 for the National Institute for Environmental Renewal to establish a regional environmental data center, and to de-

106TH CONGRESS | HOUSE OF REPRESENTATIVES | REPORT
1st Session | | 106-286

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 2000

AUGUST 9, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALSH, from the Committee on Appropriations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2684]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes.

INDEX TO BILL AND REPORT

59-837

about Brownfields, urban sprawl, empowerment zones, and redevelopment. In addition, there was little if any opportunity prior to the release of the guidance for any public or stakeholder input. Therefore, the Committee provided in the fiscal year 1999 Appropriation Act that no funds be used to implement the interim guidance. Identical bill language to continue this prohibition has also been included in the fiscal year 2000 Act.

At this point, there does not appear to be a clear strategy to resolve this issue. A FACA Committee was established and has met on several occasions, but has not appeared to have resolved any of the major issues on how the Agency should handle Title VI complaints. Currently, the Agency is in the process of establishing a new stakeholder process for input on some of these same contentious issues. The Committee is concerned that there may be conflicts between internal and external guidance developed by EPA that will make it difficult to resolve complaints in a fair and efficient manner. Equally important, developing internal guidance before final guidance has been subjected to full public comments conflicts with Congressional intent.

On January 20, 1999, the General Counsel of the United States General Accounting Office issued an opinion (B–281575) that EPA's Interim Guidance clearly affects the rights of non-Agency parties and constitutes a "rule" under the Small Business Review and Enforcement Fairness Act (SBREFA), which is subject to Congressional review. If the Agency intends to promulgate guidance rather than a rulemaking, procedural requirements of a rulemaking should be followed including input from the small business community, sufficient time for notice and comment, published response to comments provided to the agency, interagency review, and analysis of any unfunded mandates on State and local governments. The Committee is very concerned that there be sufficient time for review of any new guidance given the lack of stakeholder review prior to the release of the Interim Guidance last year. In addition, the Committee requests that EPA examine successful State and local programs as model programs, and look at the possibility of delegating initial review and resolution of Title VI claims to States with such established model programs.

The Committee has also again this year included bill language which prohibits the use of funds to take certain actions for the purpose of implementing or preparing to implement, the Kyoto Protocol. The Committee is concerned with reports that, during the past year, the Agency may have strayed across the fine line separating education from advocacy. Although the Agency may under the current prohibition continue to conduct educational seminars and activities, it should ensure balance in those programs. Balance does not mean merely that there is an acknowledgment of viewpoints different from those of the Administration, but that qualified representatives of those viewpoints are included in the programs and in numbers roughly equal to the participants representing the Administration's positions. One dissenting voice in what is otherwise an obviously stacked or biased program does not constitute balance.

The bill language is intended to prohibit funds provided in this bill from being used to implement actions called for under the

Kyoto Protocol, prior to its ratification. Based on an identical provision in the 1999 Appropriations Act, the bill language prohibits the development of rules, regulations, decrees, orders, and non-regulatory actions, such as programs or initiatives, for the purpose of implementing, or in preparation of implementating the Kyoto Protocol.

The Byrd-Hagel Resolution (S. Res. 98), which passed with a vote of 95–0 in July 1997, remains the clearest statement of the will of the Senate with regard to the Kyoto Protocol. Through the prohibition contained herein, the Committee is committed to ensuring that the Administration not implement the Kyoto Protocol without prior Congressional consent, including approval of any implementing legislation, regulation, programs or initiatives.

It has come to the attention of the Committee that the Agency is proposing to add 40 new ambient air toxics monitors during fiscal year 2000 to the 19 monitors which have already been funded. Because of the potential significance of the information to be gained from this monitoring program and the potential investment needed, the Committee believes that it is important for the Agency to have a well developed plan in place to direct the installation and operation of any new monitors. As a result, the Committee directs EPA to develop a comprehensive plan to guide the Agency's efforts in establishing a monitoring program for air toxics. The plan should describe in detail the overall goals and objectives of the monitoring program, including whether the data generated will be used to: (1) characterize ambient concentrations and the public's exposure to air toxics at the national, regional or local level; (2) quantify public health risks at the national, regional, or local level; (3) guide regulatory decisions; (4) evaluate and improve emissions inventories; (5) validate dispersion models; and/or (6) help identify sources of emissions.

Once the objectives and goals have been determined, the plan should provide information on: (1) the number of monitors and measurements that will be needed to satisfy these goals; (2) the specific pollutants to be measured and the ability of the present technology to make measurements for the specific pollutants; and (3) the approximate level of investment needed over time to meet the program's goals and objectives. It is important that the plan include a realistic assessment of the amount of data likely to be generated given existing and anticipated budgetary expenditures, a timeline for when the data will be available for analysis, and an assessment of the likely usefulness of the data in drawing statistically valid estimates of the public's exposure to air toxics on a national or regional level.

If the data generated from the monitoring program are expected to support regulatory decisions, the plan should list the specific regulatory programs impacted or expected to be impacted and describe in detail how the data will be used to guide decisionmaking. Given the likely strengths and limitations of the data, the plan should also assess how the Agency will integrate the resulting information with other sources of information on air toxics from emission inventories, such as the National Toxics Inventory, and air toxics models, such as the ASPEN model and associated National Air Toxic Assessment. The plan should assure that a signifi-

Clean Air Partnership Fund/Superfund/Drinking Water State Revolving Fund. The Administration objects to the decision by the Senate not to fund the Clean Air Partnership Fund initiative. We also regret the House's severe reduction to the request for the same program initiative, which would provide grants to State and local governments for innovative projects that reduce multiple pollutants, such as air toxics, pollutants that produce soot and smog, and greenhouse gases.

We oppose the Senate and House decisions to reduce Superfund by $103 million and $50 million, respectively, a program that has operated, under this Administration, at a record pace to clean up toxic waste dumps. This reduction would needlessly jeopardize public health for citizens living near affected sites. The Administration further objects to the House and Senate proposal to finance half of the Superfund appropriation from general revenue. Such financing is contrary to the "polluter pays" principle and would be unfair to the general public, who would be forced to pay for the irresponsible actions of polluters. The Administration also urges the conferees to fully fund the request for the Drinking Water State Revolving Fund, which the House has reduced by $50 million.

Earmarked Projects. Given the major reductions proposed for EPA's Operating Program, the Administration particularly objects to the exceptionally high number of earmarked projects included by the House and Senate for EPA, and the corresponding reduction or elimination of several high-priority environmental programs and initiatives: EPA's Operating Program, CCTI, the Montreal Protocol, the Mexican border wastewater treatment funding program, and Sustainable Development Challenge Grants. We urge the conferees to reduce unrequested funding for lower-priority projects.

Bill and Report Language. The Administration strongly opposes House report language related to the Kyoto Protocol. The language could be interpreted broadly to prevent activities that limit greenhouse gases either voluntarily or under existing authority -- for example, through enhancing energy efficiency -- but that are not undertaken to implement the Kyoto Protocol. This is a cumbersome restriction that both breaches the agreement reached last year on this issue and is unnecessary, given the Administration's intent not to implement the Protocol until it is ratified by the Senate. The Administration appreciates the Senate's commitment to the agreement reached last year on this issue.

The Administration opposes House-passed bill and report language that could delay EPA's resolution of claims under the 1964 Civil Rights Act. These and other legislative authorizations are inappropriate in appropriations bills and deny the public and Members of Congress the opportunity to examine and debate these proposals openly. The Administration urges the conferees to remove the unduly restrictive language in the final bill.

United States Senate

WASHINGTON, D.C. 20510

May 8, 2000

The Honorable Mitch McConnell
The Honorable Patrick Leahy
Subcommittee on Foreign Operations, Export Financing, and Related Programs Appropriations
United States Senate
Washington, DC 20510

Dear Chairman McConnell and Ranking Member Leahy:

We are writing to draw your attention to an important issue as you begin deliberations on the Foreign Operations FY2001 Appropriation bill.

Over the past two years, Congressional appropriators have included provisions in the Foreign Operations and other appropriation bills intended to prohibit the use of funds to "propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol" prior to its ratification. (See 106th Congress, H.R.3422, Sec. 583.) It has come to our attention that similar and possibly more expansive language may be proposed for inclusion in this year's Foreign Operations Appropriation bill. We urge to you to reject any such provisions because they have potential to interfere with clearly authorized administrative activities and because they suggest that the Constitution does not sufficiently delineate powers vested in the Executive Branch and powers vested in the Senate with regard to treaties, a notion with which we strongly disagree.

As you know, the Clinton Administration is currently engaged in international discussions and activities pursuant to the United Nations Framework Convention on Climate Change (UNFCCC). These include scientific and economic research, policy development, such as sharing our successful national experience with market-based programs to reduce pollution, technical assistance and ongoing negotiations to reduce global greenhouse gas (GHG) emissions. Significant progress was achieved on this front in March when India set goals to produce 10 percent of its electricity from renewable sources by 2012 and improve energy efficiency in power production by 15 percent by 2008. In addition, Argentina has announced its intention to undertake a national program to reduce GHG emissions.

It is our belief that these Clinton Administration activities do not constitute implementation or preparation for implementation of the Kyoto Protocol, and we know of no proposed activities that would. The Foreign Relations Committee held two oversight hearings this past year to investigate whether certain activities of the Agency for International Development and the Council on Environmental Quality constituted implementation or preparation for implementation, and no such evidence emerged. The hearings made clear that the Clinton Administration has the authority to undertake these activities under the Constitution and the UNFCCC. The hearing records also attest to the environmental, economic and social benefits of engaging developing nations in a global effort to reduce GHG emissions.

