

FOIA MARKER

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Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: WH Task Force on Climate Change
Series/Staff Member: Roger Ballentine; Paul Bledsoe; Julie Anderson
Subseries:

OA/ID Number: 41302
FolderID:

Folder Title:
Appropriations - VA [Veterans Affairs], HUD [Housing and Urban Development] [1]

Stack:	Row:	Section:	Shelf:	Position:
S	100	3	10	3

December 24, 2003

MEMORANDUM FOR : DOUGLAS THURMAN
OFFICE OF PRESIDENTIAL LIBRARIES
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

FROM: TERRY GOOD 
OFFICE OF RECORDS MANAGEMENT
THE WHITE HOUSE

RE: CLINTON ADMINISTRATION FILES

These files in four boxes were located in a 5th floor store room this past week.

They appear to be from the White House Climate Change Task Force.

Staff members whose names appear on many of the documents include Roger Ballantine, Paul Bledsoe, and Julie Anderson.

A cursory review reveals that the records are mainly dated from 1998 – 2000.

No inventory was found in the boxes.

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copied

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United States Senate

WASHINGTON, DC 20510

September 16, 1998

Dear Senate Conferee:

We are writing to draw your attention to two important issues in the upcoming conference on FY99 VA, HUD and Independent Agencies Appropriations.

First, we wish to convey our strong support for the EPA's Energy Star and Green Lights Programs and urge you to insist upon the Senate's funding levels for these important programs. As you are aware, the Green Lights and Energy Star Programs involve voluntary collaborations with private, public and non-profit sectors to increase their energy efficiency. To date, the Energy Star Buildings and Green Lights programs have reduced annual electricity use by more than 7 billion kilowatt-hours, saved more than \$514 million per year in energy costs, and prevented more than 11 billion pounds of greenhouse gas emissions per year.

For FY99, the Senate provided an increase of approximately \$5 million to be apportioned among EPA's voluntary environmental programs. The House provided no increase - leaving funding at the FY98 level. We believe the increased funding level in the Senate bill is critical for EPA's Green Lights and Energy Star Programs to reach the greatest number of participants and generate the greatest benefits in energy savings, pollution reduction and increased competitiveness. We ask you to support the Energy Star and Green Lights Programs by insisting on the Senate funding level in the VA-HUD Appropriations conference.

Second, we ask you to ensure that the conflict between the Senate and the House directives to the Environmental Protection Agency on greenhouse gas reduction strategies is resolved in favor of the Senate report language. The report accompanying S. 2168 directs the EPA to comply with the Government Performance and Results Act in evaluating the President's proposals to reduce greenhouse gases. The House bill, H.R. 4194, prohibits the EPA from using funds to "develop, propose or issue rules, regulations, decrees or orders for the purpose of implementation, or in contemplation of implementation of the Kyoto Protocol."

The conferees need to clarify Congress' intent and EPA's duties in evaluating greenhouse gas reduction strategies. We believe that the Senate language represents a more prudent approach to development of any national policy on greenhouse gas reduction. Congress and the public need reliable information to evaluate the costs and benefits of climate change strategies. We ask that you insist on clarification of the conflict in favor of the Senate report language.

We thank you for your past support of the Green Lights and Energy Star Programs and your consideration of our concerns regarding EPA's climate change responsibilities in FY99.

Sincerely,

Jim Jeffords
 Jeff G. Gorman
 J. Kilian
 Jack Reed
 Max Cleland
 Patrick Leahy
 Patty Murray
 D. Vitter
 Wayne Allard
 John F. Kerry

Jeff Byrd
 Chris Coburn
 Rick Lugar
 Bob D'Amico
 John H. Chafee
 Dale Bumpers
 John Warner
 J. D. Rockefeller
 Mike Wallstone
 Chris Dodd
 Ron Wyden

Sen VA-NUD Comm Report

[COMMITTEE PRINT]

NOTICE: This is a draft for use of the Committee and its staff only, in preparation for markup.

Calendar No. 000

105TH CONGRESS }
2d Session }

SENATE

{ REPORT
105-000

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING
AND URBAN DEVELOPMENT, AND INDEPENDENT AGEN-
CIES APPROPRIATIONS BILL, 1999

JULY 00 (legislative day, JULY 00), 1998.—Ordered to be printed

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

REPORT

(To accompany S. 0000)

The Committee on Appropriations reports the bill (S. 0000) 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, 1999, and for other purposes, reports favorably thereon and recommends that the bill do pass.

Amount of new budget (obligational) authority

Amount of bill as reported to Senate	\$93,331,942,000
Amount of appropriations to date, 1998	88,392,163,000
Amount of budget estimates, 1999	94,081,470,705
Under estimates for 1999	749,528,675
Above appropriations for 1998	4,939,779,030

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Gen. VA - NUD Report

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with the ongoing Jordan River nonpoint source project, including the creation of wetlands to control urban stormwater runoff.

- + \$1,000,000 for the Columbia basin ground water management assessment.
- + \$1,500,000 for the city of West Palm Beach, FL, for its wetlands-based potable water reuse program including stormwater and wastewater recycling.
- + \$500,000 for the Urban Rivers Awareness Program at the Academy of Natural Sciences in Philadelphia to develop a new environmental science program.
- + \$2,000,000 for education, outreach, technical studies, and training to minimize lead hazards created during home improvement and repainting projects.
- + \$1,000,000 for an expansion of EPA's efforts related to the Government purchase and use of environmentally preferable products under Executive Order 12873 including life cycle analysis. EPA should work with GSA, USDA, DOD, and the Office of the Federal Environmental Executive as well as other related agencies. EPA should establish appropriate definitions and standards, and use life-cycle methodologies and use nongovernmental certification and/or seal-type programs, where possible. Priority should be given to product areas where agri-based products are likely to be a significant component, including solvents, lubricants, building materials, and plastic substitute products.
- + \$200,000 to develop a technical guidance manual for use by permit reviewers and product specifiers (Government and private sector) to ensure appropriate uses of preserved wood in applications including housing, piers, docks, bridges, utility poles, and railroad ties.
- + \$2,000,000 for the State of Missouri Department of Natural Resources (DNR) for a clandestine methamphetamine lab cleanup project. The methamphetamine production process creates toxic and explosive gases and residue. The funds are to be used by the Missouri DNR in cooperation with law enforcement and local governments to fund the cleanup and removal of contaminated materials from methamphetamine lab sites.
- + \$100,000 to continue the Design for the Environment for Farmers Program to address the unique environmental concerns of the American Pacific area and the need to develop and adopt sustainable agricultural practices for these fragile tropical ecosystems.
- + \$200,000 for the Fairmount Water Works Interpretive Center for environmental education activities.
- \$81,000,000 from the climate change technology initiative. The amount provided represents an increase of \$5,023,000 for these activities. None of the funds provided to EPA are to be used to support activities related to implementation of the Kyoto protocol prior to its ratification.
- \$11,500,000 from the environmental monitoring for public access and community tracking. The amount provided is the same as the current level for this new program.

Kyoto / GPPA

EPA to review favorably a grant proposal to develop a national wetlands data base clearinghouse, in cooperation with other Federal and State agencies, to demonstrate the applicability of geographic information system planning technology to provide a single, unified data base available to private and public stakeholders.

The Committee directs EPA to coordinate efforts with the Office of National Drug Control Policy to conduct assessments of a sampling of seized clandestine methamphetamine producing laboratories and evaluate cleanup requirements necessary to ensure that such sites are safe for future human occupation. Findings and recommendations shall be reported to the chairman, the Director of the Drug Enforcement Agency, and the Director of ONDCP.

The Committee is aware that the lower Brazos River provides drinking water for some of the fastest growing areas of Texas. Through a project at Tarleton State University, the Brazos River Authority will continue to monitor the nutrient levels in the watershed and calibrate environmental standards to the poultry industry in the lower part of the Brazos. The Committee encourages EPA to support the efforts of the Brazos River Authority and Tarleton State University.

The Committee understands that EPA and the Council on Environmental Quality is looking at the impact of urban sprawl on water quality as part of the clean water action plan. The Committee encourages EPA to work with the Vermont Natural Resources Conservation Service and the University of Vermont who have formed a partnership to develop tools for local planners to assess the environmental impact of development on water quality.

The Committee directs the EPA to provide an accounting of global warming-related grants and contracts over \$500,000. This report should be provided to the Committee by May 1, 1999.

The Committee is supportive of the Treasure Valley hydrologic project in Boise, ID, which involves a study of the impacts of irrigation and wells on ground water levels and water quality, in addition to providing valuable information about the source of contaminants which have been detected in the regional water supply system. EPA is urged to continue supporting this project.

The Committee is concerned with the regulatory burdens placed upon State and local governments by the EPA. The Committee encourages the Agency to work with State and local governments to increase the understanding and preparation for the effects and impacts of the regulations prior to the effective date for implementation of such regulations.

The Committee continues to be concerned with the Agency's sector facility indexing project. The Committee directs the Agency to ensure that the data used in this project is of good and accurate quality and to respond to and correct data errors, omissions, and inaccuracies in response to public comments.

On October 22, 1997, the President announced a three-stage proposal on climate change in anticipation of an international agreement to be negotiated 2 months later in Kyoto, Japan. With regard to programs pursued under the President's proposal, the Committee expects the Environmental Protection Agency to comply with the letter and spirit of the Government Performance and Results Act. The Committee directs the Agency to provide the Committee

- \$9,000,000 from the Montreal protocol fund. The amount provided is the same as the fiscal year 1998 level of \$12,600,000.
- \$5,000,000 from sustainable development challenge grants. The amount provided is the same as the current level.
- \$1,000,000 from accident investigations. This responsibility has been transferred to the newly established Chemical Safety Board.
- \$1,000,000 from GLOBE.
- \$1,597,000 from urban livability. The agency has not demonstrated an effective application of the funds provided for this program. Further, the Committee is concerned with the proliferation of new programs and initiatives while many critical core agency activities are not being met adequately.
- \$79,613,000 as a general reduction, subject to normal re-programming guidelines.

The Committee has recommended the full budget request of \$37,800,000 for activities under the clean water action plan in the EPM account. In addition, a number of items have been added by the Committee which support the clean water action plan, including on-farm environmental assessments and monitoring and related activities associated with the toxic microbe *Pfiesteria*.

The Committee supports the President's full request for the south Florida ecosystem restoration project, the National Estuary Program including Sarasota Bay and Mobile Bay, the Chesapeake Bay Program Office, and the water quality monitoring program along the New Jersey-New York shoreline.

The Committee supports funding for the environmental finance centers at the 1998 level of \$940,000.

The Committee is concerned with EPA's implementation of the Food Quality Protection Act. In response to concerns raised by a broad array of stakeholders, the White House issued a memorandum on April 8, 1998, directing EPA and the U.S. Department of Agriculture to work together "to ensure that implementation of the paramount public health goals of the new law is informed by a sound regulatory approach, by the expertise of the USDA, by appropriate input from affected members of the public, and by due regard for the needs of our Nation's agricultural producers." The memorandum delineated four principles to be followed in implementing the law, including (1) using sound science in protecting public health, (2) ensuring transparency in the decisionmaking process, (3) the need to address transition challenges for affected constituencies, and (4) establishing an effective means of consultation with the public and other agencies. The Committee supports these principles and fully expects EPA to comply with the letter and the spirit of the White House memorandum.

In accordance with these principles, EPA should initiate formal notice and comment rulemaking on risk assessment protocols and data requirements to ensure transparency and opportunity for stakeholder input. EPA should devote sufficient resources to increase the pace of registration actions and emergency exemptions, and to issue regulations governing emergency exemption tolerances which were statutorily required by August 3, 1997. EPA should also review and issue emergency exemption tolerances in a manner

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with a detailed plan for implementing the President's proposal, which would include an annual performance goal for the reduction of greenhouse gases that has objective, quantifiable, and measurable target levels. The plan should provide substantial evidence on the effectiveness of implementing the President's proposal in facilitating compliance with binding greenhouse gas emissions reduction commitments contained in international agreements negotiated on behalf of the United States. The Agency shall submit this plan to the Committee by December 31, 1998. The General Accounting Office is directed to prepare a report that evaluates the Agency's completed plan and submit its report to the Committee within 90 days after receipt of the Agency's plan.

The Committee has not included proposed bill language relative to the environmental services fund.

OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

Appropriations, 1998	\$40,142,000
Budget estimate, 1999	43,391,300
Committee recommendation	43,391,300

PROGRAM DESCRIPTION

The Office of Inspector General provides EPA audit and investigative functions to identify and recommend corrective actions of management, program, and administrative deficiencies which create conditions for existing or potential instances of fraud, waste, and mismanagement.

Trust fund resources are transferred to this account directly from the hazardous substance Superfund.

COMMITTEE RECOMMENDATION

The Committee recommends \$43,391,300 for the Office of Inspector General, the same as the budget request. The appropriation includes \$31,154,000 from the general fund in this account and \$12,237,300 from the Superfund trust fund. The trust fund resources will be transferred to the inspector general "General fund" account with an expenditure transfer.

BUILDINGS AND FACILITIES

Appropriations, 1998	\$109,420,000
Budget estimate, 1999	52,948,000
Committee recommendation	52,948,000

PROGRAM DESCRIPTION

The appropriation for buildings and facilities at EPA covers the necessary major repairs and improvements to existing installations which are used by the Agency. This appropriation also covers new construction projects when appropriate.

COMMITTEE RECOMMENDATION

The Committee recommends the budget request of \$52,948,000 for buildings and facilities. The Committee has not provided the

One Hundred Fifth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twenty-seventh day of January, one thousand nine hundred and ninety-eight*

An Act

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, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, 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, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 128; 45 Stat. 735; 76 Stat. 1198), \$21,857,058,000, to remain available until expended: *Provided*, That not to exceed \$24,534,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

H.R. 4194- VA/HUD/Independent Agencies
Appropriations Act, FY 1999

H. R. 4194—35

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 7251-7298, \$10,195,000, of which \$865,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$11,666,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$650,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which

issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; and not to exceed \$6,000 for official reception and representation expenses, \$1,848,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000: *Provided further*, 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: *Provided further*, That none of the funds made available in this Act may be used to implement or administer the interim guidance issued on February 5, 1998 by the Environmental Protection Agency relating to title VI of the Civil Rights Act of 1964 and designated as the "Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits" with respect to complaints filed under such title after the date of the enactment of this Act and until guidance is finalized. Nothing in this proviso may be construed to restrict the Environmental Protection Agency from developing or issuing final guidance relating to title VI of the Civil Rights Act of 1964.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$31,154,000, to remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, \$56,948,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; not to exceed \$1,500,000,000, consisting of \$650,000,000

Management impacts of the risks to human

benefit of the minated sed-ious methods ation, and the o the environ- await the com- und money on ing any more sidered where ediment poses urgent or time al alternatives e site for dis- d, and the po- d alternatives Agency should completion of

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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 ac-

tions 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. \$3,000,000 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-

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Congress of the United States

Washington, DC 20515

September 14, 1998

The Honorable Jerry Lewis
Chairman
Appropriations Subcommittee on VA, HUD,
and Independent Agencies
H143 Capitol
Washington, DC 20515

The Honorable Louis Stokes
Ranking Member
Appropriations Subcommittee on VA, HUD,
and Independent Agencies
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairman Lewis and Ranking Member Stokes:

We are writing to urge you to drop the damaging climate change funding restriction included in Title III of the House VA-HUD appropriations bill. The provision will prevent federal agencies from providing Congress with adequate information for an informed ratification debate on the Kyoto Protocol. Instead, we urge that you adhere to the approach set forth in the Senate VA-HUD report, which restricts funds from being used for implementation of the Kyoto Protocol in advance of ratification, while also allowing for agencies to provide "a detailed plan for implementing" the President's climate change proposal.

When Rep. Obey offered his amendment that passed 226-198, it rejected report language that would have restricted EPA from conducting even educational outreach on the issue of global warming. That amendment was a step in the right direction, but it does not fully address the overly restrictive rider language.

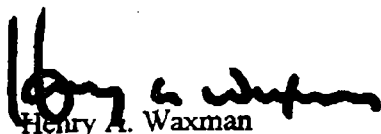
Of particular concern in the House VA-HUD bill is language that would prevent agencies from "developing" rules, regulations, decrees or orders "in contemplation" of the Kyoto Protocol. In floor remarks on July 29, Rep. Knollenberg affirmed that his interpretation of the bill would preclude "drafting, preparing, or developing rules, orders, or decrees or work such as preparing notices, other language or studies that would be used to justify rules, orders or other decrees that would implement the Protocol." While agencies should not implement the Protocol before it is ratified, they have an obligation to develop plans to reduce greenhouse gas emissions should ratification occur. Information about what it would take to implement the Protocol will be critical for Congress to assess the viability of our participation.

Unfortunately, under the current Title III language, agencies would not be able to provide

The Honorable Jerry Lewis and the Honorable Louis Stokes
September 9, 1998
Page 2

the detailed plan and "substantial evidence on the effectiveness of implementing the President's proposal in facilitating compliance with binding greenhouse gas emissions reduction commitments contained in international agreements" called for in the Senate VA-HUD report. We hope conferees will improve upon the confusing provision in the House VA-HUD appropriations bill and allow EPA to provide adequate information for an informed ratification debate.

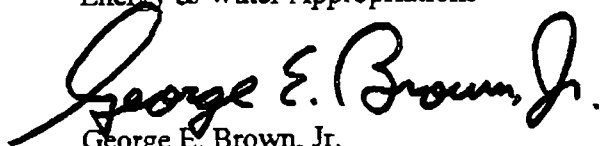
Sincerely,



Henry A. Waxman
Ranking Minority Member
Government Reform &
Oversight Committee



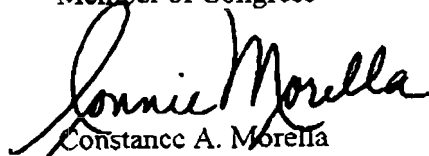
Vic Fazio
Ranking Member
Appropriations Subcommittee
Energy & Water Appropriations



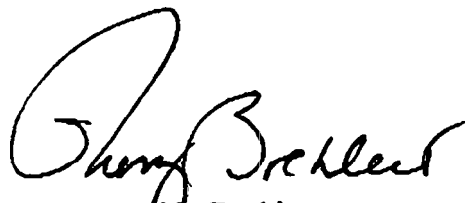
George E. Brown, Jr.
Ranking Minority Member
Science Committee



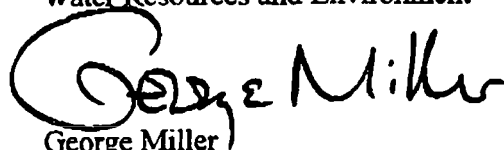
Frank Pallone, Jr.
Member of Congress



Constance A. Morella
Member of Congress



Sherwood L. Boehlert
Chairman
Transportation Subcommittee on
Water Resources and Environment



George Miller
Ranking Minority Member
Resources Committee



Wayne T. Gilchrest
Member of Congress



James C. Greenwood
Member of Congress



Greg Ganske
Member of Congress

United States Senate

WASHINGTON, DC 20510

September 29, 1998

Immediate Attention: Global Climate Change Language in VA-HUD-EPA Appropriations Conference

Dear Colleague:

Please find attached a copy of a letter to be sent to the Senate conferees on the FY 1999 VA-HUD-Independent Agencies appropriations bill, supporting a blending of both the Senate and House positions on potential "backdoor" implementation of the Kyoto Protocol on global climate change by the Environmental Protection Agency.

There have been some concerns expressed that the bill language approved by the House conflicts with the position taken by the Senate in its committee report and could undermine current, ongoing programs such as EPA's Green Lights and Energy Star programs.

Both concerns are based on misunderstandings. In fact, the House and Senate positions are perfectly compatible and complementary, as is outlined in the attached letter, since they emphasize different aspects of EPA activity. Both are consistent with, and would further, the Senate's unanimous position in passing the Byrd-Hagel Resolution last year.

Please call George O'Connor or Damon Tobias in Senator Craig's office (4-2752), or John Peschke at the Republican Policy Committee (4-2769) by 2:00 p.m. Wednesday, September 30, to cosign this letter. Thank you.

Sincerely,



Larry E. Craig
United States Senator



Chuck Hagel
United States Senator

Dear [Conferee(s)]:

As you know, in passing the VA-HUD-Independent Agencies appropriations bill for FY 1999, both the Senate and the House addressed the issue of potential "backdoor" implementation of the Kyoto Protocol on global climate change.

The House approved bipartisan bill language prohibiting the Environmental Protection Agency from using appropriated funds to promulgate rules or regulations imposing requirements on the private sector related to, or otherwise implementing, the Kyoto Protocol. The committee report accompanying the Senate version of the bill, in general language, prohibits implementation of the protocol prior to Senate ratification, and also directs EPA to comply rigorously and thoroughly with the letter and spirit of the Government Performance and Results Act in programs dealing with climate change.

We believe these two approaches are complementary and we respectfully urge the conferees to incorporate both in the final conference agreement. **There has been some confusion over whether there is any conflict between the House and Senate language. There is not.** They are consistent with each other and with the Byrd-Hagel Resolution, which passed the Senate 95-0 last year and remains the best statement of the Senate's position in this area.

This combined approach would protect essential constitutional prerogatives: Congress' power of the purse and the Senate's authority to ratify treaties.

The Senate language includes necessary direction concerning compliance with GPRA, which would provide essential accountability and hold EPA to a performance-based standard. In other words, an agency should be able to show that its activities will have measurable, and intended, results, and be open and complete in reporting to Congress.

While both versions address implementation generally, the House language emphasizes and clarifies that mandates and regulatory encumbrances should not be imposed on American employers, workers, and the economy in the service of a treaty that may never be ratified. In fact, even the Administration has indicated that the Kyoto Protocol may not be submitted to the Senate for years.

Congress, of course, expects directives tied to funding in report language to be binding on agencies. However, no matter which party controls Congress or the Administration, there is a long history of conflict when agencies act "creatively" with regard to report language. Statutory bill language would remove any ambiguity as to the range of EPA's permissible activities.

Nothing in either body's language would in any way interfere with current voluntary programs or research concerning energy efficiency and pollution prevention. This fact was highlighted by floor colloquies in both Houses.

Nothing in the House language would in any way prevent EPA from issuing rules or taking actions that are currently authorized by law and undertaken without regard to the Kyoto

Protocol. The Obey Amendment on the floor removed the so-called "gag rule" from the House report language, so that is no longer an issue. The House had ample opportunity to make other changes to its language; it did not do so and the language remained in the bill with strong bipartisan support.

We appreciate your attention to this request. Thank you in advance for your support in conference for pursuing what has been shown to be the bipartisan, bicameral position of Congress on this issue.

Sincerely,

Climate Change Reports Called for in Appropriations Bill

1. Senate Foreign Operations.

- Administration wide detailed account of all Federal agency obligations and expenditures for climate change programs and activities, domestic and international for FY98 and FY99 and any plans for programs thereafter “related to the implementation or the furtherance of protocols pursuant to, or related to negotiations” to amend the FCCC. The report is due with the submission of the FY2000 budget and requires an accounting by agency with each agency identifying climate change activities and costs by line item.
- In response to the notification requirement for climate change, AID plans to provide the Appropriations Committee with an annual report detailing climate change activities and the estimated obligations.
- Report language requiring the Administration to provide an assessment of the disposition of FY98 and FY99 funding for the State Dept’s Climate Stabilization Fund, a detailed description of activities and programs and the number of personnel assigned or detailed to these program. State has the assessment underway.

2. Senate Interior.

- Report language requiring the Administration to include the following in its FY2000 budget submission for all affected agencies: the components of climate change programs or activities, anticipated goals and objectives, 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.
- Report language directing DOE to provide the Committee with a detailed plan from implementing key elements of the President’s proposal which would include performance goals for the reduction of greenhouse gases that have objective, quantifiable, and measurable target levels. The plan should provide evidence on the effectiveness of these programs in meeting the performance goals and shall be submitted with the FY2000 budget submission.

3. Senate Treasury-Postal.

- Report language requiring the Administration to include the following in its FY2000 budget submission for all affected agencies: the components of climate change programs or activities, anticipated goals and objectives, 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.

- Report language directing the Administration to provide the Committee with a detailed plan from implementing key elements of the President's proposal which would include performance goals for the reduction of greenhouse gases that have objective, quantifiable, and measurable target levels. The plan should provide evidence on the effectiveness of these programs in meeting the performance goals and shall be submitted with the FY2000 budget submission.

4. Senate VA-HUD.

- Report language directing the EPA to provide the Committee with a detailed plan from implementing key elements of the President's proposal which would include performance goals for the reduction of greenhouse gases that have objective, quantifiable, and measurable target levels. The plan should provide evidence on the effectiveness of implementing the President's proposal in facilitating compliance with binding greenhouse gas emissions reduction commitments contained in international agreements negotiated on behalf of the U.S. The Agency is to submit the plan by Dec. 31, 1998.

This report language was modified by a colloquy between Sens. Byrd and Bond. Bond agreed that EPA could submit the report with the submission of its FY2000 budget and that the provision is only meant to ask for "a more comprehensive explanation by the EPA of the components of its energy and environment programs, justifications for funding increases, and a clear definition of how these programs are justified by the EPA's goals and objectives independent of the implementation of the Kyoto Protocol."

United States Senate

WASHINGTON, DC 20510

September 2, 1998

Dear Colleague:

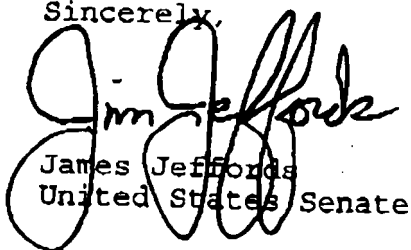
Please join us in signing the attached letter to the VA/HUD conferees supporting the Environmental Protection Agency's Green Lights and Energy Star programs and clarifying the EPA's responsibilities in analyzing efforts to reduce greenhouse gas emissions.

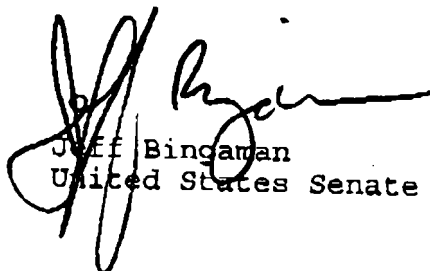
Green Lights and Energy Star programs are important energy efficiency and pollution prevention programs that provide environmental benefits for the country and significant financial benefits for businesses, schools, hospitals, and other organizations. These vital programs help reduce energy use, save money, and prevent emissions of pollutants and so-called "greenhouse gases." We believe the effectiveness of the Green Lights and Energy Star programs justifies the \$5 million funding increase provided in the Senate bill. Unfortunately, the House funded the programs at last year's level. We urge the conferees to maintain the higher Senate level.

We are also asking the conferees to clarify the apparent conflict between the House and Senate directives to EPA on the agency's responsibilities relative to the Kyoto Protocol. The House bill includes a provision prohibiting "development... of any rules... in contemplation of implementation of the Kyoto Protocol." The Senate language also prohibits implementation prior to ratification, but directs the EPA to comply with the Government Performance and Results Act, including an annual performance goal with measurable targets. We believe that the Senate report language is the appropriate approach to addressing any proposed greenhouse gas reduction strategy; we are asking the Senate conferees to insist on the Senate language.

