WILL THE ADMINISTRATION IMPLEMENT THE KYOTO PROTOCOL THROUGH THE BACK DOOR?

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

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WILL THE ADMINISTRATION IMPLEMENT THE KYOTO PROTOCOL THROUGH THE BACK DOOR?

FRIDAY, OCTOBER 9, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 11 a.m., in room 2154, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, Snowbarger, and Kucinich.

Staff present: Mildred Webber, staff director; Keith Ausbrook, chief counsel; Larisa Dobriansky, senior counsel; Karen Barnes and Barbara Kahlow, professional staff members; Andrew Wilder, clerk; Elizabeth Mundinger, minority counsel; and Alys Campaigne, minority professional staff member.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order. As all of you heard, we just had two bells followed by five bells, and I am informed that there will be approximately six votes on the floor.

What I will do is begin my opening statement, so we can hopefully finish that before, and then take a recess and come back.

Ms. McGinty, I apologize for the delay, but that will let us expedite business.

Today, the subcommittee is conducting its eighth hearing on the White House initiative on global climate change and the Kyoto Protocol. At prior hearings, the subcommittee addressed the administration's justification and motivation for its huge climate change budget request—a $6.3 billion increase in funding; also, the potential impact of the Kyoto Protocol on American citizens, American businesses and labor, the U.S. economy, and our energy markets. And finally, we have concerns voiced by business and labor leaders about the administration's attempts to implement this treaty through the back door.

Today, the subcommittee intends to find out from Kathleen McGinty, Chair of the President's Council on Environmental Quality, what domestic strategies this administration is developing to implement the protocol and what actions the administration plans to take before the treaty is submitted to the Senate for its advice and consent.

The Kyoto Protocol, which was negotiated by the Clinton-Gore administration last December, in my view, goes too far, too fast, and involves too few countries. This treaty mandates the United States to reduce greenhouse gas emissions by 7 percent below 1990 levels within the timeframe 2008 to 2012—about a 550-million-ton reduction.

The magnitude of this commitment is unprecedented. Even if we stopped operating every car, truck, boat, train and airplane in this country, the energy savings and carbon dioxide savings, about 450 million tons, would not be enough to meet the requirements under the protocol. Obviously, we cannot adopt a policy that would do that, so we have to find other ways, and that is what makes it very expensive and very burdensome.

Moreover, while the treaty imposes onerous requirements on the United States and other industrialized countries, it exempts developing nations from any commitments, regardless of their economic development or the quantity of greenhouse gases they emit. Huge producers of those greenhouse gases like China, India, South Korea, Brazil, and Mexico are totally excluded from this treaty. As a result, even if every developed country, including the United States, were to achieve its emissions reduction targets, there still would be no net reduction in global greenhouse gas emissions.

Now, the Clinton-Gore administration, which recognizes the protocol's deficiencies, characterizes the protocol as a "work-in-progress." The administration also recognizes that the treaty's failure to require global participation violates the Senate's stated Byrd-Hagel resolution. For this reason, the administration has promised not to submit the protocol for ratification until there is, in the administration's words, "meaningful participation" by developing countries. However, while the administration is exploring ways to achieve "meaningful participation"—which it seems to be redefining every day, frankly—it is proceeding to carry out its climate change initiative in domestic policy.

The real issue for this subcommittee is whether the Clinton-Gore administration will continue to promote voluntary efforts to reduce greenhouse gas emissions, which would be consistent with the current Framework Convention on Climate Change, or whether the administration intends to use executive actions and existing authorities improperly to jump-start the implementation of the Kyoto Protocol before Senate ratification.

In the tradition of former Chairman John Dingell, over 6 months ago, this subcommittee asked key questions and requested the administration to share with us key documents. However, unlike former administrations' responses to Chairman Dingell, the Clinton-Gore administration has only very reluctantly and very slowly shared with us some of the not-yet-publicly available documents to justify the President's budget request and disclose the administration's domestic policy strategies.

We even resorted to issuing seven subpoenas to obtain key documents. Only after this action did various agencies slowly provide answers and more documents to our March 1998 inquiries.

CEQ has not yet located or provided us with key documents, including some made available by its sister agencies. For example, CEQ has not located a December 9, 1997, memo. The Kyoto con-

ference ended on December 10. That memorandum was from Chair McGinty to the President on "Environmental Budget Issues."

On September 30, we received from the White House Counsel's office 161 descriptions of over 300 documents being withheld from review even by Members of Congress. This week, the White House Counsel's office added more withheld documents, including some documents originally offered for review by Members. On October 1, I wrote to White House Counsel Charles Ruff for six specific documents from those being withheld from Congress.

On October 7, he stated, "we are prepared to assert executive privilege for four of those documents." If President Clinton formally asserts executive privilege for these climate change documents, it will be only the fourth time he has done so in his 6 years in office in response to a congressional request for documents. That doesn't include the request by Kenneth Starr for testimony and witnesses.

It amazes us that the White House has been unwilling to fully disclose to Congress and the American public all of the requested documents on this White House initiative. Today, we will explore with Chair McGinty some of the 97 CEQ documents being withheld from Congress.

[The prepared statement of Hon. David M. McIntosh follows:]

Statement of Chairman David M. McIntosh

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

"Will the Administration Implement the Kyoto Protocol Through the Back Door?

October 9, 1998

Today, the Subcommittee is conducting its eighth hearing on the White House initiative on global climate change and the Kyoto Protocol. At prior hearings, the Subcommittee addressed: (a) the Administration's justification and motivation for its huge climate change budget request -- a $6.3 billion increase in funding; (b) the potential impact of the Kyoto Protocol on American citizens, American businesses and labor, the U.S. economy, and U.S. energy markets; and, (c) concerns voiced by business and labor about the Administration's attempts to implement this treaty through the back door. Today, the Subcommittee intends to find out from Kathleen McGinty, Chair of the President's Council on Environmental Quality (CEQ), what domestic strategies this Administration is developing to implement the Protocol and what actions the Administration plans to take before the treaty is submitted to the Senate for its advice and consent.

The Kyoto Protocol, which was negotiated by the Clinton-Gore Administration last December, goes too far, too fast, and involves too few countries. This treaty mandates the U.S. to reduce greenhouse gas emissions 7 percent below 1990 levels within the time frame 2008 to 2012 -- about a 550 million-ton reduction. The magnitude of this commitment is unprecedented. Even if we stopped operating every car, truck, boat, train, and airplane in this country, the energy savings (458 million tons) would not be enough to meet the requirements of the Protocol.

Moreover, while the treaty imposes onerous requirements on the U.S. and other industrialized countries, it exempts developing nations from any commitments, regardless of their economic development or the quantity of greenhouse gases they emit. Huge emissions producers like China, India, South Korea, Brazil, and Mexico are totally excluded. As a result, even if every developed country were to achieve its emissions reduction targets, there still would be no net reduction in greenhouse gas emissions.

The Clinton-Gore Administration, which recognizes the Protocol's deficiencies, characterizes the Protocol as a "work-in-progress." The Administration also recognizes that the treaty's failure to require global participation violates the Senate's Byrd-Hagel resolution. For this reason, the Administration has promised not to submit the Protocol for ratification until there is "meaningful participation" by developing countries. However, while the Administration is "exploring" ways to achieve "meaningful participation" -- which it seems to be redefining every day -- it is proceeding to carry out its climate change initiative.

The real issue for this Subcommittee is whether the Administration will continue to promote voluntary efforts to reduce greenhouse gas emissions, which would be consistent with the current Framework Convention on Climate Change, or whether the Administration intends to use executive actions and existing authorities improperly to jump-start the implementation of the Kyoto Protocol before Senate ratification.

In the tradition of former Chairman John Dingell, over six months ago, we asked key questions and requested the Administration to share with us key documents. But, unlike prior Republican Presidents' responses to Chairman Dingell, the Clinton-Gore Administration has only very reluctantly and very slowly shared with us some of the not-yet-publicly-available documents to justify the President's budget request and disclose the Administration's domestic strategies. We even resorted to issuing seven subpoenas to obtain key documents. Only after this action, did agencies slowly provide answers and more documents to our March 1998 inquiries. CEQ has not yet located or provided us with key documents, including some made available by its sister agencies. For example, CEQ has not located a December 9, 1997 memo -- the Kyoto conference ended on December 10th -- from Chair McGinty to the President on "Environmental Budget Issues."

On September 30th, we received from the White House Counsel's office 161 descriptions of over 300 documents being withheld from review even by Members of Congress. This week, the White House Counsel's office added more withheld documents, including some documents originally offered for review by Members. On October 1st, I wrote White House Counsel Charles Ruff for six specific documents from those being withheld from Congress. On October 7th, he stated "we are prepared to assert Executive Privilege" for four of these six documents. If President Clinton formally asserts Executive Privilege for these climate change documents, it will be only the fourth time he has done so in his six years in office in response to a Congressional request for documents. It amazes us that the White House has been unwilling to fully disclose to Congress and the American public all of the requested documents on this White House initiative. Today, we will explore with Chair McGinty some of the 97 CEQ documents being withheld from Congress.

What are President Bill Clinton and Vice President Al Gore hiding? Does this Administration have a hidden agenda? Inasmuch as the White House is asking Congress and the American public to consider a major policy shift for this country, the Administration's stonewalling is simply incredible, unprecedented, and just plain unacceptable.

Not-yet-publicly-available Administration documents which we reviewed show that the Administration recognizes that regulations, taxes, subsidies, and mandates will be needed to implement the Kyoto Protocol. These documents -- either authored by CEQ or addressed to CEQ -- indicate that the Administration is evaluating such measures as: (1) annual increases in CAFE standards for motor vehicles which already impose unnecessary burdens on the public; (2) fees or taxes on less fuel-efficient vehicles which will make driving a lot more expensive for families that need larger cars; (3) performance standards for electric utilities and other regulated sources

which will drive up utility bills, (4) greater use of energy efficiency standards and mandates, (5) a broad-based energy tax (possibly based on carbon content) which would result in higher energy prices to consumers; (6) fuel-specific excise taxes (such as an oil tax or import fee); (7) a sector-specific excise tax (such as a transportation tax); and (8) pollution/consumption taxes which could be costly to all Americans. Today, we will explore with Chair McGinty a specific CEQ document entitled "Approaches for Implementing Climate Treaty" and other documents that reveal these and other executive actions considered by the Administration.

We also want to find out more about the agencies with which CEQ has been coordinating. In particular, we are concerned about the Environmental Protection Agency's (EPA) agenda. EPA has taken actions that strongly suggest that the Administration may be taking a backdoor approach. Earlier this year, EPA attempted to cap carbon emissions in the Administration's electric utility restructuring plan. An internal EPA memorandum which we reviewed revealed that EPA saw this proposal as a "concrete step to move forward domestically on global warming while continuing to work for progress internationally in follow-up to Kyoto." Also, EPA testified before this Subcommittee that it has the authority to regulate the carbon dioxide (CO2) that we exhale every day as a hazardous air pollutant in the same way that EPA regulates air pollutants such as sulfur dioxide (SO2), nitrogen oxide (NOX), and mercury. Here again, the Subcommittee's efforts to obtain information about interagency coordination and planning met with continual stonewalling.

Finally, on September 14, 1998, the President issued Executive Order (E.O.) 13101, "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition," which created a new interagency steering committee, chaired by the Chair of CEQ, and established Agency Environmental Executive positions within each agency. Today, we will explore with Chair McGinty how this Administration intends to use its largesse to alter market behavior to achieve greenhouse gas emissions reductions. I understand that stakeholders did not have an opportunity to comment on this new E.O., although the order could conceivably have an enormous impact on the marketplace.

The Kyoto Protocol is a fundamentally flawed treaty. Our only safeguard against this bad deal is our constitutional process which requires the Administration to submit this treaty for the advice and consent of the Senate before any steps can be taken to implement its provisions. Therefore, we have to make sure that the Administration does not jump the gun on Congress and issue rules or regulations or take other executive actions to implement the Kyoto Protocol through the back door. Jumping the gun would be particularly egregious because the Administration has characterized this treaty as "unfinished" and, thus, not yet ready to be submitted to the Senate. Moreover, the Administration has said that it will not submit this treaty if it does not obtain "meaningful participation" of developing countries or if other countries place restrictions on international emissions trading. Therefore, the Administration has no business launching any regulatory programs to implement this treaty.

Mr. McINTOSH. Let me now pause and take a recess so that we can go vote, and we will resume as soon as the final vote in this series is over.

The committee stands in recess.

[Recess.]

Mr. McINTOSH. The committee will come to order.

Thank you all for waiting, and I apologize to our witness for that. It is beyond any of our control. The Republic has now seven more bills that have been passed by Congress. Let me continue with my statement.

We were talking about some of the documents and the not-yet-publicly available administration documents which we reviewed that show the administration recognizes that regulations, taxes, subsidies and mandates will be needed to implement the Kyoto Protocol.

These documents—either authored by CEQ or addressed to CEQ—indicate that the administration is evaluating such measures as an annual increase in CAFE standards for motor vehicles, which already impose unnecessary burdens on the public, fees or taxes on less-fuel-efficient vehicles which will make driving a lot more expensive for families that need larger cars; performance standards for electric utilities and other regulated sources which can drive up utility bills; greater use of energy efficiency standards and mandates; a broad-based energy tax, possibly based on carbon content, possibly based on energy content, which would result in higher energy prices to consumers; fuel-specific excise taxes, such as an oil tax or an import fee; a sector-specific excise tax, such as a transportation tax; and pollution consumption taxes which could be costly to all Americans.