Chairman McConnell & Ranking Member Leahy
May 8, 2000
Page 2

The UNFCCC, which has been ratified by the U.S. and 180 other countries, commits the U.S. to engaging nations in a broad range of activities and provides the Administration the authority to do so in several provisions. In just one instance, for example, the UNFCCC's Article 4 subparagraph (c) states that all Parties will:

> Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors.

More important, the Constitution vests power over foreign policy and treaties with the Executive Branch, providing clear authority for the Executive Branch to undertake a broad range of discussions and other activities with other nations related to the ongoing negotiations to reduce global GHG emissions. We point out that the Bush Administration undertook similar activities as part of its foreign policy program.

Despite our confidence that the Administration has not violated and has not yet been hindered by Section 583 of the *Foreign Operations FY2000* Appropriation bill, we believe that such provisions are unnecessary and potentially problematic.

Foremost, we believe that such a provision sets a dangerous precedent and has the potential to *weaken the very constitutional principle its supporters purport to uphold. It is our view that* Article 2 of the Constitution makes it absolutely clear that the Executive Branch cannot *implement a treaty without Senate consent* – and *we know of no credible argument otherwise.* Section 583 of the Foreign Operations FY2000 Appropriation bill and similar provisions could be construed to *mean the Senate views Article 2 as ambiguous and in need of annual clarification* or reaffirmation. We believe it is not necessary for the Senate to clarify or reaffirm its powers under the Constitution. *If the Clinton Administration were to implement the Kyoto Protocol* unconstitutionally, we would implore the Senate to quickly assert its powers with regard to treaties, put an end to such activity and seek the proper legal recourse, and we believe that no authority beyond the Constitution would be necessary to do so.

Further, such provisions open the process to abuse by those who – it appears – hope to undermine existing Administration authority under the Constitution and the UNFCCC. For example, Representative Joseph Knollenberg has requested that the State Department's Inspector General investigate the Department's participation in an environmental policy workshop in Germany this year to determine if the Administration violated language attached to the Commerce, Justice, State FY2000 Appropriation bill. Based on what we know of this meeting, we expect the State Department will be fully exonerated, and we question whether the intent of the request is to uncover a truly unconstitutional act or simply to hinder activities that Mr. Knollenberg may oppose but that are clearly constitutional and that have been authorized by Congress. It is important to note that in the legislative history of these provisions, Mr. Knollenberg has not, in our view, offered a single example of a hypothetical administrative activity that would not be taken as a power vested with the Executive Branch in the Constitution, is not authorized under the UNFCCC, clean air, energy or other statutes, or is not clearly unconstitutional.

For these reasons, we urge you to oppose attaching any such provisions to the Foreign Operations FY2001 Appropriation bill. We thank you for considering our views.

Sincerely,

cc:
The Honorable Ted Stevens, Chairman of the Senate Committee on Appropriations
The Honorable Robert C. Byrd, Ranking Member of the Senate Committee on Appropriations

Debra Reed
05/15/2000 05:50:50 PM

Record Type: Record

To: Martha Foley/WHO/EOP@EOP

cc: Roger S. Ballentine/WHO/EOP@EOP, David Gardiner/CEQ/EOP@EOP
Subject: Rider -- Report Language

Martha -- the following is pertinent to Rep. Knollenberg introducing FY2000 rider language with the new, draft report language (5 paragraphs) as circulated during Ag. Approps full committee markup:

PARAGRAPH 3 is problematic. Each sentence, taken in order, is addressed below:

1st SENTENCE:
"This year the Committee has clarified that funds shall not be spent for items found solely in the Kyoto Protocol and nowhere in the laws of the United States."

Response/Talking Point(s):
- By barring work on "items found solely in the Kyoto Protocol," the rider seeks to prohibit Executive Branch officials, including the State Department, from participating in the ongoing negotiations on the principles, rules, and guidelines for the Kyoto "flexibility mechanisms", such as emissions trading and the Clean Development Mechanism (CDM).

2nd SENTENCE:
"These items include carbon emissions trading and the clean development mechanism."

Response/Talking Point(s):
- How the Kyoto mechanisms would operate is something the Senate will need to understand fully in considering whether the U.S. should ratify the Protocol, and it is critical that U.S. interests be represented in the negotiations.
- International emissions trading and the Clean Development Mechanism (CDM) were included in the Kyoto Protocol with widespread support from U.S. industry because they are critical to reducing the cost of any international action to curb global warming.

3rd SENTENCE:
"The Committee has taken keen note of the Administration's comments that there has been confusion regarding this funding limitation."

Response/Talking Point(s):
- The Administration has **not** expressed confusion regarding the exising Knollenberg rider. Rep. Knollenberg has indicated that this "confusion" refers to remarks made by George Frampton of the Council for Environmental Quality during an appropriations hearing. Mr. Frampton's remark to Rep. Knollenberg was that there was uncertainty on Rep. Knollenberg's behalf about the interpretation of the existing rider, and that the administration would prefer the rider not be included in the future. Mr. Frampton said: "I guess certainly you (Mr. Knollenberg) expressed some uncertainty about whether it (the rider) includes some activities that the administration clearly feels are constitutionally protected activities that give rise to our not wanting to have the continuation of this uncertainty created next year."

4th SENTENCE:
"The Committee notes with disapproval dozens of expenditures by the Administration for the Kyoto Protocol."

Response/Talking Point(s):

- Despite opponents claims to the contrary, the EPA and DOE Inspector Generals have found that the Administration has not proceeded with implementation of the Protocol and has not violated previous years' anti-climate change riders.
- Continued international negotiations are not implementing the Protocol, but rather the Executive Branch exercising its constitutional authority to negotiate international agreements.

LANGUAGE TO BE ADDED TO END OF PARA. 3 (FALLBACK TO BLOCKING or OMITTING LANGUAGE in PARA. 3):

"However, nothing in this bill is meant to restrict any actions by the Administration otherwise authorized under current law or taken in connection with its authority to conduct international relations (or: negotiations)."

BACKGROUND ON CONGRESS' "DO NOTHING" CLIMATE RIDER

Existing Climate Rider. The existing (FY2000) climate rider states that "...none of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol."

New Rider. Attached to the FY 2001 Agriculture Appropriations bill is the following rider: "Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere in the laws of [the] United States." Proponents are vowing to attach it to "all" of this year's appropriations bills. Accompanying report language directs the Administration to submit the Kyoto Protocol to the Senate "within three years of the date of adoption", i.e., December 11, 2000. (Rider language attached).

History of the Rider on Appropriations Bills.

FY1999:
- Rider on VA/HUD only.
- VA/HUD conference report language clarifies intent of language is to prevent funds from being used "to implement actions called for **solely** under the Kyoto Protocol."

FY2000:
- Rider on VA/HUD as well as Foreign Ops; Commerce, Justice, State; Interior; Energy & Water; and Agriculture.
- No conference report language, but a Byrd/Bond/Mikulski colloquy makes clear that the rider doesn't restrict ongoing voluntary programs but only the proposal or issuance of "rules, regulations, decrees, or orders for the sole purpose of implementation of the Kyoto Protocol prior to its consideration by the Senate." (Sen. Bond).

Unfounded Allegations. Rep. Knollenberg and other naysayers have repeatedly used past rider language to attack the Administration's climate policies and programs, claiming at numerous appropriations hearings and in writing that the Administration is "ignoring" the appropriations rider, despite findings to the contrary by the Inspector Generals of several agencies (see below). In both oral and written questions to Administration officials (e.g., EPA, DOE, State, and particularly AID), he insists that funds are being used for "Pro-Kyoto Lobbying" of state and local entities and developing countries. This questioning has caused dozens of officials to spend thousands of hours and taxpayers' money defending their execution of legitimate, Congressionally authorized and appropriated programs.

Inspector General Investigations. In February of this year, Rep. Knollenberg wrote letters to the Inspector Generals (IG) of EPA, DOE and State, claiming that the participation of representatives from all three agencies at an international climate change workshop in Germany, and EPA participation in a domestic workshop constituted violations of the rider. His rationale was that in discussing the implementing mechanisms of the Protocol, and the necessary preconditions for successfully implementing the Protocol, staff were engaged in activities in violation of the rider. He requested IG investigations of these specific activities, as well as any other activities that may violate the legislative rider.

IG Responses: To date, EPA and DOE's IGs have responded to Rep. Knollenberg in writing, stating that they do not believe either agency's activities constitute a violation of the rider. The State Department's IG has yet to respond.

In response to Rep. Knollenberg's letter to the IGs, Congressmen Waxman and Pallone sent their own letter in March of this year to the same IGs, disagreeing with Rep. Knollenberg. They argue in a 7-page letter that: (1) the Constitution vests authority over foreign policy and the power to negotiation treaties in the Executive Branch, and that Rep. Knollenberg ignores this authority; (2) the United States has significant obligations and authorities under the United Nations Framework Convention on Climate Change (UNFCCC), and Rep. Knollenberg is trying to claim the appropriations rider "overrides" those authorities; and, (3) that Mr. Knollenberg stretches the language of the appropriations rider past its literal and plain meaning or any reasonable interpretation of Congress' intent in passing it. The Congressmen's arguments are clearly laid out in the letters to the IGs, citing the Congressional Record, appropriations and conference report language, and floor statements to back their claims. They conclude: "...we see no basis for Rep. Knollenberg's concerns that the Administration is currently acting in violation of the Kyoto appropriations language. The activities discussed in Rep. Knollenberg's letter appear to be prudent activities, authorized by the Constitution, and called for by the UNFCCC."