Please contact Dan Alpert at Senator Jeff Bingaman's office, 224-1808, or Lisa Carter at Senator James Jeffords' office, 224-5141, with any questions. We hope you will join with us.

Sincerely,


James Jeffords
United States Senate


Jeff Bingaman
United States Senate

United States Senate

WASHINGTON, DC 20510

Dear Senate Conferee:

We are writing to draw your attention to two important issues in the upcoming conference on FY99 VA, HUD and Independent Agencies Appropriations.

First, we wish to convey our strong support for the EPA's Energy Star and Green Lights Programs and urge you to insist upon the Senate's funding levels for these important programs. As you are aware, the Green Lights and Energy Star Programs involve voluntary collaborations with private, public and non-profit sectors to increase their energy efficiency. To date, the Energy Star Buildings and Green Lights programs have reduced annual electricity use by more than 7 billion kilowatt-hours, saved more than \$514 million per year in energy costs, and prevented more than 11 billion pounds of greenhouse gas emissions per year.

For FY99, the Senate provided an increase of approximately \$5 million to be apportioned among EPA's voluntary environmental programs. The House provided no increase - leaving funding at the FY98 level. We believe the increased funding level in the Senate bill is critical for EPA's Green Lights and Energy Star Programs to reach the greatest number of participants and generate the greatest benefits in energy savings, pollution reduction and increased competitiveness. We ask you to support the Energy Star and Green Lights Programs by insisting on the Senate funding level in the VA-HUD Appropriations conference.

Second, we ask you to ensure that the conflict between the Senate and the House directives to the Environmental Protection Agency on greenhouse gas reduction strategies is resolved in favor of the Senate report language. The report accompanying S. 2168 directs the EPA to comply with the Government Performance and Results Act in evaluating the President's proposals to reduce greenhouse gases. The House bill, H.R. 4194, prohibits the EPA from using funds to "develop, propose or issue rules, regulations, decrees or orders for the purpose of implementation, or in contemplation of implementation of the Kyoto Protocol."

The conferees need to clarify Congress' intent and EPA's duties in evaluating greenhouse gas reduction strategies. We believe that the Senate language represents a more prudent approach to development of any national policy on greenhouse gas reduction. Congress and the public need reliable information to evaluate the costs and benefits of climate change strategies. We ask that you insist on clarification of the conflict in favor of the Senate report language.

We thank you for your past support of the Green Lights and Energy Star Programs and your consideration of our concerns regarding EPA 's climate change responsibilities in FY99.

Sincerely,

James M. Jeffords
United States Senate

Jeff Bingaman
United States Senate

September 9, 1998

DRAFT

The Honorable Jerry Lewis
Chairman
Appropriations Subcommittee on VA, HUD,
and Independent Agencies
11143 Capitol
Washington, DC 20515

The Honorable Louis Stokes
Ranking Member
Appropriations Subcommittee on VA, HUD,
and Independent Agencies
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairman Lewis and Ranking Member Stokes:

We are writing to urge you to reject the Knollenberg provision included in the House VA-HUD appropriations bill. The provision is a gag rule on federal agencies, preventing them from providing Congress with adequate information for an informed ratification debate on the Kyoto Protocol. Instead, we urge that you adhere to the approach set forth in the Senate VA-HUD report, which restricts funds from being used for implementation of the Kyoto Protocol in advance of ratification, while also allowing for agencies to provide "a detailed plan for implementing" the President's climate change proposal.

When Rep. Obey offered his amendment that passed 226-198, it rejected report language that would have restricted EPA from conducting even educational outreach on the issue of global warming. That amendment was a step in the right direction, but it does not fully address the overly restrictive rider language.

Of particular concern in the House VA-HUD bill is language that would prevent agencies from "developing" rules, regulations, decrees or orders "in contemplation" of the Kyoto Protocol. In floor remarks on July 29, Rep. Knollenberg affirmed that his interpretation of the bill would preclude "drafting, preparing, or developing rules, orders, or decrees or work such as preparing notices, other language or studies that would be used to justify rules, orders or other decrees that would implement the Protocol." While agencies should not implement the Protocol before it is ratified, they have an obligation to develop plans to reduce greenhouse gas emissions should ratification occur. Information about what it would take to implement the Protocol will be critical for Congress to assess the viability of our participation.

Unfortunately, under the broad Knollenberg language, agencies would not be able to provide the detailed plan and "substantial evidence on the effectiveness of implementing the President's proposal in facilitating compliance with binding greenhouse gas emissions reduction

DRAFT

commitments contained in international agreements" called for in the Senate VA-HUD report. We hope conferees will lift the gag order on EPA and improve upon the confusing Knollenberg provision in the House VA-HUD appropriations bill.

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Ranking Minority Member
Government Reform &
Oversight Committee

Vic Fazio
Ranking Member
Appropriations Subcommittee
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George Miller
Ranking Minority Member
Resources Committee

George E. Brown, Jr.
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Science Committee

Frank Pallone, Jr.
Member of Congress

cc: Representative Tom DeLay
Representative James T. Walsh
Representative David L. Hobson
Representative Joe Knollenberg
Representative Rodney Frelinghuysen
Representative Mark W. Neumann
Representative Roger F. Wicker
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Representative Marcy Kaptur
Representative Carrie P. Meek
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Senator Christopher "Kit" Bond
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Senator Tom Harkin
Senator Robert C. Byrd

United States Senate

WASHINGTON, DC 20510

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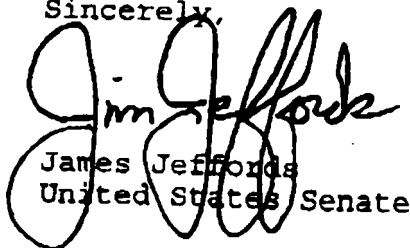
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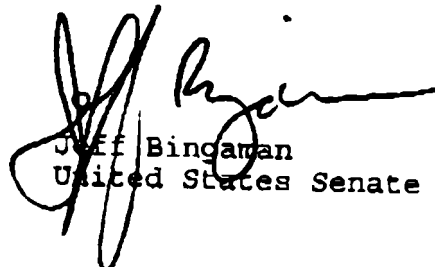
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We thank you for your past support of the Green Lights and Energy Star Programs and your consideration of our concerns regarding EPA 's climate change responsibilities in FY99.

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United States Senate

Jeff Bingaman
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**DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (Senate - July 17, 1998)**

Mr. BYRD. Madam President, would the Senator from Missouri yield for a question on the appropriation of funding for the Environmental Protection Agency (EPA) and its energy and environment related programs? I note that on pages 74 and 75 of the Committee's Report that the Committee addresses the issue of the EPA's compliance with the Government Performance and Results Act and the EPA's submission of a report on activities related to these ongoing programs. Is it the Senator's understanding that the committee report reminds the EPA that it is to fully comply with the Government Performance and Results Act?

Mr. BOND. The Senator is correct. The language in the report requires full compliance with the Government Performance and Results Act.

Mr. BYRD. Is it the intent of the Senator to create additional legal requirements in this area beyond those required by the letter and spirit of the Government Performance and Results Act?

Mr. BOND. No, not at all. I would say to my friend from West Virginia that all we are asking here is for a more comprehensive explanation by the EPA of the components of its energy and environment programs, any justifications for funding increases, and a clear definition of how these programs are justified by the EPA goals and objectives independent of the implementation of the **Kyoto Protocol**.

Mr. BYRD. I thank the Senator from Missouri. I would also note that the Committee Report expects the EPA to submit a report to the Committee by December 31, 1998, with a follow-up analysis by the General Accounting Office ninety days later. As the Senator may know, Senator Craig and I submitted language to the Interior Appropriations bill directing the Department of Energy (DOE) to submit a similar report, but this report is to be submitted in conjunction with DOE's Fiscal Year 2000 budget submission. Given the short period between the likely enactment of this Act and the December 31 deadline, would the Senator agree that it might be more reasonable for the EPA to also submit its report along with its Fiscal Year 2000 budget submission?

Mr. BOND. Yes. I believe that is a more appropriate time for the EPA to fulfill the reporting requirement as outlined in the Committee Report language.

Mr. BYRD. I thank the distinguished Senator. The EPA should provide a more detailed plan for better evaluating its programs, but I believe this is a more appropriate date to require such a report. It would not be wise to arbitrarily cap funding for vital energy and environment programs that encourage domestic energy efficiency, decrease costs, and promote domestic energy security. These programs should be evaluated on their own merits. The Federal Government serves a vital catalytic role in supporting and developing cutting edge research programs that the private sector can then take into the marketplace. The true benefits of these technologies and programs may not be evident for a number of years. Through these efforts, the United States

has a tremendous opportunity to profit from new technologies, both at home and abroad, while at the same time reducing greenhouse gas emissions.

HUD NOTICE AND COMMENT RULEMAKING

Mr. D'AMATO. Madam President, I would like to enter into a colloquy with my colleagues, Senator **Kit Bond**, the Chairman of the Appropriations Subcommittee on Veterans Affairs and Housing and Urban Development, and Senator **Connie Mack**, the Chairman of the Banking Committee's Subcommittee on Housing Opportunity and Community Development.

It is my understanding that the Department of Housing and Urban Development (HUD) issued a series of regulations on June 30, 1998 dealing with a wide variety of HUD programs affecting millions of units of affordable housing. In each of these regulations, HUD has waived the sixty-day public comment period required under HUD's notice and comment rulemaking procedures. Instead, each of these regulations has included an expedited comment and review period. I would ask my colleagues if I have stated the facts accurately.

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**DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (Senate - July 17, 1998)**

Mr. CHAFEE. Madam President, page 71 of the committee report accompanying the fiscal year 1999 VA, HUD and Independent Agencies Appropriations bill states that, '[n]one of the funds provided to the EPA are to be used to support activities related to implementation of the **Kyoto Protocol** prior to its ratification.' I want to try to get a clarification on this report language from the distinguished chairman of the VA, HUD and Independent Agencies Subcommittee, Senator **Bond**. I would agree that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the **Kyoto Protocol**, unless and until such treaty is ratified by the United States.

I would like to point out, however, that the United States is a full participating signatory nation to the 1992 Framework Convention on Climate Change. Under the 1992 Framework Convention, which was agreed to in Rio de Janeiro by President Bush and later consented to by the U.S. Senate, the United States pledged to carry out a wide variety of voluntary initiatives aimed at reducing greenhouse gases. These initiatives, being implemented by the EPA, the Department of Energy, and other agencies, are in place today. The Congress has funded these initiatives for several years now, indeed, long before the December 1997 climate conference in **Kyoto**, Japan. These initiatives; the Climate Challenge program, the Program for a New Generation of Vehicles, Green Lights, Energy Star, and others, have to varying degrees reduced greenhouse gas emissions by increasing energy efficiency across a broad range of domestic industrial sectors. They make sense for other reasons, Madam President. We have found with these programs and others that our companies and American consumers benefit economically. When we conserve resources and reduce energy consumption in a sensible way, we save money. When we research, manufacture and market new energy efficient goods and services, we create export opportunities and jobs. We also increase U.S. energy security by reducing our dependence on imported oil, natural gas and coal. Finally, when we find cost effective ways to reduce greenhouse gases, we oftentimes reduce other air pollutants like mercury, nitrogen oxide, and sulfur dioxide.

So, I want to make sure that the committee report language that I cited previously does not interfere with these important and worthwhile efforts. I would ask my friend from Missouri if these ongoing energy conservation and climate-related programs and initiatives, which are not intended to directly implement actions called for under the **Kyoto Protocol**, would go forward under this bill?

Mr. BOND. Indeed they would, Senator **Chafee**. Our only goal here is to prevent the issuance of federal regulations designed solely for the purpose of **Kyoto Protocol** implementation. We have funded these EPA programs for the upcoming fiscal year and expect the agency to spend the money in an effective and appropriate manner.

Mr. CHAFEE. I thank the Senator.

UNIVERSITY OF CINCINNATI

Mr. DeWINE. Madam President, I would like to take this opportunity to extend my congratulations to Chairman **Bond** and Senator **Mikulski** and other members of the appropriations subcommittee on the FY 1999 appropriations bill. The committee has faced tough budget constraints this year and I would encourage my colleagues to join me in supporting this bill. I would also like to call to the Chairman's attention an important project in Ohio that I believe is deserving of funding under the Community Development Block Grant (CDBG) program, specifically, the Economic Development Initiative funding for various community development projects. A number were listed by the Committee in its report on the bill. I am very interested in a project that has been supported by both the local community and the State of Ohio--the rehabilitation of the Medical Science Building at the University of Cincinnati's Medical Center. This facility ranks among the top in the nation for biomedical research, research which benefits both the U.S. Environmental Protection Agency and the Veterans' Administration, as well as contributing to the local economy in excess of \$2 billion. Would the Senator from Missouri agree that an initiative which will rehabilitate a facility dedicated to such research be a worthy candidate for funding under the Committee's EDI provision?

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**Colloquy between Senators Byrd and Bond
FY 1999 VA, HUD and Independent Agencies Appropriations**

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Mr. Bond. The Senator is correct. The language in the report requires full compliance with the Government Performance and Results Act.

Mr. Byrd. Is it the intent of the Senator to create additional legal requirements in this area beyond those required by the letter and spirit of the Government Performance and Results Act?

Mr. Bond. No, not at all. I would say to my friend from West Virginia that all we are asking here is for a more comprehensive explanation by the EPA of the components of its energy and environment programs, any justifications for funding increases, and a clear definition of how these programs are justified by the EPA's goals and objectives independent of the implementation of the Kyoto Protocol.

Mr. Byrd. I thank the Senator from Missouri. I would also note that the Committee Report expects the EPA to submit a report to the Committee by December 31, 1998 with a follow-up analysis by the General Accounting Office ninety days later. As the Senator may know, Senator Craig and I submitted language to the Interior Appropriations bill directing the Department of Energy (DOE) to submit a similar report, but this report was to be in conjunction with DOE's Fiscal Year 2000 budget submission. Would the Senator agree that it would be more appropriate for the EPA to also submit its report along with its Fiscal Year 2000 budget submission?

Mr. Bond. Yes, I believe that this is a more appropriate time for the EPA to fulfill the reporting requirement as outlined in the Committee Report language.

Mr. Byrd. I thank the distinguished Senator. The EPA should provide a more detailed plan for better evaluating its programs, but I believe this is a more appropriate time to ask for such a report. It would not be wise to arbitrarily cap funding for vital energy and environment programs that encourage domestic energy efficiency, decrease costs, and promote domestic energy security. These programs should be evaluated on their own

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I would also like to note for the record, I am not aware of any present Administration proposals to impose binding regulations to reduce greenhouse gases. In fact, binding greenhouse gas regulations were specifically rejected by the White House and not included in its recent electricity restructuring proposal, despite support for these regulations by the Environmental Protection Agency. I also believe that the EPA should be able to actively participate in efforts to increase energy efficiency, including the necessary educational and informational outreach activities which are vital in consulting key constituencies such as on a state and local level. Nonetheless, I agree that we should remain vigilant and not support binding commitments unless, and until, the U.S. Senate gives its advice and consent to the Kyoto Protocol. Again, I thank the Senator. Mr. President, I yield the floor.

The Administration's recent electricity restructuring proposal explicitly stated that ~~that~~ the Administration was not asking this Congress for the authority to impose a cap and trade system for carbon as part of that proposal.

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FY 1999 VA, HUD and Independent Agencies
Appropriations**

Mr. Chafee. Mr. President, page 71 of the committee report accompanying the fiscal year 1999 VA, HUD and Independent Agencies Appropriations bill states that, "[n]one of the funds provided to EPA are to be used to support activities related to implementation of the Kyoto Protocol prior to its ratification." I would like to ask the manager of the bill, Senator Bond, if he interprets this language to mean that EPA cannot use appropriated funds in fiscal year 1999 to implement actions called for under the Kyoto Protocol prior to the U.S. ratification of such treaty?

Mr. Bond. The Senator from Rhode Island is correct. No binding greenhouse gas emission reductions called for under the Kyoto Protocol should be implemented by the EPA unless and until such treaty is consented to by the Senate and ratified by the United States.

Mr. Chafee. Would the Senator from Missouri further stipulate that this language is not meant to prohibit the EPA from expending appropriated funds pursuant to legal authority other than the Kyoto Protocol for programs that are meant to increase energy efficiency and renewable technology usage, protect public health and the environment? I would note that the United States has ratified the 1992 Framework Convention on Climate Change which calls for these sorts of non-binding actions.

Mr. Bond. The Senator is correct. The language he has cited does allow EPA to continue to expend funds for voluntary programs to enhance energy efficiency and promote the use of renewable energy technologies. The committee does not intend to interrupt these programs, provided they have been funded and approved by Congress.

Mr. Chafee. I thank the Senator.

Mr. Byrd. Would the Senator from Missouri yield for another question on this subject? Is it the Senator's further understanding that the committee report reminds the EPA that it is to fully comply with the Government Performance and Results Act?

Mr. Bond. The Senator is correct. The language in the report requires full compliance with the Government Performance and Results Act.

Mr. Byrd. Is it the intent of the Senator to create additional legal requirements in this area beyond those required by the letter and spirit of the Government Performance and Results Act?

Mr. Bond. No. Not at all, I would say to my friend from West Virginia. All that we are asking here is for a more comprehensive explanation by the EPA of the components of its energy and environment programs, any justifications for funding increases, and a clear definition of how these programs are justified by the EPA's goals and objectives independent of the implementation of the Kyoto Protocol.

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Byrd: Also note that the Com agreed also
states that the CR11 should submit
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that Sen Cray & I

Bent: Yes, this is a move

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CLIMATE CHANGE (Senate - July 17, 1998)

[Page: S8515]

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Mr. LIEBERMAN. Mr. President, I want to take a few minutes today to talk about the mounting evidence of climate change. No one is saying that there will be an end to the four seasons or that the oceans are about to start boiling. But as we consider the new data, it is becoming increasingly clear that we are being warned about the enormous power of humanity to affect our environment. We can either respect our surroundings and work in concert with nature, or we can pollute at our peril.

Here are some of the facts from data collected by the National Oceanic and Atmospheric Administration:

June 1998 was the warmest June on record. Temperatures averaged more than 1 degree Fahrenheit above the 1880-1997 long-term mean. Temperatures over land were even more astonishing--averaging nearly one and three quarters of a degree above the long term mean, exceeding the old record by several tenths of a degree Fahrenheit.

June continued an unprecedented string of record breaking temperatures. Each month this year has set new all-time record global near-surface temperatures.

The period January-June 1998 was the warmest on record.

Even though there was a cooling of the Central Pacific Ocean temperatures due to the end of El Nino, global ocean temperatures during June were still at record high levels.

Given the high degree of persistence of ocean temperature anomalies, scientists tell us it is quite possible that during July we will experience the warmest monthly temperatures ever observed on the planet for the past 600 years.

What has this trend meant for the United States? Essentially, throughout our country we have been experiencing patterns of weather extremes.

The South experienced record dry conditions, with the driest April through June period on record for New Mexico, Texas, Louisiana, and Florida. The drought was most severe in Texas and Florida, where it adversely impacted crops, ranges and pastures, and contributed to the burning of nearly one-half million acres of Florida land.

The drought and heat wave has resulted in a number of new records. For example, Amarillo Texas had 13 days in June where temperatures were over 100 F. With a stable climate, the probability of this recurring is once in 200 years, but with continued increases in greenhouse gases, the probability would change to a 1 in 6 year event.

On the other hand, there have been unusually wet conditions in the northeast and parts of the midwest during June. For example, rainfalls of 5 to 22 inches were observed across most of the central and

northeastern states with totals exceeding 200 percent of normal across the Ohio Valley, New England the upper Mississippi Valley. Parts of the Midwest have experienced above normal rainfall since April, and the rains frequently fell from strong to severe thunderstorms, leading to abnormally frequent episodes of tornadoes, hail, managing winds and flash floods. The National Severe Storm Prediction Center reports that 372 tornadoes were recorded during June in the country, which is nearly 200 more than average. NOAA's National Hydrologic Information Center reports 63 flood-related fatalities for 1998 so far.

Numerous rainfall records have been broken. For example, more than 17 inches of rain fell during June at Blue Hill Observatory in Massachusetts, breaking all records.

For the April-June period as a whole, rainfall totals were the highest in the historical record dating back to 1895 in Rhode Island and Massachusetts, the third highest in Tennessee, and the fourth highest in Iowa. Rivers in 17 states were near or above flood state as of July 6.

Mr. President, I believe this new data is additional evidence that we must act to invest in an insurance policy to reduce the threat of global warming.

President Clinton has proposed to Congress a balanced program to arrest greenhouse gases over 5 years through tax credits for energy-efficient purchases and renewable energy investments, and through new research and development programs targeted towards building, industry, transportation and electricity. It is a well-conceived plan, and I'm disappointed that the Senate bill on EPA appropriations reduces the President's request for EPA's portion of this initiative by \$91 million.

Unfortunately, the efforts of many here in Congress seem to be aimed at preventing the government from taking any action on climate change--even for programs that would be good for our environment and public health regardless of whether you believe that climate change will happen. The report accompanying the House EPA appropriations bill would even prohibit EPA and the Council on Environmental Quality from 'conducting educational outreach or informational seminars on policies underlying the Kyoto Protocol' until or unless it is ratified.

Mr. President, let me take a final moment on the floor today to take some pride in the path that Connecticut's largest employer, United Technologies, is taking in this area. Some of you may have seen the full page ad in July 16's Roll Call by UT entitled, Responding to the Challenge of Climate Change. 'Our generation's challenge,' declares the ad 'is addressing global climate change while sustaining a growing economy--a challenge that demands a serious response from government, as well as industry and the public.' United Technologies has taken a major step forward to reduce emissions. By 2007, the company commits to cutting its energy and water consumption per dollar sales by 25 percent below 1997 levels, with approximately the same reduction in its emissions that cause climate change. I congratulate United Technologies and its president George David for this great leap forward and urge us all to accept the challenge the company has put forth.

□ [End insert]

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**DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT,
AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (Senate - July 17, 1998)**

KYOTO PROTOCOL

Mr. BOND. Mr. President, there has been a great deal of discussion over the past year on the Kyoto Protocol and concerns about efforts to implement its requirements prior to Senate ratification.

We may disagree about whether or not the global climate is warming--and there certainly is no scientific consensus on the matter. But regardless of the scientific uncertainties and the differing views on the issue, one thing is certain: the level of greenhouse gas reductions called for in the Kyoto Protocol have the very real potential of inflicting serious economic harm on the U.S. economy.

The agreement reached last December in Kyoto would, according to numerous studies, lead to significant job loss and substantial lifestyle changes for Americans. Energy prices could rise dramatically. One study by Charles River Associates and DRI/McGraw-Hill, for example, projected that in my state, industrial electricity prices could increase 54.4 percent.

Mr. President, this kind of increase in electricity prices would be devastating to small businesses, farmers, large manufacturers who employ thousands, and individual consumers, including those with limited incomes who would be hardest hit.

From the numerous studies that have been done to determine the effects of implementing the Kyoto Protocol, we know that we could expect a serious economic disruption. What is not so clear is whether there is a global climate change problem, and if so, how significant it is and what is its cause.

Therefore, I believe we must continue the debate and try to gain a better understanding of climate change and what action might be needed. To do so, we must continue funding of research and technology development. We must continue to support the voluntary efforts that many companies have undertaken to reduce greenhouse gases. And we must continue to support energy efficiency programs.

What we should not do at this time is to begin to implement the reduction requirements called for in the Kyoto Protocol. That should not happen until there has been a full debate and until this body has given its advice and consent to ratify the Protocol.

The Administration has assured Congress that it is not their intent to implement the Kyoto requirements in the absence of Senate ratification. Those assurances are appreciated. There is evidence, however, that efforts are underway to begin to implement the Kyoto requirements prematurely.

This is a concern because, as I said earlier, there is a potential for serious economic harm if the Protocol is implemented. Until we have eliminated the uncertainties surrounding climate change, and until we have had a full, open debate on the issue and appropriate responses, we should not embark on a path that could lead us into economic disarray. Implementation before ratification is not the responsible--nor constitutional--way to go.

That is why the Senate Appropriations Committee included in the VA/HUD report language clarifying that no funds should be used to implement the Kyoto Protocol. We must continue to provide for research

efforts and other important programs that make sense, such as energy efficiency and voluntary initiatives, but we should not begin to spend funds for a Protocol that has not yet been determined to be in the best interests of our country.

[Page: S8441]

Mr. KERRY. Mr. President, I want to thank Senator **Bond** and Senator **Mikulski** for their hard work in bringing this bill to the floor so quickly and with such widespread support. It is a good bill--one which balances a number of competing demands while reinforcing the Senate's commitment to create new affordable housing and community development opportunities. This is not an easy task, and they deserve congratulations for successfully juggling many differing needs and interests.

While I wish that it could be more, I was pleased that President Clinton requested \$50 million in funding for the cleanup of Boston Harbor. I am disappointed that the bill does not allocate funding for this project and other important water and sewer projects in Massachusetts. However, I am pleased that the House of Representatives has funded four important water and sewer projects in Massachusetts. I will be working to ensure that funding for Boston Harbor and other important water and sewer priorities are included in the Conference Report.

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**Colloquy between Senators Byrd and Bond
FY 1999 VA, HUD and Independent Agencies Appropriations**

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Mr. Bond. The Senator is correct. The language in the report requires full compliance with the Government Performance and Results Act.

Mr. Byrd. Is it the intent of the Senator to create additional legal requirements in this area beyond those required by the letter and spirit of the Government Performance and Results Act?

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Mr. Bond. Yes, I believe that is a more appropriate time for the EPA to fulfill the reporting requirement as outlined in the Committee Report language.

Mr. Byrd. I thank the distinguished Senator. The EPA should provide a more detailed plan for better evaluating its programs, but I believe this is a more appropriate date to require such a report. It would not be wise to arbitrarily cap funding for vital energy and environment programs that encourage domestic energy efficiency, decrease costs, and

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Mr. Chafee. Mr. President, page 71 of the committee report accompanying the fiscal year 1999 VA, HUD and Independent Agencies Appropriations bill states that, "[n]one of the funds provided to the EPA are to be used to support activities related to implementation of the Kyoto Protocol prior to its ratification." I want to try to get a clarification on this report language from the distinguished chairman of the VA, HUD and Independent Agencies Subcommittee, Senator Bond. I would agree that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the Kyoto Protocol, unless and until such treaty is ratified by the United States.

I would like to point out, however, that the United States is a full, participating signatory nation to the 1992 Framework Convention on Climate Change. Under the 1992 Framework Convention, which was agreed to in Rio de Janeiro by President Bush and later consented to by the U.S. Senate, the United States pledged to carry out a wide variety of voluntary initiatives aimed at reducing greenhouse gases. These initiatives, being implemented by the EPA, the Department of Energy, and other agencies, are in place today. The Congress has funded these initiatives for several years now, indeed, long before the December 1997 climate conference in Kyoto, Japan. These initiatives; the Climate Challenge program, the Program for a New Generation of Vehicles, Green Lights, Energy Star, and others, have to varying degrees reduced greenhouse gas emissions by increasing energy efficiency across a broad range of domestic industrial sectors. They make sense for other reasons, Mr. President. We have found with these programs and others that our companies and American consumers benefit economically. When we conserve resources and reduce energy consumption in a sensible way, we save money. When we research, manufacture and market new energy efficient goods and services, we create export opportunities and jobs. We also increase U.S. energy security by reducing our dependence on imported oil, natural gas and coal. Finally, when we find cost effective ways to reduce greenhouse gases, we oftentimes reduce other air pollutants like mercury, nitrogen oxide, and sulfur dioxide.