Today, we will explore with Chair McGinty a specific CEQ document entitled, "Approaches for Implementing Climate Treaty" and other documents that reveal these and other executive actions considered by the administration. We also want to find out more about the agencies with which CEQ has been coordinating. In particular, we are concerned about EPA's agenda, and they have already taken actions that strongly suggest the administration may not be waiting, but instead is taking a back-door approach.

Earlier this year EPA attempted to cap carbon emissions in the administration's electric utility restructuring plan. An internal EPA memorandum which we reviewed revealed that EPA saw this proposal as a "concrete step to move forward domestically on global warming while continuing to work on progress internationally in followup to Kyoto."

Also, EPA testified before this subcommittee that it has the authority to regulate carbon dioxide, that is, the gas that we exhale every day; and they would regulate it as a hazardous air pollutant in the same way that EPA regulates air pollutants such as sulfur dioxide, nitrogen oxide and mercury.

Here again the subcommittee's efforts to obtain information from interagency coordination and planning met with continual stonewalling.

Finally, on September 14, 1998, the President issued Executive Order 13101 entitled, "Greening the Government Through Waste Prevention, Recycling and Federal Acquisition," which created a

new interagency steering committee, chaired by the chairman of CEQ, and established agency environmental executive positions within each agency.

Today, we will explore with Chair McGinty how this administration intends to use its largesse to alter market behavior to achieve greenhouse gas emissions reductions, and I understand that stakeholders did not have an opportunity to comment on the new Executive order, although the order could conceivably have an enormous impact on the marketplace.

The Kyoto Protocol is a fundamentally flawed treaty. Our only safeguard against this bad deal is our constitutional process which requires the administration to submit this treaty for the advice and consent of the Senate before any steps can be taken to implement its provisions.

Therefore, we have to make sure that the administration does not jump the gun on Congress and issue rules or regulations that take other executive actions to implement the Kyoto Protocol through the back door. Jumping the gun would be particularly egregious because the administration has characterized this treaty as unfinished and a work-in-progess, and thus not yet ready to be submitted to the Senate.

Moreover, the administration has said that it will not submit this treaty if it does not obtain meaningful participation of developing countries, or if other countries place restrictions on international emissions trading. Therefore, the administration has no business, frankly, in my view, launching any regulatory programs to implement this treaty.

With that, I ask unanimous consent that any other members who wish to enter opening statements will have 3 days to do so.

Ms. McGinty, will you please join us? Chairman Burton asked that each of the witnesses be sworn in, and so we do this regularly with all of our witnesses.

[Witness sworn.]

Mr. McINTOSH. Thank you. Let the record show that the witness answered in the affirmative.

We have, I believe, a printed copy of your opening statement, and that will be put into the record in its entirety. But let me now ask you to summarize it, read from it, whatever comments you would like to make, and then we can get into the question-and-answer section.

STATEMENT OF KATHLEEN A. McGINTY, CHAIR, COUNCIL ON ENVIRONMENTAL QUALITY

Ms. McGINTY. Thank you, Mr. Chairman. In the interest of time and enabling all of us to move on to the important work in these last hours of Congress, I will be very brief. I will make five points.

First, climate change is a very serious business, indeed. The international scientific community has spoken unanimously. Greenhouse gas pollution is dangerously upsetting the global climatic system, and that portends very serious and adverse consequences for every man, woman and child on the planet.

Second, blocking sound actions to reduce greenhouse gas pollution is morally unsupportable, environmentally and socially reckless, and economically very shortsighted indeed.

Third, the Kyoto Protocol represents a victory for U.S. ideas and diplomatic skill. The flexibilities we fought hard for and won in Kyoto afford us the opportunity to take this challenge on through good, old U.S. ingenuity; that is, change that challenge into an opportunity, take the challenge on in a way that opens the door to significant new economic opportunities for U.S. businesses and savings for working families in the United States.

Fourth, the climate program the President has proposed, which program is a continuation of an effort he has had as a priority since our first days in office and stands independent, completely independent of the Kyoto Protocol; and indeed, in many respects, is a continuation of Bush administration policies. The President's program is an environmental and economic must for this country.

Working families deserve a tax break to buy clean, efficient homes, cars and appliances, as the President has proposed. U.S. industry deserves Federal investments in research and development so that this country can maintain a competitive edge in building and selling the clean, new, efficient technologies that will be necessary to fuel economic development in the 21st century. There is a $500 billion market for environmental technologies and services. The only question is, who is going to capture that market? Will it be Japan, will it be Germany, or will we follow the President's plan and ensure that it is the United States of America?

Fifth, and finally, the Congress' failure to support U.S. industry and working families in this regard is certainly a tragedy in this year's appropriations process, but I am hopeful that we can get back to work in these final hours to maybe correct some of the deficiencies in the Congress' appropriations work to date, and maybe get some bills passed and wrap up this session in a positive way for the U.S. economy, for working families and for the environment.

Thank you very much.

[The prepared statement of Ms. McGinty follows:]

STATEMENT OF KATHLEEN MCGINTY, CHAIR
COUNCIL ON ENVIRONMENTAL QUALITY
EXECUTIVE OFFICE OF THE PRESIDENT
BEFORE THE
GOVERNMENT REFORM AND OVERSIGHT SUBCOMMITTEE ON
NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES AND
REGULATORY AFFAIRS
OCTOBER 9 , 1998

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the agreement reached in Kyoto and our activities, both at home and abroad, to follow-up on the substantial progress achieved in last year's negotiations. The Kyoto Protocol is an enormous step forward in what will undoubtedly be a long-term global effort to safeguard our earth's climate system from unprecedented human-induced harm and to protect our children and grandchildren from the dangerous consequences that could unfold if we fail to heed the warnings from the world's leading scientific experts.

Our efforts following up on Kyoto are directed at achieving further progress in obtaining meaningful participation by key developing countries and in implementing the President's plan to harness market forces at home and abroad to enhance energy efficiency, environmental quality, and economic prosperity.

THE KYOTO PROTOCOL

Although the agreement reached in Kyoto will not reverse the build-up of greenhouse gases in the atmosphere, it will begin slowing the rate of increase. Equally important, it puts in place a solid foundation upon which the global marketplace can increasingly be engaged in reducing greenhouse gas emissions and ensuring cleaner energy development. The agreement draws heavily from the proposals advanced by the United States and effectively rejects alternatives proposed by others that would have substantially increased the costs of action.

In October 1997, the President outlined a number of elements critical to achieving an effective agreement. He underscored that any agreement had to contain: 1) realistic medium-term, legally binding targets for developed countries; 2) flexible, market-based implementation mechanisms; and 3) measures to secure the meaningful participation of key developing countries. We fully achieved our first two objectives, and through the innovative Clean Development Mechanism made a down payment on the third. Our work this year has centered around operational details of international emissions trading, compliance mechanisms, and developing country participation, and this work continues. The President has made it clear that he does not intend to send the Kyoto Protocol to the Senate for ratification until we have achieved meaningful participation by key developing countries.

Even with the complexities of climate science and the challenge of crafting policy solutions, we found in Kyoto a new spirit of resolve, a new openness to market-based approaches, and a new hope for global cooperation.

Let me review the key elements of U.S. proposals that were adopted as elements of the Kyoto Protocol, which include the following:

--Legally binding emission targets: The agreement establishes legally binding targets for developed countries. By advancing from the existing non-binding aim contained in the 1992 Framework Convention to a binding target, we believe efforts to address global warming will take on greater significance and commitment. Moreover, our insistence on a legally binding regime encouraged other countries to think more seriously about their emission reduction proposals. Ultimately, the U.S. agreed to a target of a 7% reduction from baseline levels. Given the changes in the definition of the baseline for the three long-lived chemical compounds (HFCs, PFCs and SF6) from 1990 to 1995 combined with a change in the way sinks (carbon-absorbing activities) are accounted for in the baseline, the actual reduction required in the U.S. is no more than 3% more than the President originally proposed as the U.S. negotiating position.

--Budget periods spanning five years: The U.S. proposal for a five-year budget period was adopted rather than the single-year target proposed by others. Allowing nations to average their emissions over five years increases flexibility and lowers costs by smoothing out any short-term variations in emissions based on fluctuations in energy prices, economic activity, business cycles, or weather.

--First budget period beginning in 2008 and ending in 2012: The U.S. proposal for a budget period beginning in 2008 was accepted. This provides a full decade for redirecting efforts toward greater energy efficiency, allowing for substantial changes in investment decisions and turnover in capital stock. Other proposals calling for reductions to begin as early as 2003 were rejected.

--Market-based approach including all 6 gases: The U.S. proposal held sway on including all 6 major greenhouse gases in the calculation of a target. Moreover, we secured trading among these gases so that the lowest cost reductions can be secured.

--Inclusion of sinks: The U.S. also urged, and the Parties agreed, to allow actions that capture and sequester greenhouse gases (sinks) to be included as part of meeting the target. Carbon sequestration, through activities such as reforestation programs, offers potentially attractive low cost opportunities to reduce net greenhouse gas emissions.

--International Emissions Trading: The U.S. secured acceptance of emissions trading as a flexible, market-based approach to lowering the costs of meeting a target. While the U.S. has experience with emissions trading in the acid rain and lead phase-out programs, it was a new concept to the international community and incorporated for the first time in the Kyoto agreement. A number of studies have suggested that the costs of compliance can be significantly reduced if flexible implementation is permitted.

--Clean Development Mechanism Under this innovative provision, developed countries will be able to use certified reductions from project activities in developing countries to contribute to compliance with greenhouse gas reduction targets. This provides both a mechanism to secure low cost reductions throughout the world and a powerful economic incentive to lead developing countries toward more climate friendly technologies. This represents an important avenue for developing country actions to reduce emissions in cooperation with U.S. private sector firms that have the technology, resources, and know-how to make such reductions in ways that save energy, reduce emissions, and improve performance. This provision effectively embodies the U.S. proposal for joint implementation with credit for activities in developing countries. It also provides, again at U.S. insistence, an incentive for early action by permitting credit for reductions that occur beginning in the year 2000.

--Emissions from the Military: The U.S. obtained agreement on its proposal for an exemption for emissions from multilateral operations pursuant to the United Nations charter. This decision will ensure that nations do not hold back from participating in humanitarian, peacekeeping and other operations due to concerns about greenhouse gas emissions.

THE ADMINISTRATION'S ECONOMIC ANALYSIS

Before I outline the next steps we are taking both domestically and internationally, let me summarize the findings of our economic analysis. The U.S. approach to climate change is grounded in solid economics. The Administration released a report in July 1998 that demonstrated the powerful rationale for taking action on global warming, noting that taking action amounts to a relatively modest insurance policy against a serious -- and potentially costly -- risk.

The Administration found that, through efficient implementation of the Kyoto Protocol's flexibility mechanisms and securing meaningful participation of key developing countries, the costs of meeting our Kyoto target will be modest. Even without counting the impact of domestic policies or the benefits of mitigating climate change, the Administration's illustrative estimates using the Second Generation Model (SGM) suggest an emissions price of $14 to $23 per ton of greenhouse gas. In the U.S., this would translate into an increase of $70 to $110/year in 2010 for an average family's energy bill, although such an increase would be substantially offset by the decline in electricity prices from restructuring the electricity industry, as the Administration and others have proposed.

The Administration's findings do not factor in domestic actions that can lower permit prices even more and substantially enhance the U.S.'s ability to make reductions at home. These include federal electricity restructuring to increase competition and lower costs: efforts to increase the rate of technology improvement , such as the President's $6.3 billion technology package included in the FY 1999 Budget; innovative practices, like forestry activities, which can sequester carbon; industry consultations on voluntary reductions; and initiatives to reform federal energy use and procurement.

The Administration's analysis does depend on an assumption that we "do it smart" by taking advantage of the Kyoto Protocol's flexibility measures that can reduce costs. At U.S. insistence, the Kyoto Protocol allows emissions to be reduced where and, within bounds, when reductions are the cheapest. Key provisions include international trading of emissions permits as well as measures that allow our companies to share credit for reducing emissions in projects abroad (such as through the "Clean Development Mechanism.")

Finally, the Administration reviewed estimates of the costs of failing to take action to address climate change, and these analyses indicated that these costs could be significant. Noted economists have estimated the environmental, health and economic costs of global warming projected to occur from a doubling of the pre-industrial atmospheric carbon dioxide concentration during the next century to be 1% of GDP or more -- over $80 billion a year in today's terms. In the short term, ancillary benefits of reducing greenhouse gas emissions -- such as reduced air pollution -- could produce savings equal to one fourth of the costs of meeting our Kyoto target.

NEXT STEPS -- INTERNATIONAL ACTIVITY

As we look to Buenos Aires, our goal is to make progress on our climate change agenda. We must not lose sight of the instrument that is in force -- the 1992 UN Framework Convention on Climate Change (UNFCCC). There are commitments under this treaty that will be reviewed in Buenos Aires and subsequent Conferences of the Parties to the UNFCCC - and the more we progress on meeting these commitments, the better prepared Parties will be to address the goals of the Kyoto Protocol when it is complete and in force. Since 1992, when the United States was the fourth nation in the world and the first developed nation to ratify, 175 countries have become Parties to this Convention to combat global warming.

In the context of six years since the Framework Convention on Climate Change was opened for signature and the recently negotiated Kyoto Protocol, the fourth meeting of the Conference of the Parties to the UNFCCC (COP-4) provides an opportunity to continue momentum on both of these historic agreements. Breakthrough accomplishments and headline-making events, however, are not likely, given the early stage of international understanding of how the flexibility mechanisms in the Protocol can work. We are focused on achieving "real progress" as we seek to advance the ultimate objective of the Convention and to elaborate upon the unfinished business of Kyoto.