CONGRESS' "DO NOTHING" CLIMATE RIDER: BAD FOR THE ENVIRONMENT, BAD FOR AMERICA

An Anti-Environmental Rider on the House version of the FY 2001 Agriculture Appropriations bill states that no funds may ever be used "for the Kyoto Protocol." Proponents are vowing to attach it to "all" of this year's appropriations bills. The rider and accompanying report language are attached.

> Some believe that climate change is not a serious problem meriting serious action. Some believe that the United States should not be negotiating an international climate treaty (the Kyoto Protocol) to address the problem. Some want to tie the Administration's hands so it cannot negotiate the best treaty it can, knowing this could make ultimate ratification more difficult. The Administration cannot – and will not – "implement" a treaty without Congress' approval. But Congress should not sabotage the negotiation process or undermine legitimate efforts to curb greenhouse gases.
>
> The activities targeted by the rider involve either negotiating the Protocol through diplomacy or legitimate, Congressionally authorized efforts to increase energy security, reduce greenhouse gas emissions, and help provide opportunities for the agricultural sector.

The rider is extreme – it tries to block the United States from even trying to reach agreement with other countries on action to combat global warming.

- Scientists overwhelmingly agree that the Earth is getting warmer and that human greenhouse gas emissions are at least partly to blame. Leading U.S. companies are withdrawing from anti-Kyoto lobbying groups stating that we need to "move past" arguments over the science.
- Global warming cannot be curbed without global cooperation. The new rider simply seeks to shut down U.S. diplomatic efforts to gain that cooperation. Such efforts are a multi-agency undertaking, including active roles for USDA, USAID, DOE, EPA, and others.

It undermines the ability of the Executive Branch to conduct international negotiations, raising serious Constitutional concerns.

- The rider seeks to prohibit Executive Branch officials, including the Department of State, from participating in negotiations on the principles, rules, and guidelines for the Kyoto "flexibility mechanisms," such as emissions trading.
- How the Kyoto mechanisms would operate is something the Senate will need to understand fully in considering whether the U.S. should ratify the Protocol.
- Despite opponents claims to the contrary, the EPA and DOE Inspector Generals have found that the Administration has *not* proceeded with implementation of the Protocol and has *not* violated previous years' anti-climate change riders.
- The proposed Ag Appropriations Report language instructing the Administration to submit the Protocol to the Senate by a specified date is without foundation or precedent, and is possibly unconstitutional.

The rider may stifle U.S. efforts to achieve the bipartisan goals of a cost-effective treaty and meaningful participation by developing countries. Examples of common-sense negotiating activities that the amendment could stop include:

- Sharing with other countries the United States' successful experiences with market-based mechanisms as a tool for fighting pollution, as we promote our push for such mechanisms in the Kyoto Protocol; and

- Providing technical assistance to developing countries so that they may build the capacity to more effectively limit greenhouse gas emissions and share the responsibility to fight climate change.

The amendment is bad for American industry, farmers, and consumers – it tries to stop work on the most important tools for holding down costs as we combat global warming.

- International emissions trading and the Clean Development Mechanism (CDM) were included in the Kyoto Protocol *with widespread support from U.S. industry* because they are critical to reducing the cost of any international action to curb global warming.
- Industry, farmers and consumers all have a strong interest in seeing that the rules and guidelines on Kyoto's flexibility mechanisms are elaborated in ways favorable to U.S. interests.
- The language would deprive American farmers of the opportunity to earn credits by protecting and enhancing our carbon "sinks" through such practices as conservation tillage and planting more trees.
- Telling the Administration that it cannot work on these mechanisms is an isolationist approach, tantamount to unilateral disarmament.
- If the rider language is allowed to stand climate naysayers in Congress will continue their past practice of straining language and logic to throw an inaccurate "Kyoto" label on common-sense programs that save money for business and consumers.

ATTACHMENTS:

Background Information on the Rider
The Rider -- Bill and Report Language
DOE IG Report to Knollenberg, 4/6/00
EPA IG Response to Knollenberg, 3/20/00
Knollenberg letter to U.S. Department of State IG, 2/15/00
Waxman-Pallone letter to State Department IG (also sent to DOE and EPA IGs), 3/28/00
Kerrey, Baucus letter to Chairman Cochran, 5/3/2000
Members letter to Speaker Hastert, 2/1/00

In Bill 5/11

Bill Language

Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere in the laws of United States.

Report Language

The Committee reminds the Administration of the Constitutional power of the Senate to advise and consent to treaties. The Committee notes with disapproval that this Administration exhibited disdain for the will of the Senate when the Administration signed the Kyoto Protocol in contravention of Senate Resolution 105-98, known as the Byrd-Hagel Resolution, which was approved by a vote of 95 ayes and 0 nays.

The Committee notes with disapproval that nearly three years after the Kyoto Protocol was adopted on December 11, 1997, it still has not been submitted to the Senate for advice and consent as to ratification. The Committee is concerned that such protracted refusal to make submission to the Senate flouts the powers and prerogatives of the Congress as a whole. The Committee directs that within three years of the date of adoption, the Kyoto Protocol shall be submitted by the Administration to the Senate for advice and consent as to ratification. The Committee also notes that the Kyoto Protocol has not yet entered into force pursuant to Article 25 of the Protocol.

This year the Committee has clarified that funds shall not be spent for items found solely in the Kyoto Protocol and nowhere in the laws of United States. These items include carbon emissions trading schemes and the Clean Development Mechanism. The Committee has taken keen note of the Administration's comments that there has been confusion regarding this funding limitation. The Committee notes with disapproval dozens of expenditures by the Administration for the Kyoto Protocol mechanisms. The Committee encourages United States exports to improve the environment of foreign nations and does so with express reference to the United Nations Framework Convention on Climate Change (UNFCCC). Likewise all other provisions of the UNFCCC which have legislative enactment are encouraged.

Proposed May 10, '00

discuss. ver

Delete Section _______ and insert the following at the appropriate place:

Bill Language

None of the funds appropriated by this Act shall be used to propose, develop, or issue rules, regulations, decrees, orders, or mechanisms specific to implementation, or in preparation for implementation of the Kyoto Protocol, which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent as to ratification pursuant to Article II, Section 2, Clause 2 of the United States Constitution, and which has not entered into force pursuant to Article 25 of the Protocol.

Report Language

The Committee reminds the Administration of the Constitutional power of the Senate to advise and consent to treaties. The Committee notes with disapproval that this Administration exhibited disdain for the will of the Senate when the Administration signed the Kyoto Protocol in contravention of Senate Resolution 105-98, known as the Byrd-Hagel Resolution, which was approved by a vote of 95 ayes and 0 nays.

The Committee notes with disapproval that nearly three years after the Kyoto Protocol was adopted on December 11, 1997, it still has not been submitted to the Senate for advice and consent as to ratification. The Committee is concerned that such protracted refusal to make submission to the Senate flouts the powers and prerogatives of the Congress as a whole. The Committee also notes that the Kyoto Protocol has not yet entered into force pursuant to Article 25 of the Protocol.

This year the Committee has clarified that funds shall not be spent for items found solely in the Kyoto Protocol and nowhere in the laws of United States. These items include carbon emissions trading and the clean development mechanism. The Committee has taken keen note of the Administration's comments that there has been confusion regarding this funding limitation. The Committee notes with disapproval dozens of expenditures by the Administration for the Kyoto Protocol.

The Committee encourages United States exports to improve the environment of foreign nations and does so with express reference to the ratified United Nations Framework Convention on Climate Change (UNFCCC). Likewise all other provisions of the UNFCCC which have legislative enactment are encouraged, including the participation by staff of all agencies appropriated under this bill in formal and informal meetings of the Conference of the Parties to the UNFCCC and its subsidiary bodies.

The Committee recognizes the benefits of conducting needed research on the mechanics of storing carbon in soil with a focus on best management practices such as conservation tillage, efficient fertilizer application, intensive crop rotations, and increased cover crops. The Committee clarifies that the funding restriction is not intended to apply to any activities authorized under United States law such as research,

1. **Bill Language**

"develop":

- This is unconstitutional
- would limit ability to negotiate
- administration must develop the mechanisms to advise the Senate as to how they would work

"mechanisms specific to":

- these refer to flexibility mechanisms (i.e. CDM, emissions trading,) which are provisions of the Protocol that would make it operative and keep the costs of implementation as low as possible.
- The mechanisms also help to gain developing country participation.
- These are both requirements of S.Res. 98

2. **Report Language**

- The preference is for no report language.
- The language reflected here is in the original Emerson provision adopted in subcommittee with the following exceptions:
  - In paragraph 2, the requirement to submit the treaty by a date certain is omitted; this is a positive change
  - Paragraph 3 is objectionable.
    - The first two sentences prevent negotiating activities and the development of the flexibility mechanism.
    - The Administration has NOT ever expressed confusion. George Frampton indicated that there was some uncertainty on behalf of some members of Congress regarding interpretation of the language.
    - The Administration and the IG's of EPA and DOE all have clearly stated that no funds have been expended on activities in violation of the rider, despite claims to the contrary by some members
  - Paragraph 4 appears to be encouraging us to do activities that we are already authorized to do.
  - The fifth paragraph is fine.