So, I want to make sure that the committee report language that I cited previously does not interfere with these important and worthwhile efforts. I would ask my friend from Missouri if these ongoing energy conservation and climate-related programs and initiatives, which are not intended to directly implement actions called for under the Kyoto Protocol, would go forward under this bill?

Mr. Bond. Indeed they would, Senator Chafee. Our only goal here is to prevent the issuance of federal regulations designed solely for the purpose of Kyoto Protocol implementation. We have funded these EPA programs for the upcoming fiscal year and expect the agency to spend the money in an effective and appropriate manner.

Mr. Chafee. I thank the Senator.

promote domestic energy security. These programs should be evaluated on their own merits. The federal government serves a vital catalytic role in supporting and developing cutting edge research programs that the private sector can then take into the marketplace. The true benefits of these technologies and programs may not be evident for a number of years. Through these efforts, the United States has a tremendous opportunity to profit from new technologies, both at home and abroad, while at the same time reducing greenhouse gas emissions.

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Recommended Language for the Statement of Managers for the VA/HUD Conference Report

Conferees have

Several programs funded through this bill conduct science and technology research that are associated partly with global climate change. To the extent that the ~~Committee~~ has funded this work, it has 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. ~~Now~~ ^{from being} the funds provided in this bill ~~are to be~~ used to implement actions called for ^{solely} under the Kyoto Protocol, prior to its ratification. ~~The bill language is intended to prohibit~~

The Byrd-Hagel Resolution passed in 1997 (S. Res. 98) remains the clearest statement of the will of the Senate with regards to the Kyoto Protocol, and the ~~Committee~~ ^{Conferees are} committed to ensuring that the Administration not implement the Kyoto Protocol without Congressional consent. The ~~Committee~~ ^{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 ~~Committee~~ ^{Conferees} do not intend to preclude these programs from proceeding, provided they have been funded and approved by Congress.

Conferees

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 ~~Committee~~ ^{Conferees} expect these items to be included as part of the fiscal year 2000 budget submission for all affected agencies.

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**DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT,
AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (House of Representatives - July
29, 1998)**

If the gentleman from Indiana (Mr. **McIntosh**) would repeat the question.

Mr. **McINTOSH**. Mr. Chairman, the question was: Do those activities regarded in the Knollenberg amendment include drafting, preparing, or developing rules, orders, or decrees, or work such as preparing notices other language or studies that would be used to justify rules, orders, or other decrees that would implement the Kyoto Protocol?

Mr. **KNOLLENBERG**. Yes, those regulatory activities would be precluded.

Mr. **McINTOSH**. Mr. Chairman, would this language also prohibit the finalization of any rules, regulations, or orders implementing the Kyoto Protocol prior to Senate ratification, whether or not authorized by current law?

Mr. **KNOLLENBERG**. Mr. Chairman, yes; and when and if the protocol were ratified after full and open discussion by the Senate, these provisions would be void.

Mr. **McINTOSH**. Mr. Chairman, I would ask what this funding restriction would not do. Does it limit funding for balanced education activities that are not propaganda advocacy or lobbying?

Mr. **KNOLLENBERG**. No, it does not.

Mr. **McINTOSH**. Mr. Chairman, what about legitimate climate science and research and development activities?

Mr. **KNOLLENBERG**. Mr. Chairman, I would tell the gentleman that those activities are still funded and encouraged. In fact, we have increased funding for the global climate change research account within this bill by \$10 million.

Mr. **McINTOSH**. What about existing programs and ongoing activities to carry out the United States voluntary commitments under the 1992 Climate Change Convention?

Mr. **KNOLLENBERG**. The United States will live up to its commitments.

Mr. **McINTOSH**. So what we are really talking about here is just stopping action by EPA to implement the protocol prior to ratification, not legitimate programs or education or research?

Mr. KNOLLENBERG. Mr. Chairman, the gentleman again is correct. And we have good reason to be concerned about EPA's back-door regulatory actions. EPA has repeatedly sought to expand its authority to restrict greenhouse gas emissions where no such authority exists.

Mr. McINTOSH. We cannot allow EPA to circumvent our constitutional process through such action.

Mr. KNOLLENBERG: I agree. The Kyoto Protocol is a flawed treaty. Our only safeguard against a flawed treaty is our constitutional process.

Mr. McINTOSH. Mr. Chairman, the language of the gentleman from Michigan is crucial to prevent back-door regulatory implementation. I thank the gentleman for bringing it.

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- Mr. KNOLLENBERG. Mr. Chairman, I rise to thank my colleagues, Representatives **Obey** and **McIntosh**, for their discussions on the House floor regarding the fine line between education and advocacy efforts conducted by the Environmental Protection Agency (EPA). I have ongoing concerns that some of the EPA's education activities at times crossed that line and became advocacy efforts.
- Mr. **Obey** offered an apt description of education when he explained to Mr. **McIntosh** during the debate over his amendment, and that his amendment clarifying the EPA's ability to conduct educational outreach was meant to allow only those activities that were objective in nature and presented both sides of the issue in a factual manner.
- In my view, much of the EPA's past problems have stemmed from its inability to present information in an objective and balanced manner. If information is presented without allowing the airing of both sides, it ceases to be education, and becomes advocacy. There is a fine line between education and advocacy, and the EPA must recognize this distinction and refrain from crossing this line.
- So, I thank the gentleman from Wisconsin for helping me to make this very important point. It is my hope that the Obey amendment will help clarify what is the necessary role of the Administration, and compel the EPA to promote balance and objectivity in all its future activities.

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**DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT,
AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (House of Representatives - July
29, 1998)**

Mr. **Knollenberg**, I have read the various 'Dear Colleague' letters that have been distributed on the committee bill and listened carefully to the floor debate on this issue. Is it the committee's intention to limit EPA programs such as a climate challenge, the program for a new generation of vehicles, green lights, energy start and other programs that Congress has funded in the past?

I raise this issue because these programs have increased energy efficiency over the range of U.S. energy in industrial sectors of our economy. It would not seem that it was the intent of the legislation to report language or limit these activities.

[Page: H6565]

Mr. KNOLLENBERG. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Chairman, I appreciate the opportunity to respond to the gentleman's inquiry about this legislation because there has been a great deal of misunderstanding and mischaracterizations regarding the real-world results it might have on EPA.

We need this provision in order to assure that EPA does not undertake back-door implementation of the Kyoto Protocol. This is a strong setup of the House based on the debate that we have had. We have seen a trend where EPA is beginning to interpret existing statutes overly broadly and to even create new interpretations of current law. These examples have come out in oversight hearings in both the House and the Senate.

The main purpose of the legislative and report language is to ensure that existing regulatory authority is not misused to implement or to serve as a future basis for the implementation of the Kyoto Protocol in advance of its consideration and approval by the Senate of the United States. We are not trying to cripple or to cancel existing energy conservation programs or to curtail research development and demonstration programs for new, more efficient technologies or to undermine existing environmental law. We are only trying to keep EPA honest.

That is our job in Congress, to conduct oversight hearings and to make sure that the Federal agencies live by the letter of the law and the Constitution and to ensure taxpayer money is spent wisely.

Mr. BARTON of Texas. Mr. Chairman, I would ask the gentleman from Michigan if the Senate has taken a similar position in their VA appropriation bill.

Mr. KNOLLENBERG. I would be pleased to respond to that.

The Senate does indeed have a similar position dealing with this issue. In fact, Senator **Chafee**, the chairman of the Senate Environment Committee, stated in a colloquy with Senator **Bond**, that was during the debate on the VA-HUD appropriations, that he agreed. And let me stress this point: He agreed that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the Kyoto Protocol unless and until such treaty is ratified by the U.S. Senate.

Both the House and the Senate strongly concur in that position, so it is a bit of a red herring for people to say that this legislation will hamstring EPA or hinder energy conservation and greenhouse gas reduction programs that are ongoing.

Mr. BARTON of Texas. I understand that there is more concern about the report language in this bill than the legislative language. There seems to be various interpretations of the report language.

Mr. KNOLLENBERG. The report language simply tries to clarify that EPA has been pushing the envelope with various activities that have been portrayed as being educational in nature but have, in fact, become Kyoto Protocol advocacy activities. We wanted to make it clear that EPA should not be engaged in advocating for implementation of the Kyoto Protocol, or through its so-called outreach activities that would actually implement the protocol. It was not our intention to stifle discussion about potential climate change, scientific give and take, research or general educational efforts regarding global climate. This report language was never intended to muzzle EPA. It was, however, needed because we wanted to clear the EPA and the CEQ, but there is a fine line between education and advocacy, and that the EPA should not cross that line.

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**DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT,
AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999 (House of Representatives - July
29, 1998)**

Mr. KNOLLENBERG. The report language simply tries to clarify that EPA has been pushing the envelope with various activities that have been portrayed as being educational in nature but have, in fact, become Kyoto Protocol advocacy activities. We wanted to make it clear that EPA should not be engaged in advocating for implementation of the Kyoto Protocol, or through its so-called outreach activities that would actually implement the protocol. It was not our intention to stifle discussion about potential climate change, scientific give and take, research or general educational efforts regarding global climate. This report language was never intended to muzzle EPA. It was, however, needed because we wanted to clear the EPA and the CEQ, but there is a fine line between education and advocacy, and that the EPA should not cross that line.

The gentleman from Wisconsin (Mr. **Obey**) made this quite clear during the debate on this amendment.

Mr. BARTON of Texas. Mr. Chairman, to summarize, I appreciate the gentleman's clarification. I agree that EPA should not be stopped from fostering legitimate scientific research and balanced public debate on this issue because there is still much to be learned in this area. During our numerous congressional hearings on this issue, the administration has not been willing to engage in this debate.

For example, we have yet to receive an authoritative analysis of the economic impact of the Kyoto Protocol reflecting all of the constraints on possible emissions trading. As chairman of the Subcommittee on Oversight and Investigations of the Committee on Commerce, I look forward to working to assure that the administration, EPA and CEQ understands this guidance, and I thank the patience of the gentleman from California (Mr. **Lewis**).

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield to the gentleman from New York (Mr. **Nadler**) by chance?

Mr. BARTON of Texas. Mr. Chairman, I yield to my good friend, the gentleman from New York.

Mr. NADLER. Mr. Chairman, I am informed that the chairman of the subcommittee would probably oppose the Hilleary amendment, in fact, I think he said that on the floor but I was not listening carefully enough, if we withdraw this amendment to the amendment.

So, Mr. Chairman, I ask unanimous consent to withdraw the secondary amendment on the understanding that we will have support in opposing the Hilleary amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New York (Mr. **Nadler**) to the amendment offered by the gentleman from Tennessee (Mr. **Hilleary**) is withdrawn.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Tennessee (Mr. **Hilleary**). I cannot support reducing the amount provided for housing opportunities for people with AIDS, as the Hilleary amendment proposes to do.

[TIME: 1700]

Last year's appropriations bill provided a 70 percent increase for this program. This year, we simply held the program constant at the higher amount. It is also true that the committee did recommend an increase for the Housing Opportunities for People With AIDS Program.

This year's recommended increase is about 15 percent, and it follows smaller increases or freezes in the preceding years. Why did the Committee on Appropriations consider it so important to provide a modest increase for HOPWA? Quite simply because the need for this program is great and continues to grow each year.

The number of Americans living with AIDS continues to grow. One reason for this is that the number of new cases remains substantial. More than 60,000 last year. Another important reason is that advances in medicine are making it possible for people with HIV infections to live longer. That is wonderful news, but it does mean that, every year, there are more people living with AIDS who may be in need of our help.

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Summary of Appropriations Restriction

The FY 1999 VA-HUD and Independent Agencies Appropriations Act establishes the following restriction on EPA expenditure of funds:

Provided further, 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 . . .

This restriction on the use of funds has two limitations:

- Type of activities it covers -- regulatory only; and
- Purpose of activities it covers -- implementation or preparation for implementation of Kyoto Protocol only.

The restriction only covers activities of the specified type and purpose.

- In terms of the type of activities covered, the restriction is limited to the regulatory activities specifically listed in the Act -- proposing or issuing "rules, regulations, decrees, or orders." Thus, the restriction does not affect informational and other authorized Agency activities, such as EPA's voluntary programs to reduce greenhouse gas emissions.
- 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 bar EPA from carrying out all regulatory activities that would have the effect of reducing or that might in some measure be intended, in implementing existing authorities, to reduce greenhouse gas emissions covered by the Kyoto Protocol.

In summary, EPA may expend funds to propose or issue a rule, regulation, decree, or order for a number of purposes including the reduction of greenhouse gas emissions, as long as the expenditures are in implementation of existing law and not for the purpose of implementing or in preparation for implementing, the Kyoto Protocol.

H. R. 4194

One Hundred Fifth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twenty-seventh day of January, one thousand nine hundred and ninety-eight*

An Act

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, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, 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, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 128; 45 Stat. 735; 76 Stat. 1198), \$21,857,058,000, to remain available until expended: *Provided*, That not to exceed \$24,534,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

H.R. 4194- VA/ HUD/ Independent Agencies
Appropriations Act, FY 1999

H. R. 4194—35

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 7251-7298, \$10,195,000, of which \$865,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$11,666,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$650,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which

H. R. 4194—36

issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; and not to exceed \$6,000 for official reception and representation expenses, \$1,848,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000: *Provided further*, 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: *Provided further*, That none of the funds made available in this Act may be used to implement or administer the interim guidance issued on February 5, 1998 by the Environmental Protection Agency relating to title VI of the Civil Rights Act of 1964 and designated as the "Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits" with respect to complaints filed under such title after the date of the enactment of this Act and until guidance is finalized. Nothing in this proviso may be construed to restrict the Environmental Protection Agency from developing or issuing final guidance relating to title VI of the Civil Rights Act of 1964.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$31,154,000, to remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, \$56,948,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; not to exceed \$1,500,000,000, consisting of \$650,000,000

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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 ac-

tions 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. \$1,800,000 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-

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FY00 Budget Request

Federal Funds—Continued

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ENVIRONMENTAL PROTECTION AGENCY

k systems through the development of improved aquatic ecocriteria.

Safe Food.—To ensure that the foods Americans eat will be free from unsafe pesticide residues, the EPA laboratory support program provides analytical and environmental chemistry services in support of the EPA's registration, reregistration and tolerance/reassessment programs for food-use pesticides. Also, the pesticide laboratories will provide analytical chemistry capabilities to validate food tolerance enforcement methods.

Preventing Pollution and Reducing Risk in Communities, Homes, Workplaces and Ecosystems.—Pollution Prevention and risk management strategies will be aimed at cost-effectively eliminating, reducing, or minimizing risk due to emissions and contamination. Indoor environments will be improved through technical support, analysis and producing necessary information to understand indoor air effects, and identify health risks so that risk managers can make informed decisions.

Better Waste Management, Restoration of Contaminated Waste Sites, and Emergency Response.—To ensure that America's waste will be stored, treated, and disposed of in ways that prevent harm to people and the environment, the EPA will research ways to reduce uncertainties associated with groundwater/soil sampling and analysis, to develop methods and models of contaminant transport, and to reduce the time and cost associated with site characterization and the site remediation activities that it guides. Field analytical methods for characterizing soils are also intended to provide cheaper and more timely analyses and to reduce the uncertainty of site characterization.

Reduction of Global and Cross-Border Environmental Risks.—The United States will lead other nations in successful, multilateral efforts to reduce significant risks to human health and ecosystems from climate change, stratospheric ozone depletion, and other hazards of international concern. The EPA will continue efforts to limit the production and use of ozone-depleting substances and to develop safe alternative compounds. The Agency will continue to work with the U.S. automobile industry and other government agencies to develop a "clean car," a vehicle that would meet the 2004 goals of the Partnership for a New Generation of Vehicles (PNGV) to have three times the fuel efficiency of today's cars (representing a 67 percent reduction in carbon dioxide emissions), with no sacrifice of performance, size, or affordability while meeting stringent future safety and emission standards.

Expansion of Americans' Right to Know About Their Environment.—To assist efforts in providing the public with information about the environment, the EPA will focus on improving data collection and data quality and on deploying new technologies for real time and automated measurement, monitoring, and information delivery. As part of the environmental monitoring for public access and community tracking (EMPACT) initiative, which is being established to provide environmental information in the 75 largest U.S. metropolitan areas, the EPA will evaluate and modify existing risk assessment tools for use by local stakeholders.

Sound Science, Improved Understanding of Environmental Risk, and Greater Innovation to Address Environmental Problems.—The EPA will develop and apply the best available science for addressing current and future environmental hazards, as well as new approaches toward improving environmental protection. The Agency will continue to improve its understanding of risks to human health of the American public and the Nation's ecosystems. The EPA will address emerging environmental issues while seeking to develop innovative, cost-effective solutions to pollution prevention and risk reduction by working with stakeholders to identify and overcome barriers, such as the lack of credible and independent performance data. The Agency will continue to interpret and

integrate scientific information to help make better regulatory decisions and provide national leadership in addressing emerging environmental issues. The EPA will seek to reduce uncertainties in risk assessment and help to prevent and manage risk by using cost-effective approaches.

A Credible Deterrent to Pollution and Greater Compliance with the Law.—The National Enforcement Investigations Center is the primary source of forensic expertise in the EPA. It provides technical services not available elsewhere to support the needs of the EPA Headquarters and Regional offices, other Federal Agencies, and state and local environmental enforcement organizations.

Object Classification (in millions of dollars)

Identification code 68-0107-0-1-304	1998 actual	1999 est.	2000 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	143	144	153
11.3 Other than full-time permanent	5	4	6
11.5 Other personnel compensation	4	3	6
11.7 Military personnel	1	3	2
11.9 Total personnel compensation	153	154	167
12.1 Civilian personnel benefits	30	28	32
21.0 Travel and transportation of persons	6	5	5
22.0 Transportation of things	1	1	1
23.3 Communications, utilities, and miscellaneous charges	5	5	5
24.0 Printing and reproduction	1	1	1
25.1 Advisory and assistance services	6	7	7
25.2 Other services	26	124	17
25.3 Purchases of goods and services from Government accounts	43	75	45
25.4 Operation and maintenance of facilities	10	11	11
25.5 Research and development contracts	68	75	70
25.7 Operation and maintenance of equipment	20	22	20
26.0 Supplies and materials	10	11	10
31.0 Equipment	28	30	30
41.0 Grants, subsidies, and contributions	220	235	221
99.0 Subtotal, direct obligations	627	784	642
99.0 Reimbursable obligations	53	50	47
99.9 Total new obligations	680	834	689

Personnel Summary

Identification code 68-0107-0-1-304	1998 actual	1999 est.	2000 est.
Direct:			
1001 Total compensable workyears: Full-time equivalent employment	2,322	2,428	2,455
Reimbursable:			
2001 Total compensable workyears: Full-time equivalent employment	160	150	161

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; and not to exceed \$6,000 for official reception and representation expenses, [\$1,848,000,000] \$2,046,992,700, which shall remain available until September 30, [2000] 2001: Provided, That the obligated balance of such sums shall remain available through September 30, [2007] 2008 for liquidating obligations made in fiscal years [1999 and] 2000 and 2001: Provided further, 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

General and special funds—Continued

ENVIRONMENTAL PROGRAMS AND MANAGEMENT—Continued

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: ¹ Provided further, That none of the funds made available in this Act may be used to implement or administer the interim guidance issued on February 5, 1998 by the Environmental Protection Agency relating to title VI of the Civil Rights Act of 1964 and designated as the "Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits" with respect to complaints filed under such title after the date of enactment of this Act and until guidance is finalized. Nothing in this proviso may be construed to restrict the Environmental Protection Agency from developing or issuing final guidance relating to title VI of the Civil Rights Act of 1964] notwithstanding 7 U.S.C. 136r and 16 U.S.C. 2609, beginning in fiscal year 2000 and thereafter, grants awarded under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and section 10 of the Toxic Substances Control Act, as amended, shall be available for research, development, monitoring, public education, training, demonstrations, and studies. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999.)

¹We propose the deletion of this language for reasons that are primarily institutional and procedural in nature. Such language is unnecessary. The Administration has no intention of taking any actions that would contravene the purpose and clear meaning of this legislation.

Program and Financing (in millions of dollars)

Identification code 68-0108-0-1-904	1998 actual	1999 est.	2000 est.
Obligations by program activity:			
Direct program:			
00.01 Clean Air	152	169	161
00.02 Clean Water	280	440	372
00.03 Safe Food	55	61	67
00.04 Preventing Pollution	148	144	177
00.05 Waste Management	138	146	148
00.06 Global and Cross-Border	173	135	236
00.07 Right to Know	130	128	131
00.08 Sound Science	55	59	60
00.09 Credible Deterrent	229	242	237
00.10 Effective Management	417	458	478
00.01 Reimbursable program	35	80	80
10.00 Total new obligations	1,884	2,062	2,127
Budgetary resources available for obligation:			
21.40 Unobligated balance available, start of year	188	134	
22.00 New budget authority (gross)	1,858	1,928	2,127
23.90 Total budgetary resources available for obligation	2,046	2,062	2,127
23.95 Total new obligations	-1,884	-2,062	-2,127
23.98 Unobligated balance expiring	-20		
24.40 Unobligated balance available, end of year	134		
New budget authority (gross), detail:			
Current:			
40.00 Appropriation	1,891	1,848	2,047
42.00 Transferred from other accounts	3		
43.00 Appropriation (total)	1,894	1,848	2,047
Permanent:			
68.00 Spending authority from offsetting collections: Off-			
setting collections (cash)	54	80	80
70.00 Total new budget authority (gross)	1,858	1,928	2,127
Changes in unpaid obligations:			
72.40 Unpaid obligations, start of year: Obligated balance,			
start of year	912	862	882
73.10 Total new obligations	1,884	2,062	2,127
73.20 Total outlays (gross)	-1,910	-1,942	-2,034
73.40 Adjustments in expired accounts	-24		
74.40 Unpaid obligations, end of year: Obligated balance,			
end of year	862	882	1,074

Outlays (gross), detail:			
86.90 Outlays from new current authority	1,143	1,219	1,324
86.93 Outlays from current balances	714	643	631
86.97 Outlays from new permanent authority	54	80	80
87.00 Total outlays (gross)	1,910	1,942	2,034
Offsets:			
Against gross budget authority and outlays:			
Offsetting collections (cash) from:			
88.00 Federal sources	-32	-47	-47
88.40 Non-Federal sources	-22	-33	-33
88.90 Total, offsetting collections (cash)	-54	-80	-80
Net budget authority and outlays:			
89.00 Budget authority	1,804	1,848	2,047
90.00 Outlays	1,857	1,862	1,954

This appropriation includes funds for salaries, travel, contracts, grants, and cooperative agreements for pollution abatement, control, and compliance activities and administrative activities of the operating programs, including activities under the Working Capital Fund. In addition, activities in this account under the Climate Change Technology Initiative are included in the 21st Century Research Fund.

This appropriation supports core Agency programs and each of the Agency's ten goals. Specifically in FY 2000, EPA will emphasize the following:

Clean Air.—To ensure that every American community has safe and healthy air to breathe, EPA will develop and implement new strategies to attain ambient air quality standards for ozone and particulate matter, and reduce regional haze through geographic initiatives in areas where significant transport of pollutants occurs. EPA will continue to develop and issue national technology-based standards to reduce the quantity of toxic air pollutants emitted from industrial and manufacturing processes. EPA will also develop control measures for stationary and other sources that are regulated at the Federal level.

Clean and Safe Water.—To provide all Americans with drinking water that is clean and safe to drink, EPA will emphasize developing new drinking water standards for microbiological contaminants, disinfectant and disinfection by-products, and other pollutants identified as posing potentially high risks. EPA will also work with its State and Tribal partners to address protection of drinking water sources. EPA will provide the tools and guidance for its partners to better protect the Nation's waters, and protect and restore wetlands. EPA and its partners will make progress toward completing Total Maximum Daily Loads (TMDLs) for impaired U.S. waters and improving implementation of TMDL programs. EPA will work with its partners to assure effective implementation of the National Pollution Discharge Elimination System, pretreatment, and biosolids program. EPA will also work with its partners to address sources of polluted runoff.

Safe Food.—To ensure that the foods Americans eat will be free from unsafe pesticide residues, EPA will continue to set terms and conditions of food/feed-use registration, marketing and use. Through the registration, reregistration, and special review programs, food/feed-use pesticides will undergo extensive review and evaluation of health data. EPA intends to decrease the use of pesticides with the highest potential to cause adverse effects and increase the number of registrations of safer pesticides.

Preventing Pollution and Reducing Risk in Communities, Homes, Workplaces and Ecosystems.—Pollution prevention and risk management strategies will be aimed at cost-effectively eliminating, reducing, or minimizing emissions and contamination. EPA intends to reduce public and ecosystem risks from non-food/feed-use pesticides through its registration and reregistration programs and public education and training activities, including worker protection, endangered species

Rb.B-

**Colloquy between Senators Byrd and Bond
FY 1999 VA, HUD and Independent Agencies Appropriations**

Mr. Byrd. Would the Senator from Missouri yield for a question on the appropriation of funding for the Environmental Protection Agency (EPA) and its energy and environment related programs? I note that on pages 74 and 75 of the Committee's Report that the Committee addresses the issue of the EPA's compliance with the Government Performance and Results Act and the EPA's submission of a report on activities related to these ongoing programs. Is it the Senator's understanding that the committee report reminds the EPA that it is to fully comply with the Government Performance and Results Act?

Mr. Bond. The Senator is correct. The language in the report requires full compliance with the Government Performance and Results Act.

Mr. Byrd. Is it the intent of the Senator to create additional legal requirements in this area beyond those required by the letter and spirit of the Government Performance and Results Act?

Mr. Bond. No, not at all. I would say to my friend from West Virginia that all we are asking here is for a more comprehensive explanation by the EPA of the components of its energy and environment programs, any justifications for funding increases, and a clear definition of how these programs are justified by the EPA's goals and objectives independent of the implementation of the Kyoto Protocol.

Mr. Byrd. I thank the Senator from Missouri. I would also note that the Committee Report expects the EPA to submit a report to the Committee by December 31, 1998, with a follow-up analysis by the General Accounting Office ninety days later. As the Senator may know, Senator Craig and I submitted language to the Interior Appropriations bill directing the Department of Energy (DOE) to submit a similar report, but this report is to be submitted in conjunction with DOE's Fiscal Year 2000 budget submission. Given the short period between the likely enactment of this Act and the December 31 deadline, would the Senator agree that it might be more reasonable for the EPA to also submit its report along with its Fiscal Year 2000 budget submission?

Mr. Bond. Yes, I believe that is a more appropriate time for the EPA to fulfill the reporting requirement as outlined in the Committee Report language.