We believe all countries, both developed and developing, should reiterate the need for concerted, cooperative action to address this global problem. We intend to renew our commitment to taking actions in the context of the Framework Convention, which recognizes the need for a global effort. And, we hope others will do the same.

The problem of climate change emerged over decades and solving it is a "marathon" not a "sprint." We view COP-4 as a stepping stone to future efforts on climate change, and as such, it must yield incremental, but credible progress.

One positive outcome of COP-4 would be a work plan and timetable for further elaboration of the rules, modalities and guidelines for all of the flexibility mechanisms. Such a plan would signal that we are moving forward, and that we understand the need for greater certainty among our public and private sectors about how the Kyoto mechanisms and processes will work. We have been engaging in efforts to seek input from financial experts and U.S. industry on aspects of emissions trading and other market mechanisms to inform our policy formation on such issues as allocation of risk and institutional structures, and we will continue to do so as these issues will need further refinement after Buenos Aires.

COP-4 offers an opportunity to share perspectives on how to proceed and build consensus on concrete steps that can be taken to reduce the growth in greenhouse gas emissions without jeopardizing economic growth. We plan to share experiences gained through the "Activities Implemented Jointly" pilot phase, as well as highlight successful domestic policies and measures that may have lessons for others.

We continue to make clear, at every opportunity, that developing countries must be part of the solution to the climate change problem. Meaningful participation by key developing countries is essential. In evaluating what constitutes this level of participation, it is important to keep in mind the substantial differences that exist among developing countries in terms of their emissions profiles, levels of development, capacity for effective action, and economic and political conditions. We have not established a fixed standard or set of criteria. Instead, we want to convey that key developing countries must commit to serious steps to limit their greenhouse gas emissions and help in the international effort to control global warming. This could effectively be accomplished through developing countries' taking on their own emissions targets, consistent with their need to develop, which would enable them to participate in international emissions trading. At the same time, we do not believe that it makes good sense to rule out other potential ideas for accomplishing the desired result, namely that key developing countries take serious steps to limit their emissions. We also believe that active participation in the Clean Development Mechanism could be a factor in determining meaningful participation.

NEXT STEPS -- DOMESTIC ACTIONS

In October 1997, the President announced an environmentally and economically sound plan to enhance our nation's energy efficiency, improve our economic competitiveness, and reduce greenhouse gas emissions. The plan targeted $6.3 billion over the next five years to provide incentives for our industry, businesses and consumers to make and purchase more energy efficient products. It challenges the innovative abilities of the private sector and helps ensure that those firms that succeed in developing energy saving products will have a substantial market in which to sell those products. For consumers, it provides a double bonus. First, it helps reduce the initial costs of purchasing energy savings products. Second, throughout the lifetime of the product, consumers will benefit from reduced energy costs. The President's 1999 budget includes $3.6 billion over five years in tax credits aimed at encouraging broader use of existing energy saving technologies and spurring further innovations. It also includes $2.7 billion in new research and development investments to ensure that innovative greenhouse gas reducing products continue to flow through the pipeline and into the market-place in the coming years.

Examples of specific provisions contained in the President's budget include the following:

--Tax credits for highly fuel efficient vehicles: This credit would be $4,000 for each vehicle that gets three times the base fuel economy for its class beginning in 2003. A credit of $3,000 would be available beginning in 2000 for vehicles that get double the base fuel economy for its class. These credits would be available to jump start these markets and would be phased out over time.

We believe this proposed approach can be improved upon and we have a positive ongoing dialogue with the auto industry to do that.

--Tax credits for energy efficient equipment: These credits (all of which are subject to caps) would include a 20% credit (subject to a cap) for purchasing certain types of highly efficient building equipment, a 15% credit for the purchase of solar rooftop systems, and a 10% credit for the purchase of highly efficient combined heat and power systems.

--Research and development support: Additional resources provided for key areas of renewable energy and for carbon sequestration. Activities related to the Partnership for a New Generation of Vehicles include expanded research in fuel cells, batteries and ultra-clean combustion engines. Two new partnerships are proposed for heavy trucks and light trucks, including sport-utility vehicles.

These budget proposals implement one of the key commitments made by the President in his October 22nd speech at the National Geographic Society. In that speech the President also pledged that the federal government, as the largest user of energy, would take the lead in enhancing our efforts at improving energy efficiency; that we would work closely with the private sector in developing voluntary programs to reduce emissions; that we would grant early credit for reductions that occur prior to a binding target; and that we would help shape utility restructuring in ways that contribute to reductions in greenhouse gas emissions. We are working to make all of these commitments real.

Beyond the President's budget proposals, a number of encouraging developments have taken place in both the public and private sectors in the short time since Kyoto. Let me briefly mention six today.

1. **BP Announcement of Emissions Target and Solar Opening**: British Petroleum (BP) demonstrated last month its continued commitment to reducing greenhouse gas emissions by announcing that it will reduce emissions of greenhouse gases in their own corporate energy use by 10% from a 1990 baseline over the period to 2010. This target exceeds the reduction agreed to by developed countries under the Kyoto agreement. Prior to that, BP Solar opened its first manufacturing plant in the United States in February 1998. Located outside San Francisco, this facility will produce a new generation of thin film photovoltaic cells. Spurred by DOE's announcement of the Million Solar Roofs Initiative, these planned plant expansions and openings by other solar cell manufacturers, as well as the President's budget request for enhanced funding

for renewable technologies, demonstrate that efforts to increase market penetration based on harnessing the sun's energy are now making significant advances.

2. **Pew Center on Global Climate Change**: Earlier this year the Pew Charitable Trusts established the Pew Center on Global Climate Change to educate the public on the risks, challenges and solutions to climate change. The Center's Business Environmental Leadership Council agreed to four principles: 1) enough is known about the science and environmental impacts of climate change to take actions to address its consequences; 2) businesses should take concrete steps now in the U.S. and abroad to reduce greenhouse gas emissions; 3) the Kyoto agreement represents a first step in the international process, but more work must be done to both implement the market-based mechanisms and involve the rest of the world in the solution; and 4) significant progress can be made to address climate change and sustain economic growth in the United States. Companies on the Council are: American Electric Power, Boeing Company, BP America, Enron Corp., Intercontinental Energy Corporation, Lockheed Martin, Maytag, The Sun Company, 3M, Toyota, United Technologies, U.S. Generating Company, Weyerhauser, and Whirlpool Corporation.

3. **Fuel Efficient Vehicles**: At this year's automobile show in Detroit, General Motors (GM) announced four passenger hybrid electric and fuel cell vehicles that can achieve fuel efficiency of up to 80 miles per gallon -- production prototypes which could be available in 2001 and 2004. Ford also unveiled a prototype of a mid-size high efficiency sedan that achieves 63 miles per gallon using an advanced diesel engine. Ford also plans to develop hybrid electric and fuel cell versions of this prototype. Chrysler unveiled its full-size experimental hybrid electric vehicle with a projected 70 miles per gallon fuel economy. These technological advances were made possible through the efforts of the Partnership for a New Generation of Vehicles among the Administration, U.S. auto companies, and their suppliers.

4. **Compressed Air Challenge**: Air compressors represent about 3% of total industrial electricity use and 1% of total U.S. electricity consumption. In mid-January, DOE and major equipment manufacturers announced a new agreement aimed at significantly enhancing energy efficiency in this sector. Under the agreement, changes in equipment and operating practices are anticipated to reduce energy use in this category by 10% by 2010 at a cost savings of $150 million per year while reducing greenhouse gases by 700,000 metric tons of carbon.

5. **VCR/TV Energy Star Program**: TV and VCRs represent one of the fastest growing sources of electricity demand. Consumers spend over $1 billion annually to power VCRs and TVS that are switched off. In early January the Vice President announced a pathbreaking partnership between the EPA and the major manufacturers of these electronic goods. The program is quite ambitious with a goal of achieving up to a 70% reduction in energy use when the equipment is turned off without sacrificing product quality, utility or increasing costs. The average household could cut its energy bills by up to 30% or $400 per year by switching to the full line of Energy Star products.

6. **Partnership for Advancing Technology in Housing** : On May 4, 1998, President Clinton announced one important new partnership -- the Partnership for Advancing Technology in Housing (PATH). This partnership with the homebuilding sector is designed to build new homes that are 50% more energy efficient within a decade and to retrofit at least 15 million existing homes within a decade to make them 30% more energy efficient. Meeting PATH goals could save consumers $11 billion a year in energy costs by 2010 and reduce annual carbon emissions by nearly 24 million tons -- the amount produced by some 20 million cars.

In sum, the Kyoto Protocol represents a significant diplomatic achievement for the United States and a key contribution to the critical effort to safeguard our children from the effects of potentially severe climatic disruption. At the same time, this effort is a work in progress. Much remains to be done if we are fully to seize the environmental and economic benefits of action on this pressing issue. We in the Administration look forward to working with Congress in the months and years ahead to further our efforts to address the risks associated with global warming in a way that enhances our environmental and economic well being.

I welcome the opportunity to visit with you today and look forward to our continued dialogue and exchange.

Mr. McINTOSH. Thank you, Ms. McGinty. Let me say particularly, as to the fifth point, I wouldn't want to be defending this particular appropriations cycle at all.

Ms. McGINTY. I can understand that, Mr. Chairman.

Mr. McINTOSH. Let me talk about some particular policies, and if you can share with me current position—and some questions about each of them, and they are ones that I indicated have been referred to in the documents that we have been reviewing.

The first would be an increase in the existing CAFE standard for motor vehicles. What is the current administration position on that particular policy?

Ms. McGINTY. Well, let me say Mr. Chairman, here again I think U.S. industry recognizes the economic opportunity to be had in taking advantage of the partnership we have provided in reducing greenhouse gas emissions.

Our efforts with regard to automobiles are focused on our Partnership for a New Generation of Vehicles. In that partnership, we are working with U.S. automakers, and we are very much on track by the year 2003 to produce a car that achieves 300 percent of the fuel efficiency of current automobiles. Those cars, as we have agreed with the U.S. manufacturers, will be of comparable cost and performance as today's cars; and so it is a very productive and positive and, so far, effective partnership that we have.

Mr. McINTOSH. Am I to understand that is in lieu of any change in the CAFE standard?

Ms. McGINTY. We have not proceeded with any changes in the CAFE standard. This is the approach that we have chosen to take with the auto industry with regard to auto fuel efficiency.

Mr. McINTOSH. So during the implementation period of Kyoto, which is from now to 2008 to 2012, would there be any need to increase the CAFE standard?

Ms. McGINTY. Our hope is that we would be more than successful in this partnership, which partnership will aim toward fuel efficiency increases greater than we have seen through the CAFE program; again, a 300-percent increase in fuel efficiency is what we are on track to deliver.

Mr. McINTOSH. Has CEQ worked with either DOE or DOT on the specifics of any CAFE standards?

Ms. McGINTY. No, we have not.

Mr. McINTOSH. At an earlier hearing, we heard from some of the auto companies working on that same program, and they were excited about it. But they pointed out, as a realistic matter, the timetables have to do with developing the technologies; bringing it into the marketplace and replacing the fleet with those vehicles takes an extended period of time beyond that.

Ms. McGINTY. I think that is right. I think there always is a certain time that is required for new technologies to penetrate the market. One of the things that we are particularly pleased about in that regard is while we originally set for ourselves a 2003 timeframe, you will recall in January of this year, some of the leading manufacturers said that they are actually going to produce the cars by 2001.

Mr. McINTOSH. Are you in a position, you could commit the administration, prior to Kyoto being ratified by the Senate, there would be no need for a change in the CAFE standard?

Ms. McGINTY. Again, we have put our efforts in this partnership and its delivering, and that's where we intend to maintain our focus.

Mr. McINTOSH. Would that be a yes or a no, that we won't see a CAFE standard?

Ms. McGINTY. It would be that we are going to continue on the current course. We don't have any plans for any different courses, and we are hopeful that the partnership will produce the results that we anticipate.

Mr. McINTOSH. OK. Just so I understand, the "current course" would mean, use the research approach but not any CAFE mandate?

Ms. McGINTY. That is the program that we have launched and we have focused on and have invested in, and that is delivering good results now, yes.

Mr. McINTOSH. The second one was expansion of the type of vehicles or the kinds of vehicles subject to CAFE, particularly sports utility vehicles. Has CEQ worked with DOT or EPA on that option?

Ms. McGINTY. No, we have not.

Mr. McINTOSH. Are there any current plans in the administration?

Ms. McGINTY. None that I'm aware of.

Mr. McINTOSH. Therefore, presumably, unless Kyoto is implemented, there wouldn't be anything to change that policy?

Ms. McGINTY. I don't know that Kyoto really has much to do with it. Of course, the CAFE standards are standards that have been on the books for 20 or 25 years. Again, our efforts with regard to automobiles is to open up the treasure trove of research that we have in the Federal agencies and to put it to work in the global marketplace.

Mr. McINTOSH. One of the reasons that we are asking is that some of the administration documents indicated that might be an option, to try to implement Kyoto as one way of achieving fuel efficiency; and so I wanted to make sure whether or not that was a current policy or not.

I guess a third one would be this product-specific fee-bate which, as I understand it, is a fee on less fuel-efficient vehicles used to then subsidize more fuel-efficient vehicles. Is that an option that CEQ or the administration is considering?

Ms. McGINTY. There isn't any—no, we are not, although I am aware in academic circles and otherwise that such ideas have been put forward. In fact, we have such—something that is not completely unrelated to that in current law where—was that gas-guzzling vehicles pay an excise tax of some sort. There is something in current law, but we are not working on any such program to further that idea.

Mr. McINTOSH. Are you aware at all whether DOT or EPA would be considering that?