2204 Rayburn House Office Building
Washington, DC 20515–0529
(202) 225–3978
www.house.gov/waxman

District Office:
8436 West Third Street
Suite 600
Los Angeles, CA 90048–4183
(323) 651–1040

Congress of the United States
House of Representatives
Washington, DC 20515–0529

HENRY A. WAXMAN
29th District, California

Ranking Member
Committee on Government Reform

Member
Committee on Commerce
Democratic Steering Committee

May 11, 2000

The Honorable David Obey
Ranking Member
House Appropriations Committee
2314 RHOB
Washington, D.C. 20515

Dear Dave,

I have recently become aware of Rep. Knollenberg's latest anti-environmental rider regarding the U.S.'s efforts to address the threat of climate change. As you know, this rider was accepted into the agriculture appropriations bill in subcommittee and may be included in other appropriations bills. Although I'm sure you already know how far-reaching this proposal is, I wanted to share my thoughts with you on this troubling proposal.

In each of the last two years, Rep. Knollenberg has argued for appropriations language that would prevent the Administration from proposing or issuing rules, regulations, decrees, or orders for the purpose of implementing or preparing to implement the Kyoto Protocol prior to ratification. Congress has acceded to this narrow language with the understanding that existing authorities and obligations under the ratified United Nation Framework Convention on Climate Change (UNFCCC), the Clean Air Act, the Constitution, and other laws are not limited. Rep. Knollenberg's new language appears to override these authorities and applies to a much broader range of activities, including international discussions of the Kyoto Protocol.

The draft language, as circulated, states "Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere else in the laws of United States." This language is so broad that it could be interpreted to prohibit all U.S. international activity on climate change and to remove consideration of cost-effective domestic and international mechanisms to address climate change.

These concerns are elaborated on below.

I The Draft Language Prohibits the U.S. From Participating in International Discussions on Climate Change.

The Kyoto Protocol is a work in progress. Each year, representatives from many nations come together under the auspices of the Protocol to discuss how best to respond to the challenge of climate change. For progress to be made at these formal annual meetings, staff level meetings must take place throughout the year. These meetings are essential for the U.S. They provide our nation an opportunity to participate in -- and to shape -- the international response to climate change.

The Knollenberg language, however, provides that "no funds shall be used for the Kyoto Protocol." This language thus prohibits the U.S. from participating in these international negotiations and meetings. Congress would effectively -- and perhaps unconstitutionally -- bar our government from discussing and negotiating an international response to climate change. We would lose our opportunity to influence how the world responds to global warming, which could in turn harm U.S. environmental and economic interests.

II The Draft Language Could Prohibit the Administration from Honoring the Senate's Resolution Regarding the Kyoto Protocol.

In July 1997, the Senate passed S.Res. 98 by 95-0. S.Res. 98 encourages the Administration to negotiate "specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties." By prohibiting any funds from being spent on the Kyoto Protocol, the Knollenberg language would prevent the Administration from meeting this Senate expectation.

Additionally, the S.Res. 98 also states that when the Kyoto Protocol is submitted to the Senate for ratification, it "should be accompanied by a detailed explanation of any legislation or regulatory actions that may be required to implement the protocol . . . and should also be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States which would be incurred by the implementation of the protocol or other agreement." The Knollenberg language is so broad that it also appears to prohibit this policy development and analysis from occurring.

III The Draft Language Could Prohibit Policy Development on the Most Cost-Effective Mechanisms to Address the Threat of Climate Change.

The U.S. government is working to develop the least-cost, most effective ways to address climate change. Whether we act pursuant to the UNFCCC, the Kyoto Protocol, or unilaterally, there is a growing consensus among government, industry, and environmental groups that an appropriate emissions trading system could reduce the costs of protecting the environment.

One of the key elements of the Kyoto Protocol is the Clean Development Mechanism (CDM). The CDM would provide an international mechanism to reduce costs of addressing climate change by allowing the Parties of the Kyoto Protocol to take advantage of the least-cost carbon reductions first. Its development is thus an important component of a rational response to the threat of global warming.

The Knollenberg language, however, expressly bans the use of funds for the CDM. By prohibiting policy development on these strategies, the draft language is likely to subject the U.S. to higher than necessary costs to protect the environment and generate needless opposition to protecting the environment.

For example, increased energy efficiency, increased use of renewable energy, and agricultural or forestry practices that store carbon may all prove to play an effective role in addressing climate change. Blocking the development of these cost-effective strategies would ultimately increase costs by promoting only the most-expensive solutions to climate change.

Many test projects are now being deployed that could be used in these programs. For example, the State of New Jersey is developing pilot projects on emissions trading to address climate change. Texaco recently announced that it will fund a $900,000, 70-year reforestation project in the Lower Mississippi River Valley to sequester greenhouse gases. Similarly, American Electric Power, PacifiCorp, and BP Amoco, have teamed up with the Friends of Nature Foundation and The Nature Conservancy to jointly implement the $9.6 million Noel Kempff Mercado Climate Action Project -- the largest forest based carbon project in the world. Policy development must be continued on these programs to determine if such projects offer viable solutions to climate change.

Many leading U.S. companies have joined the Business Environmental Leadership Council at the Pew Center on Global Climate Change. They include ABB, American Electric Power, Air Products, Baxter, Boeing, BP Amoco, CH2MHill, DuPont, Enron, Entergy, Holnam, Intercontinental Energy Corporation, Lockheed Martin, Maytag, PG&E Corporation, Shell International, Sunoco, Toyota, United Technologies, Weyerhaeuser, and Whirlpool.

These companies have recognized the threat of climate change and have stated, "[W]e believe that one of our most serious challenges at home and abroad will be addressing global climate change as we work to sustain a growing global economy. Our companies recognize that the risks and complexities of climate change are so important that we must work together to meet this challenge." Moreover, these companies have recognized the need to develop market mechanisms such as emissions trading. Specifically, they have stated:

> "The Kyoto agreement represents a first step in the international process, but more must be done both to implement the market-based mechanisms that were adopted in principle in Kyoto and to more fully involve the rest of the world in the solution."

As consensus grows regarding market-based mechanisms, Congress should not act to preemptively eliminate their consideration.

IV Public Interest Organizations Oppose the Knollenberg Rider

The new Knollenberg rider is uniformly opposed by Environmental Defense, Friends of the Earth, National Environmental Trust, National Wildlife Federation, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club, The Nature Conservancy, Union of Concerned Scientists, U.S. Public Interest Research Group, and the World Wildlife Fund. These groups have stated:

"We are very concerned about Representative Knollenberg's language for FY2001. The current draft language is so broad and devastating that it could be interpreted to shut down virtually all U.S. participation in international activity on climate change. Such language would hurt both the environment and this country's ability to negotiate effective and fair international agreements on climate change. We believe that it is disingenuous and counterproductive for this draft report language to request analyses of the costs and impacts on the U.S. economy of any climate treaty, while at the same time the rider seeks to prohibit exactly such analysis by the executive branch."

Adopting the Knollenberg climate change language would be a dramatic setback in our efforts to address climate change. I appreciate your past efforts to make sure our nation is able to take common-sense steps to address the challenge climate change presents, and I urge you to ensure that this year's Appropriations bills are passed free of riders that would impede climate change efforts.

Sincerely,

Henry A. Waxman
Member of Congress

THE WHITE HOUSE

WASHINGTON

May 2, 2000

MEMORANDUM FOR JACK LEW
SYLVIA MATHEWS
MARTHA FOLEY
WESLEY WARREN

FROM: ROGER BALLENTINE

RE: KNOLLENBERG RIDER AND FY 2001 APPROPRIATIONS

Each of the past two years, Rep. Joe Knollenberg (R-MI) has attached riders to various appropriations bills aimed at prohibiting the use of federal funds to "propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol". While we opposed the riders, we did not force a showdown because we were confident that the language as written was not constraining.

Perhaps starting with the Ag bill in the House, this year's expected rider activity presents two potential problems. First, despite our sound interpretation of the existing riders, Knollenberg has repeatedly interpreted the riders to prohibit a wide range of actions being taken by several agencies. He has asked the inspectors general for the Department of State, the Department of Energy, and the Environmental Protection Agency to investigate whether the agencies have violated the rider. His relentless pressure to "enforce" the rider is causing concern and potential disruption of vital and legitimate agency activity. Therefore, we should consider a much stronger position against even a repeat of existing rider language.

Second, we understand that Knollenberg may be pushing new and broader rider language to include in this year's bills. The language we have seen purports to prevent any funds being spent "*on the Kyoto Protocol*". There are also indications that he may seek to attach the language to just one bill with the proviso that no funds appropriated "in this bill *or any other bill*" shall be use for the prohibited purposes. Although likely unconstitutional, such broad language would at the very least exacerbate the ongoing difficulties we are having with Mr. Knollenberg.

In either event, we should work to prevent either of these riders, and be certain to include opposition to them as a key Administration position in the context of any appropriations bill. I will circulate more background and some talking points shortly.

Cc: Ron Cogswell
Bob Tucillo
Randy Steer
Mark Weatherly

Bill Language
Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere else in the laws of United States.

Report Language
The Committee reminds the Administration of Article VI, Clause 2 of the U.S. Constitution which states that the Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land and of Article II, Section 2, Clause 2 of the U.S. Constitution which states the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur.

The Committee notes with disapproval that this Administration exhibited disdain for the will of the Senate when the Administration signed the Kyoto Protocol in contravention of Senate Resolution 105-98, approved by a vote of 95 ayes and 0 nays, which states:
"(1) the United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would—
(A) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or
(B) would result in serious harm to the economy of the United States; and
(2) any such protocol or other agreement which would require the advice and consent of the Senate to ratification should be accompanied by a detailed explanation of any legislation or regulatory actions that may be required to implement the protocol or other agreement and should also be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States which would be incurred by the implementation of the protocol or other agreement."