Mr. Byrd. I thank the distinguished Senator. The EPA should provide a more detailed plan for better evaluating its programs, but I believe this is a more appropriate date to require such a report. It would not be wise to arbitrarily cap funding for vital energy and environment programs that encourage domestic energy efficiency, decrease costs, and

Colloquy Between Senators Chafee and Bond
FY 1999 VA, HUD and Independent Agencies Appropriations Bill

Mr. Chafee. Mr. President, page 71 of the committee report accompanying the fiscal year 1999 VA, HUD and Independent Agencies Appropriations bill states that, "[n]one of the funds provided to the EPA are to be used to support activities related to implementation of the Kyoto Protocol prior to its ratification." I want to try to get a clarification on this report language from the distinguished chairman of the VA, HUD and Independent Agencies Subcommittee, Senator Bond. I would agree that the EPA should not use appropriated funds for the purpose of issuing regulations to implement the Kyoto Protocol, unless and until such treaty is ratified by the United States.

I would like to point out, however, that the United States is a full, participating signatory nation to the 1992 Framework Convention on Climate Change. Under the 1992 Framework Convention, which was agreed to in Rio de Janeiro by President Bush and later consented to by the U.S. Senate, the United States pledged to carry out a wide variety of voluntary initiatives aimed at reducing greenhouse gases. These initiatives, being implemented by the EPA, the Department of Energy, and other agencies, are in place today. The Congress has funded these initiatives for several years now, indeed, long before the December 1997 climate conference in Kyoto, Japan. These initiatives; the Climate Challenge program, the Program for a New Generation of Vehicles, Green Lights, Energy Star, and others, have to varying degrees reduced greenhouse gas emissions by increasing energy efficiency across a broad range of domestic industrial sectors. They make sense for other reasons, Mr. President. We have found with these programs and others that our companies and American consumers benefit economically. When we conserve resources and reduce energy consumption in a sensible way, we save money. When we research, manufacture and market new energy efficient goods and services, we create export opportunities and jobs. We also increase U.S. energy security by reducing our dependence on imported oil, natural gas and coal. Finally, when we find cost effective ways to reduce greenhouse gases, we oftentimes reduce other air pollutants like mercury, nitrogen oxide, and sulfur dioxide.

So, I want to make sure that the committee report language that I cited previously does not interfere with these important and worthwhile efforts. I would ask my friend from Missouri if these ongoing energy conservation and climate-related programs and initiatives, which are not intended to directly implement actions called for under the Kyoto Protocol, would go forward under this bill?

Mr. Bond. Indeed they would, Senator Chafee. Our only goal here is to prevent the issuance of federal regulations designed solely for the purpose of Kyoto Protocol implementation. We have funded these EPA programs for the upcoming fiscal year and expect the agency to spend the money in an effective and appropriate manner.

Mr. Chafee. I thank the Senator.

promote domestic energy security. These programs should be evaluated on their own merits. The federal government serves a vital catalytic role in supporting and developing cutting edge research programs that the private sector can then take into the marketplace. The true benefits of these technologies and programs may not be evident for a number of years. Through these efforts, the United States has a tremendous opportunity to profit from new technologies, both at home and abroad, while at the same time reducing greenhouse gas emissions.

Privileged and Confidential - DRAFT - 2/19/99

Question 6. Since the legislative history of the statutory restriction makes clear that the restriction does not apply only to "the conduct of education activities and seminars by the Agency" and since in the floor debate Congressman Obey stated "The Agency is expected to provide education, not advocacy And if the Agency goes across the line into advocacy, it does so at its peril," what activities does EPA consider to be covered by the restriction?

Further
Answer: This restriction on the use of funds covers activities that are both of a specific type and for a specific purpose. The restriction is limited to the type of regulatory activities specifically listed in the Act -- proposing or issuing "rules, regulations, decrees, or orders." The restriction is also limited to such activities that have the purpose of implementation or preparation for implementation of the Kyoto Protocol.

Thus, the restriction bars EPA from proposing or issuing a regulation for the purpose of implementing the Kyoto Protocol target. The restriction does not bar EPA from carrying out regulatory activities authorized under existing law that would have the effect of reducing or that might in some measure be intended to reduce greenhouse gas emissions covered by the Kyoto Protocol. *emissions of*

As you know, EPA is not seeking to implement the Kyoto Protocol before the Senate has provided its advice and consent.

~~THE RESTRICTION IS INTENDED TO PROHIBIT FUNDS FROM BEING USED TO IMPLEMENT ACTIONS CALLED FOR BY THE KYOTO PROTOCOL PRIOR TO ITS RATIFICATION~~ The U.S. House Conference Report clarifies this intent by stating that "the restriction is intended to prohibit funds from being used to implement actions called for solely under the Kyoto Protocol prior to its ratification."



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 23, 1999

MEMORANDUM

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

SUBJECT: New draft EPA response to McIntosh Dec. 2 question 6 on EPA planned 1999 regulatory activity re Global Climate Change

FROM: Mark Stevens *MS*
Senior Oversight Counsel
Office of Congressional and Intergovernmental Relations

TO: White House Climate Change Task Force
ATTN: Julie Anderson fax: 395-2342

Office of Management and Budget
ATTN: Bob Tuccillo fax: 395-5836

Attached is a new response to Rep. McIntosh, Chairman of the House Government Reform and Oversight Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, answering question 6 of the Dec. 2 questions concerning EPA's planned 1999 regulatory activity for global climate change. We have revisited question 6 at the specific request of McIntosh staff person Barbara Kahlow, who was unsatisfied with our previous response.

Please review the attached response and provide comments/clearance as soon as possible to Mark Stevens (260-5436; fax 260-0516). Thank you.

Attachment

Randolph J. Steer
10/19/98 07:20:44 PM

Record Type: Record

To: T J. Glauthier/OMB/EOP, Kathleen Peroff/OMB/EOP, Gary L. Bennethum/OMB/EOP
cc: See the distribution list at the bottom of this message
Subject: "FINAL" CCTI table for FY 1999

Below is the current (and in theory final) version of the FY99 funding table for CCTI. The "conference" number for Fossil Energy R&D is an estimate, but it's the best we'll have for a while, and it reflects what we've been tracking for the past couple of weeks. All other numbers should be pretty accurate. Note that NIST and USDA received none of the requested funding.

The bottom line of the table indicates that overall, we got \$122 million of \$130 million that we sought in the "endgame" for CCTI -- a pretty good result!

Randy.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

TRANSMISSION NUMBER: 202/395-5836
VERIFICATION NUMBER: 202/395-6827

ENVIRONMENT BRANCH
ROOM 8026
NEW EXECUTIVE OFFICE BLDG.

Name

Fax # X 52342

To:

Tulie Anderson

From:

Bob Tuccillo

Message:

Kyoto language in VIA/HVD Bill and Conference
ReportNumber of Pages to Follow: 6

Date:

10/20/98

Time:

5:20 pm

09/29/98 13:07

10/8

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

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BENARD SANDERS, VERMONT
INDEPENDENT

September 29, 1998

BY FACSIMILE

The Honorable Kathleen McGinty
Chair
Council of Environmental Quality
Old Executive Office Building
Washington, D.C. 20502

Dear Chair McGinty:

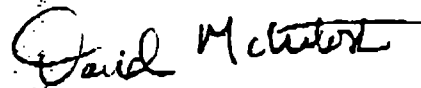
On Thursday, October 8, 1998, at 10:00 a.m., the House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will hold a hearing on the White House Initiative on Global Climate Change in room 2154 of the Rayburn House Office Building.

On behalf of the Subcommittee, I want to invite you to testify at the hearing for the Council of Environmental Quality. Specifically, we would like you to present the Administration's consideration of regulatory approaches and other executive actions to implement this White House initiative.

Pursuant to committee procedures, please provide 100 copies of your written testimony and a word processing disc by 5:00 p.m. on Tuesday, October 6, 1998. If you have any questions, please contact Professional Staff Member Barbara Kahlow at 225-4407.

Thank you for your courtesy and attention to this matter.

Sincerely,



David M. McIntosh
Chairman

Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

9/18/98

Concerns with Appropriations Bill Language

"None of the funds appropriated by this Act shall be used to develop, propose, or issue rules, regulations, decrees, or orders for the purpose of implementation, or in contemplation of 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 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 such Protocol"

The rider language in the House appropriations bill could be interpreted as repealing key provisions of environmental law (the Clean Air Act, the Clean Water Act) that have been in place since as long ago as 1970. It could be read to block the Environmental Protection Agency from taking common sense actions under existing law to protect the health and welfare of the American people from air pollutants that cause global warming.

The Administration has clearly stated that it will not implement the Kyoto Protocol until the Senate gives advice and consent to its ratification. The appropriations bill language, however, goes much farther than simply barring the implementation of the Protocol unless it is ratified. The terms "to develop" and "in contemplation of" could be read to block work related to any regulatory action that has the effect of reducing greenhouse gases, no matter how clearly authorized that action is under existing law and no matter how clear the threat to public health or welfare.

The rider could be interpreted to block common-sense, cost-effective regulatory actions like these:

- **Landfill methane:** EPA issued anti-smog regulations for landfills under the Clean Air Act that will also cut landfill emissions of methane (a potent greenhouse gas) by half -- the equivalent of eliminating the greenhouse emissions of 20 million cars -- while recovering enough usable fuel to meet the energy needs of 2.3 million homes. Those benefits could not have been achieved if EPA had been prevented by this rider from considering the greenhouse gas impacts of its rule.
- **Self-chilling cans:** The Agency is using its Clean Air Act authority to prevent certain chemicals from being used in self-chilling soda and beer cans. Some designs would vent hydrofluorocarbons (HFCs) -- extremely potent greenhouse gases -- directly to the atmosphere. Opening a single self-chilling can with HFCs can have the same impact on greenhouse gas emissions as driving a typical car 200 miles. If these cans captured just 5% of the 90 billion can per year U.S. market by 2000, they would more than offset the entire benefits of the Administration's voluntary climate programs. Because EPA has authority to regulate HFCs under the Clean Air Act, a new and safer design for self-chilling

cans has been brought to market. If EPA had not had the legal authority to regulate these global warming chemicals, this dangerous product would already be on the market.

- Energy Use to Meet Environmental Standards. The Clean Water Act and the Clean Air Act direct EPA to consider the amount of energy that will be required to operate pollution controls when setting effluent guidelines and toxic air emission standards. This reflects the common-sense view of prior Congresses that special attention should be paid to energy issues, including the pollution impacts of increasing energy use. The rider language could be interpreted to block EPA from considering the consequences of energy use, and thereby actually lead to *increases* in greenhouse gas emissions.
- Federal Energy Savings - The rider language could be interpreted to prevent EPA from helping develop or implement Presidential executive orders that address the Federal government's energy use. EPA and other agencies are currently helping to cut Federal energy use and save taxpayers billions of dollars each year -- at the same time cutting emissions that contribute to global warming and air pollution.

Landfill Methane Control

EPA rules and guidelines issued under the Clean Air Act in 1996 require large landfills to control emissions that lead to the formation of ozone smog. The same control measures will also cut landfill emissions of methane (a potent greenhouse gas) by more than half -- the equivalent of eliminating the greenhouse emissions of 20 million cars -- while recovering enough usable fuel to meet the energy needs of two million homes.

Key Points:

- EPA's actions were taken primarily to protect the American people from ozone smog. The rules and guidelines, issued under Section 111 of the Clean Air Act, are focused on controlling volatile organic compounds (VOCs) that contribute to unhealthy levels of ozone smog. Landfill control measures will reduce emissions of VOCs, as well as toxic air pollutants and offensive odors, by more than half (more than 90,000 tons per year).
- Methane is also formed from decomposing garbage. Landfill methane emissions are captured and destroyed along with the other chemicals. Landfill methane emissions present a well-documented danger of fires or explosions.
- Methane is also a powerful greenhouse gas. The landfill methane emissions captured and destroyed by these EPA actions are equivalent to eliminating the greenhouse emissions of 20 million cars. Captured landfill methane can be used cost-effectively to generate enough electricity to meet the energy needs of two million homes.
- These common-sense actions under existing law are helping to protect the American people from dangerous urban smog while at the same time reducing the risks of global warming. They were not an attempt at "back door" implementation of the Kyoto Protocol. But these clear benefits for public health and the environment could not have been achieved if EPA had been prevented from acting by a misplaced anti-Kyoto rider.

Self-Chilling Cans

EPA used its authority under the Clean Air Act to block the introduction of a self-chilling soda and beer can that would have emitted *hydrofluorocarbons* (HFCs), extremely potent greenhouse gases. In response, the product's inventors came up with a safer design, using another cooling agent. The new design will soon go to market, with EPA approval.

Key Points

- As part of the phase-out of chemicals that deplete the stratospheric ozone layer, the 1990 Clean Air Act requires EPA to review the health and environmental effects of replacement chemicals and products. Section 612(c) requires EPA to block the introduction of any replacement that may present adverse effects to human health or the environment, if there is an available alternative that "*reduces overall risk to human health and the environment.*" Section 608(c) also makes it illegal to knowingly vent or release a replacement refrigerant from a product into the air, unless EPA determines that it "*does not pose a threat to the environment.*"
- Self-chilling cans work by releasing a refrigerant substance when opened. The expansion and escape of the refrigerant cools the can. The first self-chilling can design would have used HFCs as the refrigerant — chemicals that have 140 to 1,300 times the warming power of carbon dioxide. Releasing these chemicals from the cans would have posed new environmental risks not associated with traditional refrigeration.
- If self-chilling cans using one of these chemicals (HFC-134a) had captured just 5% of the 90 billion can U.S. market by the year 2000, they would have more than offset all the greenhouse gas reductions achieved by the Administration's voluntary programs. At a 30% market penetration, their emissions would have surpassed all of the greenhouse gases coming from all electric power generation in the U.S.
- In response to EPA's action, the product's inventors came up with a new design that uses a safer refrigerant. The new product will have no more impact on the environment than traditional refrigeration. It will soon be on the market, with EPA's approval.
- These common-sense actions under existing law have protected the American people from new and unnecessary dangers as ozone-depleting chemicals are replaced. They were not an attempt at "back door" implementation of the Kyoto Protocol. They are, however, the kind of common-sense public health protection Americans will lose if misplaced anti-Kyoto legislation is enacted.

House UA-NAD

58

1 remain available through September 30, 2007 for liquidat-
 2 ing obligations made in fiscal years 1999 and 2000: *Pro-*
 3 *vided further*, That none of the funds appropriated by this
 4 Act shall be used to develop, propose, or issue rules, regu-
 5 lations, decrees, or orders for the purpose of implementa-
 6 ^{or in preparation for} tion, or in contemplation of implementation, of the Kyoto
 7 Protocol which was adopted on December 11, 1997, in
 8 Kyoto, Japan at the Third Conference of the Parties to
 9 the United Nations Framework Convention on Climate
 10 Change, which has not been submitted to the Senate for
 11 advice and consent to ratification pursuant to article II,
 12 section 2, clause 2, of the United States Constitution, and
 13 which has not entered into force pursuant to article 25
 14 of such Protocol.

15 OFFICE OF INSPECTOR GENERAL

16 For necessary expenses of the Office of Inspector
 17 General in carrying out the provisions of the Inspector
 18 General Act of 1978, as amended, and for construction,
 19 alteration, repair, rehabilitation, and renovation of facili-
 20 ties, not to exceed \$75,000 per project, \$31,154,000, to
 21 remain available until September 30, 2000: *Provided*,
 22 That the obligated balance of such sums shall remain
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the Committee. Within the amounts provided for the Clean Water Action Plan, no less than \$7,500,000 is intended to be used to expand local government activity in groundwater and source water protection through the groundwater/wellhead protection program. The expansion of this program in this manner will provide over 100 additional technicians for in-the-field work and will virtually guarantee that 2000 or more communities will adopt new groundwater/source water ordinances targeted to the highest risk watershed areas in each state.

The Committee expects that the National Environmental Education and Training Foundation will be funded at a level no less than \$780,000. Additionally, the Committee urges the Agency to provide at least \$3,000,000 to carry out the purposes of the Clean Air Act Amendments relative to the Great Waters program.

The Committee has again provided full funding to continue efforts to ensure smooth implementation of notification of lead-based paint hazards during real estate transactions. This program is a joint effort between EPA, the Departments of Health and Human Services and Housing and Urban Development, and the National Association of Realtors, and is, in the Committee's judgment, a prime example of how cooperative efforts can produce excellent results. The Committee continues to applaud EPA, HHS, HUD and the Realtors for their joint efforts and expresses its support for continued outreach to ensure that housing consumers get good information about lead hazards, which can help prevent many poisonings.

Last year, the Committee noted the value of and encouraged the Agency to submit a budget request for the Office of Small Business Ombudsman. The Committee continues to support this Office and the important bridge it represents to the small business community, and has therefore included within available funds in this account up to \$500,000 for the staffing and operations of this office.

Bill language has been included which limits expenditures for certain activities relative to the Kyoto Protocol to the United Nations Framework Convention on Climate Change. This language was included in part because of sincere concerns that, lacking support for Senate ratification, the Administration is attempting to force binding greenhouse gas emission reductions through "back door" regulatory action and through greatly expanding existing programs. The bill language is intended to prohibit the expenditure of funds for implementation of the Kyoto Protocol in any manner until it has been ratified by the Senate.

Beyond this language, the Committee remains concerned with the apparent inequity of the Protocol, which places binding greenhouse gas emission reductions on the United States and 31 other nations while at the same time exempting 132 developing nations, including China, India, Brazil, and Mexico. These four nations alone are expected to emit more than 50 percent of the world's greenhouse gases by the year 2050. Last year, the United States Senate passed by a vote of 95-0 a resolution expressing the sense of the Senate that the United States should not be a signatory to any protocol regarding climate change in Kyoto that would place the United States at a competitive disadvantage. It would seem

this resolution was summited by negotiators in Kyoto.

Finally, the Committee believes that the Agency, among others, may be engaged in lobbying in an effort to bypass the Protocol. While the Committee believes that educating the public on the fine line between education and the CEQ are thus educational outreach or informing the Kyoto Protocol until the Senate.

As was noted during the budget submission, the Committee is moving forward with a national effort to adequately completing out adequately completing (CAA), such as the obligation for visibility improvements and sections of the CAA. In addition, from participation in a visibility search and monitor visibility and the cost-effectiveness of achieve reasonable progress on a firm statutory basis, recommends that funding of provided by the Agency for a group of states comes forward.

Each such VTC should implement implementation of appropriate goal of completion by March provided to the Congress for completing the plan, a schedule use the results of the plan and a year-by-year project sure that the regional hazard Federal mandate on the part of the Committee monthly on this directive.

Despite efforts over nearly a decade to be a problem in the 1996 approximately 39 million concentration of ozone at ground level concentrations allowed under the new Standards. Under the new Standards, American citizens are expected to be exposed to ozone, nevertheless, many uncertainties in technical information is being used by EPA and state agencies.

The Agency is therefore conducting a study that independent technical information most of EPA's actual use of such and verifying regulatory

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Committee's judgment, a
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...resolution was summarily ignored by the United States nego-
tiators in Kyoto.

Finally, the Committee is concerned that the Agency, the CEQ,
among others, may be engaging in activity that is tantamount to
lobbying in an effort to build public support for implementation of
the Protocol. While the Committee recognizes the importance of
educating the public on environmental issues, there can be a very
fine line between education and advocacy of an issue. The Agency
and the CEQ are thus directed to refrain from conducting edu-
cational outreach or informational seminars on policies underlying
the Kyoto Protocol until or unless the Protocol is ratified by the
Senate. *

As was noted during the Agency hearings on the fiscal year 1999
budget submission, the Committee is concerned that EPA is mov-
ing forward with a nationally applicable rule on regional haze with-
out adequately completing its obligations under the Clean Air Act
(CAA), such as the obligation to update the report to Congress on
visibility improvements achieved through implementation of other
sections of the CAA. In addition, most states have not benefited
from participation in a visibility transport commission (VTC) to re-
search and monitor visibility impairment, and assess its sources
and the cost-effectiveness of any additional measures needed to
achieve reasonable progress. To re-establish the regional haze pro-
gram on a firm statutory footing the Committee strongly re-
commends that funding of up to \$500,000 for up to eight VTCs be
provided by the Agency from within available funds whenever a
group of states comes forward as a VTC.

Each such VTC should use these funds to prepare and begin the
implementation of appropriate, comprehensive work plans, with a
goal of completion by March 1, 1999. Each such plan should be pro-
vided to the Congress for review, and should include a schedule for
completing the plan, a schedule for each state serving on a VTC to
use the results of the plan in its visibility implementation plan,
and a year-by-year projection of the Federal funding required to en-
sure that the regional haze program will not result in an unfunded
Federal mandate on the States. The Agency is directed to report to
the Committee monthly on the progress made towards accomplish-
ing this directive.

Despite efforts over nearly 30 years, ozone at ground level contin-
ues to be a problem in the United States. EPA estimated that in
1996 approximately 39 million people lived in areas where the con-
centration of ozone at ground-level was greater than the concentra-
tions allowed under then-existing National Ambient Air Quality
Standards. Under the new 1997 standards for ozone, many more
American citizens are expected to be in that same situation. Never-
theless, many uncertainties remain regarding what scientific and
technical information is most needed in the ozone abatement ef-
forts of EPA and state agencies and how such information is actu-
ally being used by them.

The Agency is therefore directed to work with the NAS to con-
duct a study that independently evaluates such scientific and tech-
nical information most needed by EPA's air regulatory office, and
EPA's actual use of such information in developing, implementing,
and verifying regulatory strategies for ground-level ozone. The



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

July 15, 1998
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 4194 DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FY 1999

(Sponsors: Livingston (R), Louisiana; Lewis (R), California)

This Statement of Administration Policy provides the Administration's views on H.R. 4194, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1999, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocation. However, the allocation is simply insufficient to make the necessary investments in programs funded by this bill. As a result, critical programs are not funded or are underfunded, in particular, key Presidential priorities such as funding for National Service, Superfund, and climate change. Furthermore, the Administration is very concerned that the Committee has included problematic language regarding the Kyoto Protocol and other issues. Finally, the Administration understands that an amendment may be offered to include unacceptable provisions now contained in H.R. 2, such as income targeting. If the bill were presented to the President without responding to these concerns, the President's senior advisers would recommend that he veto the bill.

The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings in mandatory and other programs available to help finance this spending. In the Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. We want to work with the Congress on mutually agreeable mandatory and other offsets that could be used to increase high-priority discretionary programs, including those funded by this bill.

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

Corporation for National and Community Service

The Administration strongly objects to the termination of the Corporation for National and Community Service, one of the Administration's top priorities. Eliminating funding for the

Corporation would deny more than 49,000 Americans the opportunity to serve as AmeriCorps members in projects such as America Reads, the Administration's effort to raise student literacy through the use of tutors to supplement the school day activities. In addition, over one million students of all ages would forego the chance to participate in service learning activities in their schools and neighborhoods. The funding level in the Committee bill for the Corporation for National and Community Service is unacceptable.

Environmental Protection Agency

The Administration has several major concerns with the Committee's mark for the Environmental Protection Agency. In particular, the Administration strongly objects to the \$593 million, or 28-percent, reduction to the President's request for Superfund, which would delay cleanups at sites nationwide and needlessly jeopardize public health. In addition, the Administration opposes the \$16 million, or 18-percent, reduction to the request for brownfields funding as well as restrictive bill language that would hamper achievement of brownfield cleanups by preventing their use for removals, cleanups, and revolving loan funds. The Administration urges the House to restore Superfund to the requested level and to delete the restrictive brownfields language.

The Administration strongly opposes the Committee's \$106 million reduction in EPA funding for the Climate Change Technology Initiative. This high-priority program should be funded fully to cut energy usage, save consumers money, and reduce greenhouse gas emissions. We will work with the Congress to restore requested funding as the bill moves forward.

The Administration strongly opposes bill and report language relating to the Kyoto Protocol that applies to the EPA and the Council on Environmental Quality. While the Administration could not and would not implement the Protocol until it is ratified, the bill language could be interpreted broadly to prevent activities that limit greenhouse gases -- for example, through enhancing energy efficiency -- but that are authorized under current law. The report language also inappropriately purports to prevent the Executive Branch from engaging in educational and outreach activities related to treaty negotiations and other aspects of climate change. The Administration opposes this and other riders because they inappropriately use the legislative process by denying the public and Members of Congress the opportunity to examine and debate these proposals openly.

The Administration appreciates the Committee's providing full funding for the President's Clean Water Action Plan, which is designed to prevent pollution run-off and protect public health. The Administration urges the Committee to provide the full \$50 million request to help improve water quality in Boston Harbor and prevent beach closings.

The Administration is concerned with the large number of unrequested, earmarked projects in the Committee mark for EPA, particularly when the Committee has reduced several other high-priority Administration initiatives, including right-to-know programs, Montreal Protocol, GLOBE, and Mexican border wastewater treatment funding.

Department of Housing and Urban Development

The Administration is concerned about the funding levels provided for key programs of the Department of Housing and Urban Development, particularly for welfare-to-work housing vouchers and other programs, such as the Community Empowerment Fund, that would expand job opportunities.

The Administration appreciates the Committee's decision to fund 17,700 incremental "Welfare-to-Work" housing vouchers. With millions of families needing to make the transition from welfare to work, and in light of recent studies that show historically high unmet housing needs among very low-income Americans, the Administration believes it is critical for the Congress to fund the entire 50,000 welfare-to-work housing vouchers provided for in the President's request. Welfare-to-work housing vouchers will support implementation of welfare reform by assisting those welfare recipients who need housing assistance to get or keep a job.

The Administration also encourages the Congress to fund fully the President's request for \$400 million for an Economic Development Initiative Community Empowerment Fund to generate jobs in distressed communities. The Committee has cut the request by \$350 million, providing only \$50 million, as a set-aside within the existing CDBG program.

The Administration appreciates the Committee's decisions to fund a number of programs at the levels requested, including the Partnership for Advancing Technologies in Housing (PATH) initiative, and to renew all expiring Section 8 contracts. The Administration is encouraged that the Committee has provided funding for half the President's request for Regional Opportunity Counseling, a voluntary effort to expand the housing and employment opportunities available to low-income families. We urge full funding of the President's request for this program. We are also pleased by the Committee's decision to provide \$80 million for the Office of Lead Hazard Control, to reduce the risk of childhood lead poisoning and other health hazards. The Administration encourages the Congress to fund fully a number of other areas -- Homeless Assistance, Brownfields, and Regional Connections--and to end the ninety-day delay in reissuing of Section 8 certificates/vouchers on turnover.

The Administration is very concerned that the Subcommittee has not included language extending the repeal of one-for-one replacement for public housing. Without this language, the bipartisan goal of demolishing 100,000 of the worst public housing units by FY 2003 may not be achieved.

The Administration is pleased with the Committee's decision to support an audit-based enforcement initiative for the Fair Housing Initiatives program. We urge the Congress to fund fully this critical fair housing initiative to reduce the level of housing discrimination.

The Administration urges the Congress to adopt the Administration's proposal to reform HUD's single-family property disposition program, which would produce substantial savings by improving the efficiency of FHA's property disposition processes and would permit the

Committee to provide additional resources to critical Committee programs. In addition, we support providing greater homeownership opportunities by increasing the FHA loan limit to the GSE "conforming" limit.

Council on Environmental Quality

The Administration appreciates the modest increase over the FY 1998 level provided for the Council on Environmental Quality (CEQ). However, we strongly believe that in order to allow CEQ to carry out its environmental mission and reinvention efforts, the full requested level should be provided, and language prohibiting use of detailees should be deleted.