Ms. McGINTY. Not to my knowledge.

Mr. MCINTOSH. I guess you can commit that the administration won't be putting forward a fee-bate proposal prior to Kyoto being ratified?

Ms. MCGINTY. I can tell you that it is not our policy to work on such things right now. To my knowledge, we are not working on such things right now. But I cannot speak to what might eventuate in the next 12 years. It would be misleading of me to represent to you that I could bind future administrations in that regard.

Mr. MCINTOSH. But as far as you know, this administration has no current plans?

Ms. MCGINTY. As far as I know, we have no such proposal or plan.

Mr. MCINTOSH. I guess another item which has been discussed and considered would be stricter emissions or performance standards for major sources, particularly carbon dioxide, such as electric utilities and industrial boilers. Has the CEQ worked with the Department of Energy on considering those types of options?

Ms. MCGINTY. We have two major initiatives under way, maybe three would be more accurate, with regard to the electrical utility sector. One dates back to 1993 or 1994, which is our Climate Challenge Program, where we have on the order of 640 utilities in the United States signed up voluntarily to reduce their greenhouse gas emissions, that under just that program would result in a 47 million metric ton reduction of carbon emissions in the year 2000. That is one initiative that we continue to have under way.

Second, the President proposed to the Congress electricity restructuring legislation which we believe would significantly reduce greenhouse gas emissions while saving consumers $20 billion a year on their energy bills.

Third, we are in dialog with the electricity industry as part of our industry-by-industry outreach that the President has asked us to undertake to find win-win solutions to reduce greenhouse gas emissions.

Mr. MCINTOSH. On that third initiative, do you know the types of win-win solutions being considered?

Ms. MCGINTY. The electricity restructuring proposal was one of the top priorities for many of the utilities. The utilities are also interested in working with us to look at the CO_2 issue in relation to both electricity restructuring and some of the Clean Air Act policies that flow, for example, from the smog and the soot programs and our most recently released efforts on nitrogen oxide, so we have a coherent policy and bring those things together.

So there are discussions in that regard. They may have ideas as to how we can bring those programs more efficiently together.

Mr. MCINTOSH. That makes sense, and I would assume that EPA would be included in those discussions also?

Ms. MCGINTY. EPA is included in those discussions. The Vice President himself met with—as we have been doing this outreach to various industry leaders, the President participated. And when the idea was raised, he said that it was a fine idea. He specifically asked EPA to make that a priority. It is my understanding that some good work is under way there.

Mr. MCINTOSH. This has been, in fact, one of the things that has been in my mind, to try to find out as we pursue this oversight,

because I have been mindful of the fact that a lot of those other regulatory programs would possibly have an impact on carbon dioxide in particular; sometimes they are win-win, sometimes you have to make tradeoffs depending on the particular technology that is being regulated on that.

Let me ask you, with regard to the restructuring proposal—and you indicated, and I think someone has put it in terms of a significant down payment toward reducing greenhouse gases, as I understood it, there are possibly two components of that. One is a direct component, which is a cap-in-trade program, and I think some of the documents indicated that was considered by the administration; and the other is kind of an indirect effect of achieving efficiency in the production of electricity that you can then see benefits of fewer carbon dioxide emissions.

Ms. McGINTY. And I would add a third. The indirect effect is—to speak to that for a second. Yes, economists, as well as industry leaders, very much believe if the forces in the marketplace are let loose when it comes to electricity, that electricity providers will have to compete on the basis of how they can help their customers save electricity and, therefore, save on their energy bills.

The third thing I would just mention, which is not indirect, but quite direct, and it was at the heart of the President's policy, are things like a renewal portfolio standard which would require in a deregulated environment that, nonetheless, utilities use renewable energy for x percent, and I think our proposal was 5.5 percent of the energy that they are providing.

A public benefits fund was a second part of what we had recommended, which is an investment in the development of energy-efficient and renewable-energy technologies.

And the third is a right-to-know, customer information provision where we had proposed that in their monthly bills, consumers should get information about the sources of their electricity and what their options might be to choose sources of electricity that have less rather than more pollution associated with them.

So I think that is a third component of the electricity restructuring.

Mr. McINTOSH. Leaving aside that last one, which is information, the others are in some ways cutting against the principle of the marketplace deciding how——

Ms. McGINTY. No doubt it is saying, yes, let's bring electricity generation into the 21st century, as opposed to the 100-year-old statutes that currently govern it. But nonetheless there are public purposes that we are still interested in making sure, even in a deregulated environment, that those things will be met. In those two regards, renewable energy and investment portfolio for clean technologies, we want to make sure that we are moving the ball forward on those things, that's true.

Mr. McINTOSH. Let me ask you, in regard to the CO_2 cap-in-trade initiative, does CEQ have a position on that in regard to the electric restructuring?

Ms. McGINTY. When it comes to pursuing the most efficient ways of achieving environmental objectives, I think what the United States is leading the world in demonstrating is that when we harness these market forces, we can get the job done in a much more

cost-effective way. We saw that with regard to the sulfur dioxide trading program, for example.

Yes, the President has expressed that he thinks when it comes time to have the actual implementation regime for a climate treaty, 2008 to 2012, it is more likely that the preferable regime would be built on market forces like a CO_2 permit trading scheme.

Mr. McINTOSH. OK. So if Kyoto comes up to the Senate and is ratified, then pursuant to that, you are telling me the President and the administration would most likely try to pursue that type of cap-in-trade?

Ms. McGINTY. If we were at a place right now where, as you said, the Kyoto Protocol is a work-in-progress, but if we had gotten it to a place where we thought it was in shape to present to the Senate, I would say if we were doing that right now, the likelihood would be that we would suggest to the Congress a permit trading scheme of some sort with regard to CO_2.

Mr. McINTOSH. Let's say in Buenos Aires and subsequent meetings we are not able to achieve enough significant participation, so the administration still wants to work on that before bringing it to the Senate, and yet next year electric utility restructuring comes up; should we anticipate a cap-in-trade proposal then?

Ms. McGINTY. Well, you may be anticipating some of the—some other things that I know that you do want to discuss.

This is something that we did discuss when we were putting our utility restructuring package together. And the issue was whether, sitting here now in 1998, and we started that exercise in 1997, is it too anticipatory to expect that the Congress would pass a piece of legislation that doesn't kick in until a decade hence, because the legally binding period doesn't start until 2008; and we decided that is an awkward thing to have in an existing piece of law, and we were hopeful that we could pass the restructuring electricity package that essentially would be dormant for a decade.

So, in the end, we didn't put it in our proposal, but nonetheless, we think when that time comes, unless there are some new policy instruments that people think about in the next decade, that a cap-in-trade kind of proposal would be one worth considering.

Mr. McINTOSH. So to make sure that I am following you there, the administration likes the idea, and after Kyoto is ratified, if that date occurs, then we can anticipate that being part of it. If restructuring comes up before that, then the idea you would anticipate has enough merit that the administration is probably going to say, take a look at it and we would like to see that happen?

Ms. McGINTY. I would think so, but I guess what I am reflecting is that I would imagine you would have the same question that we deliberated about, and assuming again, hopefully, the legislation can be taken up in the very near future when the Congress convenes in January or February, I would imagine that you would be faced with the same kinds of questions we were, which is that it may be nice to put this provision in now because it makes sense.

On the other hand, it would lie dormant essentially for a decade, and it is not the usual practice to pass things that don't kick in for a decade. We would look forward to engaging with you on that, but I imagine that you would have some of the same questions we did.

Mr. McINTOSH. I suppose it would be possible to advocate that it kick in earlier and we begin work on meeting the standards sooner. To some extent, the President has articulated that as a policy goal in a general sense.

Ms. McGINTY. I think it would be interesting to discuss voluntary approaches to jump-starting a trading system. The President has spoken along the lines of a credit for an early action kind of initiative; in other words, that industries that want to take advantage of this long lead time before we have any legally binding obligations under the Kyoto treaty, a decade, could do that, confident that they would get credit for taking actions today instead of waiting until 2008. And this whole idea of a credit for an early action type of system, which would be voluntary, is one of the things that comes out when we have dialog with the utility industries, as well as others.

Mr. McINTOSH. Wouldn't you want that credit to be entity-specific and not necessarily industry-specific? You might have some actors within an industry, the utility or transportation industry, who would be willing to go further, but if they are sharing the credit with everybody else, then they lose some of the incentive that——

Ms. McGINTY. I would imagine—lots of people have different design ideas about this, but I imagine it would be very much company-specific. So if the Acme Co. wants to do a project to reduce emissions, the Acme Co. would get credit for doing that.

Mr. McINTOSH. Hopefully, those types of credits could go back to the 1990 baseline, so if they have increased their productivity or output and can come back down, they can take that into consideration when——

Ms. McGINTY. I think that is one of the important points of discussion, one of the details that needs to be worked out, what would the appropriate baseline be.

Mr. McINTOSH. Do you know if EPA has a position on the cap-in-trade if utility restructuring comes up?

Ms. McGINTY. Well, I know that EPA would be able to present to you with regard to cap-in-trade programs, per se, a very successful story, whether it is SO_2 or the trading program that was used to remove lead from gasoline or the trading program that was part of the effort to reduce the production of chlorofluorocarbons. But at the end of the day, the administration's position is the position that we presented in the legislation that we sent forward, and all of our agencies are with that program, so to speak.

Mr. McINTOSH. On the question of efficiency standards for appliances, has CEQ worked with the Department of Energy on considering that as an option for implementing Kyoto?

Ms. McGINTY. Not as an option necessarily for implementing Kyoto, but as you might know, we have obligations pursuant to legislation passed by the Congress in 1992 to move forward on efficiency standards. The environmental—the Energy Policy Act of 1992 sets forward a program of putting in place efficiency standards for various appliances and things.

In fact, one of the ones that we were involved in was of interest, for example, to Mr. Regula and had to do with refrigerators—was the last one that we did; and he was interested in saying Whirl-

pool, for example, produces refrigerators, and they also produce other types of appliances.

What if you allow some companies, if they want, just generically to improve the efficiency of their product line overall, as opposed to each individual element of their product line, and my office was very much involved in hearing his ideas and then putting together an approach that would afford that flexibility.

Mr. MCINTOSH. Is there any effort to accelerate the schedules under that law?

Ms. MCGINTY. Not that I'm aware of.

Mr. MCINTOSH. The regulation of CO_2 as a hazardous pollutant under the Clean Air Act, I mentioned that EPA thought that they had authority to do that. Has CEQ worked with the EPA on that as an option to begin exercising authority under the Clean Air Act?

Ms. MCGINTY. We have not done any work in that regard, no.

Mr. MCINTOSH. And I guess have you worked with EPA on any other regulatory policies that would restrict greenhouse gases, and you mentioned some of the ones in the win-win scenario, but any others that come to mind?

Ms. MCGINTY. To the extent that there is an implication in your question that a regulatory approach would, by definition, not be win-win, I would want to debate that with you a little bit.

For example, these energy efficiency standards, which are DOE's, are going to save consumers billions of dollars because the energy won't be wasted.

I am trying to think if there is any regulatory program that we have or are currently working on with EPA, and none are coming to mind, although I do want to point out things like the clean air standards that the President put forward a year-plus—last summer, do offer ancillary benefits in reducing greenhouse gas emissions, so they are ancillary benefits. The standards, of course, were not promulgated for the purpose of reducing greenhouse pollution, but they would be helpful in that regard as well.

Mr. MCINTOSH. I am mindful that there is actually a tradeoff, and one example that came to my attention a few months ago is in the area of diesel engines, where there is a question about the standards for the long haul, as opposed to urban areas where you don't have compliance. And there was an effort to apply the more stringent urban standards in the longer hauls where there is less problem with the pollutant, and the tradeoff there is you have less efficiency in the engine and therefore you have more production of carbon dioxide, but you have less production of NO_X.

So, for certain things, we will have to make a tradeoff if they put CO_2 as a regulated pollutant between those two, and possibly others.

Ms. MCGINTY. I think there are examples like that. I wasn't necessarily aware of the one that you mentioned, but I remember in earlier Clean Air Act discussions, there are some types of scrubbers that you can put on utilities, for example, that reduce SO_2, but that make the plant less efficient.

It is those kinds of examples that lead the industry to come to us and say, let's see if we might bring all of these programs together so we take an approach that works for all of the objectives and goals we want to meet.

Mr. McINTOSH. Is there any work in the administration on a broad-based energy tax? And I know, early on in the Clinton administration, that was part of the tax proposal in 1993—I think it was referred to then as the BTU tax—but is there any current initiative in that area?

Ms. McGINTY. Not since the BTU tax.

Mr. McINTOSH. And you wouldn't anticipate any prior to Kyoto being ratified?

Ms. McGINTY. We have no such proposals or plans under way.

Mr. McINTOSH. Any fuel-specific excise tax like a coal tax or——

Ms. McGINTY. Nothing that I'm aware of, no.

Mr. McINTOSH. Any notion of a broad pollution or consumption tax?

Ms. McGINTY. Not that I'm aware of, no.

Mr. McINTOSH. Do you happen to know whether—and I understand Vice President Gore has been very active in this area, but whether Vice President Gore or President Clinton would have given any indication that the staff consider those for options, either prior, but more likely after Kyoto would be implemented?

Ms. McGINTY. We have been very much focused on these tradeable permit schemes, and that is why we have talked about those; and the President has had those, as he announced October a year ago what his program would be for reducing emissions. He spoke about cap-in-trade programs.

Mr. McINTOSH. Switching gears slightly, what efforts have there been, either so far or in consideration for the future, for an interagency effort to develop measures in the area of reducing greenhouse gases?