The Committee notes with disapproval that nearly three years after the Kyoto Protocol was adopted on December 11, 1997, in Kyoto Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, it still has not been submitted to the Senate for advice and consent to ratification pursuant to Article II, Section 2, Clause 2 of the United States. The Committee is concerned that such protracted refusal to make submission to the Senate flouts the powers and prerogatives of the Congress as a whole. The Committee directs that within three years of the date of adoption, the Kyoto Protocol shall be submitted by the Administration to the Senate for advice and consent as to ratification.

The Committee also notes that the Kyoto Protocol has not yet entered into force pursuant to Article 25 of the Protocol.

This year the Committee has clarified that funds shall not be spent for items found solely in the Kyoto Protocol and nowhere else in the laws of United States. These items include carbon emissions trading schemes and the Clean Development Mechanism. The Committee has taken keen note of the Administration's comments that there is confusion regarding this funding limitation. The Committee notes with disapproval dozens of expenditures by the Administration in FY00 for the Kyoto Protocol mechanisms. The Committee encourages United States exports to improve the environment of foreign nations and does so with express reference to the United Nations Framework Convention on Climate Change (UNFCCC). Likewise all other provisions of the UNFCCC which have Congressional enactment are encouraged.

USAID

U.S. Agency For International Development
Washington, D.C. 20523

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 5/2/00

TO:

ATTENTION: Nigel Purvis
FAX PHONE: 7-0753

ORGANIZATION: OES/ENV
OFFICE PHONE: 7-8745

FROM:

ORIGINATOR: Franklin Moore
FAX PHONE: 202-216-3174

ORGANIZATION: G/ENV
OFFICE PHONE: (202) 712-1863

SUBJECT: DRAFT - Knollenberg Guidance from Ko Barrett

NUMBER OF PAGES *(Including this cover sheet)*: 3

COMMENTS: As discussed.

AID 330-7 (8/94)

DRAFT

USAID General Notice
April, 2000

Appropriations Restrictions Relating to the Kyoto Protocol

This notice provides guidance concerning an appropriations restriction (Sec 583) in the FY 2000 Foreign Operations, Export Financing, and Related Programs Appropriations Act that addresses the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change (FCCC).

Background

USAID integrates climate-related concerns into its broad range of development assistance programs and has built a strong and effective program by promoting an awareness of how development may affect and be affected by climate change. In that context, we have supported for many years programs that increase energy efficiency, promote the use of clean technology, protect natural resources, and reduce urban and industrial pollution. Some of these activities also provide climate-related benefits and these represent the agency's climate change activities. USAID engages developing countries in capacity building activities that support the objectives of the FCCC, which the U.S. has signed and ratified.

Section 583: Appropriations Restriction

The FY 2000 Foreign Operations, Export Financing, and Related Programs Appropriations Act establishes the following restriction on USAID expenditures of funds:

> "None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol..."

Accordingly, USAID will not fund the regulatory activities specifically listed in this Act - proposing or issuing rules, regulations, decrees, or orders - for the purpose of implementing, or preparing to implement, the Kyoto Protocol.

In terms of the purpose of the activities covered, the restriction is limited to activities for the purpose of implementation or in preparation for implementation of the Kyoto Protocol. The restriction does not affect informational and other non-regulatory Agency activities such as seminars, workshops and technical assistance activities related to climate change.

USAID may expend funds to assist with the proposal or issuance of a regulation in a recipient country for a number of purposes, including the reduction of greenhouse gas emissions, as long as the expenditures are in development of recipient country law and not for the purpose of implementing, or in preparation for implementing, the Kyoto Protocol.

USAID may also expend funds on authorized non-regulatory activities, including those that constitute formal or informal negotiations related to climate change, as stipulated in the statement

DRAFT

made by the President upon signing the Consolidated Appropriations Act for FY 2000.

To ensure that USAID complies with this legislation, operating units are instructed to contact Ms. Ko Barrett, Climate Change Team Leader (G/ENV), in the event they have questions. When interpretive issues arise with respect to these matters, Ms. Barrett will consult with the General Counsel's Office, the Department of Justice and others, as appropriate.

Department of Energy
Washington, DC 20585

April 6, 2000

MEMORANDUM FOR THE SECRETARY

FROM: Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Audit Report on "The U.S. Department of Energy's Global Climate Change Activities"

BACKGROUND

The President's Climate Change Proposal of October 1997 and the United Nation's *Framework Convention on Climate Change* (FCCC), were intended to identify methods of reducing greenhouse gas emissions. The FCCC was ratified by the U.S. Senate in 1992 and put into force in July 1994. The purpose of the Kyoto Protocol (Protocol), a proposed amendment to the FCCC, is to reduce net emissions of certain greenhouse gases (primarily CO_2) by setting binding limitations on the emissions of developed countries throughout the world. The Protocol was negotiated by more than 160 nations in December 1997, in Kyoto, Japan, pursuant to the objectives of the FCCC. It mandates targets to limit or reduce greenhouse gas emissions for developed countries, including the U.S., but not for developing countries. The Protocol has not been forwarded to the Senate for ratification.

In the Fiscal Year 2000 appropriations laws applicable to the Department of Energy, the Congress included language prohibiting the expenditure of funds to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Protocol.

The objective of our audit was to determine whether funds were expended to implement the Kyoto Protocol, or to prepare for its implementation. The audit was initiated pursuant to a congressional request.

RESULTS OF AUDIT

We found no evidence that funds were expended to issue specific policies to implement the Protocol. However, the Department is involved in conferences and activities aimed at developing necessary procedures and mechanisms in preparation for implementing the Protocol, if ratified. Department representatives have attended a number of conferences related to global climate change, including some where the Protocol was the primary topic. The Department also participates in international negotiations aimed at elaborating on the Kyoto mechanisms to further define the Protocol, reducing the cost of its implementation, and encouraging participation by other countries.

Most Department officials involved in climate change activities had not reviewed the specific appropriations language, but were aware that it existed. They also had varying interpretations of its meaning relative to day-to-day activities. Program officials drew a distinction between setting specific implementation policies, which they acknowledged would be prohibited, and conducting general program activities and research related to climate change, which they regarded as being consistent with the Department's mission. Policy officials viewed negotiations regarding the Protocol as necessary and legitimate because considerable clarification was needed before the Protocol could be credibly presented to the Senate for ratification. None of the officials we spoke to had asked for or had been provided interpretive guidance on the restrictions on Protocol activities in the appropriations acts.

The Office of Inspector General is aware that the restrictive appropriations language is a matter of some debate within the Congress and the Administration. In the course of our audit we reviewed statements by Representative Knollenberg, who is a sponsor of the restrictive language. We also reviewed a statement by Representatives Waxman and Pallone. In their statement, Congressmen Waxman and Pallone argue that neither the appropriations language nor its congressional intent prohibits discussions, workshops, seminars, policy development, or other non-regulatory activity. Additionally, we considered the President's statement made upon signing the Fiscal Year 2000 Consolidated Appropriations Act. In that statement, the President noted that "...to the extent these provisions could be read to prevent the United States from negotiating with foreign governments about climate change, it would be inconsistent with my constitutional authority. Accordingly, I will construe this provision as not detracting from my authority to engage in the many activities, both formal and informal, that constitute negotiations relating to climate change."

In light of the varying interpretations of the appropriations language and the controversy that language has engendered, the Office of Inspector General recommends that the Department provide to its employees a formal interpretation on the appropriateness of activities in relation to the statutory prohibition. Once provided, the guidance should be adopted by all Departmental offices having an interest in climate change and related activities. We were informed by the Offices of Inspector General at the Department of State and the Environmental Protection Agency that those agencies have issued such guidance to assist employees in determining the appropriateness of program activities.

MANAGEMENT REACTION

The Director, Office of Policy agreed to develop appropriate guidance, in cooperation with affected program offices and the General Counsel.

Attachment

cc: Deputy Secretary
Under Secretary for Energy, Science and Environment

THE U.S. DEPARTMENT OF ENERGY'S GLOBAL CLIMATE CHANGE ACTIVITIES

TABLE OF CONTENTS

Overview

INTRODUCTION AND OBJECTIVE

The United States and other countries have entered into international negotiations and agreements to address the potential consequences of climate change. In 1992, the United States ratified the United Nations *Framework Convention on Climate Change* (FCCC), which contained a voluntary goal for the United States of reducing greenhouse gas net emissions to their 1990 level by 2000.

The FCCC also established a Conference of the Parties (COP) as the supreme body of the Convention and required ordinary sessions of the COP to be held each year. In December 1997, more than 160 nations met in Kyoto, Japan, for the third COP. The purpose of this conference was to negotiate a protocol creating quantified limitations or reductions objectives on the emissions of greenhouse gases. The Kyoto Protocol (Protocol) set the limitations on the emissions of the developed nations and introduced the use of "flexibility mechanisms" to minimize the costs of cutting emissions both in the United States and globally.

The Protocol mandates commitments to limit or reduce greenhouse gas emissions for developed countries but not for developing countries. Fiscal Year 2000 appropriations laws applicable to the Department of Energy contain language prohibiting the expenditure of funds "...to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol."