Community Development Financial Institutions Fund

The Administration strongly urges the Committee to fund the Community Development Financial Institutions Fund at the requested level. The Committee's decision to reduce the request by \$45 million would severely reduce the Fund's ability to leverage investments, loans, and financial services in the country's most distressed communities.

National Aeronautics and Space Administration

The Administration is concerned with the Committee's reductions to the requests for the International Space Station, Space Shuttle, and Earth Science programs. Full funding in FY 1999 for Space Station is critical as the United States and our International Partners are in a peak period of development and integration, and proceeding toward First Element Launch later this year. Further, the Administration is particularly concerned about bill language prohibiting the use of funds for the Triana project. Triana offers a unique opportunity to educate and engage students in all phases of the mission. Its observations could potentially be used in meteorology and environmental monitoring, as well as for commercial purposes. The Administration will work with the Congress to enable restoration of funding for these priority programs as the bill proceeds. The Administration is also concerned over the large number of unrequested, site-specific earmarks, which would have the effect of circumventing the competitive, peer review process and are paid for, in part, with serious reductions to priority programs.

Federal Emergency Management Agency

The Administration appreciates the level of funding provided by the Committee for the Federal Emergency Management Agency. However, we believe that the \$20 million reduction to the President's request for pre-disaster mitigation grants is shortsighted. These grants would help reduce the cost of future disasters by leveraging local and private-sector support for enhanced mitigation efforts at the State and community level. We urge the Committee to fund fully the President's request for this important initiative. In addition, we urge the Committee to approve our recent request for funding to help States and communities prepare for potential terrorist incidents involving chemical and/or biological weapons.

Record Type: Record

To: Charles E. Kieffer/OMB/EOP, Martha Foley/WHO/EOP, Roger S. Ballentine/WHO/EOP, Julie M. Anderson/WHCCTF/EOP

cc: Kate P. Donovan/OMB/EOP

Subject: VA-HUD

Here is a suggested rewrite of the VA-HUD paragraph on bad EPA language. The open question in my mind, which Chuck and I discussed, is whether even this moderate embrace of the Bond colloquy risks being counterproductive in sense that those on other side might seek to nullify it in conference (on grounds that if we like it, it must not be good). We should also be aware that 21 Senators, seeking to be helpful, wrote to the Conferees urging that they favor the Senate report language over the House bill language (Knollenberg). (I think we can fairly read this letter as favoring the Senate report language as interpreted by the Bond colloquy.) On balance, I'd be inclined to go with the paragraph as laid out below, but am open to other views:

"The Administration strongly opposes House bill and report language related to the Kyoto Protocol. While the Administration could not and would not implement the Protocol until it is ratified, the bill language (and Senate report language) could be interpreted to block work related to any regulatory action that has the effect of reducing greenhouse gases, no matter how clearly authorized by current law and how clearly a threat to public health or welfare. The Administration opposes this and other such riders because they abuse the legislative process by denying the public and Members of Congress the opportunity to examine and debate these proposals openly. We do, however, appreciate Chairman Bond's clarification that the Senate report language is intended only "to prevent the issuance of federal regulations designed solely for the purpose of Kyoto Protocol implementation." We believe this approach would be preferable to the language currently in the House bill and Senate report."



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

July 6, 1998
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

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

S. 2168 – DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FY 1999

(Sponsors: Stevens (R), Alaska; Bond (R), Missouri)

This Statement of Administration Policy provides the Administration's views on S. 2168, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1999, as reported by the Senate Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates efforts by the Committee to accommodate the President's priorities within the 302(b) allocation. However, the allocation is simply insufficient to make the necessary investments in programs funded by this bill. As a result, a variety of critical programs are underfunded, as discussed below.

The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings in mandatory and other programs available to help finance this spending. In the recently enacted Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. The Committee has used part of one such offset in its version of the bill, and we encourage the Congress to take advantage of such additional offsets.

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

Department of Housing and Urban Development

The Administration is deeply concerned about the funding levels provided for key programs within the Department of Housing and Urban Development, particularly for welfare-to-work housing vouchers and other programs such as the Community Empowerment Fund that would expand job opportunities.

The Administration is very disappointed by the Committee's decision to fund only 7,000 incremental vouchers through a \$40 million "Self-Sufficiency" housing vouchers pilot program that earmarks funds for eight specified localities. In light of recent studies that show historically

high unmet housing need among very low-income Americans, the Administration believes it is critical for the Congress to fund the entire 50,000 welfare-to-work housing vouchers provided for in the President's request. Moreover, these welfare-to-work housing vouchers should be made available in a way that ensures vouchers are distributed to places with both the greatest need and the most effective program design. Full funding for welfare-to-work housing vouchers will support implementation of welfare reform by assisting those welfare recipients who need housing assistance to get or keep a job.

The Administration encourages the Congress to fund fully the President's request for \$400 million for a Community Empowerment Fund to generate jobs in distressed communities. The Committee provides only \$85 million as a set-aside within the existing CDBG program, with over 75 percent earmarked for specific projects.

The Administration appreciates the Committee's decision to fund a number of programs at the levels requested and to renew all expiring Section 8 contracts. Likewise, we appreciate the Committee's decision to increase funding for Homeless Assistance Grants above FY 1998 levels. We would strongly oppose, however, a rigid set-aside for permanent housing, which would reduce the ability of each local entity to adopt the most effective response to the homeless challenge unique to that area. Further, the Administration is disappointed by the absence of funding for Regional Opportunity Counseling, a voluntary effort to expand the housing and employment opportunities available to low-income families. We urge the Senate to provide additional resources for the Fair Housing Initiatives Program in order to reduce housing discrimination that remains all too common. The Administration encourages the Senate to fund fully a number of other areas -- Brownfields, Regional Connections, Office of Lead Hazard Control, and the Partnership for Advancing Technologies in Housing (PATH) Initiative.

The Administration appreciates the Committee's decision to raise the limit on FHA single-family loans. The Administration urges the Congress to provide even greater homeownership opportunities by increasing FHA's loan limit to the GSE "conforming" limit. In addition, the Administration urges the Congress to adopt the Administration's proposal to reform HUD's single-family property disposition program, which would produce substantial savings by improving the efficiency of FHA's property disposition processes.

Finally, the Administration is concerned about the Committee's decision not to fund FHA administrative expenses. Appropriated funds are FHA's only source for contracting for vital management services for its insurance funds.

Environmental Protection Agency

The Administration has several major concerns with the Committee's mark for the Environmental Protection Agency. In particular, the Administration strongly objects to the action of the Committee to reallocate approximately \$600 million of funds that were already agreed to last year to accelerate Superfund cleanups. This reduction would delay cleanups at

sites nationwide and needlessly jeopardize public health. The Administration urges the Senate to restore Superfund to the levels agreed to last year for FY 1999 and to delete restrictive language preventing use of brownfields funding for revolving loan funds.

While the Administration appreciates the increases provided for the Clean Water Action Plan, we urge the Senate to provide the President's full request to prevent pollution run-off and protect public health. In addition, the Administration strongly urges the Congress to restore the \$50 million request to help improve water quality in Boston Harbor and prevent beach closings.

The Administration strongly opposes the Committee's \$91 million reduction in EPA funding for the Climate Change Technology Initiative. This high-priority program should be fully funded to cut energy usage, save consumers money, and reduce greenhouse gas emissions. We will work with the Congress to restore requested funding as the bill moves forward. The Administration is also concerned about the report language relating to this initiative, which is so broad that it could be interpreted to preclude or terminate many on-going activities that are already authorized by existing laws and treaties. In addition, the Administration objects to the report language requiring a detailed Government Performance and Results Act (GPRA) plan relating to Climate Change activities. Such a plan is premature and appears to require us to set goals for implementing the Kyoto Protocol before it has been ratified by the Senate.

The Administration is also concerned with the large number of unrequested, earmarked projects in the Committee mark for EPA, particularly when the Committee has reduced several other high-priority Administration initiatives, including right-to-know programs, Montreal Protocol, GLOBE, global change research, and Mexican border wastewater treatment funding.

Council on Environmental Quality

The Administration appreciates the modest increase over the FY 1998 level provided for the Council on Environmental Quality (CEQ). However, we strongly believe that in order to allow CEQ to carry out its environmental mission and reinvention efforts, the full requested level should be provided, and language prohibiting use of detailees should be deleted.

Corporation for National and Community Service

The Administration is deeply concerned that freezing funding for the Corporation for National and Community Service at the FY 1998 level, \$74 million below the President's request, will not allow the Corporation to finance nearly 5,000 AmeriCorps tutors targeted to recruit, organize, and manage more than 60,000 volunteers as part of America Reads, the Administration's effort to raise student literacy through the use of tutors to supplement the school day activities.

Community Development Financial Institutions Fund

The Administration strongly opposes the Committee's decision to reduce the request for the Community Development Financial Institutions Fund by \$70 million. This cut would severely reduce the Fund's ability to leverage investments, loans, and financial services in the country's most distressed communities.

Neighborhood Reinvestment Corporation

The Administration is disappointed by the Committee's decision not to fund the full request for the Neighborhood Reinvestment Corporation (NRC). The NRC has a proven successful record of leveraging private sector resources to promote homeownership and helping to strengthen Americas communities. The Administration urges the Senate to fully fund the President's request of \$90 million, which includes a \$25 million homeownership initiative that seeks to create 10,000 new homeowners through FY 2000.

National Aeronautics and Space Administration

The Administration is pleased that the Committee has fully funded the President's request for NASA. We hope that it is possible to reach an accommodation on overall funding in the bill that can satisfy both the Administration's unfunded priorities in other agencies and the Committee's interest in providing increased funding for NASA. As indicated above, the Administration looks forward to working with Congress to identify mandatory and other program savings so that increases in spending, such as the additional spending for NASA, is possible.

We are concerned by the increased number of appropriation accounts for Space Station and other activities. The redirection of key resources to implement this change could threaten NASA's Year 2000 conversion effort and pose an audit risk. The Administration is prepared to work with the Congress to control development costs of the International Space Station better, while also providing the flexibility necessary to deal with unanticipated requirements. The Administration is also concerned about the very large number of unrequested, site-specific earmarks, which would have the effect of circumventing the competitive, peer review process.

Federal Emergency Management Agency

The Administration appreciates the level of funding provided by the Committee for the Federal Emergency Management Agency. However, we believe that the \$25 million reduction to the President's request for pre-disaster mitigation grants is shortsighted. These grants would help reduce the costs of future disasters by leveraging local and private-sector support for enhanced mitigation efforts at the State and community level. We urge the Senate to fund fully the President's request for this important initiative. In addition, we urge the Senate to approve the President's recent request for funding to help States and communities prepare for potential terrorist incidents involving chemical and/or biological weapons.

National Science Foundation

Given the budget constraints facing the Committee, the Administration appreciates the effort to provide a \$215 million increase over the FY 1998 level for the National Science Foundation (NSF). However, the Administration is concerned that the elimination of funding for the proposed Polar Cap Observatory (PCO) would hamper scientists' further understanding of the Earth's upper atmosphere as well as the study of conditions in the space environment that can influence the performance and reliability of satellites, communications, navigation, and electric power distribution systems. The Administration is firmly committed to NSF's basic research function, which not only promotes scientific advancement but also contributes to economic development. We strongly urge the Senate to provide the full increase requested for NSF. The Administration is also concerned about the number and specificity of earmarks related to NSF, which come dangerously close to infringing on the merit-based review and decision-making process.

Administrative Provision

Finally, the Administration supports the Committee's goal of ensuring a safe and environmentally sound ship scrapping policy. The specific requirements in the bill, however, raise implementation issues such as EPA's certification of the enforcement of other countries' laws. The Administration believes that a starting point to develop a more workable approach to achieve these protection aims would be to build on the recommendations of the Interagency Ship Scrapping Review Panel. The Administration is committed to working with Congress to resolve these concerns and to finding mutually acceptable solutions that achieve these important objectives.



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

September 23, 1998

THE DIRECTOR

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 4194, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1999, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates efforts by the Congress to accommodate the President's priorities within the 302(b) allocation. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by providing savings through user fees and certain mandatory programs to help finance discretionary spending. In the Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. In addition, this year, as in the past, such mandatory offsets have been approved by the House and Senate in other appropriations bills. We want to work with the Congress on mutually-agreeable mandatory and other offsets that could be used to increase funding for high-priority discretionary programs such as National Service, environmental protection, and safe and affordable housing for low-income households.

Both the House- and the Senate-passed versions of the bill include requested funding for many of the Administration's priorities, and we appreciate the efforts of the House and Senate in this regard. Regrettably, there are a number of Presidential priorities that remain underfunded. In particular, the Administration is deeply concerned that the House-passed bill provides no funding for National Service and that both the House- and Senate-passed versions include significant cuts to the President's request for the Environmental Protection Agency's (EPA's) Hazardous Substance Superfund and significantly underfund the President's request for the Department of Housing and Urban Development's Welfare-to-Work and other incremental housing vouchers. The Administration is also very concerned about problematic language in the House and Senate versions of the bill regarding the Kyoto Protocol and strongly objects to the House's addition of significant portions of H.R. 2, the Housing Opportunity and Responsibility Act of 1997, which includes unacceptable provisions such as those relaxing income targeting. If the bill were to be presented to the President without responding to these concerns, the President's senior advisers would recommend that he veto the bill.

The Administration is pleased with the support the House has expressed for an audit-based enforcement initiative for the Fair Housing Initiatives program, which would reduce the level of housing discrimination. We urge the conferees to adopt the House recommendation for this critical fair housing initiative and to provide the Administration's full request for Fair Housing. The Administration also supports the House funding level for the Partnership for Advancing Technologies in Housing and urges that funding also be included to support Regional Connections as requested in the President's budget.

The Administration appreciates the Congress' decision to raise the limit on FHA single-family loans to 87 percent of the GSE "conforming limit." The Administration urges the conferees to provide even greater homeownership opportunities by adopting its original request to raise FHA's loan limit to 100 percent of the GSE "conforming limit." This would yield another \$700 million in savings over five years.

The Administration is disappointed that the House and the Senate have failed to adopt the Administration's proposal to reform HUD's single-family property disposition program, which would produce substantial savings. The proposal would streamline and transform FHA's now lengthy, labor-intensive disposition process into one that would take advantage of private sector efficiencies, while maintaining HUD's long-standing mission of revitalizing distressed neighborhoods. Enactment of this proposal would yield over \$500 million in net present value savings in fiscal year 1999.

The Administration objects to the Senate's reduction in resources for the Office of Federal Housing Enterprise Oversight (OFHEO). OFHEO provides crucial taxpayer protection through its financial supervision of Fannie Mae and Freddie Mac.

Environmental Protection Agency

The Administration has several major concerns with the House and Senate marks for the Environmental Protection Agency (EPA). In particular, the Administration strongly objects to the \$593 million, or 28-percent, reduction made by both the House and the Senate to the President's request for Superfund, which would delay cleanups at sites nationwide and needlessly jeopardize public health. In addition, the Administration opposes the Senate's restrictive bill language that would hamper achievement of brownfield cleanups by preventing their use for revolving loan funds. The Administration urges the conferees to restore Superfund to the requested level and to delete the restrictive brownfields language.

The Administration strongly opposes the House's \$106 million reduction and the Senate's \$91 million reduction in the EPA request for the Climate Change Technology Initiative. This high-priority program should be funded fully to cut energy usage, save consumers money, and reduce greenhouse gas emissions. We will work with the Congress to restore funding to the requested level.

Below is a discussion of the Administration's specific concerns with the bill, as passed by the House and by the Senate. We look forward to working with you to resolve these concerns as the bill moves forward.

Corporation for National and Community Service

The Administration strongly objects to the House's termination of the Corporation for National and Community Service, one of the Administration's top priorities, and is deeply concerned that the Senate-passed bill would freeze funding for the Corporation at the FY 1998 level, \$74 million below the President's request and continue restrictive appropriation language. Eliminating funding for the Corporation would deny more than 49,000 Americans the opportunity to serve as AmeriCorps members in projects such as America Reads, the Administration's effort to raise student literacy through the use of tutors to supplement the school day activities. In addition, over one million students of all ages would forego the chance to participate in service learning activities in their schools and neighborhoods. The Administration urges the Congress to fully fund the Corporation for National and Community Service at the requested level of \$502 million and adopt the requested appropriations language.

Department of Housing and Urban Development

The Administration strongly opposes the inclusion of H.R. 2, the Public Housing Reform and Responsibility Act of 1997, in the House-passed bill. By changing the income targeting at admission for public and Section 8 assisted housing, H.R. 2 would shift subsidies from the poorest families, many of whom are working, to families with incomes sufficient to have greater housing choices. Such provisions would increase homelessness and hardship at a time when many low income Americans cannot afford even basic housing and are unacceptable. The Administration supports reasonable measures to encourage a range of incomes in public housing and thereby reduce concentrations of poverty. The Administration can find no rationale, however, for relaxing the income targeting of Section 8 subsidies that can be used throughout a community. We must not allow those with the most desperate housing needs to be left out in the name of housing reform.

The overall level of funding provided by both the House and the Senate bills for the Department of Housing and Urban Development (HUD) is generally consistent with the Administration's request, including the funding provided to renew all expiring Section 8 contracts. The Administration also appreciates the Senate's decision to end the ninety-day delay in reissuing of Section 8 certificates/vouchers on turnover and encourages the conferees to strike the House's ninety-day delay provision.

Despite the House's decision to fund 17,000 incremental welfare-to-work housing vouchers, the Administration is disappointed that both the House and the Senate have failed to provide adequate funding for the President's request for 103,000 incremental vouchers, including 50,000 vouchers to assist families moving from welfare to work and 34,000 vouchers to assist homeless individuals and families in their efforts to secure permanent housing. With millions of families needing to make the transition from welfare to work, and many low income Americans with unmet housing needs, the Administration believes it is critical for the Congress to fund the entire requested number of welfare-to-work housing vouchers. The Administration also urges the conferees to adopt language that would foster the most cost-effective and innovative implementation of the welfare-to-work housing vouchers program. Further, the Administration urges the conferees to provide the full \$20 million requested for Regional Opportunity Counseling, a voluntary effort that likewise expands the housing and employment opportunities available to low-income families.

The Administration also encourages the conferees to fund fully the President's request for \$400 million for an Economic Development Initiative (EDI) Community Empowerment Fund to generate 280,000 job opportunities in distressed communities. The House has cut the request by \$350 million, providing only \$50 million, and the Senate has provided \$85 million, with over 75 percent earmarked for specific projects. The Administration objects to the list of specific, earmarked projects in the Senate-passed bill for the EDI program. We look forward to working with the conferees to maximize the level of funds awarded to projects based on a consideration of merits and need. The Administration also urges the conferees to approve the proposed request for Brownfields redevelopment.

The Administration strongly opposes the House's \$21 million reduction for Housing Opportunities for Persons with AIDS (HOPWA) and urges the conferees to restore funding to the requested level, \$225 million. We believe a reduction to this critical program at a time of significant medical advances for the treatment of AIDS is shortsighted and will result in a significant number of the qualified caseload being denied essential housing and other related assistance.

The Administration appreciates the House and Senate's decision to increase funding for Homeless Assistance Grants above FY 1998 levels and urges the conferees to approve the Senate level. However, we strongly urge the conferees to strike the Senate's rigid set-aside for permanent housing, which would reduce the ability of each local entity to adopt the most effective response to the homeless challenge unique to that area identified in its Continuum of Care Plan. The Administration is also encouraged by the House's decision to provide \$80 million for the Office of Lead Hazard Control, to reduce the risk of childhood lead poisoning and other housing-related health hazards such as asthma. We urge the conferees to approve the House level.

The Administration strongly opposes the House bill and accompanying report language related to the Kyoto Protocol. While the Administration could not and would not implement the Protocol until it is ratified, the House bill and accompanying report language and the Senate report language could be interpreted to block work related to any regulatory action that has the effect of reducing greenhouse gases, no matter how clearly authorized by current law. The Administration strongly supports retention of Representative Obey's amendment adopted by the House concerning restrictions on educational and outreach activities related to climate change. Finally, we appreciate Chairman Bond's clarification that the Senate report language is intended only "to prevent the issuance of federal regulations designed solely for the purpose of Kyoto Protocol implementation." This is similar to the approach taken by the Senate in the Interior Appropriations Committee report, and we strongly urge the conferees to conform the Conference Report to this approach in lieu of the existing House bill and Senate report language.

The Administration urges the conferees to provide the full \$50 million request to help improve water quality in Boston Harbor and prevent beach closings. The Administration appreciates House action to provide full funding for EPA's part of the President's Clean Water Action Plan, which is designed to prevent pollution run-off and protect public health. We urge the conferees to maintain the House funding level in the final bill.

The Administration is concerned with the large number of unrequested, earmarked projects in both the House- and Senate-passed versions of the bill. This is especially troublesome when the House and the Senate have reduced funding for several high-priority Administration initiatives, including right-to-know programs, Montreal Protocol, GLOBE, and Mexican border wastewater treatment funding.

Council on Environmental Quality

The Administration appreciates the modest increases over the FY 1998 level provided by the House and Senate for the Council on Environmental Quality (CEQ). However, we strongly believe that in order to allow CEQ to carry out its environmental mission and reinvention efforts, the full requested level should be provided, and language prohibiting use of detailees should be deleted.

Department of Veterans Affairs

The Administration appreciates the responsiveness of the House and the Senate to several of the President's key initiatives for the Department of Veterans Affairs (VA). Still, three key areas of concern remain:

- Earmarked Funding for New York/New Jersey Health Care Network The Administration appreciates the Senate's strong support of the Veterans Equitable Resource Allocation (VERA) formula, which bases network resource allocations on workload and local cost factors. The Administration urges the conferees to strike House report language that

directs VA to provide an additional \$20 million to the New York/New Jersey VA health care network. The VERA formula has begun to shift resources from the Northeast to the underfunded South and Southwest. Allocating additional funding to the New York/New Jersey network would mean less for these other under-funded networks.

- New National Cemetery in Eastern Kentucky. The Administration objects to House report language urging that a new cemetery be established and that VA use whatever advance planning funds may be necessary to initiate the planning phase and to prepare a progress report. The eastern Kentucky area was not identified in the 1987 or 1994 reports to Congress as an area of the country most in need of a national cemetery. Other areas of the country have larger concentrations of veterans, and most veterans residing in the eastern half of Kentucky are already served by three open national cemeteries in Kentucky (Camp Nelson, Lebanon, and Mill Springs) and one in Tennessee (Mountain Home).
- Changes to the funding mechanism for adjudication office. The Administration prefers the language of the Senate bill with regard to the funding mechanism for VA's newly-created Office of Resolution Management and Office of Employment Discrimination Complaint Adjudication. The House-passed bill includes language that would change the funding mechanism for these two offices from reimbursable, as requested in the President's budget and included in the Senate bill, to specific transfers of estimated amounts. The House provision would reduce the incentive for VA managers to control the costs associated with the processing of EEO complaints, and it would lessen the coordinated arrangements that reimbursable services foster.

Community Development Financial Institutions Fund

We strongly urge the conferees to fund the Community Development Financial Institutions Fund at the requested level, \$125 million. We strongly oppose the reductions to the President's request of \$45 million and \$70 million in the House and Senate versions of the bill, respectively, which would severely reduce the Fund's ability to leverage investments, loans, and financial services in the country's most distressed communities.

National Aeronautics and Space Administration (NASA)

The Administration is deeply concerned with reductions made by the House to the requests for the International Space Station, Space Shuttle, and Earth Science programs and strongly urges the conferees to support funding for these activities at the Senate level. NASA has recently indicated that ensuring success of Russia cooperation on the International Space Station may require considerably more resources over the next five years. At least \$60 million is needed immediately and is the subject of a FY 1998 reprogramming request that will be

forthcoming shortly to the Subcommittees. The future years' requirements are still under review by the Administration. We urge the conferees to provide NASA with the flexibility to reallocate funds in FY 1999 to restore resources used in the FY 1998 reprogramming.

We also are concerned about the increased number of appropriation accounts for the International Space Station and other activities included in the Senate-passed bill. The redirection of key resources to implement this change could threaten NASA's Year 2000 conversion effort and pose an audit risk.

The Administration is prepared to work with the Congress to control development costs of the Space Station while also providing the resource flexibility within the Human Space Flight account to deal with unanticipated requirements, particularly additional contingency steps that may be called for in light of continuing resource problems of the Russian government. In addition, we are concerned with House language prohibiting the use of funds for the Triana project and urge the conferees to strike this provision. Finally, the Administration is troubled that both the House- and Senate-passed versions of the bill contain a very large number of unrequested, site-specific earmarks, which would have the effect of circumventing the competitive, peer review process.

Federal Emergency Management Agency

The Administration appreciates the level of funding provided by the House and Senate for the Federal Emergency Management Agency. However, we believe that the reductions (\$20 million in the House and \$25 million in the Senate) to the President's request for pre-disaster mitigation grants are shortsighted. These grants would help reduce the costs of future disasters by leveraging local and private-sector support for enhanced mitigation efforts at the State and community level. We urge the Congress to fund fully the President's request for this important initiative. In addition, the Administration is pleased that the Senate-passed bill includes \$8 million in response to the President's June 8th request for funding to help States and communities prepare for potential terrorist incidents involving chemical and/or biological weapons. We urge the Congress to approve requested emergency funding for FEMA Disaster Relief.

National Science Foundation

Given the budget constraints faced by the House and Senate, the Administration appreciates the strong support shown for the National Science Foundation (NSF). The Administration is firmly convinced that support for the Foundation's research and education programs is a critically important investment in the future well-being of the Nation. Therefore, the Administration urges the conferees to fund fully the President's request for all of NSF's activities. Additionally, the Administration remains concerned about the number and specificity of funding earmarks, which in some cases come dangerously close to infringing on an open, merit-based review and decision-making process. Finally, the Administration strongly supports both the Polar Cap Observatory and the GLOBE program and urges the conferees to provide the budget request for each of these activities.

Neighborhood Reinvestment Corporation

The Administration is pleased that the House-passed version of the bill would provide the President's full request for the Neighborhood Reinvestment Corporation (NRC), and we urge the conferees to adopt the House position. The NRC has a proven, successful record of leveraging private sector resources to promote homeownership and helping strengthen America's communities. This funding would provide an additional \$25 million for a homeownership initiative that seeks to create 10,000 new homeowners through FY 2000.