I talked briefly in my opening statement about the one Executive order on recycling that set up the new structure. Has there been a discussion about those interagency efforts?

Ms. McGINTY. Well, let me address specifically the recycling order; and I am glad you mentioned that, because I did hear you say that in your opening statement, and I wanted to come back to it.

The structure—that order has been on the books, so to speak, since 1993 or early 1994; I forget when it was promulgated. It is updated, and you had mentioned you thought that there was no consultation on that. In fact, it is updated specifically and directly because of industry commentary on what was working and not working on the earlier recycling Executive order.

Most specifically, industry came to us and said that the President—in 1993, said every agency should use recycled paper with 20 percent post-consumer content, and the industry was aware that there was a default provision in procurement forms at various agencies which, as a matter of default, automatically ordered paper that did not fit the specification the President had made.

This order was renewed or revised to address issues like that that industry raised. And, in fact, it was the product of a White House conference on recycling, followed by a White House conference that we called Closing the Loop, which all—all of which was about reforming the revisions to that Executive order.

Mr. McINTOSH. While we are on the Executive order, and I have a couple of other questions on that and we will jump to those, what

statutory authority does the administration have for putting "environmentally preferable products and services" and creating a preference for that?

Ms. McGINTY. Well, in fact, I think part of your question should be, how is it that the administration is so far behind in meeting requirements that the Congress laid out in the Research Conservation and Recovery Act 20 years ago? There was no work in previous administrations to meet the goals of RCRA. It is only under this Executive order that we are now beginning to meet what Congress told us to do under RCRA.

Mr. McINTOSH. Does that conflict with the Competition in Contracting Act?

Ms. McGINTY. I am certain that it does not, but I have to confess that I don't know all of the particulars of that act.

Mr. McINTOSH. What role would be envisioned for EPA and other executive environmental branch agencies for purchasing "environmentally preferable products and services"?

Ms. McGINTY. Those are called for under RCRA product specifications now, that have been devised to inform agencies on how to choose among products so they can pick those that are most environmentally preferable. And these things go to products like re-refined motor oil, for example; recycling of fly ash, for example; the paper recycling—post-consumer content and recycled paper, for example. There is a laundry list now of maybe 10 or more products that are—for which product specifications have been devised. I don't know them all off the top of my head.

Mr. McINTOSH. And will there be any effort to expand that list of products?

Ms. McGINTY. Yes, this is an ongoing effort pursuant to RCRA to try to identify across the product cycles products which are less, rather than more environmental damaging.

Mr. McINTOSH. What will be the applicability to State and Federal Governments that are contractors or grant recipients from the Federal Government? Will the Executive order apply to them?

Ms. McGINTY. There would be none that I'm aware of. This again just speaks to Federal agency procurement practices.

Mr. McINTOSH. And let me ask, will the list of products and the implementation of that policy be done also in compliance with the Office of Federal Procurement Policy Act, OFPP?

Ms. McGINTY. Sure. It will be done in compliance with every law and regulation.

Mr. McINTOSH. Good. Let me get back—I was wondering what type of processes were being set up. So you are telling me that this Executive order won't set up a new interagency process. Are there others that have been set up, or will be set up in the global warming area?

Ms. McGINTY. Well, we have had an interagency process that is focused on climate change since 1993.

Mr. McINTOSH. Let me recognize a member of the committee, Mr. Kucinich, who has an opening statement. And I asked unanimous consent earlier that they be included.

If you have any questions—we have gone through several, and I have more. I will at any time allow you to interject and ask questions.

Mr. KUCINICH. First, I want to thank Ms. McGinty for being here and your service to our country in an important capacity. I wish you well in your next move.

Ms. MCGINTY. Thank you.

Mr. KUCINICH. I have to apologize for coming late, and I am going to have to leave in a moment, but I wanted to recognize your service and also to ask you a couple of questions.

Has the CEQ completed its production of documents and answers to the questions? You have had a lot of questions that have been asked of you.

Ms. MCGINTY. Well, it has been an exhaustive process, Congressman. Yes, we have produced every responsive document that has been asked of us.

Mr. KUCINICH. And——

Mr. MCINTOSH. May I interject? Just to make sure that I understand that answer, you have produced it to the White House counsel.

We may not have received it, I don't think.

Ms. MCGINTY. We have produced 400,000 pages of documents to this committee. If there is still a need for additional reading materials, I suppose we could find something to produce.

Mr. MCINTOSH. Just so you and everybody knows, there is a set of documents that you've identified and the White House counsel indicates would be responsive, but for various reasons they are withheld.

Ms. MCGINTY. Sure. There is certainly a set of documents which is deliberative in nature, a very small set. It doesn't even come within the realm of the zeros of 400,000; it wouldn't even be a rounding error. But there are such documents, yes.

Mr. KUCINICH. Thank you for helping us clarify that, Mr. Chairman.

Ms. McGinty, what kinds of resources has it taken to comply with these requests?

Ms. MCGINTY. Enormous resources. Over 10,000 staff hours at a cost of more than half a million dollars to the U.S. taxpayers in order to comply with these requests.

Mr. KUCINICH. Have you proposed regulations on CO_2 or other greenhouse gases to meet the Kyoto Protocol?

Ms. MCGINTY. We have not.

Mr. KUCINICH. What about other greenhouse gas emission reduction goals?

Ms. MCGINTY. We have proposed no regulations that are designed to meet the Kyoto Protocol.

Mr. KUCINICH. Does CEQ, or do other agencies review particular policy options for reducing emissions such as efficiency standards or excise taxes as it relates to the President's climate change action plan or the Energy Policy Act?

Ms. MCGINTY. Certainly as it relates to the Energy Policy Act. We are working to implement that policy, as we are required to do pursuant to congressional directive.

Mr. KUCINICH. If you were limiting the protocol through backdoor regulation, would we be seeing some reductions in U.S. emissions?

Ms. MCGINTY. One would hope, and we hope that we will see those emission reductions anyway regardless of the treaty. It is in environmental and economic interests to reduce that pollution.

Mr. KUCINICH. I want to thank you, and I want to thank the Chair for his indulgence for giving me an opportunity to ask some questions. I look forward to continuing to work with you to try to come to a better understanding of these issues, and the best way to serve the American people and the world over these global issues. Thank you.

Ms. MCGINTY. Thank you.

Mr. MCINTOSH. I appreciate your interest in this. We may not always agree on the outcome, but I do appreciate your attention to these hearings.

Mr. KUCINICH. Thanks.

Mr. MCINTOSH. Ms. McGinty, 10,000 staff hours, my quick calculation for 6 months' time, that is about 100 staff doing nothing else.

Ms. MCGINTY. Sir, 22 agencies were asked over 600 questions, each question of which had many subparts. So folks up here have been working tirelessly as well.

Mr. MCINTOSH. So that was for all of the different agencies?

Ms. MCGINTY. Yes.

Mr. MCINTOSH. OK. Let me ask you, turning to the regulatory side, what environmental or energy regulations are being developed, not current ones that have been proposed or finalized, but new ones that would have the effect of reducing greenhouse gases?

Ms. MCGINTY. I am not aware of any off the top of my head. We did just put forward our proposals on reducing nitrogen oxide emissions, which I believe would have ancillary greenhouse gas pollution reduction benefits, but I am not currently aware of any that are specifically aimed at greenhouse gas emissions.

Mr. MCINTOSH. And let me expand that, significantly aimed to any that come to mind, whether it might have been a discussion of that being a beneficial policy that results from that?

Ms. MCGINTY. I should amend my answer in one respect.

Mr. MCINTOSH. By the way, I am going to have the record left open. If you and the staff have corrections, you can amend your answer to that.

Ms. MCGINTY. To come back to the energy efficiency standards under the Energy Policy Act, I don't know what the schedule is for those standards, but I do know there is a schedule, or an idea, that over the years there would be—different appliances would be subject to new efficiency standards; so I assume that there is some work going on at DOE in that regard, but I am not personally involved in it.

Mr. MCINTOSH. The NO_X regulation, is that the SIP call?

Ms. MCGINTY. Yes.

Mr. MCINTOSH. As I say, let's keep the record open and if there are others that come to your attention—usually, we keep it open for about 10 days. We will try to do that.

I don't mean to be playing "gotcha."

Ms. MCGINTY. I appreciate that. Thank you very much.

Mr. MCINTOSH. EPA testified before the subcommittee, as I mentioned earlier, that they did think that they had the authority to

regulate carbon dioxide. Are you aware of any plans to formalize that authority in issuing regulations about carbon dioxide?

Ms. McGINTY. No, I am not.

Mr. McINTOSH. Let me ask the question, can you commit, the administration won't issue that regulation until after the Kyoto Protocol has been sent to the Senate?

Ms. McGINTY. Well, again, even under the best of circumstances, it wouldn't be this administration in the year 2008, so I just can't anticipate what would be done at that time.

Mr. McINTOSH. How about up to 2001 or for the rest of this administration?

Ms. McGINTY. I'm sorry?

Mr. McINTOSH. I am with you on the others; it would be difficult to speculate on 2008.

Ms. McGINTY. We don't have any current plans to do so. So the answer would be "no" as far as any current plans in the timeframe that you are pointing to there.

Mr. McINTOSH. OK. Switching gears again back to the budget requests, one of the things that was disturbing as we were getting information, and this is more from OMB than your office, but there didn't seem to be a lot of performance measures attached to the requests; and having worked at White House policy development, one of the things that OMB was a stickler on with the agencies was how are we going to have a performance measure to determine and justify the spending request?

Could you give me, and I guess—we saw a document that described a chart that went through each of the spending requests and indicated the amount that was being sought, and I think it was in percentage terms. The chart itself wasn't attached to the version of the document that the White House Counsel showed us, and so I asked them to go back and try to locate that.

Could you tell me for the different spending requests that were part of the increase from $5 billion to $6.3 billion, what performance measures, if any, you know about that were used in justifying those?

Mr. McINTOSH. Well, the $6.3 billion request was informed by several things. The two most prominent of those things were the President's committee, PCAST, the President's advisory body on science and technology, which is a diverse, largely nongovernmental body which works with the Office of Science and Technology, had come up with a very thorough report recommending where we needed to increase our investments in the energy area, and specifically what kinds of investments we should make.

You will see that the President's proposal very closely tracks the recommendations of that diverse body, although we were not able to accommodate the full breadth of increased investments that they would have recommended.

The second area that informs those numbers are the agencies themselves in knowing the demand for some of the voluntary programs that they have, knowing their ability to absorb funding increases, and then to deliver from those.

I am aware, for example, just looking at a notation that it was anticipated or hoped that the Green Lights Program, which I think was launched when you were in the White House, and the Energy

Star Buildings Program, the increased funding we had requested for those would have gone toward 3,000 additional partnerships with industry and schools. That would have saved significant amounts of money and CO_2.

As you are aware, those programs already save—in 1997, saved $1 billion in energy bills.

At any rate, the requests came from the agencies and reflected their best judgment as to what additional funds they could effectively absorb.

Mr. MCINTOSH. Will you share with this committee those agency justifications?

Ms. MCGINTY. I am happy to ask OMB what data they have in that regard; and to the extent that it is relevant, I will be happy to share that with you.

Mr. MCINTOSH. Will the administration for next year—and you mentioned, hopefully, if we don't see progress in this year's appropriations, next year this will come back as an important item—that there will be performance measures attached to each of the subsets of that request?

Ms. MCGINTY. Well, I would assume that the Government Performance and Results Act would be relevant here, and I certainly will inquire as to what the implications of that are for the question that you are asking. I think we certainly should be presenting these things to you in a way that comports with the Government Performance and Results Act.

Mr. MCINTOSH. One of the questions that we asked and got an answer back saying we don't really have a baseline number for carbon dioxide emissions and other greenhouse gas emissions, which is mind-boggling because we have signed up, on the executive side at least, for reducing by 7 percent those emissions. But will the administration, I guess for next year's budget request, give us a baseline from which to evaluate what each of those programs will contribute toward the reduction of greenhouse gases? And so if it is the Green Lights Program, what was the CO_2 emissions resulting from using the less efficient bulbs and technology? What do we expect to save by implementing the additional participants in that program?

Ms. MCGINTY. I would like to find out why we haven't done that to date and respond to you for the record on that one.

Mr. MCINTOSH. That would be great.

See, in my mind, it seemed that it would almost be in the interest of the administration to have those numbers.

Ms. MCGINTY. So we could demonstrate the effectiveness of the program.

Mr. MCINTOSH. Yes; so I was surprised by the answers. One said, we don't have a baseline. Another one said, we can't evaluate the performance until the policy has been adopted. You don't want to try to make decisions that way.

Ms. MCGINTY. If you haven't received the information that you have asked for, I am not aware why that would be, and I am happy to look into why that might be.

Mr. MCINTOSH. Thank you. And let me also state if it doesn't exist, which may be an answer, that the administration try to com-

pile that information so we can have that put into the policy debate.

We had talked about the Executive order, and the other question in that area was, I understand—this was one of four planned Executive orders. What are the subject areas? Are there plans for other Executive orders in the environmental area to come, either the rest of this year or in the next 2 years in the administration?

Ms. McGINTY. There are a number of Executive orders that are—that have been in existence probably predating us, but certainly ones that we had put forward, the President had issued in 1993–94, I think some in 1995, that are relevant to this set of issues: Executive orders specifically speaking to energy usage by the Federal agencies, Executive orders looking at water conservation measures the agencies might undertake, Executive orders calling for procurement of Energy Star computers, for example, to promote the use of those products.

So these Executive orders are outstanding. We constantly review and, like the recycling Executive order, try to update them and make sure that they make sense and are being implemented, make sure that the agencies are performing under them; or if they are not, are there any reasons why they are not. Those orders are there, and the agencies are operating pursuant to them.