The Department is engaged in the conduct of research and the development of technologies that are intended to increase energy efficiency and reduce harmful emissions. It is also the Department's responsibility to propose and discuss policies to achieve these outcomes. These mission requirements overlap, to a significant extent, the Protocol's intended outcomes. As a consequence, the restrictive language in the appropriations poses a dilemma to Department managers: how best to meet statutory mission requirements without violating the appropriations prohibition.

Pursuant to a congressional request, the objective of our audit was to determine whether funds were expended to implement the Kyoto Protocol, or to prepare for its implementation.

CONCLUSIONS AND OBSERVATIONS

We found no evidence that funds were expended to issue specific policies to implement the Protocol. However, the Department is involved in conferences and activities aimed at developing necessary procedures and mechanisms in preparation for implementing the Protocol, if ratified. Department representatives attended a number of conferences related to global climate change, including some where the Protocol was discussed. The Department also participated in international negotiations aimed at establishing mechanisms to further define the Protocol, reducing the cost of its implementation, and encouraging participation by other countries. As noted above, these activities may well have been consistent with recognized Department of Energy missions.

Responsible Department officials had varying interpretations of the restrictive appropriations language and none had asked for or been provided with guidance on the appropriations restriction. The Department's representation at certain meetings and its participation in international negotiations could be interpreted as "preparing" for the implementation of the Protocol. During our review we also noted that the interpretation of the restrictive appropriations language as it affects the day-to-day operations of the Department is a matter of some debate within the Congress. The Office of Inspector General therefore recommends that the Department obtain a General Counsel interpretation on the appropriateness of activities in relation to the prohibition in the appropriations language.

We discussed the issues in this report with the Offices of Science, Energy Efficiency and Renewable Energy, Fossil Energy, and Policy in March 2000.

Office of Inspector General

Office of Inspector General

The Department's Global Climate Change Activities

The Department's Fiscal Year 2000 budget allocated almost $1.7 billion for programs to address climate change. The overall goal of these programs is to provide a comprehensive approach to better understanding and addressing global climate change. We discussed the funded research and technologies with the Offices of Energy Efficiency and Renewable Energy, Fossil Energy, and Science.[1] We found no indication that funds expended by these offices were used to issue policies implementing the Protocol.[2] However, the Department is involved in conferences and program activities aimed at developing necessary procedures and mechanisms in preparation for implementing the Protocol, if ratified.

Attendance at Climate Change Conferences

The Department spent approximately $2,900 in travel and salary costs to send one representative to the two-day "Sustainable Climate Protection Policies" workshop in Berlin, Germany in February 2000. The purpose of this conference, according to the goals listed on the agenda, were:

> *1) To convene from both public and private sectors authorities on climate protection for a candid discussion of how best to complete the Kyoto Protocol in terms of economic, social, cultural, and political considerations, and 2) To discuss on a national basis current best practices and related challenges with respect to climate protection policies and measures assessing the potential role of economic costs and benefits, new technologies, social issues and commercial options in achieving longer term climate protection goals.*

Department of Energy representatives have also been sent to a number of other conferences related to global climate change, including the annual FCCC Conference of the Parties (COP) meetings. For example, employees from the Offices of Policy and Energy Efficiency and Renewable Energy regularly attend the COP meetings and the Office of Policy has sent individuals to at least three other workshops relating to the negotiation of Protocol mechanisms. Travel costs associated with these three meetings totaled about $8,700.

1 A brief discussion of the Department's major climate change activities is included in Appendix 1.

2 For reporting purposes the phrase "issue policies" is synonymous with "issue rules, regulations, decrees, or orders" as referred to in the appropriations language.

Active Negotiations to Clarify the Protocol

The Office of Policy contributes directly to U.S. participation in international negotiations under the FCCC, including negotiations that focus primarily on the development of the Protocol's flexibility mechanisms – emissions trading, the Clean Development Mechanism, and Joint Implementation. The flexibility mechanisms involve a system of trading allowances and a system for generating credits from projects in developing countries. The allowances and the credits can be used to meet developed countries' emission limitation obligations.

Policy officials told us that because emissions trading and the other flexibility mechanisms are new concepts to most other countries, considerable effort is required to help these countries understand how such mechanisms would work in practice. Full use of the flexibility mechanisms outlined in the Protocol are viewed as essential to minimize the costs of cutting greenhouse gas emissions both in the United States and globally. These mechanisms also can provide a strong economic incentive for all countries, including developing countries, to make meaningful commitments to cut greenhouse gas emissions. Some countries have proposed restricting the use of the mechanisms set forth in the Protocol. The U.S. strongly opposes such restrictions. Therefore, obtaining support of other countries, both developed and developing, for the full use of the mechanisms is a key U.S. objective.

In addition to efforts to support the further development and acceptance of the flexibility mechanisms, the Department is assisting developing countries interested in limiting their greenhouse gas emissions. We were informed that Department efforts in this regard are meant to assist developing countries in understanding their own emissions of greenhouse gases and the technologies and public policies that might be used to limit these emissions. The interagency efforts are designed to help achieve global participation in efforts to cut greenhouse gas emissions.

Fiscal Year 2000 Appropriations Language

Relative to climate change, for Fiscal Year 2000, the Department received its funding under the Energy and Water Development Appropriations Act (P.L. 106-60) and the Interior and Related Agencies Appropriations Act (P.L. 106-113).[3] Each of these appropriations acts contained the restriction that, "[n]one of the funds appropriated by

[3] During the course of our review, we identified another provision regarding Kyoto-related expenditures in the Interior and Related Agencies Appropriations Act, at section 568. As appropriate, the Department should also consider this language as it develops interpretive guidance.

[these Acts] shall be used to propose or issue rules, regulations, decrees or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto protocol...."

Department's Interpretation of the Appropriations Restriction

We found that guidance was needed to ensure that the Department does not expend funds – or appear to spend funds – in violation of the appropriations language and to ensure a consistent application of the Protocol restriction. Most Department officials involved in climate change activities had not reviewed the specific appropriations language, but were aware that it existed. They also had varying interpretations of its meaning relative to day-to-day activities. In interviews with program office officials, a distinction was drawn between setting specific policies, which they viewed as prohibited, and conducting program activities and research related to climate change, which is within the Department's statutory mission. With respect to specific meetings and conferences where the Protocol is discussed, different opinions were presented on the types of such events that Department employees would be permitted to attend. The decision as to whether attending such meetings would violate the appropriations seemed to be largely a matter of individual discretion. Regarding international negotiations, Policy officials believed that such negotiations were necessary and legitimate because the Protocol needed considerable clarification before it could be credibly presented to the Senate for ratification.

We queried each responsible program office, the Office of Policy, the Office of Chief Financial Officer, and the Office of General Counsel to determine whether corporate guidance about the restrictive appropriations language existed. No such guidance had been issued. In contrast, we were informed by the Offices of Inspector General at the Department of State and the Environmental Protection Agency, each of which has identical restrictive language in its appropriations, that these agencies have issued guidance on the Protocol to their employees.

<u>Presidential Signing Statement</u>

We noted that the President, in signing into law the Consolidated Appropriations Act for Fiscal Year 2000, addressed the Protocol restriction. The President stated:

> *I continue to believe that various provisions prohibiting implementation of the Kyoto Protocol in this bill are unnecessary, as my Administration has no intent of implementing the Protocol prior to ratification. Furthermore, I will consider activities that meet our*

responsibilities under the ratified U.N. Framework Convention on Climate Change to be consistent with this provision. Finally, to the extent these provisions could be read to prevent the United States from negotiating with foreign governments about climate change, it would be inconsistent with my constitutional authority. Accordingly, I will construe this provision as not detracting from my authority to engage in the many activities, both formal and informal, that constitute negotiations relating to climate change.

Continuing Participation in Global Climate Change

The signing statement, when contrasted with the language in the statute, suggests policy interpretation issues which, in our judgment, require clarification and guidance.

The Department's representation at certain meetings and its participation in international negotiations could be interpreted as "preparing" for the implementation of the Protocol. We concluded that formal guidance is needed so that program officials have a more precise and uniform understanding of which activities are consistent with the statutory requirements.

RECOMMENDATION

We recommend that the Director, Office of Policy, in coordination with affected program offices and with the advice of the Office of General Counsel, issue guidance interpreting the appropriations language regarding the Kyoto Protocol. The guidance should specifically address:

- Department interpretation of the appropriations language within the context of DOE's climate change mission;
- attendance by Department employees and contractors at meetings and conferences associated with climate change; and
- negotiations regarding climate change.

MANAGEMENT REACTION

In his response to our draft report, the Director, Office of Policy stated that the report provided a good overview of the Department's climate change responsibilities. He also agreed to work with the Office of General Counsel and the affected program offices to more formally interpret the appropriations language and issue specific guidance to staff about what activities are prohibited by the amendment.

The Director noted that some guidance already existed. His comments indicated that the Department was a part of an interagency process that discussed the appropriations language and culminated in the President's signing statement.

The Director disagreed with the statement made in the report that ongoing activities could be interpreted as "preparing" to implement the Protocol. He maintained that such activities are consistent with the Department's mission and his interpretation of the language.

AUDITOR COMMENTS

The Director's comments are responsive to our recommendation. The Office of Policy should establish an action plan for prompt issuance of the proposed guidance.

We agree that the President's signing statement (quoted on page 5), provides some guidance to the affected agencies. We found, however, that most officials we spoke to during the audit were not aware of the statement or its applicability to their activities. Consequently, we concluded that guidance specifically addressing Department activities is necessary to clarify conflicting interpretations of the appropriations language.