Other Issues

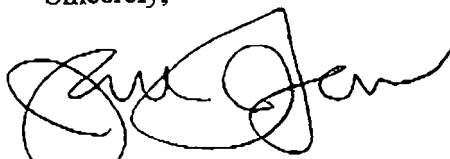
- San Francisco Restriction. The Administration strongly objects to the amendment which requires the City of San Francisco not to use any Federal funds to implement a local ordinance. This is an unfunded mandate. Legislating through the use of Federal funds against a single ordinance in a single city would be contrary to the most basic principles of Federalism underlying our system of Government. The amendment would impose a burdensome administrative requirement on the City, requiring it to set up a system to separately track expenditures to ensure that no Federal funds were used to implement one particular City ordinance.
- Consumer Product Safety Commission. The Administration opposes bill language in the House-passed bill that would block the Consumer Product Safety Commission's (CPSC's) ability to promulgate rules to reduce the flammability of upholstered furniture. This language intrudes upon CPSC's ability, as well the ability of other agencies, to carry out their responsibilities. Furthermore, these efforts to block the development of a new safety standard represent a threat to public health.
- American Battle Monuments Commission. The Administration is concerned that the Senate-passed bill includes an earmark of \$2.5 million for restoration of the Liberty Memorial in Kansas City, Missouri. (The Liberty Memorial has been estimated to need \$60 million to \$75 million in restoration funding.) This earmark would set an undesirable precedent. Currently, ABMC's program maintains memorials to American Armed Forces where they served overseas, not in local communities around the country. The Smithsonian's Save Outdoor Sculpture program has identified the Liberty Memorial as one of 43 domestic World War I and II outdoor monuments and memorials in need of immediate repair. The ABMC program is not the appropriate place to fund this kind of domestic public works program. We recommend that the conferees remove this earmark from ABMC's language.
- Section 41. Open Season for Certain Alaska Native Veterans for Allotments. The Administration supports suitable legislation that would renew the opportunity for an allotment for Alaska Native veterans who missed the opportunity because of Vietnam War service in 1970 and 1971. However, section 41 of the Senate-passed bill would extend benefits beyond those who missed an opportunity due to active-duty military service; would unreasonably delay adjudication and conveyance of pending Native or

State applications under existing entitlements and claims; would unreasonably open special Conservation System Units set aside by Congress (such as parks, scenic rivers, refuges, and national wilderness areas) to private inholdings and development; and, would raise inequities among Alaska Natives. The Administration strongly objects to this provision, as written.

- Ship Scrapping. The Administration supports the Senate Appropriations Committee's goal of ensuring a safe and environmentally sound ship scrapping policy. The specific requirements in the Senate version of the bill, however, raise implementation issues such as EPA's certification of the enforcement of other countries' laws. The Administration believes that a starting point to develop a more workable approach to achieve these protection aims would be to build on the recommendations of the Interagency Ship Scrapping Review Panel. The Administration is committed to working with Congress to resolve these concerns and to finding mutually acceptable solutions that achieve these important objectives.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,



Jacob J. Lew
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Jerry Lewis,
The Honorable Louis Stokes, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Christopher S. Bond,
and The Honorable Barbara Mikulski



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

June 24, 1998

THE DIRECTOR

The Honorable David R. Obey
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Obey:

The purpose of this letter is to provide the Administration's views on the Veterans, Housing and Urban Development, and Independent Agencies Appropriations Bill, FY 1999, as approved by the House Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates efforts by the Subcommittee to accommodate certain of the President's priorities within the 302(b) allocation. However, the allocation is simply insufficient to make the necessary investments in programs funded by this bill. As a result, critical programs are not funded or underfunded, in particular, key Presidential priorities such as funding for National Service, Superfund and climate change. Furthermore, the Administration is very concerned that the Committee has included problematic language regarding the Kyoto Protocol and other issues. If the bill were presented to the President in its current form, the President's senior advisers would recommend that he veto the bill.

The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings in mandatory and other programs available to help finance this spending. In the recently enacted Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. We want to work with the Congress on mutually agreeable mandatory and other offsets that would be used to increase high-priority discretionary programs, including those funded by this bill.

Below is a discussion of our specific concerns with the Subcommittee bill. We look forward to working with you to resolve these concerns as the bill moves forward.

Corporation for National and Community Service

The Administration strongly objects to the termination of the Corporation for National and Community Service, one of the Administration's top priorities. Eliminating funding for the Corporation would deny more than 49,000 Americans the opportunity to serve as AmeriCorps members in projects such as America Reads, the Administration's effort to raise student literacy

through the use of tutors to supplement the school day activities. In addition, over one million students of all ages would forego the chance to participate in service learning activities in their schools and neighborhoods. The funding level in the Subcommittee bill for the Corporation for National and Community Service is unacceptable.

Environmental Protection Agency

The Administration has several major concerns with the Subcommittee's mark for the Environmental Protection Agency. In particular, the Administration strongly objects to the \$593 million, or 28 percent, reduction to the President's request for Superfund, which would delay cleanups at sites nationwide and needlessly jeopardize public health. In addition, the Administration opposes the \$16 million, or 18 percent, reduction to the request for brownfields funding as well as restrictive bill language that would hamper achievement of brownfield cleanups by preventing their use for removals, cleanups, and revolving loan funds. Congress is strongly urged to restore Superfund to the requested level and to delete the restrictive brownfields language.

The Administration strongly opposes the Subcommittee's \$106 million reduction in EPA funding for the Climate Change Technology Initiative. This high priority program should be funded fully to cut energy usage, save consumers money, and reduce greenhouse gas emissions. We will work with the Congress to restore requested funding as the bill moves forward.

The Administration strongly opposes bill and report language relating to the Kyoto Protocol. While the Administration does not intend to implement the Protocol until it is ratified, the bill language could be interpreted broadly to prevent activities that limit greenhouse gases -- for example, through enhancing energy efficiency -- but that are not undertaken to implement the Kyoto Protocol. The report language also inappropriately purports to bar educational and informational outreach activities related to climate change. The Administration opposes this and other riders because they abuse the legislative process by denying the public and Members of Congress the opportunity to examine and debate these proposals openly.

The Administration appreciates the Subcommittee's providing full funding for the President's Clean Water Action Plan, which is designed to prevent pollution run-off and protect public health. The Administration urges the Committee to provide the full \$50 million request to help improve water quality in Boston Harbor and prevent beach closings.

The Administration is concerned with the large number of unrequested, earmarked projects in the Subcommittee mark for EPA, particularly when the Subcommittee has reduced several other high-priority Administration initiatives, including right-to-know programs, Montreal Protocol, GLOBE, and Mexican border wastewater treatment funding.

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Department of Housing and Urban Development

The Administration is concerned about the funding levels provided for key programs within the Department of Housing and Urban Development, particularly for welfare-to-work vouchers and other programs, such as the Community Empowerment Fund, that would expand job opportunities.

The Administration appreciates the Committee's decision to fund 17,700 incremental "Welfare-to-Work" housing vouchers. In light of recent studies that show historically high unmet housing need among very low-income Americans, however, the Administration believes it is critical for the Congress to fund the entire 50,000 welfare-to-work housing vouchers provided for in the President's request. Welfare-to-work housing vouchers will support implementation of welfare reform by assisting those welfare recipients who need housing assistance to get or keep a job.

The Administration also encourages the Congress to fund fully the President's request for \$400 million for an Economic Development Initiative Community Empowerment Fund to generate jobs in distressed communities. The Committee has provided only \$50 million, as a set-aside within the existing CDBG program.

The Administration appreciates the Subcommittee's decisions to fund a number of programs at the levels requested, including the Partnership for Advancing Technologies in Housing (PATH) initiative, and to renew all expiring Section 8 contracts. Additionally, the Administration is encouraged that the Committee has provided funding for half the President's request for Regional Opportunity Counseling, a voluntary effort to expand the housing and employment opportunities available to low-income families. We urge full funding of the President's request for this program. We are also pleased by the Committee's decision to provide \$80 million for the Office of Lead Hazard Control, to reduce the risk of childhood lead poisoning and other health hazards. The Administration encourages the Congress to fund fully a number of other areas -- Homeless Assistance, Brownfields, and Regional Connections--and to end the ninety-day delay in reissuing of Section 8 certificates/vouchers on turnover.

The Administration is pleased with the Committee's decision to support an audit-based enforcement initiative for the Fair Housing Initiatives program. We urge the Congress to fund fully this critical fair housing initiative in order to reduce the level of housing discrimination.

The Administration urges the Congress to adopt the Administration's proposal to reform HUD's single-family property disposition program, which would produce substantial savings by improving the efficiency of FHA's property disposition processes, and would permit the Committee to provide additional resources to critical Subcommittee programs. In addition, we support providing greater homeownership opportunities by increasing the FHA loan limit to the GSE "conforming" limit. We believe that this appropriations bill is an appropriate arena in which to enact such a change.

Council on Environmental Quality

The Administration appreciates the modest increase over the FY 1998 level provided for the Council on Environmental Quality (CEQ). However, we strongly believe that in order to allow CEQ to carry out its environmental mission and reinvention efforts, the full requested level should be provided.

Community Development Financial Institutions Fund

The Administration strongly urges the Committee to fund the Community Development Financial Institutions Fund at the requested level. The Committee's decision to reduce the request by \$45 million would severely reduce the Fund's ability to leverage investments, loans, and financial services in the country's most distressed communities.

National Aeronautics and Space Administration

The Administration is concerned by the Subcommittee's reductions to the requests for the International Space Station, Space Shuttle, and Earth Science programs. Further, the Administration is particularly concerned about language prohibiting the use of funds for the Triana project. Triana offers a unique opportunity to educate and engage students in all phases of the mission. Its observations could potentially be used in meteorology and environmental monitoring, as well as for commercial purposes. With respect to the Space Station, full funding in FY 1999 is critical as the United States and our International Partners are in a peak period of development and integration, and proceeding toward First Element Launch later this year. The Administration will work with the Congress to enable restoration of funding for these priority programs as the bill proceeds. The Administration is also concerned over the large number of unrequested, site-specific earmarks, which would have the effect of circumventing the competitive, peer review process and are paid for with serious reductions to priority programs.

Federal Emergency Management Agency

The Administration appreciates the level of funding provided by the Subcommittee for the Federal Emergency Management Agency. However, we believe that the \$20 million reduction to the President's request for pre-disaster mitigation grants is shortsighted. These grants would help reduce the cost of future disasters by leveraging local and private-sector support for enhanced mitigation efforts at the State and community level. We urge the Committee to fund fully the President's request for this important initiative. In addition, we urge the Committee to approve our recent request for funding to help States and communities prepare for potential terrorist incidents involving chemical and/or biological weapons.

National Science Foundation

Given the budget constraints facing the Subcommittee, the Administration appreciates the effort to provide a \$199 million increase over the FY 1998 level for the National Science Foundation (NSF). Nevertheless, the Administration is concerned by the reduction to the request

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for education and human resources and the elimination of funds for the proposed Polar Cap Observatory and NSF funds for the GLOBE program. The Administration is firmly committed to NSF's research and education activities, which not only promote scientific advancement but also contribute to economic development. We strongly urge the Congress to provide the full increase requested for NSF for its research, equipment, and education activities.

Neighborhood Reinvestment Corporation

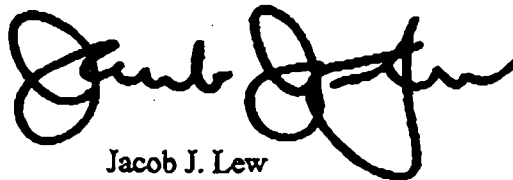
The Administration is pleased by the Subcommittee's decision to provide the President's full request for the Neighborhood Reinvestment Corporation (NRC). The NRC has a proven, successful record of leveraging private sector resources to promote homeownership and helping strengthen Americas communities. This funding would provide an additional \$25 million for a homeownership initiative that seeks to create 10,000 new homeowners through FY 2000.

Potential Amendment Related to Peer Review

The Administration strongly opposes an amendment that may be offered mandating peer review of "scientific data" supporting final regulations. The Administration is committed to using the best possible science and peer review for rule-making. However, this amendment is unnecessary, inappropriate and wasteful. Peer review is currently incorporated in the Government-wide rule-making process where it is needed through extensive outreach, public comment, and scientific advisory boards. This amendment as drafted mandates a one-size-fits-all requirement that would serve only to delay important government action, in particular, rules designed to protect health safety and the environment. It would impose a costly additional step in the regulatory process and could cover a large heterogeneous set of rules, as diverse as meat and poultry inspection rules, airplane and automobile safety standards, FDA drug and device approvals, and rules to ensure safe drinking water and clean air. This would impose an undue burden on numerous final rules by requiring substantial personnel and other resources and could result in significant delays on important public health and safety rules.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,



Jacob J. Lew
Acting Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Jerry Lewis,
and The Honorable Louis Stokes

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June 25, 1998

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The Honorable Carol M. Browner
 Administrator
 U. S. Environmental Protection Agency
 401 M Street, SW
 Washington, DC 20460

Dear Administrator Browner:

The June 2, 1998 *Federal Register* (63 FR 29991) includes a request for public comment on a "Proposed Settlement Agreement, Clean Air Act Suit", which was lodged with the United States Court of Appeals for the District of Columbia by the EPA on April 15, 1998, to address a lawsuit originally filed by the National Resources Defense Council (NRDC) in 1992. The NRDC lawsuit concerns among other things, EPA's alleged failure to list, and to determine whether to regulate hazardous air pollutant emissions from, electric utility steam generating units under section 112 of the Clean Air Act. Under the proposed settlement, EPA agrees to "Undertake and publish on [or before February 28, 1999] the results of, an analysis of the emissions reductions of SO₂, NO_x, CO₂, and mercury (and the effect of mercury removal costs) that would be achieved through an array of strategies to control SO₂, NO_x, CO₂ and mercury. . ."

As you know, CO₂ is one of several greenhouse gases covered by the recently adopted Kyoto Protocol, which has not been submitted to the Senate for advice and consent to ratification and which has not yet entered into force pursuant to its terms. As I believe you also know, Under Secretary of State Stuart Eizenstat has on several occasions committed to Congressional Committees, including this Committee, that the Administration would not undertake actions to implement the Kyoto Protocol before it is ratified and entered into force. This agreement, which is dated April 15, 1998, is a step toward such implementation and appears inconsistent with this commitment. It should not be finalized.

Moreover, to my knowledge, Congress, in enacting section 112 of the Clean Air Act, did not list CO₂ as a hazardous air pollutant and I do not believe that EPA has amended that list to include CO₂. For that matter, SO₂ and NO_x are not listed hazardous air pollutants under section 112, but are pollutants regulated under other provisions of the Act. Thus, I know of no duty imposed by section 112 on EPA that requires regulations for any of these substances. Also, while mercury is listed under section 112, it was subject to a study under section 112(n)(1)(B) (which was performed), I understand that section 112(n)(1)(B) does not mandate any regulation based on the study.

The Honorable Carol M. Browner

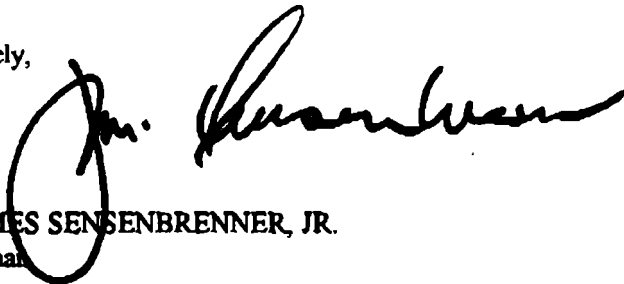
June 25, 1998

Page two

In addition, a review of the proposed settlement indicates that it is a modification of an October 26, 1994 consent agreement that did not refer to CO₂ or any of these substances. That consent agreement predates not only the Kyoto Protocol, but also the first meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change. I therefore find it difficult to believe that a 1994 consent decree is relevant to any greenhouse gas emissions subject to the Convention or the Kyoto Protocol, particularly since EPA never recognized CO₂ as a pollutant in 1994 for purposes of section 112.

I, therefore, strongly urge that EPA and the Justice Department withhold consent to the modification on the bases that it is inappropriate and improper in light of Under Secretary Eisenstat's commitments to the Congress on behalf of the Administration and because it is inconsistent with the requirements of the Clean Air Act in that CO₂, NO_x, and SO₂ are not subject to section 112 of that Act. In addition, I request your reply to the enclosed questions before EPA or the Justice Department acts pursuant to section 113(g), unless, of course, that action conforms with any request that the proposed settlement agreement be withdrawn.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosure

cc: Hon. Stuart E. Eizenstat, Under Secretary of State for Economic, Business and Agricultural Affairs
Richard H. Vetter, Emissions Standards Division, Office of Air Quality Planning & Standards
Hon. Lois J. Schiffer, Assistant Attorney General, Environment and Natural Resources Division

Proposed Settlement Agreement on Mercury Emissions

What the proposed stipulation says:

"EPA shall undertake ..., an analysis of the emission reductions of SO₂, NO_x, CO₂ and mercury (and the effect on mercury removal costs) that would be achieved through an array of strategies to control SO₂, NO_x, CO₂ and mercury, ..."

Key Points

- EPA has made no decision to regulate CO₂ from electric power plants, and this is not an attempt at "back door" implementation of the Kyoto Protocol. The Administration is committed not to implement the Kyoto Protocol until the Senate has given advice and consent to its ratification.
- The stipulation is contained in a proposed revision to a settlement agreement in a lawsuit brought by the Natural Resources Defense Council. The revised settlement agreement delays the date by which EPA must meet its obligation under §112 of the Clean Air Act to determine whether it is appropriate and necessary to regulate emissions from electric utility steam generating units of specific air pollutants, including mercury, that are listed as "hazardous" under the Act. EPA has identified mercury as the hazardous air pollutant of primary concern in the emissions of electric utility steam generating units.
- The analysis called for in the proposed revision to the settlement agreement is specifically intended to inform EPA's decision whether, and if so, how to regulate mercury emissions from coal-fired electric power plants. Multiple pollutant analysis makes sense because efforts to reduce any one of these pollutants has an effect on the others. EPA routinely uses a widely-accepted computer model, called the Integrated Planning Model (IPM), to undertake these multiple pollutant analyses.
- EPA has conducted multi-pollutant analyses like this for electric power plants for more than two years, with broad stakeholder involvement and support. In 1996, EPA conducted the Clean Air Power Initiative (CAPI), a stakeholder process involving utilities, fuel suppliers, labor, and environmental organizations, using the IPM model to look at the interaction of control strategies for various pollutants from electric power plants.
- In the CAPI process and in subsequent advisory committees, EPA has been repeatedly urged by utilities, the United Mine Workers, and environmental groups to include CO₂ in these IPM analyses. The present analysis is intended solely to inform the decisions EPA is required to make under the Clean Air Act regarding mercury emissions from electric steam generating units.
- Multiple pollutant analyses are called for in the Clean Air Act. For example, §103(g)(1) calls for analyses of "[i]mprovements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide, from

stationary sources, including fossil fuel power plants.”

Self-Chilling Cans

EPA used its authority under the Clean Air Act to block the introduction of a self-chilling soda and beer can that would have emitted *hydrofluorocarbons* (HFCs), extremely potent greenhouse gases. In response, the product's inventors came up with a safer design, using another cooling agent. The new design will soon go to market, with EPA approval.

Key Points

- As part of the phase-out of chemicals that deplete the stratospheric ozone layer, the 1990 Clean Air Act requires EPA to review the health and environmental effects of replacement chemicals and products. Section 612(c) requires EPA to block the introduction of any replacement that may present adverse effects to human health or the environment, if there is an available alternative that *"reduces overall risk to human health and the environment."* Section 608(c) also makes it illegal to knowingly vent or release a replacement refrigerant from a product into the air, unless EPA determines that it *"does not pose a threat to the environment."*
- Self-chilling cans work by releasing a refrigerant substance when opened. The expansion and escape of the refrigerant cools the can. The first self-chilling can design would have used HFCs as the refrigerant -- chemicals that have 140 to 1,300 times the warming power of carbon dioxide. Releasing these chemicals from the cans would have posed new environmental risks not associated with traditional refrigeration.
- If self-chilling cans using one of these chemicals (HFC-134a) had captured just 5% of the 90 billion can U.S. market by the year 2000, they would have more than offset all the greenhouse gas reductions achieved by the Administration's voluntary programs. At a 25% market penetration, their emissions would have equalled nearly one-third of the greenhouse gases coming from all electric power generation in the U.S.
- In response to EPA's action, the product's inventors came up with a new design that uses a safer refrigerant. The new product will have no more impact on the environment than traditional refrigeration. It will soon be on the market, with EPA's approval.
- These common-sense actions under existing law have protected the American people from new and unnecessary dangers as ozone-depleting chemicals are replaced. They were not an attempt at "back door" implementation of the Kyoto Protocol. They are, however, the kind of common-sense public health protection Americans will lose if misplaced anti-Kyoto legislation is enacted.

Campaigne, Alys

From: Dotson, Greg
Sent: Sunday, July 12, 1998 3:50 PM
To: Campaigne, Alys
Subject: VA-HUD

**SUBCOMMITTEE ON THE DEPARTMENTS OF VETERANS AFFAIRS AND
HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES**

Department of Veterans Affairs.
Department of Housing and Urban Development.
Independent Agencies:
American Battle Monuments Commission.
Cemeterial Expenses, Army (DOD).
Community Development Financial Institutions (Treasury).
Consumer Information Center (GSA).
Consumer Product Safety Commission.
Corporation for National and Community Service.
Council on Environmental Quality and Office of Environmental Quality.
Court of Veterans Appeals.
Environmental Protection Agency.
Federal Emergency Management Agency.
National Aeronautics and Space Administration.
National Credit Union Administration.
National Science Foundation.
Neighborhood Reinvestment Corporation.
Office of Consumer Affairs (HHS).
Office of Science and Technology Policy.
Resolution Trust Corporation; Office of Inspector General.
Selective Service System.

Greg Dotson
Rep. Henry A. Waxman
2204 Rayburn House Office Building
Washington, DC 20515
(202) 225-3976



Landfill Methane Control

EPA rules and guidelines issued under the Clean Air Act in 1996 require large landfills to control emissions that lead to the formation of ozone smog. The same control measures will also cut landfill emissions of methane (a potent greenhouse gas) by more than half -- the equivalent of eliminating the greenhouse emissions of 20 million cars -- while recovering enough usable fuel to meet the energy needs of two million homes.

Key Points:

- EPA's actions were taken primarily to protect the American people from ozone smog. The rules and guidelines, issued under Section 111 of the Clean Air Act, are focused on controlling volatile organic compounds (VOCs) that contribute to unhealthy levels of ozone smog. Landfill control measures will reduce emissions of VOCs, as well as toxic air pollutants and offensive odors, by more than half (more than 90,000 tons per year).
- Methane is also formed from decomposing garbage. Landfill methane emissions are captured and destroyed along with the other chemicals. Landfill methane emissions present a well-documented danger of fires or explosions.
- Methane is also a powerful greenhouse gas. The landfill methane emissions captured and destroyed by these EPA actions are equivalent to eliminating the greenhouse emissions of 20 million cars. Captured landfill methane can be used cost-effectively to generate enough electricity to meet the energy needs of two million homes.
- These common-sense actions under existing law are helping to protect the American people from dangerous urban smog while at the same time reducing the risks of global warming. They were not an attempt at "back door" implementation of the Kyoto Protocol. But these clear benefits for public health and the environment could not have been achieved if EPA had been prevented from acting by a misplaced anti-Kyoto rider.

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to the Honorable Carol M. Browner on June 25, 1998
Page 1

1. The proposed settlement agreement is dated April 15, 1998. Please explain why it took over six weeks to publish it in the *Federal Register* pursuant to section 113(g) of the Clean Air Act, particularly in light of the settlement's acknowledgment of the requirements of section 113(g).
2. Please explain how and when action was initiated by the Parties to modify the 1994 Settlement Agreement and provide a list of the meeting dates and all participants.
3. The proposed settlement requires that EPA begin the analysis "on or before May 1, 1998" and that EPA forward to the office of the Federal Register a proposed rulemaking notice "on or before

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to the Honorable Carol M. Browner on June 25, 1998
Page 1

1. The proposed settlement agreement is dated April 15, 1998. Please explain why it took over six weeks to publish it in the *Federal Register* pursuant to section 113(g) of the Clean Air Act, particularly in light of the settlement's acknowledgment of the requirements of section 113(g).
2. Please explain how and when action was initiated by the Parties to modify the 1994 Settlement Agreement and provide a list of the meeting dates and all participants.
3. The proposed settlement requires that EPA begin the analysis "on or before May 1, 1998" and that EPA forward to the office of the Federal Register a proposed rulemaking notice "on or before May 15, 1998" establishing a "new reference test method." Both actions pre-date the *Federal Register* notice of June 2, 1998 and do not take into account the requirements of section 113(g), although the modification agreement acknowledges application of that section of the law.
 - 3.1 What are the bases for the beginning and completion dates in the modification?
 - 3.2 Am I correct in my assumption that the EPA has not, and will not, initiate any such actions until the requirements are fully met, particularly since those requirements include withdrawal of the modification as I request?
 - 3.3 Given the fact of this six weeks of delay by EPA in publishing the notice and the time required for public comments and for EPA to act on them, are the end dates of February 28, 1999 in paragraphs 1 and 2 of the agreement realistic?
4. Please explain the nature of the analysis called for in the modification and how EPA plans to perform it.
 - 4.1 Does it include an opportunity for public comment prior to February 28, 1999 which is the date specified for its completion?
 - 4.2 What "strategies" are to be included in the analysis, particularly since several of the so-called pollutants are not subject to section 112 of the Act?
5. What are the sources of funds in this fiscal year and next for the EPA to carry out the provisions of this modification agreement and what is the estimated cost thereof? If the sources are other EPA programs or activities, please explain the impact on those programs or activities?

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to the Honorable Carol M. Browner on June 25, 1998

Page 2

6. I am aware that EPA's General Counsel issued an opinion on April 10, 1998 which is just five days prior to signing this modification agreement that CO₂ meets the broad statutory test for declaring it an "air pollutant." However, he also pointed out that such "a general statement of authority is distinct from an EPA determination that a particular air pollutant meets the specific criteria for EPA action under a particular provision of the Act."

Was this opinion considered by your agency in developing and signing the modification statement? If not, why not? If yes, please identify the "criteria for EPA action" relied upon and please explain the scientific basis for CO₂ (which, as the opinion observes, is a naturally occurring substance that is regularly emitted by people and other sources) to be considered a pollutant for any regulatory purpose.

7. The *Federal Register* notice of June 2, 1999 states that the proposed agreement addresses a lawsuit filed by the National Resources Defense Council. When was that lawsuit filed? Please provide a copy.
8. The *Federal Register* notice explains that NRDC's lawsuit, which was filed pursuant to section 307(b) of the Clean Air Act, "concerns, among other things EPA's alleged failure to list, and determine whether to regulate hazardous air pollution emissions from, electric utility steam generating units under section 112 of the Act, 42 U.S.C. 7412."

Since CO₂ is not listed under the Act, NO_x and SO₂ are covered by provisions of the Act, and mercury is subject to section 112(n)(1)(B) of the Act, please explain what, if any, statutory duty EPA failed to perform that would warrant such an allegation and form the basis of the lawsuit and this modification.

9. I understand that paragraph 4 of the 1994 agreement provides that the parties may extend the dates mentioned in paragraphs 1 and 2 "or otherwise modify" that agreement by written stipulation. Apparently, EPA and NRDC are relying on this quoted phrase as the basis for this modification agreement. Yet, as I have said, the original agreement does not make reference to any of these substances. Indeed, the 1994 agreement only refers in a "Whereas" clause to section 112(c)(1) which relates to source categories and to section 112(n)(1)(A) which relates to a study of electric utility units of "pollutants listed" under section 112(b). As I have said, that list does not include NO_x, SO₂, or CO₂.

9.1 Please explain the basis for relying on the 1994 agreement for this modification.

9.2 Does EPA believe that this agreement authorizes modifications at anytime in the future based on allegations of EPA failure to regulate for matters not covered by the original agreement? If so, please explain why it is sound public policy to utilize such an open-ended provision in this manner, particularly without public notice of the allegations prior to any settlement.