Mr. McINTOSH. Let me ask if you know about Executive orders in these areas: for reduction of motor vehicle gasoline and diesel fuel consumption, is there any thought of an Executive order toward that policy?

Ms. McGINTY. We do have an Executive order that talks about the use of alternatively fueled vehicles, and that Executive order was promulgated pursuant to the Energy Policy Act. So that does exist, yes.

Mr. McINTOSH. Do you have any plans to update that?

Ms. McGINTY. None that I am aware of in terms of a schedule or a definite plan to do that. But again we try to make sure that those things are working and that the agencies are operating pursuant to them.

Mr. McINTOSH. Does that currently include the Defense Department? I don't remember.

Ms. McGINTY. Nor do I.

Mr. McINTOSH. If you could, for the record, let me know.

Ms. McGINTY. Sure.

Mr. McINTOSH. And if there is any plan to expand it to them.

CAFE standards, we talked about earlier.

Any decreased use of petroleum in federally owned or federally leased buildings, I guess for some of the boilers in heating federally owned buildings, is there any thought of an Executive order addressing that?

Ms. McGINTY. Not that I am aware of.

That issue came up in the context of the President has been interested in the idea of energy services companies, these ESCO's, which act as middlemen, so to speak, and enable significant reductions in energy bills because of their investments that they make in improving energy efficiencies.

I do know some of the agencies, while thinking that was a good idea, felt themselves unable to fully take advantage of that oppor-

tunity where they leased buildings rather than owned them, because they can't then do the necessary building retrofits that would lead to the energy savings.

It is an issue in that regard, and I have heard it raised in that context.

Mr. McINTOSH. You mentioned the Star computers. Any thoughts for a more expansive approach to equipment purchased by the Government on energy efficiency?

Ms. McGINTY. Not that I am aware of, but we have worked hard to expand the Energy Star Computer Program which now applies to a number of different kinds of appliances and equipment. Printers, for example, now have an Energy Star Program attached to them, and there are others that I am not recalling, but we have worked to expand that successful program.

Mr. McINTOSH. Just a couple more questions. One, CEQ is responsible for implementing NEPA and particularly the environmental impact statements?

Ms. McGINTY. Yes.

Mr. McINTOSH. I think it was your response, when we asked if the policy developed by the White House would be subject to an environmental impact statement, that while agencies are subject to NEPA, NEPA doesn't cover the President?

Ms. McGINTY. That's right.

Mr. McINTOSH. Which is an accurate description of law, but if the administration moves forward with a policy on implementing global climate change policy in an effort to meet reductions adopted in Kyoto, would that be subject to an environmental impact statement?

Ms. McGINTY. Well, if it were an action that the President himself were to take, no, it would not be subject to the environmental impact statement process.

As many different Presidential actions aren't subject to various requirements of the law, the President's ability to enter into and execute international trade agreements, for example, none of these things are subject to the full provisions of the National Environmental Policy Act.

But again let me——

Mr. McINTOSH. By the way, do you think that is a good idea for something like the Kyoto Protocol?

Ms. McGINTY. Sure. I think it is absolutely the right idea in terms of the President's ability to act in a way that affords him the ability to act in a quick and decisive and efficient way.

Mr. McINTOSH. I agree in general on all of that for all sorts of reasons, but when he is negotiating a policy that directly affects the environment——

Ms. McGINTY. But the flip side of it is, while his ability to negotiate is not conditioned on the national environmental policy, for example, as we know, the treaties so negotiated have no force and effect in the United States unless the Senate acts to ratify them and unless the Congress as a whole acts to put in place an implementing regime.

Mr. McINTOSH. Do you think, as a matter of prudence, maybe not as required by law, that the Government and the Congress should have that type of impact statement?

Ms. McGINTY. I actually think it would be impossible to implement such a thing. To take, for example, some of the international—just international negotiations of any sort on any subject, to have to present to the public the full panoply of what negotiating positions you might take and ask for everybody's comment would sort of blow the surprise, if you will.

Mr. McINTOSH. Yes; I shifted gears and wasn't being clear.

After the President, if he does sign the protocol, is satisfied that there is significant participation in the different criteria that he has laid out and he then sends it to the Senate to be ratified, in that time period, as a matter of prudence, do you think that it would be a good idea to have that type of environmental impact statement for policy decisionmakers?

Ms. McGINTY. There is a requirement in the law for something called a legislative EIS. So when legislation is proposed by various agencies, whatever the agency might be, there is a requirement to do a legislative EIS.

Mr. McINTOSH. Is that as extensive, do you know?

Ms. McGINTY. I think it is usually a less extensive effort because the idea is, this is the greatest deliberative body in the world and so——

Mr. McINTOSH. At least the Senate is.

Ms. McGINTY. Yup.

Mr. McINTOSH. No disagreement, right?

Ms. McGINTY. So the public comment process, anyway, is respected and reflected in the congressional proceedings.

Mr. McINTOSH. I might pursue—I haven't reflected on it, but I might pursue with some of my colleagues over there to see if we might engage on that. I understand your point about negotiations and the difficulty of that.

Let me just ask one last question, I guess, and this is sort of in the what-if category, so it is speculation rather than definitive answers. But if we get to the point where a global trading system isn't working either because the developing countries refuse to have caps or sign up for even voluntary limits on their emissions, or don't want to participate for some other reason, or the European countries continue to resist that being able to count toward what we are doing in meeting the requirements for reductions of greenhouse gases, then what are the most likely steps in that scenario if we can't get to that effective trading system that the United States would take domestically to meet our obligations under the Kyoto Protocol?

Ms. McGINTY. Well, let me share a couple of reflections.

First, the economics of the question you pose are interesting because there is an argument that it is not necessarily in the United States's interest to have 100 percent, full European participation in the emissions trading regime. As you know, our economic analysis demonstrates that the costs of implementing the treaty would be on the order of $14–$23 a ton.

The lesser number actually comes about if the European Union doesn't participate, but if we are trading only with the, what we have referred to as the umbrella group—in other words, Russia, Japan, the United States, Australia, New Zealand and a couple of other countries that we are talking about in that regard—and the

higher number eventuates if the EU is in more effectively than they would be just under an umbrella group trading regime alone.

The second thing that I want to say on this is that there was a very important provision that was—that we very strongly focused on and negotiated in the last hours of the Kyoto treaty negotiations, and it had to do with exactly your question.

The penultimate draft of the Kyoto Protocol would have said that, in the event that there is obstruction or opposition to putting the rules of the road in place, if you will, for an emissions trading regime, the default is that there is no trading. The trading system won't go through.

We fought that so that the ultimate draft makes the default a fully effective trading regime. Whether or not other countries want to play, we would have full authority, license, ability, with credit, to be able to engage in emissions trading regimes.

Mr. MCINTOSH. Is that spelled out or is that default by silence?

Ms. MCGINTY. I think it is fairly clear. It's not just default by silence, but it is clear that emissions trading is a provision of this protocol full stop, regardless of what happens in these rules-of-the-road discussions.

I think the final point that I would say on this, which strikes me as we have these discussions sometimes in the hypothetical sense or in the sense of what is going to happen down the road, the fact is that trading in carbon dioxide is a reality now. The Chicago Board of Trade now does trade CO_2 futures. The International Petroleum Association, out of the U.K., is trading in CO_2. Industry is so far ahead of us on this one; it is happening as we speak.

Mr. MCINTOSH. Well, if those trading programs don't meet the requirements, are there plans in the administration for what the fallback would be domestically, either through regulation or——

Ms. MCGINTY. Let me say that—as you said as a hypothetical, that is one that we have not pursued because the President has been very clear in terms of what the must-haves, if you will, of a climate regime look like if we are fully to participate.

One is that we have to have our flexibility mechanisms. We have to be able to do this trading. The others you are aware of, the meaningful participation by developing countries, for example.

Mr. MCINTOSH. And so there are no plans which say if we don't reach these, this would be our first fallback, this is our second and this is our third, et cetera?

Ms. MCGINTY. No; and our having recognized the Kyoto Protocol as a good document, a successful document, a step in the right direction, is in no small measure because of these very provisions, namely the flexibility provisions.

Mr. MCINTOSH. Let me pursue a slightly different avenue in this area. Recently, when the President was—I think it took place in Britain, meeting with the industrialized countries, he indicated there would be substantial efforts taken domestically. Are there plans—specific plans backing up that commitment?

Ms. MCGINTY. Sure, our Partnership for a New Generation of Vehicles, our Climate Challenge Program where 640 utilities in the United States of America are reducing their emissions. We have a program that is reducing those emissions now.

Congressman Kucinich was right. The overall trajectory is the amount of pollution coming out of the United States is on the rise, not on the decline, but it is less than it otherwise would have been because of the investments being made now by U.S. industry.

Mr. MCINTOSH. And the policy plans don't go beyond those programs?

Ms. MCGINTY. You have the full panoply of what the President's policy is. The efforts that we have undertaken voluntarily with industry, and to come back to where we started, the things that he has proposed to this Congress in the appropriations process and that we would dearly hope to change the Congress' mind on, to achieve some partnership in that regard.

Mr. MCINTOSH. I have no further questions, and I can see that my colleagues have no further questions.

Ms. MCGINTY. They are on the edge of their seats.

Mr. MCINTOSH. Let me again thank you for coming. And as I understand it, you will be heading out on some missionary work, if I can categorize it that way, overseas, and I wish you the best.

Ms. MCGINTY. Thank you, Mr. Chairman.

Mr. MCINTOSH. With that, the committee is adjourned.

[Whereupon, at 1:25 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Statement of Rep. Dennis J. Kucinich
Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs
October 9, 1998 Hearing on Global Warming, Part VIII

Let me begin by welcoming Chairwoman McGinty and thanking her for taking the time to be with us. During today's hearing --unbelievably, the 8th on this issue -- the Chairman hopes to find or expose evidence that the Administration has considered possible regulatory approaches to deal with the problem of global warming. First, I'd like to point out that I hope and expect that we did consider all the options: regulatory, voluntary, state, federal, and local, for reducing emissions in a cost-effective way. Indeed I think it is the obligation of agencies to consider what options we could consider to meet the objectives of the Protocol so that we know what would be required and can engage in an informed ratification debate.

But I also hope that Ms. McGinty can help remind us of the history of this issue and the context we are operating in. For it is not the Clinton Administration's actions that bring us here today, but the actions of the Bush Administration when it signed the Framework Convention on Climate Change in 1992. The Convention, though voluntary in nature, set an objective of achieving stabilization of greenhouse gases in the year 2000. Under Article 4.2 of the Convention, the U.S. and all other 170 parties to the agreement, are

required to, quote:

1) "take climate change consideraions into account...in their relevant social, economic, and environmental policies and actions;"

2) "adopt national policies and take corresponding measures" to reduce anthropogenic emissions of greenhouse gases; and

3) "promote and cooperate in the development, application, and diffusion, of technologies, practices and processes that control...emissions...in all relevant sectors, including the energy, transport, industry, agriculture, forestry, and waste management sectors."

The U.S. clearly agreed to consider options for reducing emissions and to examine and share policy alternatives for achieving reductions.

In fact, in 1992, the Bush Administration's National Action Plan to address climate change explicitly included, quote, "undertaking regulatory actions, including the setting of standards," and a program to "promote sensible utility regulation and legal frameworks" in its plan to reduce emissions and implement the Climate Change Convention mandates. State and local efforts to design action plans that examine a range of policy options to reduce emissions were begun by Bush.

Apparently, under the Chairman's logic, efforts to make good on commitments made by former President Bush all smack of "backdoor," stealth

actions to implement the Kyoto treaty.

Finally, I again must point out that while the Chairman has chastised CEQ and other agencies for failing to respond to voluminous document requests to his satisfaction, the agency has turned over thousands of pages of material, and has willingly complied with repeated requests for information. CEQ has only 18 employees and only two of them work on the global warming issue. While the Chairman demands copies of deliberative and sensitive documents, he still has refused to enter into a document protocol with the Minority. I hope that the sensitive nature of these documents will be respected, particularly in light of the fact that they concern ongoing efforts to negotiate an international treaty.

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INDEPENDENT

October 1, 1998

BY FACSIMILE

The Honorable Charles F.C. Ruff
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Ruff:

This letter requests a limited number of climate change documents based on the 161 written descriptions of Presidential and Vice Presidential records (which includes over 300 different documents) provided yesterday by your staff and for which further information was provided orally today by your staff. These documents were located in response to subpoenas issued in June and August 1998 by House Government Reform and Oversight Committee Chairman Dan Burton to three Executive Office of the President and four other Executive Branch agencies. The subpoenas included documents originally requested in March 1998.

I am hereby requesting a copy of each of the documents indicated in the attachment by October 7, 1998. They are needed for a hearing on October 9th with Chair Kathleen McGinty. For those documents that will not be provided, I am requesting a letter from the President indicating for each document what specific privilege is being asserted and why.

I look forward to your prompt receipt.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

Attachment

Requested Documents

- OSTP #19 - to the Vice President, McGinty et al. - Presidential Review Directive/NEC re Measures to Reduce Greenhouse Gas Emissions from Personal Motor Vehicles

- Treasury #9/CEA #9 - 10/97 Yellen, Summers et al. to the President - memorandum re Economics of Climate Change Policy

- Treasury #11/CEQ #11/CEA #20 - 10/18/97 McGinty et al. to the President - memorandum re Presidential climate change policy decisions

- Treasury #13/CEQ #5/CEA #24 - 11/30/97 McGinty et al. to the President - Stern cover memo and memorandum re progress of Kyoto negotiations and Kyoto negotiating guidance

- OMB #10 - 12/9/97 McGinty to the President - Environmental Budget Issues

- CEA #26 - 2/6/98 McGinty et al. to the President - decision memo re Kyoto Protocol and White House staffing transmittal memo

Questions for CEQ to Elaborate for the Record

Q1. What environmental and energy regulations are being developed that have or will have the effect of reducing greenhouse gas emissions? When are each of these expected to be proposed for public comment? When are each expected to be issued in final?