As noted in the report, we recognize that interpretations differ as to the meaning of the appropriations language relative to the Department's mission.

APPENDIX 1

THE DEPARTMENT'S MAJOR CLIMATE CHANGE ACTIVITIES

The Fiscal Year 2000 budget for the Department included almost $1.7 billion for spending programs to address climate change. This funding generally falls into three major program areas. The *Climate Change Technology Initiative* and the *U.S. Global Change Research Program* are the largest of the climate change programs. The third area, Other Climate-Related Programs, is made up of five smaller initiatives. Collectively these program areas provide a comprehensive approach to better understanding and addressing the challenge of global climate change.

Climate Change Technology Initiative

The Climate Change Technology Initiative (CCTI) is the cornerstone of the President's efforts to stimulate the development and use of sustainable and renewable domestic energy technologies and energy efficient products that will help reduce greenhouse gas emissions. This portfolio will help reduce U.S. greenhouse gas emissions while cost effectively addressing national priorities – improving energy security, improving local air quality and increasing energy savings. Funding for the CCTI covers the four major carbon emitting sectors of the economy – buildings, transportation, industry, and electricity – as well as carbon sequestration.

The Department's Office of Energy Efficiency and Renewable Energy (EE) is primarily responsible for the CCTI and controls approximately 96% of the Department's total budget for CCTI. The Offices of Fossil Energy (FE) and Science also receive funding for climate change activities through the CCTI.

U.S. Global Change Research Program

The Department's research activities under the U.S. Global Change Research Program are administered by the Department's Office of Science. DOE research seeks to provide a sound scientific understanding of both the human and natural forces that influence the Earth's climate system. The information produced by the program's scientists is used by national and international policy makers to make informed decisions on global change issues.

Other Climate-Related Programs

Several other programs in the climate change budget exist primarily for other purposes, but contribute to improving energy efficiency and reducing greenhouse gas emissions. The programs in this category include Weatherization and State Energy Grants, programs that increase the efficiency of coal and natural gas combustion and utilization, and nuclear energy research and development.

APPENDIX 2

SCOPE

The audit was performed between February 2000 and April 2000. We performed audit work at Headquarters offices in Washington, DC and Germantown, Maryland.

METHODOLOGY

To accomplish the audit objective, we:

- Obtained and reviewed applicable regulations, other agency guidance, and appropriations related to the Department of Energy and climate change activities;

- Reviewed related GAO reports and testimony;

- Reviewed the primary goals and objectives of the Framework Convention on Climate Change and the Kyoto Protocol;

- Coordinated with Office of Inspector General counterparts in the Department of State and the Environmental Protection Agency (EPA) to identify their position on the climate change activities in their agencies;

- Interviewed Departmental officials working in the climate change arena, including individuals in the Offices of Policy, Science, Energy Efficiency and Renewable Energy, and Fossil Energy;

- Evaluated the Department's climate change activities against the appropriations prohibition and Anti-Deficiency Act regulations; and

- Reviewed the Department's draft *Strategic Plan,* prepared in conformance with the Government Performance and Results Act, to understand relevant performance measures.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We did not rely on computer-processed data to accomplish our audit objective.

An exit conference was held with the Offices of Policy, Science, Energy Efficiency and Renewable Energy, and Fossil Energy on April 4, 2000.

Report No. DOE/IG-0467

CUSTOMER RESPONSE FORM

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and, therefore, ask that you consider sharing your thoughts with us. On the back of this form, you may suggest improvements to enhance the effectiveness of future reports. Please include answers to the following questions if they are applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the audit would have been helpful to the reader in understanding this report?

2. What additional information related to findings and recommendations could have been included in this report to assist management in implementing corrective actions?

3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?

4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

Please include your name and telephone number so that we may contact you should we have any questions about your comments.

Name_______________________________ Date_______________________________

Telephone___________________________ Organization_________________________

When you have completed this form, you may fax it to the Office of Inspector General at (202) 586-0948, or you may mail it to:

Office of Inspector General (IG-1)
U.S. Department of Energy
Washington, D.C. 20585
ATTN: Customer Relations

If you wish to discuss this report or your comments with a staff member of the Office of Inspector General, please contact Wilma Slaughter at (202) 586-1924.

The Office of Inspector General wants to make the distribution of its reports as customer friendly and cost effective as possible. Therefore, this report will be available electronically through the Internet at the following address:

U.S. Department of Energy Office of Inspector General Home Page
http://www.ig.doe.gov

Your comments would be appreciated and can be provided on the Customer Response Form attached to the report.

Debra Reed
05/05/2000 10:18:27 AM

Record Type: Record

To: Roger S. Ballentine/WHO/EOP@EOP

cc:
Subject: NRCS Report Language -- House Ag

---------------------- Forwarded by Debra Reed/CEQ/EOP on 05/05/2000 10:18 AM ---------------------------

Debra Reed
05/05/2000 09:53:49 AM

Record Type: Record

To: John D. Gibson/WHCCTF/EOP@EOP

cc: David Gardiner/CEQ/EOP@EOP
Subject: NRCS Report Language -- House Ag

Aside from the adoption of the new Emerson/Kyoto Protocol amendment, a provision in House Ag Approps, specific to the Natural Resources Conservation Service (NRCS), says the following:

"The Committee does not include funds for global climate change, biomass products initiative, ..."

Impact on Global Climate Change (Programs)
The impact of this language on FY01 funds is that a $12 M request for NRCS soil surveys and inventories is unfunded. The potential impact on climate change activities for USDA is potentially for more prohibitive to their programs, however, since NRCS is the agency through which all soil surveys and inventories, including soil carbon databases, are maintained. NRCS is the agency that does field ground-truthing of models that estimate carbon in soils, and is a critical component -- the very foundation -- of the USDA program on soil carbon sequestration. NRCS is also the agency that partners with universities and other federal agencies, and with state soil and water conservation societies, for instance.

An inability to use NRCS funds, or databases or methodologies for soil carbon measurements or climate change activities, would hamper utilization of any U.S. agricultural soil sinks within a domestic or international emissions trading regime, for instance. The loss of sinks limits maximization of the flexibility mechanisms engineered in the Kyoto Protocol to keep costs of compliance down -- and thus would increase the cost of compliance.

Finally, even in the absence of the Kyoto Protocol, the inability of NRCS to expend funds for climate change would hamstring the ability of the entire USDA -- including other research agencies that depend on the NRCS databases -- to continue valuable research into the effects of climate change on agriculture, and potential adaptation research for the agricultural sector.

Impact on Biomass Products Initiative

There was a $5 million 2001 unfunded request for technical assistance provided for biomass production.

letter

Dan

OLC

Rob Meriweather - OMB

House Agriculture Bill - Draft SAP Language

Climate Change

Climate Change

~~Kyoto Protocol~~ - The ~~Kyoto Protocol~~ language added in subcommittee is unacceptable and, possibly, unconstitutional. The Administration will ~~strongly oppose~~ any appropriations language that attempts to limit activities under current law that have the effect of reducing greenhouse gas or that restrict the President's constitutional authority to negotiate international agreements. As the Administration has stated many times, the Administration will not implement the Kyoto Protocol prior to ratification. Furthermore, ~~the Government Accounting Office and~~ the Inspectors General of EPA and DOE have ~~all~~ concluded that the Administration's climate change programs do not implement the Protocol. Consequently, the subcommittee's language must be deleted as it is unwarranted, disruptive, and can be interpreted to unconstitutionally prevent the Department of Agriculture from assisting the President in carrying out his constitutional authority to conduct ~~foreign policy.~~

international negotiations.

not accept

has not and

attempt to

base to support continued economic development, recreation, and the environment.

CONSERVATION OPERATIONS

2000 appropriation	$660,812,000
2001 budget estimate	747,243,000
Provided in the bill	676,812,000
Comparison:	
2000 appropriation	+16,000,000
2001 budget estimate	−70,431,000

The purpose of conservation operations is to sustain agricultural productivity and protect and enhance the natural resource base. This is done through providing America's private land conservation to land users, communities, units of state and local government, and other Federal agencies in planning and implementing natural resources solutions to reduce erosion, improve soil and water quantity and quality, improve and conserve wetlands, enhance fish and wildlife habitat, improve air quality, improve pasture and range conditions, reduce upstream flooding, and improve woodlands. Assistance is also provided to implement highly erodible land (HEL), wetlands (swampbuster), wetlands reserve program (WRP), and conservation reserve program (CRP) provisions of the 1985 Food Security Act, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, the 1993 Omnibus Reconciliation Act, and the Federal Agriculture Improvement and Reform Act of 1996.

COMMITTEE PROVISIONS

For Conservation Operations, the Committee provides an appropriation of $676,812,000, an increase of $16,000,000 above the amount available for fiscal year 2000 and a decrease of $70,431,000 below the budget request.

The Committee does not include funds for global climate change, biomass products initiative, or the Community Federal Information Partnerships as requested in the budget. These programs do not support the current level of on-the-ground conservation technical assistance.

The Committee does not concur with the request to transfer $36,000,000 from NRCS for Common Computing Environment (CCE)/Service Center Modernization (SCM), but rather encourages the Chief to work with the Secretary to determine a fair and equitable amount to support CCE/SCM efforts.

The Committee includes legislative language prohibiting the use of funds to carry out the urban resources partnership (URP) program and the American heritage rivers initiative (AHRI). The Committee notes that an evaluation report conducted by the Office of Inspector General found: (1) that the Under Secretary chose not to follow the normal legislative process to initiate the URP program, and (2) good management practices were not followed in implementing an URP program and $20.3 million in program expenditures were made without proper statutory authority and funding authorities. The Committee directs that the $2,204,000, and the associated staff years included in the explanatory notes for URP program and AHRI be used to fund conversation technical assistance.