Proposed Settlement Agreement on Mercury Emissions

What the proposed stipulation says:

“EPA shall undertake ..., an analysis of the emission reductions of SO₂, NO_x, CO₂ and mercury (and the effect on mercury removal costs) that would be achieved through an array of strategies to control SO₂, NO_x, CO₂ and mercury, ...”

Key Points

- EPA has made no decision to regulate CO₂ from electric power plants, and this is not an attempt at “back door” implementation of the Kyoto Protocol. The Administration is committed not to implement the Kyoto Protocol until the Senate has given advice and consent to its ratification.
- The stipulation is contained in a proposed revision to a settlement agreement in a lawsuit brought by the Natural Resources Defense Council. The revised settlement agreement delays the date by which EPA must meet its obligation under §112 of the Clean Air Act to determine whether it is appropriate and necessary to regulate emissions from electric utility steam generating units of specific air pollutants, including mercury, that are listed as “hazardous” under the Act. EPA has identified mercury as the hazardous air pollutant of primary concern in the emissions of electric utility steam generating units.
- The analysis called for in the proposed revision to the settlement agreement is specifically intended to inform EPA’s decision whether, and if so, how to regulate mercury emissions from coal-fired electric power plants. Multiple pollutant analysis makes sense because efforts to reduce any one of these pollutants has an effect on the others. EPA routinely uses a widely-accepted computer model, called the Integrated Planning Model (IPM), to undertake these multiple pollutant analyses.
- EPA has conducted multi-pollutant analyses like this for electric power plants for more than two years, with broad stakeholder involvement and support. In 1996, EPA conducted the Clean Air Power Initiative (CAPI), a stakeholder process involving utilities, fuel suppliers, labor, and environmental organizations, using the IPM model to look at the interaction of control strategies for various pollutants from electric power plants.
- In the CAPI process and in subsequent advisory committees, EPA has been repeatedly urged by utilities, the United Mine Workers, and environmental groups to include CO₂ in these IPM analyses. The present analysis is intended solely to inform the decisions EPA is required to make under the Clean Air Act regarding mercury emissions from electric steam generating units.
- Multiple pollutant analyses are called for in the Clean Air Act. For example, §103(g)(1) calls for analyses of “[i]mprovements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants.”



Facsimile Cover Sheet

Office of Policy Analysis and Review

Office of Air and Radiation 401 M St SW Washington D.C. 20460
Telephone 202-260-5580 FAX 202-260-9766

TO: Julie Andersen

Telephone : _____ FAX : _____

FROM: Dave Dornier via Ellen Rose

Telephone : _____ FAX : _____

Message : _____

Total Pages including this cover sheet: _____

FAX TRANSMISSION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF GENERAL COUNSEL

AIR AND RADIATION LAW OFFICE

@ OFFICE OF AIR QUALITY PLANNING AND STANDARDS

EMISSION STANDARDS DIVISION (MD-13)

RESEARCH TRIANGLE PARK, NC 27711

(919) 541-2127

FAX: (919) 541-0072

To: Julie Anderson **Date:** July 9, 1998
Fax #: (202) 395-2342 **Pages:** 5, including this cover sheet.
From: Richard H. Vetter
Subject: Electric Utility Air Toxics Regulatory Determination Settlement - Proposed
Mercury Emission Reduction Co-Benefits Modeling Analysis

COMMENTS:

Julie,

Transmitted herewith are facsimiles of two documents addressing the proposed revision to the settlement agreement between the EPA and the NRDC to require the EPA to perform a mercury emission reduction co-benefits analysis. The first document, titled "Talking Points: NRDC Settlement Agreement - Mercury Emission Reductions Co-Benefits Analysis", is the one which Alan Eckert and I prepared last night. The second document, titled "Proposed Settlement Agreement on Mercury Emissions", is a revised draft of that document prepared by OAR's Office of Policy Analysis and Review and David Doniger. You should treat the second document as representing the EPA's "official" position on the matter, but I also wanted you to have what Alan and I prepared for reference. (I actually prefer the revised version myself.)

I apologize for not getting something to you sooner. I never did receive Alan's LAN. Rich located a hard copy and faxed it to me this morning so that I could incorporate Alan's edits. I didn't send it to you immediately because I wanted to give the people working on revising it an opportunity to do so.

Please call me (919-541-2127) if you have any questions or need any additional information.

Thanks!

Rick Vetter

Talking Points

NRDC Settlement Agreement - Mercury Emission Reductions Co-Benefits Analysis

What the proposed stipulation says: "EPA shall undertake ..., an analysis of the emission reductions of SO₂, NO_x, CO₂ and mercury (and the effect on mercury removal costs) that would be achieved through an array of strategies to control SO₂, NO_x, CO₂ and mercury, ..."

Key Points

- The proposed revision to the settlement agreement is intended solely to address EPA's obligation under § 112 of the Clean Air Act to determine whether it is appropriate and necessary to regulate emissions of hazardous air pollutants (HAP) by electric utility steam generating units.
- The EPA has identified mercury as the HAP of primary concern emitted by electric utility steam generating units.
- The intent of this exercise is primarily to assess two things: i) the reduction in mercury emissions which might be achieved as a result of programs intended primarily to address emissions of pollutants other than mercury, as well as programs designed specifically to reduce emissions of mercury; and, ii) the effect of those reductions on the costs of controlling mercury emissions.
- For example, the analysis is expected to include possible effects that the proposed NO_x SIP call would have, if adopted in final form, on utility mercury emissions. Similarly, it will cover what effects implementation of the Kyoto Protocol would have, if adopted, on utility mercury emissions. By the same token, it will examine what effects a decision to regulate mercury emissions under § 112 would have on ozone levels and climate.
- These two outputs will help to inform the EPA's decision whether it is appropriate and necessary to regulate electric utility steam generating units under § 112 of the Clean Air Act. For example, if significant reductions in emissions of mercury will be realized as a result of other programs, the EPA may determine that it is not "necessary" to regulate utility mercury emissions under § 112. Similarly, information on the marginal cost of removing mercury will be a key input in determining whether it is "appropriate" to regulate utility mercury emissions as such.
- The pollutants to be included in the analysis were selected because they either are, or at some point in the future could be, the subject of significant emission reduction efforts.
- Similar analyses including the very same pollutants were previously undertaken as part of the Clean Air Power Initiative or other EPA projects. The results of those analyses are in the public domain. The analyses contemplated by the settlement agreement will

primarily involve updating the inputs to the Integrated Planning Model.

- The inclusion of CO₂ in the analysis does not reflect a decision by the EPA to pursue the regulation of emissions of CO₂, either directly or indirectly. Rather, it merely reflects the fact that both the EPA and the Administration have indicated that climate change is of significant concern and that the EPA should assess the potential climate change implications of possible regulatory initiatives.
- The EPA has previously stated that while it believes it has the legal authority to regulate emissions of CO₂ even absent the Senate's ratification of the Kyoto Protocol, at this time, it has not made a decision to do so. The EPA fully supports the Administration's commitment not to implement the Kyoto Protocol until the Senate has had an opportunity to fully consider and act upon it.



US ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF AIR AND RADIATION

IMMEDIATE OFFICE - fax (202) 260-5155

phone (202) 260-7400

TO: Julie Anderson	FAX#: 395-2342
	PHONE#:
FROM: David Domiger	PHONE#:

COMMENTS:

Landfills

page 1 of 2 (including cover sheet)

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CMS	(202) 260-3730	(202) 260-7645	6401	901WT
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OAP	(202) 233-9586	(202) 233-9140	6201	Judiciary Square
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To: Julie Anderson

Date: July 13, 1998

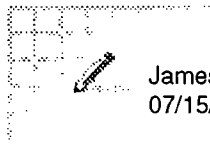
Fax #: 395-2342

Pages: 2, including this cover sheet.

From: William N. White

Subject: chill cans

COMMENTS:



James W. Rubin
07/15/98 07:28:39 PM

Record Type: Record

To: Jonathan H. Adashek/WHO/EOP, William J. Antholis/OPD/EOP, Todd Stern/WHO/EOP
cc: Julie M. Anderson/WHCCTF/EOP
Subject: DOJ/EPA issue

Todd - a note about something I brought up at today's meeting: EPA and DOJ are settling a case brought by NRDC concerning EPA's delay in meeting a statutory obligation to determine whether it is appropriate and necessary to regulate emissions from electric utility steam generating units of specific air pollutants, including mercury, that are listed as "hazardous" under the Clean Air Act.

The proposed settlement agreement has been published in the federal register and has received a number of adverse comments, particularly pertaining to a stipulation that "EPA shall undertake . . . an analysis of the emission reductions of SO₂, NO_x, CO₂ and mercury . . . that would be achieved through an array of strategies to control SO₂, NO_x, CO₂ and mercury. . . ." Critics, particularly on the Hill, have claimed that this stipulation is "back door implementation of Kyoto" or at least will lead to it. Sensenbrenner has sent a letter to EPA on this topic, and the agency is drafting a response, with assistance from DOJ. Note that we have used this settlement as an example of a valid action that could be wiped out by the current Congressional riders.

EPA's position is that this stipulation is specifically intended to inform its decision whether and if so how to regulate mercury emissions from coal-fired electric power plants. It feels that multiple pollutant analysis makes sense because efforts to reduce any one of the pollutants listed has an effect on the other. EPA routinely uses a model to undertake such analyses and has done so for more than two years, with broad industry support. Again, EPA claims that the proposed study is intended solely to inform its decision on mercury.

DOJ has become involved because it must approve the settlement agreement, and is concerned about whether doing so would conflict with Administration promises that we are not implementing Kyoto.

My personal view is that EPA can make a good case that this stipulation is not backdoor implementation, but a continuation of sensible agency policy. If we can never consider anything to do with CO₂, at least in a nonregulatory setting, we will be unjustifiably hamstrung. However, we would need to be more clear that a multiple pollutant analysis is not the precursor to CO₂ regulation, but merely provides data on how mercury regulations might affect other emissions. If we cannot do so, then critics will be suspicious that we are trying to sneak something by them. Note that in the nonregulatory context, the Clean Air Act explicitly allows EPA to review strategies and technologies for reduction of multiple pollutants, including CO₂.

In any event, I suggested to DOJ that this was a political, not a legal call, and one that you should be involved in. They have not elevated this beyond the deputy AAG level yet and the timing is soon, but not immediate. It is more important that they get the right answer than meet a deadline here. cc: Bill, Julie, Jonathan



LEAGUE OF CONSERVATION VOTERS

July 15, 1998

United States House of Representatives
Washington, DC 20515

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E-mail: lov@lov.org
Web: http://www.lcv.org

Re: VA/HUD Appropriations—Support the Waxman Amendment to Override the Riders

Dear Representative:

The League of Conservation Voters (LCV) is the bipartisan, political voice of the national environmental movement. Each year, LCV publishes the *National Environmental Scorecard*, which details the voting records of Members of Congress on environmental legislation. The *Scorecard* is distributed to LCV members, concerned voters nationwide and the press.

This week you will be voting on H.R. 4194, the VA/HUD Appropriations bill. While this bill contains some important funding initiatives, it has become the vehicle for controversial attacks on popular environmental protections. LCV urges you to support an amendment by Rep. Henry Waxman (D-CA) to override the anti-environmental riders attached to the bill.

Riders included in the bill would: delay the cleanup of PCBs from the Hudson and Housatonic Rivers and other rivers and communities across the country; delay federal action to protect children from pesticides; delay the cleanup of mercury from power plants; silence government experts from even thinking about ways to stop global warming; and interfere with EPA's efforts to clean the air in national parks. The Waxman amendment would add a provision to the bill that would override legislative and report language that interferes with agency actions to protect the environment and public health authorized by existing statutory authority.

Too often Members of Congress have been forced to accept controversial riders attached to must-pass spending bills. By voting for the Waxman amendment, you can help stop these stealth attacks on the environment and the democratic process.

LCV's Political Advisory Committee will consider including votes on H.R. 4194 in compiling LCV's *1998 Scorecard*. Thank you for your consideration of this issue. If you need more information, please call Betsy Loyless in my office at 202/785-8683.

Sincerely,

Deb Callahan
President

Board of Directors*

Chair
The Honorable Mike Hayden
The American Sportsfishing
Association

Vice Chairs
Gene Karpinski
US Public Interest
Research Group

Theodore Roosevelt, IV
Lehman Brothers

John H. Adams
Natural Resources
Defense Council

Darryl Banks
World Resources Institute

Bryan Bryant
University of Michigan
School of Natural Resources
and Environment

Wade Greene

Paul W. Hansen
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of America

John A. Harris
Changing Horizons Fund

Danis Hayes
The Bullitt Foundation

Ramón R. Humei
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Fred Krupp
Environmental Defense Fund

Winsome Dunn McIntosh
McIntosh Foundation

William Meadows
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Social Responsibility • Rails to Trails Conservancy • Sierra Club • Union of Concerned
Scientists • United States Public Interest Research Group • The Wilderness Society •

July 15, 1998

**Clean Up the VA/HUD Appropriations Bill--Support the Waxman Amendment to
Override the Riders**

Dear Representative,

This week you will be asked to vote on H.R. 4194, the VA/HUD Appropriations bill. While this bill contains some important funding initiatives, it has become the vehicle for controversial attacks on popular environmental protections. We urge you to support the Waxman amendment to override the anti-environmental riders attached to the bill.

Riders included in the bill would: delay the cleanup of PCBs from the Hudson and Housatonic Rivers and other rivers and communities across the country; delay federal action to protect children from pesticides; delay the cleanup of mercury from power plants; interfere with EPA's efforts to clean the air in national parks; silence government climate experts and prevent them from even thinking about ways to stop global warming. The Waxman amendment would add a provision to the bill that would override legislative and report language that interferes with agency actions to protect the environment and public health authorized by existing statutory authority.

Too often Members have been forced to accept controversial riders attached to must-pass spending bills. By voting for the Waxman amendment, you can help stop these stealth attacks on the environment and the democratic process.

Please support the Waxman amendment to H.R. 4194.

Sincerely,

John Adams
Executive Director
Natural Resources
Defense Council

Brent Blackwelder
President
Friends of the Earth

David Burwell
President
Rails to Trails Conservancy

Philip Clapp
President
National Environmental Trust

Ken Cook
President
Environmental Working Group

Gene Karpinski
Executive Director
US Public Interest
Research Group

Thomas Kiernan
President
National Parks and Conservation
Association

Fred D. Krupp
Executive Director
Environmental Defense Fund

Roger McManus
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Center for Marine Conservation

William Meadows
President
The Wilderness Society

Robert K. Musil, PhD
Executive Director
Physicians for Social Responsibility

Carl Pope
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Sierra Club

Howard Ris
Executive Director
Union of Concerned Scientists

Rodger Schlickeisen
President
Defenders of Wildlife

Mark Van Putten
President and CEO
National Wildlife Federation

David Younkman
Executive Director
American Oceans Campaign



Stealth Attacks:

Anti-Environmental Riders Attached to EPA Appropriations Bill

House Bill:

- **Ban on Efforts to Mitigate Global Warming.** Language added to the bill by Rep. Knollenberg (R-MI) would prohibit the use of federal funds to reduce carbon dioxide and other pollutants that contribute to global warming until the Senate has ratified the Kyoto Protocol. This bill prohibits any federal funding to "develop, propose, or issue rules, regulations, decrees or orders for the purpose of implementation, or in contemplation of implementation, of the Kyoto Protocol."

House Report:

- **Ban on Educating the Public About Global Warming.** The bill not only would place a ban on using federal funds to take steps to mitigate global warming, but report language bans using any funds to educate the public about the dangers of and potential solutions to global warming.
- **Moratorium on PCB Cleanup.** Language in the report places a moratorium on the use of dredging to clean up toxic PCBs until a study is completed by the National Academy of Sciences. While this study is scheduled for completion by April 1, 1999, there is nothing preventing an extension or delay. Moreover, the language would preclude EPA action not only until the study is completed, but until it has been "distributed and analyzed by all parties including Congress," i.e., indefinitely. This language, supported strongly by General Electric, will likely delay the cleanup of two GE sites- the Hudson and Housatonic Rivers in New York and Connecticut. It will also delay cleanup of the Fox River in Wisconsin and potentially other PCB contaminated sites around the country.
- **Delay in Implementing the Food Quality Protection Act.** The report would require EPA to initiate new procedural steps taking action to remove dangerous pesticides from foods. Chemical manufacturers want EPA to go through a formal rulemaking on how it plans to go about risk assessment and data collecting resulting in significant delay protecting children from pesticide residues as required by the new food safety law. EPA does not currently go through formal rulemaking on risk assessment issues under other statutes (where the use of risk assessment often benefits industry). The result of requiring such rulemaking would be to shift the burden to prove the safety of a pesticide to infants and children on EPA and on children, rather than on the pesticide manufacturers where it belongs.

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- **Delay in Regulating Mercury Emissions from Power Plants.** Following two recent agency reports, the EPA is considering new regulations to address mercury emissions from power plants, the largest unregulated source of mercury emissions in the U.S. The Committee report, however, prohibits EPA from moving forward with these regulations. Instead, the EPA must conduct further studies that will continue to delay the development of regulations for this last remaining source. Mercury is a highly toxic substance harmful to both humans and the environment.
- **Interfering with EPA Efforts to Cleanup Superfund sites.** The Committee has included language that would prevent the EPA from performing cleanups at Superfund sites that are licensed by the Nuclear Regulatory Commission (NRC). By removing EPA oversight from these highly toxic sites, the report language threatens the integrity of the cleanup and the safety of those affected by these sites.
- **Interfering with EPA Plans to Reduce Air Pollution in National Parks.** The report recommends the establishment of new regional visibility transport commissions to air pollution in national parks and wilderness areas. Such commissions could help develop regional approaches needed to address the pollution that clouds the spectacular vistas in our parks. Their establishment, however, should not be used as an excuse to delay EPA's ongoing rulemaking to set meaningful goals to clear the air. The Clean Air Act requires the EPA to issue a rule to assure reasonable progress toward eliminating man-made visibility impairment. The rule, due December 1997, 18 months after the completion of the Grand Canyon Visibility Transport Commission's report, is already past due.
- **"Peer Review" Interference.** Pushed through by Rep. Richard Pombo (R-CA), language included in the report directs the National Academy of Science (NAS) to second guess decisions made by experts at the Environmental Protection Agency regarding the number and location of monitors to measure particulate matter pollution. EPA is already required to seek a peer review from NAS following any Particulate Matter research undertaken. The new restrictions could lead to further delay in reducing harmful particle pollution across the country. Page 53.

Senate Bill:

- **Ban on Use of Funds for Brownfields Revolving Loan Funds.** Language in this bill would prevent the EPA from using federal dollars to create brownfields revolving loan funds unless specifically authorized by subsequent legislation. This would eliminate an effective tool for stimulating investment in brownfields sites and threaten to delay the redevelopment of contaminated property.

Senate Report:

- **Ban on Efforts to Mitigate Global Warming.** Report language explicitly bans the use of federal funds for the implementation of the Kyoto Protocol. This could prevent the EPA from taking any steps to reduce greenhouse gas emissions or mitigate climate change, thereby prolonging the emissions of dangerous carbon dioxides and other global warming pollutants.
- **Delay in Reducing Pesticide Use in Children's Products.** The Senate report accompanying the EPA Appropriations bill includes language that could delay for years EPA action to prevent unauthorized use of pesticides in treating high chairs, sponges, cutting boards and other children's products. EPA has taken several enforcement actions against manufacturers who use pesticides in ways not approved by EPA and make unproven claims that their products kill salmonella or other germs, stating or implying that these products are safer for kids than untreated products. The committee "strongly urges EPA to promulgate a formal rule" before moving forward with such enforcement actions. EPA has already given industry extensive opportunity for comment in interpreting the agency's rules on this issue. A formal rulemaking will only result in further delay in protecting the public.

*Prepared by the Natural Resources Defense Council
For more information contact Sharon Buccino at (202) 289-6868*

CongressDailyAM

MONDAY
JULY 13, 1998

Like Surprises?

Some Really Bad Ones Are Waiting for You in VA-HUD Appropriations.

Hidden in the VA-IIUD bill and report are several riders that will gut public health and environmental protections—just like the failed pollution riders of the 104th Congress.

Why is this Congress voting on a rollback of protections without a thorough public debate? Why are committees secretly placing riders into reports that will harm the public health and environment? Why are so many backroom deals getting cut with big polluters?

Because the architects of these deals know they won't pass the muster of public scrutiny. They know Americans don't want Congress carrying dirty water for polluters.

Here is only some of what can be found in the VA-IIUD bill and report:

- Delays in the cleanup of PCBs from the Hudson and Housatonic Rivers, and other rivers and communities around the country.
- Delays in federal action to protect vulnerable children from pesticides in food.
- Delays in the clean up of mercury, a dangerous poison that can cause serious neurological damage.
- A gag order to silence experts from even thinking about ways to stop global warming.

Will Congress Carry Dirty Water for Big Polluters?

Congress can fix this bill and report—and protect the public health and environment—by voting for the Waxman Amendment to VA-HUD.

Vote for the Waxman amendment to clean up VA-HUD.

CongressDailyAM

TUESDAY
JULY 14, 1998

Did You Get Presents for July 4th? The Big Polluters Did.

They got the VA-HUD Appropriations bill and report, and a promise from their friends in Congress to gut basic public health and environmental protections by sidestepping our Democracy.

Why also is Congress voting to roll back protections without a thorough public debate? Why are committees secretly placing riders into reports? Why are so many backroom deals getting cut with big polluters?

Here's what the press is saying about these secret, anti-democratic riders:

- "... bills are infested with so many anti-environmental amendments they ought to be vetoed if they aren't cleaned up."
Dayton Daily News, July 21, 1998
- "Congress subverts ... the public's ability to hold lawmakers accountable when it tacks non-germane riders and unrelated pieces of pork on a meritorious bill."
Albuquerque Journal, June 27, 1998

- "The retrograde riders are this Congress' signature."

Washington Post, May 28, 1998

- "Contract-with-America Republicans have tried every legislative trick in the book to undermine the nation's environmental laws. . . . after lying around in the weeds for a while, they have now loaded up two big appropriations bills with nearly 20 anti-environmental riders. . . . The moderates must try to sanitize these bills."

New York Times, July 12, 1998

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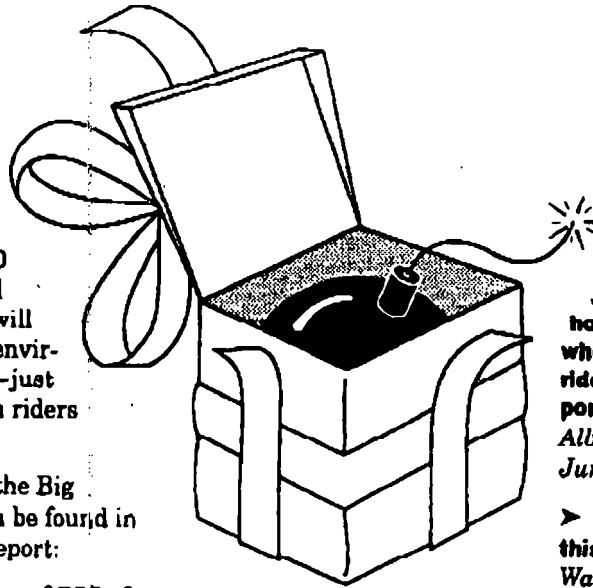
Vote for the Waxman Amendment to Clean Up VA-HUD.

National Environmental Trust
National Resources Defense Council
US PIRG
Sierra Club

CongressDailyAM

WEDNESDAY
JULY 16, 1998

Do You Know What's in VA-HUD?



Hidden in the VA-HUD appropriations bill and report are riders that will gut public health and environmental protections—just like the failed pollution riders of the 104th Congress.

Here are only some of the Big Polluter riders that can be found in the VA-HUD bill and report:

- Delays in the clean-up of PCBs from the Hudson and Housatonic Rivers, and other rivers and communities around the country.
- Delays in federal action to protect children from pesticides in food.
- Delays in the clean-up of mercury, a dangerous poison that can cause serious neurological damage.
- A gag order to silence experts from even thinking about ways to stop global warming.

Here's what the press is saying about these secret, anti-democratic riders:

- "... bills are infested with so many anti-environmental amendments they ought to be vetoed if they aren't cleaned up."
Dayton Daily News, July 11, 1998

➤ "Congress subverts ... the public's ability to hold lawmakers accountable when it tacks non-germane riders and unrelated pieces of pork on a meritorious bill."

Albuquerque Journal, June 27, 1998

➤ "The retrograde riders are this Congress' signature."

Washington Post, May 28, 1998

- "Contract-with-America Republicans have tried every legislative trick in the book to undermine the nation's environmental laws. ... after lying around in the weeds for a while, they have now loaded up two big appropriations bills with nearly 20 anti-environmental riders. ... The moderates must try to sanitize these bills."
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Vote for the Waxman Amendment to Clean Up VA-HUD.

The New York Times

Section **4**

SUNDAY, JULY 12, 1998

16

Mugging the Environment

Since sweeping into Washington in 1995, the Contract-With-America Republicans have tried every legislative trick in the book to undermine the nation's environmental laws. Heroic efforts by moderate House Republicans and timely Presidential vetoes have held them off. But the G.O.P. contractors are a patient bunch, and after lying around in the weeds for a while, they have now loaded up two big appropriation bills with nearly 20 anti-environmental riders. None of these riders challenge any basic law, but collectively they threaten the nation's struggle to clean its air and water, restore important fisheries and protect its public lands. The moderates must try to sanitize these bills. If that fails, Mr. Clinton should veto them if they reach his desk in anything like their present form.

The rider that most offends the White House was attached by the House Appropriations Committee to a bill providing funding for the Environmental Protection Agency. It would bar the agency from spending any money to carry out the global warming agreement negotiated in Japan last year until the Senate approves the treaty. Read literally, this provision could prevent the Administration from encouraging industry to take purely voluntary steps to reduce carbon dioxide before the treaty becomes binding. This is truly retrograde thinking, not least because it would discourage energy-saving measures that would make sense even if global warming did not exist.

Most of the other riders fall into the category of regional mischief-making, an area in which Alaska's Congressional delegation is the undisputed champion. Senators Ted Stevens and Frank Murkowski and Representative Don Young have burdened the Interior Department spending bill with

provisions that would increase logging in the Tongass National Forest, prevent the National Park Service from phasing out commercial fishing in Glacier Bay National Park and authorize new road construction through the Chugach National Forest and the Izembek National Wildlife Refuge.

The Izembek road has assumed talismanic significance to both sides. Environmentalists say it would be the first road built through a designated wilderness area in 34 years, and thus a terrible precedent. The Alaska delegation says the road is needed to transport isolated villagers to modern hospitals. There may be room for argument here, but Mr. Stevens, the feared chairman of the Senate Appropriations Committee, seemed in no mood for deliberation when he warned his colleagues that he would not easily forget a vote against the bill.

Other Westerners have inserted provisions that would delay modest but useful efforts to improve the health of the national forests and minimize harmful grazing and mining practices on Federal lands. But the worst rider of all comes from Senator Slade Gorton, a Washington Republican who always seems to be in the vicinity of bad ideas. It would require specific Congressional approval for any changes in the operation of any dam, public or private, in the Columbia River watershed — effectively overriding all other environmental protections and dealing a huge blow to efforts to restore salmon runs in the Pacific Northwest.

Mr. Gorton's audacity would never survive a separate vote, so he hopes to sneak it through as part of a larger spending bill. If Mr. Gorton succeeds, President Clinton must intervene. The Gorton rider alone is worth a veto.