Q2. In October 1997, the President announced a +$5.0 billion White House Initiative on Global Climate Change. Please explain the rationale for the 26% increase in the requested budget (from +$5.0 billion to +$6.3 billion) for this initiative during the less than four-month period between the initiation, which was before the December 1997 Kyoto Conference, and the early 1998 submission of the President's Budget to Congress, which was after the Kyoto Conference.

Q3. The President's Fiscal Year 1999 Budget included a very limited number of program performance measures for existing and proposed climate change programs and activities. Will the Administration identify one or more specific program performance measures for each requested funding increase for climate change in the President's Fiscal Year 2000 Budget to be submitted to Congress in early 1999? If not, why not?

Q4. For each climate change program with an outcome performance measure, will the Administration have 1990 base year, budget year 2000, and Kyoto end-period year 2012 data so that Congress can evaluate its contribution to the reduction of greenhouse gas emissions? If not, why not?

Q5. What specific policies are under review for new or amended environmental executive orders? For each of the following, please discuss the specific options under consideration:

(a) reduction of motor vehicle gasoline and diesel fuel consumption, including for the Defense Department;

(b) increased use of alternative fueled vehicles, including for the Defense Department; and

(c) stricter CAFE standards for automobiles used by the federal government, including for the Defense Department.

THE WHITE HOUSE
WASHINGTON

October 7, 1998

BY HAND

The Honorable David McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman McIntosh:

This is in response to your letter of October 1, 1998.

We are producing herewith the first document on your index, a Presidential Review Directive. In addition, we are providing the responsive portion of the fifth document on the log, a draft memorandum of December 9, 1997, from Kathleen McGinty to the President. We have redacted nonresponsive portions (i.e., those dealing with matters unrelated to climate change) to avoid raising privilege and separation of powers concerns needlessly. We trust that these documents will be treated confidentially. It is our understanding that, under House rules, they cannot be released publicly without a vote of the full Committee that subpoenaed them.

The remaining four documents on your index are memoranda to the President reflecting policy advice from his most senior advisers. Those advisers need to formulate and render their views in confidence. To strip this process of confidentiality would chill the deliberative and analytic process that is integral to the ability of senior advisers to provide candid advice and assistance to this President, and to future Presidents.

We have tried hard to reach an accommodation with the Subcommittee that encompassed the whole range of deliberative documents and that balanced the Subcommittee's oversight needs with the President's need to receive advice in confidence from his senior aides, and we wish to continue these efforts. Nonetheless, as I discussed with Ms. Webber this afternoon, we feel strongly that the four remaining documents do lie at the heart of the President's need to obtain the candid advice of his advisers, and we are prepared to assert Executive Privilege as to these memoranda.

The Hon. David McIntosh
October 7, 1998
Page 2

That said, we remain committed to working with the Subcommittee and to reach accommodations that address its and our concerns.

Sincerely,

Charles F.C. Ruff
Counsel to the President

Enclosure
cc: The Honorable John Tierney

Report Card: October 1998

Responsiveness to Subcommittee's March 1998 Inquiries on the Administration's Global Climate Change Initiative

Agency	Answers to Questions	Production of Documents
CEA	C-	C-
CEQ	D	C-
OMB	C	C
OSTP	C	C
Agriculture	INCOMPLETE	F
Energy	C	D
Interior	INCOMPLETE	INCOMPLETE
State	D-	INCOMPLETE
Treasury	C	A
EPA	C	B+

This document prepared for Congressman David M. McIntosh

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INDEPENDENT

October 14, 1998

BY FACSIMILE

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

Dear Chair McGinty:

Thank you for testifying last Friday before the House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs on the White House Initiative on Global Climate Change.

Your staff asked us to submit in writing the questions I posed on Friday for which you agreed to provide more information within ten days. I have attached them. If you have any questions about them, please contact Professional Staff Member Barbara Kahlow at 225-4407.

Thank you for your attention to this matter.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

Attachment

cc: The Honorable Dan Burton
The Honorable John Tierney

Rec'd 12/3/98

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

→ CALL IN 12/3 (9x.)

12/9 [illegible]

December 3, 1998

The Honorable David M. McIntosh
Chairman, Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs
United States House of Representatives
B-377 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman McIntosh:

Enclosed are written responses to questions posed by you in your letter of October 14, 1998 to former Chairman Kathleen McGinty. Your letter arrived following Ms. McGinty's testimony before the House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs on the White House Initiative on Global Climate Change on October 9, 1998.

These responses, unfortunately, were not completed before Ms. McGinty's departure from CEQ. Nonetheless, the CEQ staff has completed and reviewed them. I hope they provide the necessary information to complete the October 9 testimony record.

Thank you for your cooperation.

Sincerely,

George T. Frampton, Jr.

George T. Frampton, Jr.
Acting Chairman

Attachment.

cc: The Honorable John F. Tierney
Ranking Minority Member

Recycled Paper

QUESTIONS FOR THE RECORD FROM CEQ FOR CHAIRMAN MCINTOSH

Q1. What environmental and energy regulations are being developed that have or will have the effect of reducing greenhouse gas emissions? When are each of these expected to be proposed for public comment? When are each expected to be issued in final?

A1. A number of regulations being developed within the Federal Government may have the effect of reducing greenhouse gas emissions. DOE and EPA, for example, may have such regulations. Attached, please find the recently published Regulatory Agenda from the Department of Energy, which provides information on, among other things, Energy Efficiency and Renewable Energy regulatory actions. Attached also, please find the recently published Regulatory Agenda from the Environmental Protection Agency, which provides information on, among other things, Clean Air Act regulatory actions. CEQ often does not become aware of a new regulation until it is submitted for clearance within the Executive Branch. For more detailed information, this question may be better directed to specific agencies where regulations originate.

Q2. In October 1997, the President announced a +$5.0 billion White House Initiative on Global Climate Change. Please explain the rationale for the 26% increase in the requested budget (from +$5.0 billion to $6.3 billion) for this initiative during the less than four-month period between the initiation, which was before the December 1997 Kyoto Conference, and the early 1998 submission of the President's Budget to Congress, which was after the Kyoto Conference.

A2. There are several reasons the funding level increased from $5 billion to $6.3 billion. First, the final proposal reflected revised revenue and tax estimates not available at the time of the October announcement. Second, the final proposal reflected the final report of the President's Committee of Advisors on Science and Technology (PCAST). That report called for an aggressive Federal effort to accelerate the development and deployment of energy efficient and low-carbon technologies. At the Hearing on October 9, Chairman McGinty indicated that she would ask OMB what data they have in regard to agency justifications for the $6.3 billion request. She further said that to the extent it is relevant, she would be happy to share that data with Chairman McIntosh. OMB has been asked for all relevant data and has indicated that performance and supporting information for the $6.3 billion request was provided to the Subcommittee on May 13th, June 9th, July 27th, and in response to the subpoena.

Q3. The President's Fiscal Year 1999 Budget included a very limited number of program performance measures for existing and proposed climate change programs and activities. Will the Administration identify one or more specific program performance measures for each requested funding increase for climate change in the President's Fiscal Year 2000 Budget to be submitted to Congress in early 1999? If not, why not?

A3. The agencies with climate change programs provided the Subcommittee with funding and

performance information that fully justifies the President's FY 1999 Budget. We expect that agencies will have additional measures as part of the FY 2000 Budget.

Q4. For each climate change program with an outcome performance measure, will the Administration have 1990 base year, budget year 2000, and Kyoto end-period year 2012 data so that Congress can evaluate its contribution to the reduction of greenhouse gas emissions? If not, why not?

A4. We expect that agencies with climate change programs will have performance information and materials that support and provide sufficient justification for Congress to evaluate the President's FY 2000 Budget. Since the Administration has stated numerous times that it will not implement the Kyoto Protocol prior to Senate ratification, the FY 2000 Budget will not have emissions data related to the 2012 Kyoto target.

Q5. What specific policies are under review for new or amended environmental executive orders? For each of the following, please discuss the specific options under consideration:

(a) reduction of motor vehicle gasoline and diesel fuel consumption, including for the Defense Department;

(b) increased use of alternative fueled vehicles, including for the Defense Department; and

(c) stricter CAFE standards for automobiles used by the federal government, including for the Defense Department.

A5. In October 1997, the President announced, as part of the Administration's climate change policy, initiatives to improve Federal energy management. To further this goal, the Administration is considering a number of ways it can promote within the Federal government acquisition of energy efficient products and services, including renewable energy. It is also considering ways it can increase Federal fleet fuel efficiency and acquisition and use of alternative fuels and alternative fueled vehicles. Finally, it is examining how it can take a leadership role in pollution prevention and reduction and sustainable design and development. If adopted, these proposals could take the form of executive orders or other executive agency actions. As former Chairman McGinty testified on October 9, 1998, the Administration already has an executive order, promulgated pursuant to the Energy Policy Act, that addresses the use of alternatively fueled vehicles.

(a) The Administration is considering a number of ways to reduce overall petroleum consumption by motor vehicles by all Federal executive agencies, consistent with

statutory authority, including increasing the acquisition of more fuel efficient vehicles, reducing the number of vehicle miles traveled, promoting alternate modes of transportation (e.g. transit), and enhancing the acquisition of alternative fuels and alternatively fueled vehicles.

(b) Similarly, the Administration is considering alternatively fueled vehicles as a method to reduce overall energy consumption by motor vehicles by all Federal executive agencies.

(c) The Administration is not considering stricter CAFE standards for the Federal fleet.

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BERNARD SANDERS, VERMONT
INDEPENDENT

December 9, 1998

BY FACSIMILE

The Honorable George T. Frampton, Jr.
Acting Chairman
Council on Environmental Quality
Old Executive Office Building
Washington, D.C. 20503

Dear Mr. Frampton:

This letter responds to your December 3, 1998 reply to my October 14th questions for Chair Kathleen McGinty after her October 9th testimony before the House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs on the White House Initiative on Global Climate Change. The answers you provided are unacceptable because they are largely nonresponsive to the questions posed. In light of the possibility that you will be nominated and confirmed as Chairman, I hope and expect that you will provide complete and responsive answers.

First, it is most unacceptable for you to respond to the Subcommittee's request for a list of regulatory actions that may result in the reduction of greenhouse gases by essentially telling the Subcommittee to "go find it yourself." Yet this is precisely what you did when you responded to that question by forwarding to the Subcommittee the regulatory agendas published in the Federal Register by the Department of Energy and the Environmental Protection Agency. I cannot believe that the agency within the Executive Office of the President that is charged with coordinating government-wide environmental policy cannot easily identify the regulations requested. Unless you will respond directly and completely to this question, I can only conclude that you are deliberately seeking to conceal those regulations from the Subcommittee. Please provide such a response.

Second, your response to my question three, asking whether the Administration will identify one or more specific program performance measures for each requested funding increase for climate change in the President's Fiscal Year 2000 Budget and if not, why not, is inadequate. Your reply merely stated: "We expect that agencies will have additional measures as part of the FY 2000 Budget."

This answer does not inspire confidence that the Administration is committed to the principles set forth in the Conference Report for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for 1999 (the VA-HUD Act). That report states: "To the extent future funding requests may be submitted which would increase funding for climate change activities . . . the Administration must do a better job of explaining the components of the programs, their anticipated goals and objectives, . . . a discussion of how success will be measured . . . ." Please identify those programs that you believe would be subject to this language, the performance measures being considered for each of those programs, and the steps the Administration is taking to ensure that the President's budget request will set forth such performance measures.

Similarly, your response to my question asking whether the Administration will include 1990 base year and budget year 2000 data for all outcome performance measures that may contribute to the reduction of greenhouse gas emissions was incomplete. Your reply did not address 1990 base year data at all. Since the Administration recently signed the Kyoto Protocol, which calls for reductions from the 1990 base year, it is important to know the 1990 base year data for each outcome performance measure that may contribute to the reduction of greenhouse gas emissions.

The particular matters referenced in this letter are merely examples of the incompleteness of your entire response. Accordingly, please review all of your December 3rd answers for responsiveness and completeness. Currently, only answers to subparts (a) and (c) of question five appear to be complete and need not be reviewed. Please provide complete responses not later than noon on December 23, 1998 and deliver them to the Subcommittee offices in Room B-377 Rayburn House Office Building. If you have any questions about this request, please contact Professional Staff Member Barbara Kahlow at 225-4407.

Thank you for your 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
The Honorable Joe Knollenberg
The Honorable Larry Craig
The Honorable Mike Enzi
The Honorable Chuck Hagel

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

Get 12/31/98
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December 29, 1998

Honorable David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs
B-377 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your December 9, 1998 letter regarding questions submitted to former Council on Environmental Quality (CEQ) Chairman Kathleen McGinty. In your letter, you expressed concern that CEQ's answers to your questions were unresponsive. I can assure you that during my years of government service I have taken the responsibility of Congress to conduct oversight very seriously and am committed to providing thorough and timely responses to oversight requests.

It is my understanding that during the course of this year, CEQ has responded to a large number of requests and subpoenas from your Subcommittee related to climate change. The CEQ staff have spent over 500 hours and produced over 7,000 pages of documents to the Subcommittee as of October. Furthermore, it is my understanding that over 10,000 staff hours and over 400,000 pages of documents Administration-wide have been provided to the Subcommittee.