Debra Reed
05/04/2000 10:27:22 AM

Record Type: Record

To: Martha Foley/WHO/EOP@EOP, Roger S. Ballentine/WHO/EOP@EOP

cc:

Subject: Ag Approps -- Prohibition on NRCS funds for Climate Change

I have heard that there is language (uncertain whether it is bill or report language) in House Ag Approps that would prohibit the use of NRCS (Natural Resources Conservation Service of USDA) funds for climate change. It may also be in the Senate mark -- I'm not sure. The provision is very problematic.

NRCS is the agency through which all soil databases, including soil carbon databases, are maintained. NRCS is the agency that does field ground-truthing of models that estimate carbon in soils, and is a critical component -- the very foundation -- of the USDA program on soil carbon sequestration. NRCS is also the agency that partners with universities and other federal agencies, and with state soil and water conservation societies, for instance.

An inability to use NRCS funds, or databases or methodologies for soil carbon measurements or climate change activities would preclude any U.S. agricultural soil sinks from being utilized within a domestic or international emissions trading regime, for instance. The loss of sinks limits maximization of the flexibility mechanisms engineered in the Kyoto Protocol to keep costs of compliance down -- and thus would increase the cost of compliance. Finally, even in the absence of the Kyoto Protocol, the inability of NRCS to expend funds for climate change would hamstring the ability of the entire USDA -- including other research agencies that depend on the NRCS databases -- to continue valuable research into the effects of climate change on agriculture, and potential adaptation research for the agricultural sector.

May 2, 2000

The Hon. C.W. Young
2407 RHOB
Washington, D.C. 20515

Dear Representative Young.

On behalf of our millions of members nationwide we strongly urge you to ensure that the Appropriations process not be used as a means of stifling ongoing efforts to complete negotiation of a global warming treaty.

Global warming is real. The scientific debate no longer focuses on whether or not climate change is occurring. Rather it is now centered on identifying the rate of change and the range and severity of expected impacts.

Accordingly, the debate should, and now is, shifting to a discussion of the appropriate response strategies. The U.S has a vital role to play in these discussions as well as the need to protect its own environmental and economic interests. Yet, for the last two years, Representative Knollenberg has used the Appropriations process to insert language in a growing number of Appropriations bills intended to limit and cripple U.S. participation in these discussions.

We are very concerned about Representative Knollenberg's language for FY2001. The current draft language is so broad and devastating that it could be interpreted to shut down virtually all U.S. participation in international activity on climate change. Such language would hurt both the environment and this country's ability to negotiate effective and fair international agreements on climate change. We believe that it is disingenuous and counterproductive for this draft report language to request analyses of the costs and impacts on the U.S. economy of any climate treaty, while at the same time the rider seeks to prohibit exactly such analysis by the executive branch.

The language, as written, would:

- prevent U.S. involvement in finalizing rules that would enable the export of clean technology to developing countries, frustrating efforts to expand developing country participation in climate change mitigation;
- prevent the U.S. from even participating in discussions about cost effective measures;
- force the U.S. into the untenable position of having Congress interfere with international treaty negotiations and potentially forcing the U.S. to withdraw unilaterally from those negotiations, which would have serious short and long term consequences; and

- stop efforts to measure and verify the emission reduction potentials and costs of actions, such as increased energy efficiency, increased use of renewable energy, agricultural or forestry practices that store carbon, and to analyze how they should be regulated in the international context.

As former President George Bush said when he signed the Energy Policy Act of 1992, "Under the Constitution, it is the President, not the Congress, who articulates the foreign policy goals of the Nation, who decides whether and when to negotiate agreements with foreign nations or otherwise consult with them, and who represents the United States in international bodies." Representative Knollenberg'S anti-climate change rider clearly violates that principle and tries to thwart negotiations that could help find the solutions to climate change.

Again, we ask you to ensure that the Knollenberg anti-climate change rider is not inserted into any House Appropriations bill.

Sincerely,

ENVIRONMENTAL DEFENSE
FRIENDS OF THE EARTH
NATIONAL ENVIRONMENTAL TRUST
NATIONAL WILDLIFE FEDERATION
NATURAL RESOURCES DEFENSE COUNCIL
PHYSICIANS FOR SOCIAL RESPONSIBILITY
SIERRA CLUB
THE NATURE CONSERVANCY
UNION OF CONCERNED SCIENTISTS
U.S. PUBLIC INTEREST RESEARCH GROUP
WORLD WILDLIFE FUND

CC: other House Appropriations Committee Members overwhelmingly

extreme

repeat many?

A

THE REPUBLICAN "DO NOTHING" CLIMATE RIDER: BAD FOR THE ENVIRONMENT, BAD FOR AMERICA

Text of the Latest Republican Anti-Environmental Rider: *"Hereafter no funds shall be used for the Kyoto Protocol, including such Kyoto mechanisms as carbon emissions trading schemes and the Clean Development Mechanism that are found solely in the Kyoto Protocol and nowhere in the laws of [the] United States."* So far this amendment has been attached to the House version of the FY 2001 Agriculture Appropriations bill. Proponents are vowing to attach it to "all" of this year's appropriations bills.

rider

The ~~amendment~~ is ~~bad for the environment~~ – it tries to block the United States from even negotiating **~~trying to reach agreement~~ with other countries on action to combat global warming.**

- Scientists ~~increasingly~~ agree that the Earth is getting warmer and that human greenhouse gas emissions are at least partly to blame. Leading U.S. companies are withdrawing from anti-Kyoto lobbying groups stating that we need to "move past" arguments over the science.
- Global warming cannot be curbed without global cooperation. The new rider simply seeks to shut down U.S. diplomatic efforts to gain that cooperation. Such efforts are a multi-agency undertaking, including active roles for USDA, USAID, DOE, EPA and others.

The ~~amendment~~ rider **may well stifle U.S. efforts to achieve the bipartisan goals ~~of Byrd-Hagel, i.e.~~ a cost-effective treaty and meaningful participation by developing countries.** Examples of common-sense ~~non-implementing~~ activities that the amendment could stop include:

- Sharing with other countries the United States' successful experiences with market-based mechanisms as a tool for fighting pollution;
- Working with other countries to find ways that these lessons could be applied to efforts to reduce their own greenhouse gas emissions; and
- Providing technical assistance to developing countries so that they may build the capacity to more effectively limit greenhouse gas emissions.

It undermines the ability of the Executive Branch to conduct international negotiations, raising serious Constitutional concerns.

- The rider seeks to prohibit the Executive Branch officials, including the Department of State, from participating ~~in~~ negotiations on the principles, rules, and guidelines for the Kyoto "flexibility mechanisms," such as emissions trading.
- How the Kyoto mechanisms would operate is something the Senate will need to understand fully in ~~considering whether the~~ U.S. should ratify the Protocol.
- purportedly targeted The activities ~~targeted~~ by the ~~amendment~~ rider are either solely concerned with ~~elaborating~~ negotiating the Protocol, through diplomacy, ~~not enforcing it domestically~~, or with legitimate and authorized efforts to increase energy security, reduce greenhouse gas emissions and help provide opportunities for the agricultural sector.
- ~~As the Administration has stated on numerous occasions, it has no intention of implementing the Protocol without the advice and consent of the U.S. Senate.~~
- EPA and DOE Inspector Generals have found that the Administration has *not* proceeded with implementation of the Protocol and has *not* violated previous years' ~~Knollenberg amendments~~.
- The proposed Ag Appropriations Report language, instructing the Administration to submit the Protocol to the Senate by specified date, is without foundation or precedent.
- Administrations often withhold treaties from the Senate until they are deemed ready. See, e.g., Inter-American Convention on International Commercial Arbitration; adopted 1/30/75; signed

anti climate change riders

6/9/78; submitted to the Senate 6/15/81.

The amendment is bad for American industry, farmers, and consumers – it tries to stop work on the most important tools for holding down costs as we combat global warming.

- International emissions trading and the Clean Development Mechanism (CDM) were included in the Kyoto Protocol *with widespread support from U.S. industry* because they are critical to reducing the cost of any international action to curb global warming.
- Industry, farmers and consumers all have a strong interest in seeing that the rules and guidelines on Kyoto's flexibility mechanisms are elaborated in ways favorable to U.S. interests.
- Telling the Administration that it cannot work on these mechanisms is an isolationist approach, tantamount to unilateral disarmament.
- Other language in the Ag bill would prevent USDA from providing technical assistance to farmers for biomass production, reducing opportunities to develop clean fuels and products that can help farmers, rural communities, and the environment.
- This is just a preview of what will happen if the rider language is allowed to stand: climate naysayers in Congress will continue to strain language and logic, throwing an inaccurate "Kyoto" label on common-sense programs that save money for business and consumers.

legitimate efforts to curb greenhouse gases. When the treaty is submitted the Congress will have its chance to ratify or reject.

(A) Summary. Some believe that climate change is not a serious problem meriting serious action. Some believe that the U.S. should not be negotiating an international treaty to address the problem (the Kyoto Protocol). Some even want to tie the hands of the Administration so it cannot negotiate the best treaty it can, knowing that this would make ultimate ratification more difficult. The Administration cannot -- and will not -- "implement" a treaty without ~~the Senate~~ Congress's approval. But the Congress should not sabotage the negotiation process or undermine

5-2342