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

HENRY A. WAXMAN
29TH DISTRICT, CALIFORNIA

July 12, 1998

Via facsimile 260-3384

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, S.W.
Mail Code 1101
Washington, DC 20460

Dear Administrator Browner:

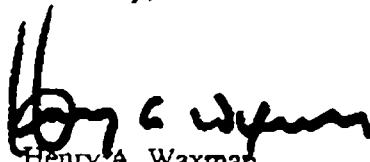
I am writing to request your views on H.R. 4194, the VA-HUD Appropriations bill, and an amendment I am considering offering to that bill on the floor.

As in years past, the VA-HUD Appropriations bill contains objectionable language in both the bill and the report which would hinder our efforts to protect the environment under existing successful programs. Specifically, there is language which would prevent the Administration from developing proposals to curb-- or even educate the public about-- the dangers of global warming, defund our energy efficiency programs, prevent the cleanup of PCB contaminated sediments, restrict the use of Brownfields funds, stall implementation of the Food Quality Protection Act, and block the cleanup of dangerous mercury air pollution.

In order to prevent a rollback of our important and popular environmental programs, I am considering offering an amendment which would exempt activities currently authorized by law from all of these limitations.

H.R. 4194 is expected to be considered on the House floor on Wednesday July 12, 1998, so I would greatly appreciate receiving your thoughts on this bill and my amendment before then. Thank you for your assistance with this critically important issue.

Sincerely,



Henry A. Waxman
MEMBER OF CONGRESS

-DRAFT-

To: Wesley W

2
The Honorable Henry A. Waxman
~~Member of Congress~~
29th District, California
U.S. House of Representatives
2204 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Waxman:

Thank you for your letter of July 12 expressing your concerns over rider and report language in the VA-HUD appropriations bill, H.R. 4194. We share your concerns that this language would seriously hinder our ability to protect public health and the environment. Perhaps most problematic is the report and rider language restricting our ability to address - or even discuss - the very serious threat of global warming.

I understand that some in Congress are concerned that the Agency might implement the Kyoto Protocol prior to its ratification. Let me repeat, as I have already stated on numerous occasions, that EPA has not and will not implement the Kyoto Protocol prior to its ratification by the Senate.

inaction to

The report language, however, goes far beyond restricting implementation of the Kyoto Protocol, it directs EPA to *'refrain from conducting educational outreach or informational seminars on policies underlying the Kyoto Protocol'*. If passed, this could impose an unprecedented 'gag order' on the Agency on the subject of global warming, and could stifle any informed public debate on the subject.

could be
used to

In addition, the rider language on Kyoto is so broad and subjective that it might be used to bring about a "back door" repeal of Clean Air Act authorities that have been in place since as long ago as 1970. The rider language could block the Agency from taking common sense actions under existing law to protect the health and welfare of the American people from air pollutants that cause global warming.

-DRAFT-

The current bill and report also contain language that could delay, restrict or prevent implementation of other critical laws that were created to protect public health and clean up the environment. I am particularly concerned about:

limitations on the Agency's ability to dredge PCBs without years of additional study;

slowing community efforts to economically re-develop brownfields by prohibiting EPA from funding cleanups or providing technical assistance, research grants, and job training grants;

stalling public health protections, especially for children, under the Food Quality Protection Act by imposing burdensome and unnecessary rulemaking procedures; and

prohibiting EPA from addressing mercury emissions without additional study, despite abundant scientific evidence linking exposure to mercury to serious neurological and developmental problems in humans.

Finally, as you are also aware, the Administration is already on record with several concerns about funding levels in this bill.

Given the serious implications of the report and rider language, I would be very supportive of any amendment that would prevent this language from rolling back Agency authority and stifling our ability to communicate with the public.

Sincerely,

Carol M. Browner
Administrator

**CCTI Markup Levels
(Dollars in Thousands)**

	98 Enacted	99 Pres Budget	99 House Markup	99 Sen Full Markup	House vs. Senate	98 House vs. 98E	99 House vs. 99PB
CCTI (S&T)	\$18,951	\$48,908	\$28,981	\$36,906			
CCTI (EPM)	<u>\$72,478</u>	<u>\$158,502</u>	<u>\$72,500</u>	<u>\$77,502</u>	(\$9,956)	\$10,000	(\$19,955)
Total CCTI	\$89,430	\$205,408	\$99,481	\$114,408	(\$5,002) (\$14,957)	\$21 \$10,021	(\$86,002) (\$105,957)

CCTI - IMPACT OF THE FY 1999 SENATE SUBCOMMITTEE MARK-UP

The Subcommittee reduced the President's Request for CCTI by \$91 million (44%), leaving the CCTI level at \$114M. This reduction will limit EPA's success in accelerating the deployment of technologies that achieve multiple economic and environmental benefits. At a minimum, a sustained (1999-2003) budget cut of this size would:

- Cause the unnecessary release of more than 500 million tons of carbon dioxide-equivalent emissions over the next decade.
- Result in over \$15 billion in wasted energy bill expenses for American families, school systems, and small and large businesses over the next decade.
- Cause the unnecessary release of more than 150 million tons of smog-forming nitrogen oxides (NO_x).

More specifically, the budget cut would:

- Prevent many voluntary, cooperative partnerships with American industries to improve their efficiency, productivity, and competitiveness while reducing pollution. This jeopardizes the goal of a 140 MMTC reduction in annual U.S. greenhouse gas emissions by doubling the rate of energy efficiency improvement for American industry and achieving additional reductions in non-CO₂ gases. EPA has a proven track record of success with its initial efforts to engage industry. For example, EPA has worked in partnership with the U.S. primary aluminum industry to reduce greenhouse gas emissions while improving operations efficiency. Over 90% of the industry has joined with EPA, and they have already cut their emissions by the equivalent to over four million tons of carbon dioxide.
- Prevent EPA from fully implementing its successful Energy Star and Energy Star Buildings programs. The budget cut would limit EPA's ability to launch a successful energy benchmarking program for commercial buildings using the Energy Star Label. Many of America's landmark buildings, including the Empire State Building, the Sears Tower, and the World Trade Center, are already seeking to qualify for the Energy Star label and utilize the technical and informational support that EPA can provide. The funding cut jeopardizes the Administration's goal of improving the energy efficiency of one-half of all commercial buildings and homes by the year 2010, which would yield annual savings of about 70 million tons of carbon in 2010.
- Cut's in EPA's Climate Change Technology Initiative for biomass energy and carbon sequestration will eliminate EPA's efforts to engage the private sector in developing and promoting renewable biomass energy resources. EPA will also not pursue full environmental assessments of biomass energy's potential. Projects that will be eliminated include the assessment and demonstration of the multiple environmental benefits of biomass production; and assessments of criteria air pollutant emissions (e.g. CO, VOC, NO_x, SO₂) from biomass combustion technologies. EPA will also eliminate the evaluation of tree planting for carbon sequestration and biomass energy feedstock production systems as potential alternative new crops for US farmers.

Plan Summary Volume

	1998 PRES BUD	1998 ENACT PLAN	1999 PRES BUD
EPH	127,285.6	72,478.9	158,502.1
- Industry Initiatives	31,900.0	20,293.9	51,600.0
- Buildings	73,765.6	38,785.0	78,100.0
- Carbon Removal			3,400.0
- Transportation	8,200.0	4,800.0	12,002.1
- Engaging Developing Countries	8,400.0	5,000.0	8,400.0
- State and Local Outreach	5,000.0	3,000.0	5,000.0
SGT	21,997.8	16,950.7	46,905.5
- Transportation	21,997.8	16,950.7	46,905.5
(Partnership for a New Generation of Vehicles)*	18,739.1	15,602.5	43,661.3

* PEGV is a subset of the Transportation Sector.

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TALKING POINTS ON KNOLLENBERG BILL HR 3807 - The American Economy Protection Act

Bill Cannot be Added to Appropriations Bill Under Clause 2 of House Rule 21.

In its current form, neither Sec. 3a or b of HR 3807 would be permissible under House rules as a rider on an appropriations bill. Clause 2 of Rule 21 prohibits provisions that change existing law. According the Parliamentarian, HR 3807's contingency on Senate ratification is considered legislating on an appropriations bill. The language on programs "designed to implement or in contemplation of implementing" is also considered legislating on a bill because it requires the Administrator to make a judgement or interpretation of the legislative language. The funds to be restricted must be limited in scope to the appropriations bill being amended, and not simply identified as "all federal funds."

Section 3b is clearly out of order because it is directly legislating on an appropriations bill.

Unless the language of the bill was changed, both sections would be subject to points of order.

HR 3807 Rolls Back Environmental Protections, Creates Back Door Amendment to Clean Air Act.

Sec 3(b) says that "Notwithstanding any other provision of law, no Federal Agency shall have authority to promulgate regulations to limit the emissions of carbon dioxide, after the date of enactment of this Act, unless a law is enacted specifically granting such authority." HR 3807 is a super-mandate that would roll back existing environmental protections.

According to a memo from EPA's general counsel, EPA's regulatory authority under the Clean Air Act extends to CO₂. Although it hasn't used this regulatory authority, the Clean Air Act directs EPA to regulate CO₂ as an air pollutant if it were determined to be harmful to public health, welfare, or the environment. HR3807 would exempt a specific pollutant from existing regulatory authority under the Clean Air Act.

This Section also undermines the authority of at least 3 other existing Federal Statutes that require improvements in energy efficiency. Improved efficiency commonly results in limits in emissions of carbon dioxide. Programs and laws intended to improve efficiency, competitiveness, and promote energy security would be constrained by HR 3807 if they incidentally reduced greenhouse gas emissions. Three major laws that could be affected are:

- 1) The 1978 National Energy Conservation Policy Act provides guidance to Federal agencies to improve energy management in facilities and operations.
- 2) The 1988 NECPA amendment which requires federal agencies to achieve targeted energy reduction goals.

3) The 1992 Energy Policy Act further sets standards for residential, commercial and buildings sectors to improve energy efficiency.

HR 3807 carves out a special exemption for polluters, by exempting one specific pollutant from federal regulation. By carving out CO₂ for special treatment, HR 3807 leaves numerous other important greenhouse gases -- such as methane, HFCs, and nitrous oxide -- untouched. Is Knollenberg giving a break to utilities that produce CO₂ at the expense of agriculture or refrigerant producers?

HR3807 Hinders Federal Agencies from Protection Workers and the Public.

Knollenberg et. al. are taking partisan political stands that are ill conceived and hazardous to the public. The language is broadly written and would affect several agencies. For example:

- By prohibiting federal agencies from issuing rules and regulations that cover CO₂, HR 3807 would endanger mine safety. The Mining Safety and Health Administration issues rules regarding permissible exposure levels for several potential toxins - including CO₂.
- The Department of Transportation regulates interstate pipelines that carry CO₂. Because high levels of CO₂ can cause asphyxiation, DOT regulates CO₂ in pipelines as a hazardous material. DOT also regulates safety of compressed gas cylinders that contain CO₂.

HR3807 Rolls Back Existing Domestic Programs to Ensure Energy Security and Save Money.

As several bipartisan groups of members have pointed out, energy efficiency programs save consumers and businesses money, and promote America's energy independence. The U.S. continues to waste over \$300 billion in energy every year. Efficiency gains could save U.S. industry as much as \$183 a year by 2010.

Popular energy efficiency and clean energy programs have been in place for decades. Would HR 3807 roll back these programs if they contribute to reductions of greenhouse gases?

The President has clearly stated time and again that the Kyoto Protocol will not be implemented by back-door regulation. In fact, all the investments made in energy efficiency are efforts to comply with the 1992 agreement at the Earth Summit, where the U.S. agreed to stabilize emissions at 1990 levels by the year 2000. Not only have we failed to meet that obligation, the U.S. is currently 20% above 1990 levels.

The Senate must ratify the Protocol before the U.S. takes on new obligations to implement the Kyoto Protocol targets. But investments in energy efficiency and efforts to reduce the emissions of dangerous greenhouse gases makes economic and environmental sense. HR 3807 sacrifices good sense for partisan posturing, and rolls back important environmental protections to benefit big polluters.

Section 3a Also Would Restrict Funding for Important R&D

As written, HR 3807 would impact all programs that reduce greenhouse gas emissions, even if that result is incidental to the primary purpose of the program. Research and development on hydropower and nuclear technologies, clean coal, and NASA's mission to planet earth, would all be subject to funding restriction.

- ① George Miller => Pres by w/ Greenpeace = Taxes
on eliminating oil & gas subsidies - Fossil Fuel
- Do we have #'s = on moderate decrease in use
 - General consumer v. consumers of fossil fuels
 - EPA = study. IPCC did report.
 - make may 20

- ② C + W Home - next Wednesday
- Interview
 -

- ③ Env Task Force - June 18th
-

DRAFT

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This Section also undermines the authority of at least 3 other existing Federal Statutes that require improvements in energy efficiency. Improved efficiency commonly results in limits in emissions of carbon dioxide. Would programs and laws intended to improve efficiency, competitiveness, and promote energy security be hampered by the Knollenberg bill?

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- 2) 1988 NECPA amendment requires federal agencies to achieve targeted energy reduction goals.
- 3) 1992 Energy Policy Act further sets standards for residential, commercial and buildings sectors to improve energy efficiency.

DRAFT

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The President has clearly stated time and again that the Kyoto Protocol will not be implemented by back-door regulation. In fact, all the investments we have made in energy efficiency are an investment on our 1992 agreement at the Earth Summit, to stabilize emissions at 1990 levels by the year 2000. Not only have we failed to meet that obligation, the U.S. is currently 20% above 1990 levels. The Senate must ratify the Protocol before the U.S. takes on new obligations. But investments in energy efficiency and efforts to reduce the emissions of dangerous greenhouse gases makes economic and environmental sense. HR 3807 sacrifices good sense for partisan posturing, and rolls back important environmental protections to benefit big polluters.

DRAFT

June 4, 1998

Mr. Todd Stern
Executive Office of the White House
Old Executive Office Building
17th Street and Pennsylvania Avenue
Washington, DC 20500

Dear Mr. Stern:

I am writing to solicit your views on how H.R. 3807, the American Economy Protection Act, would impact the existing programs, and authorities of federal agencies if it became law. I am specifically interested in your interpretation of how the bill would affect the ability of federal agencies to issue regulations covering CO₂. For instance, would the Department of Transportation's authority to regulate the safety of interstate pipelines carrying CO₂ be impacted under this statutory language? Would FDA be prohibited from issuing rules and regulations covering medical devices that utilize CO₂?

With regard to Section 3a, would funds used by the State Department and other agencies to complete negotiations of elements of the Protocol be restricted? Is there a precedent for restricting funds for negotiating international treaties in the interest of the United States?

Please provide your response no later than June 15, 1998.

Sincerely,

Henry A. Waxman
Ranking Member

DRAFT

June 4, 1998

Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Administrator Browner:

I am writing to solicit your views on how H.R. 3807, the American Economy Protection Act, would impact the existing programs, and authorities of the EPA. I am specifically interested in your interpretation of how the bill would affect EPA's authority to regulate CO₂ under the Clean Air Act if it were determined to adversely affect public health, welfare, or the environment. Would this bill carve out a provision of the Clean Air Act? If so, is there a precedent for this kind of legislation that would exempt specific pollutants from existing regulatory authority?

Please provide your response no later than June 15, 1998.

Sincerely,

Henry A. Waxman
Ranking Member

GAG ORDER

The report contains highly objectionable language that would prevent EPA and CEQ from communicating with any person or group concerning climate change. This would be an unprecedented restriction on the ability of agencies of the Executive Branch to communicate information on any other matter with other agencies, the Congress or the public. It would prevent EPA scientists from attending a technical conference on climate change, communicating with other scientists, testifying before Congress on climate change or even talking about it in their offices with colleagues. No such sweeping gag order or censorship has ever been imposed on government officials. Existing anti-lobbying laws prevent the use of appropriated funds for certain grassroots lobbying activities. This prohibition goes far beyond existing law on the regulation of lobbying and instead would stifle the exchange of information and ideas. The provision is contrary to the basic premises of open and free communication upon which our government is based.

David Wilcox
622 - Jere

DRAFT 7/7/98

EPA'S RECOMMENDED REVISIONS TO HOUSE BILL LANGUAGE

None of the funds appropriated by this Act shall be used to ~~implement~~ ~~develop, propose, or issue rules, regulations, decrees, or orders for the purpose of implementation, or in contemplation of 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 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 such Protocol so long as the Senate has not given advice and consent to ratification. ~~Nothing in this Act shall be construed to authorize the EPA to take actions to protect public health, welfare, or the environment that are authorized under existing law.~~³

¹If we are unable to get all of the changes recommended here, this first change would accomplish the most and is thus EPA's top priority. An alternative edit for the first sentence that is not quite as clean but would nonetheless still be helpful would be to strike "develop" and "or in contemplation of implementation."

²According to our appropriations lawyers, the addition of this phrase will **not** transform the Bill's restriction into one that survives the period of the appropriation. Accordingly, this is a change worth pursuing.

³While this change could be pursued as an alternative to the edits recommended for the first sentence in the paragraph, the optimal result would be to secure all of recommended edits.

Concerns with House Appropriations bill and report language
- DRAFT -

Report language imposes a gag order on EPA; stifles informed public debate; severely restricts outreach in voluntary programs; undercuts U.S. commitments under Rio Treaty

"The Agency and the CEQ are thus directed to refrain from conducting educational outreach or informational seminars on policies underlying the Kyoto Protocol until or unless the Protocol is ratified by the Senate."

By imposing a gag order on the Agency and the CEQ, this language could stifle any informed debate on global warming. The Administration has a long and successful history of open consultations with the public, scientists, businesses, state and local governments, environmental organizations and other nations. Activities that could be shut down by this language include:

Industry consultations - in his October announcement, President Clinton promised to provide appropriate rewards for firms taking early action to reduce emissions. Foregoing EPA's extensive experience and proven track record in forging successful voluntary partnerships with industry to reduce emissions and save energy would be a serious setback to these efforts.

Negotiation briefings - as part of the U.S. delegation to the international negotiations, EPA provides critical technical, policy and scientific expertise to briefings for business and environmental groups before, during and after negotiating sessions.

Developing Country Outreach - recognizing the importance of developing country participation to solving the problem of global warming, EPA plays a central role in bilateral dialogues, fostering projects by U.S. businesses to reduce emissions in developing countries, and helping developing countries complete greenhouse gas inventories and emissions reduction plans. For example, EPA support for the U.S. Country Studies Program has helped more than 50 developing countries build capacity to increase their participation in the international effort to fight global warming.

State and Local Governments - EPA's State and Local Outreach Program is helping more than 30 states develop greenhouse gas emissions inventories, and helping more than 20 states develop mitigation plans to reduce greenhouse gas emissions. EPA also supports the Cities for Climate Protection Program, which so far has helped 48 cities make local commitments to reduce greenhouse gas emissions and identify and implement cost-effective practices to reduce emissions, especially in buildings, transportation, and waste management.

- DRAFT -

Concerns with House Appropriations bill and report language
- DRAFT -

Invitational speaking/dialogues - EPA frequently accepts invitations from businesses, trade associations, environmental organizations and other groups to discuss the Kyoto Protocol, and policies and programs related to reducing greenhouse gas emissions. EPA also accepts invitations to speak internationally on the extremely successful, market-based, flexible and cost-effective approaches the Agency pioneered, such as emissions trading and voluntary programs. This outreach has been essential to convincing other nations that the market-based, flexible approach embodied in the Kyoto Protocol is superior to mandatory international policies such as carbon taxes and fuel economy standards favored by some nations.

EPA 's Global Warming Web Site gets approximately 100,000 hits each month. The site contains information on climate change science, impacts, news, actions, greenhouse gas inventories and speeches. The site won a select site award from the Dow Jones Business Directory, a guide to high quality business web sites.

EPA Regional Workshops - Designed to inform participants about the potential impacts of climate change, identify solution-oriented strategies to reduce the risks associated with climate change; and provide information on federal programs, new technologies and success stories from business and government.

National Assessment workshops look at current stresses and issues for the region; the expected consequences of climate change and variability and how will these interact with existing stressors; the priority research and information needs; coping options that can build resilience and possibly assist the climate change problem. EPA has coordinated three regional workshops, the Great Lakes region, the Gulf Coast region and the Mid-Atlantic region, in supporting USGCRP leadership on the national assessment.

Curtailling these important outreach efforts could not only stifle informed public debate, it could also seriously undermine the U.S. commitment under the Framework Convention on Climate Change - ratified by the Senate on October 15, 1992:

“[to] Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations;” (UNFCCC, Article 4.1(I))

This broad and subjective language could also be read to severely restrict outreach in almost every program at EPA aimed at improving energy efficiency and reducing greenhouse gas emission - both key policies underlying the Kyoto Protocol. Since their inception under the Bush Administration, EPA's voluntary programs have relied on educational outreach and the provision of information to consumers and businesses to achieve the dual goals of preventing the pollution that causes global warming and saving energy.

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For example, EPA's highly successful *Green Lights* program, with more than 2000 partners, might be asked to censor references to greenhouse gas emissions reductions in technical information and software tools now provided to program partners, since this could be characterized as educational outreach on policies underlying the Kyoto Protocol. In addition, the language could bar EPA from recognizing the pollution prevention achievements of current partners, and from even discussing expected greenhouse gas reduction benefits with potential future partners.

Since recognition for pollution prevention is an important incentive for many program partners, this language could cause program participation to drop off. In addition, the language could force the Agency to renege on its commitment, spelled out in thousands of signed MOUs with program partners, to provide information to program partners to help them save money, save energy, and reduce pollution.

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Bill Language: prevents common sense regulation, suspends existing law authority

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

This is another "back door" attempt to use appropriations riders to repeal Clean Air Act authorities that have been in place since as long ago as 1970. The rider language would block the Environmental Protection Agency from taking common sense actions under existing law to protect the health and welfare of the American people from air pollutants that cause global warming.

The Administration has clearly stated that it will not implement the Kyoto Protocol until the Senate gives advice and consent to its ratification. The rider language, however, goes much farther than simply barring the implementation of the Protocol unless it is ratified. The proposed "purpose" and "contemplation" standards appear to be designed to block any regulatory action that has the effect of reducing the greenhouse gases addressed by the Protocol, no matter how clearly authorized that action is under existing law and no matter how clear the threat to public health or welfare.

The rider language would block common-sense, cost-effective regulatory actions like these:

- Landfill methane. EPA issued air pollution control regulations under the Clean Air Act that will cut landfill emissions of methane (a potent greenhouse gas) by half --the equivalent of eliminating the greenhouse emissions of 20 million cars --while recovering enough usable fuel to meet the energy needs of 2 million homes. Those benefits could not have been achieved if EPA had been prevented by this rider from considering the greenhouse gas impacts of its rule.
- Self-chilling cans. EPA used its Clean Air Act authority to block the introduction of a self-chilling soda and beer can that would have emitted hydrofluorocarbons (HFCs), extremely potent greenhouse gases. If these cans had captured just 5% of the 90 billion can U.S. market by the year 2000, they would have more than offset all the greenhouse gas reductions achieved by the Administration's voluntary programs. If EPA had not had the legal authority to regulate these global warming chemicals, this dangerous product would already be on the market. As a result, a new and safer design has been brought to market.

The rider would have the absurd effect of leaving EPA with less authority to take actions

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related to greenhouse gases under existing law after the adoption of the Kyoto Protocol than the agency possessed before the Protocol was adopted.

This is another attempt at "back door" repeal of environmental laws through the appropriations process. If Members of Congress want to rescind the Agency's existing authority over an entire class of pollutants and strip existing authority to protect public health and the environment from global warming pollutants, they should make such proposals in the open and through the front door, using the normal legislative process.

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Note: The current bill language does not appear to proscribe "voluntary" programs; rather, it focuses on actions with the force of law. Similarly, the accompanying report speaks of "binding" regulatory action. Thus, the primary concern here is to protect the Agency's ability to promulgate regulations which are developed fundamentally for other purposes, but which also serve to reduce greenhouse gases.

SUGGESTED AMENDMENTS

Option A

None of the funds appropriated by this Act shall be used to develop, propose, or issue rules, regulations, decrees, or orders for the purpose of implementation, ~~or in contemplation of 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 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 such Protocol **until the Senate gives advice and consent to ratification.**

Option B

None of the funds appropriated by this Act shall be used to develop, propose, or issue rules, regulations, decrees, or orders for the purpose of implementation, or in contemplation of 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 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 such Protocol **until the Senate gives advice and consent to ratification. Provided, however, that nothing in the preceding sentence shall affect the authority of the EPA to take actions to protect public health, welfare, or the environment that are authorized under existing law.**

Option C

Make following adjustment to last sentence in Option B: **Provided, however, that nothing in the preceding sentence shall affect the authority of the EPA to take actions to protect public health, welfare, or the environment that are authorized or required under existing law or treaty obligations.**

Option D

Add following language to end to Option B or C [checking with State Department]: **or limit the Agency's ability to prepare an implementation plan in connection with submitting the Protocol to the Senate for advice and consent.**

O M S

CEQ & EPA Information Restriction

- Current report language:

The Agency and the CEQ are thus directed to refrain from conducting educational outreach or informational seminars on policies underlying the Kyoto Protocol until or unless the Protocol is ratified by the Senate.

- Amendment: Add at the end, the following:

"This direction does not bar activities that would be permissible under the anti-lobbying laws."

State Dept.

Julia Korten -
fyi
Ceresa

DRAFT June 29, 1998

Comments on Knollenberg Amendment to VA and HUD Appropriations Bill, 1999
concerning Pre-Implementation of the Kyoto Protocol

- The Administration has stated consistently that it has no intention of circumventing Congressional prerogatives by "pre-implementing" the Kyoto Protocol. The Kyoto Protocol is a treaty which requires advice and consent by ✓ the Senate in order for the United States to become a party. Implementation will also require legislation which will need to be enacted by the Congress.
- The proposed prohibition on the use of certain appropriated funds applies to a ✓ vague, but possibly expansive, category of activities. The prohibition's vague drafting gives insufficient guidance to agencies and individuals of what conduct is prohibited.
- For example, the Amendment appears to prohibit a broadly defined array of activities that are "in contemplation of implementation" of the Protocol. This phrase is unmanageably vague. Under an expansive interpretation of the language, virtually any attempt to develop or propose rules or regulations that could have the direct or indirect effect of reducing greenhouse gas emissions is prohibited. Some might attempt to interpret the vague language of the Amendment to preclude permissible activities, such as ones in connection with implementation of the Framework Convention on Climate Change (to which the United States is a party) and initiatives designed to improve energy efficiencies for the benefit of all Americans.
- ✓ • Ironically, one could argue that the provision prohibits the Administration from drafting rules or regulations that would be necessary to send the Protocol to the Senate for advice and consent. The Administration, in connection with submitting the Protocol to the Senate, needs to be able to show how the Protocol would be implemented, and to do so would need to develop in advance proposed legislation and regulations. We assume that Congress would expect the Administration to have completed this groundwork before submitting the Protocol to the Senate for advice and consent.
- Some might also attempt to interpret the language to prevent or inhibit US efforts to work with other governments to develop the international "rules and regulations" needed for the so-called flexibility mechanisms, such as emissions trading, which should be developed now, prior to the advice and consent process.