Despite the thorough and extensive work completed to respond to your numerous requests this year, I have asked the CEQ staff to conduct yet another review of our responses to your latest questions. While I believe that our previous response was complete and responsive, please find attached a supplemented version of these responses.

I look forward to working with you on climate change and other important issues as the 106th Congress begins. I am sure that we can work together in a productive manner to accommodate the Subcommittee's oversight interests and the interests of the executive branch to carry out and develop policies to protect public health and then environment.

Sincerely,

George T. Frampton Jr.

George T. Frampton, Jr.

cc: Honorable John Tierny

Recycled Paper

CEQ SUPPLEMENTAL RESPONSES TO QUESTIONS FROM CHAIRMAN MCINTOSH

Q1. Please provide the Subcommittee with a list of regulatory actions that may result in the reduction of greenhouse gases.

A1. CEQ's role is to coordinate policies of the environmental federal agencies and to work with these agencies to resolve policy disputes. Within the Executive Office of the President, it is the role of the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget to coordinate and review all regulations. Therefore, CEQ may not become aware of a regulation until OIRA circulates the regulation for review within the Executive Branch. CEQ itself does not develop regulations.

Our previous response attempted to guide you to the agencies with responsibility for promulgating environmental and energy regulations. However, in an effort to address your concerns, we again contacted both EPA and DOE regarding regulations that may be responsive to your question. It is our understanding that both of these agencies have responded to the same question posed by the Subcommittee. Therefore, please find attached responses previously provided by EPA (attachment 1) and DOE (attachment 2) regarding what environmental and energy regulations are being developed that may have the effect of reducing greenhouse gas emissions. In addition, we understand that EPA is currently in the process of responding to your December 2, 1998 letter which requests the Agency's regulatory agenda related to climate change for 1999.

Q2. Please provide one or more specific program performance measures for each requested funding increase for climate change in the President's Fiscal Year 2000 budget. If not, why not.

A2. The rationale for the Climate Change Technology Initiative funding level was described in the previous response. To elaborate, in the normal budget process final decisions on the President's budget are made in December and January after taking into account economic factors and revenue estimates. Because the President's Plan was announced in October of 1997, final decisions on overall program funding levels and tax incentive levels had not yet been made. Furthermore, the President's Committee of Advisors on Science and Technology report was published in November 1997 and many of its recommendations for increased R&D spending were subsequently incorporated in the President's budget. We, again, respectfully refer you to the responses to this question provided by OMB to the Subcommittee on May 13th, June 9th, July 27th, and the June 26th Subpoena for even further elaboration.

Q3. Please identify those programs that you believe would be subject to this language, the performance measures being considered for each of those programs, and the steps the Administration to taking to ensure that the President's budget request will set forth such

performance measures.

A3. It is our understanding that the agencies will provide the Congress with specific performance measures for climate change programs for which funding is requested in the FY2000 budget. CEQ is currently in the process of working with OMB and the agencies to develop the President's FY2000 Budget. I can assure you that the Administration is committed to fulfilling the requirements of the Government Performance and Results Act as well as doing a better job of explaining the programs in the Climate Change Technology Initiative and the Global Change Research Program. When the budget is submitted to Congress in February 1999, we would be happy to work with you to ensure that the Subcommittee is fully briefed on and fully understands (1) the FY2000 funding requests related to climate change and (2) the specific performance measures related to these funding requests.

Q4. Will the Administration include 1990 base year and budget year 2000 data for all outcome performance measures that may contribute to the reduction of greenhouse gas emissions?

A4. It is our understanding that the DOE and EPA climate change programs are generally not measured against a 1990 base year. For example, in the case of appliance standards, DOE measures the effectiveness of the standard relative to the date of enactment of the standard. In the case of voluntary programs, the agencies measure performance against "business as usual" where the less efficient technologies or practices would have been in place absent the program. Performance measures are based on the goals and design of the particular program. To help further describe these measures, please find attached EPA (attachment 3) and DOE (attachment 4) responses to the Subcommittee regarding this issue.

Q5. What specific policies are under review for new or amended environmental executive orders? For each of the following, please discuss the specific options under consideration:

(a) reduction of motor vehicle gasoline and diesel fuel consumption, including for the Department of Defense.

(b) increased use of alternative fueled vehicles, including the Department of Defense; and

(c) stricter CAFE standards for automobiles used by the federal government, including for the Department of Defense.

A5. No supplemental information.

Nov. 13, 1998 response

Question 13: Does EPA plan to revise any existing rules or propose any new rules relating to climate change (including regulatory actions that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the regulatory action?)

Answer: EPA plans to complete rulemaking action on two regulatory proposals relating to climate change under the authority of section 612 of the Clean Air Act, which directs EPA to review overall risks to human health and the environment posed by substitutes for ozone-depleting substances:

> In May, 1997, EPA proposed to list a blend containing HFC-23 as an unacceptable substitute refrigerant in selected end-uses where several other refrigerants have already been listed as acceptable. EPA expects to promulgate the final rule in late 1998.
>
> EPA has proposed to list HFC-134a and HFC-152a as unacceptable for use in self-chilling beverage cans. These cans operate through the release of refrigerant to the atmosphere. EPA began this rulemaking in mid-1997 and expects to promulgate the final rule in the summer of 1998.

Analytical support for each proposal is attached. These proposals were made under the Significant New Alternatives Policy (SNAP) program, which was established in regulations issued on March 18, 1994 (59 FR 13044). The SNAP program is intended to expedite movement away from ozone-depleting substances by identifying substitutes that offer lower overall risks to human health and the environment. One factor EPA has consistently considered under the SNAP program is a potential substitute's global warming potential. The SNAP program was established, and the two pending regulatory proposals were issued, well before adoption of the Kyoto Protocol. Neither was initiated in response to, nor in anticipation of, the Kyoto Protocol.

EPA also will soon publish a proposal under section 608(c)(2) of the Clean Air Act, which prohibits the knowing release of substitutes for ozone-depleting refrigerants during the maintenance, service, repair, or disposal of air-conditioning and refrigeration equipment, unless EPA determines that such release does not pose a threat to the environment. The proposed rule would establish a recycling program for substitutes with significant global warming potential, including hydrofluorcarbons (HFCs) and perfluorcarbons (PFCs), very similar to the recycling program currently in place for ozone-depleting refrigerants. The proposal was developed with the support of the air-conditioning and refrigeration industry. A cost-benefit analysis has been developed and will be provided with the proposed rule.

Answers to question 20-28 address regulatory proceedings (some completed and some currently underway) that relate to criteria air pollutants and may have indirect effects on emissions of carbon dioxide and other greenhouse gases. With regard to analyses of the cumulative effects on the U.S. economy and/or energy system of all or any combination of regulations that were issued since 1992, please see the response to question 26.

May 15, 1998 response

→ The Effects of EPA Regulatory Actions on Greenhouse Gas Emissions (Questions 20 – 28)

Question 20a/b: "In his June 26, 1997 remarks to the United Nations Special Session on Environment and Development, President Clinton referred to the recently issued new and revised national ambient air quality standards (NAAQS) for ozone and particulate matter (PM) as "a positive first step" in addressing greenhouse gas emissions. Did the Administration consider the ancillary benefits of greenhouse gas emission reductions in setting the new and revised primary NAAQS for ozone and PM?"

Answer: EPA based the primary NAAQS for fine particles and ozone on scientific evidence of adverse health effects from exposure to those pollutants. The Administrator did not consider the impact on greenhouse gas emissions in setting the primary NAAQS. To the extent, however, that sources choose to comply with the new standards by enhancing energy efficiency and switching to lower carbon fuels, greenhouse gas emissions would tend to be reduced. As required by Executive Order 12866, EPA prepared a Regulatory Impact Analysis (RIA), which presented potential cost and benefit estimates associated with the future implementation of the PM and ozone NAAQS by the States. The RIA did not include the ancillary benefits of greenhouse gas emission reductions as part of these analyses. It did include an illustrative scenario, using the Agency's Integrated Planning Model, forecasting emissions of several pollutants (including CO2) from the electric power industry. RIA, Appendix H, Page 17, Section 15 of Table H.3. (See answer to Question 26 for further information on the Integrated Planning Model.)

Question 20c: "Section 109(b)(1) of the Clean Air Act (Act) establishes that the standard for setting primary NAAQS is "requisite to protect the public health" with an "adequate margin of safety." Section 109(b)(2) of the Act provides that impacts on the public welfare (e.g., effects on climate) may only be considered in setting secondary NAAQS. Doesn't this statutory framework prohibit the Agency from considering the impacts of the new and revised standards on greenhouse gas emissions and climate change during the primary standard-setting process?"

Answer: As reflected in the question, section 109(b) provides for the establishment of primary NAAQS intended to protect public health and secondary NAAQS intended to protect public welfare. Thus, under section 109(b), potential health effects from greenhouse gases would be relevant to establishment or revision of primary NAAQS for such pollutants. As noted in the answer to Question 20a/b, however, the Administrator did not consider health effects of greenhouse gases when setting the NAAQS for ozone and PM.

Question 20d: "Section 307(d)(6)(C) of the Act specifies that a promulgated rule "may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation." Did the Agency include in the docket

for the ozone and PM NAAQS rules any information on the impacts of the new and revised standards on greenhouse gas emissions?"

Answer: As mentioned above, the Agency did not consider the impact on greenhouse gas emissions in determining the PM and ozone standards. Therefore, section 307(d)(6)(C) of the Clean Air Act does not require EPA to include information on the impacts of the NAAQS on greenhouse gas emissions. Dockets A-95-54 (PM) and A-95-58 (ozone), however, contain limited information on the impacts of the new and revised standards on greenhouse gas emissions, as described in response to question 20a.

Question 20e: "Please provide to this Subcommittee any and all records concerning the impacts of the new and revised ozone and PM standards on greenhouse gas emissions that were developed or considered by Agency staff before or during the ozone and PM NAAQS rulemaking process."

Answer: In setting new and revised ozone and PM NAAQS, the Administrator did not consider the impacts of these standards on greenhouse gas emissions. For the answer to the rest of this question, see the answer to Question 26.

Question 21: In the RIA for the ozone, PM, and Regional Haze rules, EPA identifies "the investments made to control greenhouse gases for climate change" as a "catalyst" for the development of innovative technologies (RIA 9-3). Presumably, EPA has concluded that future regulation of greenhouse gas emissions will reduce the costs of developing technologies to comply with the ozone and PM NAAQS. The RIA also states that: "In the international climate change negotiations, the U.S. is pursuing legally binding targets at a level considered to be 'real and achievable.' Such targets will help decrease not only [greenhouse gas], but also a variety of other air pollutants." (RIA at 9-30). These statements suggest that the Agency took into account future greenhouse gas emissions reductions (and the control technologies developed to achieve these reductions) in calculating the costs and benefits of the ozone, PM, and Regional Haze. Was this a reasonable assumption, considering that neither the Clean Air Act nor the current Framework Convention on Climate Change mandates reductions in greenhouse gas emissions?"

Answer: The RIA did not take into account the future greenhouse gas emissions reductions (and the control technologies that will be developed to achieve these reductions) in calculating the costs and benefits of the ozone and PM NAAQS, and the Regional Haze rule. However, after developing the cost estimates, Chapter 9 explains factors that might cause the RIA's national control cost estimates to be overstated. One such factor is future technological innovation. It is reasonable to expect that future progress in the development of technologies for reducing greenhouse gas emissions will yield complementary ozone, PM, and regional haze air quality benefits.

Question 22: "EPA's Fiscal Year 1999 Strategic Plan states: "By 2000 and beyond, U.S. greenhouse gas emissions will be reduced to levels consistent with international commitments agreed upon under the Framework Convention on Climate Change (FCCC), building on initial efforts under the Climate Change Action Plan (CCAP)." The Agency's Strategic Plan further provides that: "By 2000, CCAP implementation throughout the Federal Government will reduce annual U.S. greenhouse gas emissions by 75 million metric tons of carbon equivalent (MMTCE). The programs will lead to greater annual reductions of between 115 and 140 MMTCE by 2005." Upon what legal authority is the Agency relying to implement these reductions? Please point to the specific provision or provisions of the Clean Air Act that authorize EPA to require these reductions in greenhouse gas emissions. Is EPA's objective tied to the current FCCC, which calls for voluntary action to return emissions to 1990 levels or does the agency's plan include actions aimed at reducing U.S. greenhouse gas emissions 7 % below 1990 levels, as the Administration agreed to in Kyoto?"

Answer: EPA's objective is based on *voluntary*, cost-effective opportunities to reduce greenhouse gas emissions while strengthening the economy and is consistent with U.S. general international obligations under the FCCC, which the Senate ratified, to work toward reducing greenhouse gas emissions. The specific statutory provisions authorizing EPA to implement voluntary programs to reduce greenhouse gas emissions include section 103 of the Clean Air Act, section 6604 of the Pollution Prevention Act of 1990, section 1103 of the Global Climate Protection Act of 1987, and section 102(2)(F) of the National Environmental Policy Act. See also the discussion of legal authority in the answer to Question 1. As indicated in the 1993 Climate Change Action Plan, the impacts of many voluntary programs have the potential to grow significantly beyond the year 2000. Regardless of whether the Kyoto Protocol is ratified, these programs are a sensible, cost-effective step to begin to reduce greenhouse gas emissions. Improving the energy-efficiency of our businesses, homes, and vehicles can save the Nation large amounts of money and make our economy more productive, while also reducing greenhouse gas emissions.

Question 23a: "In March 1996, EPA promulgated New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Municipal Solid Waste Landfills. [61 Fed. Reg. 9905 (March 12, 1996) (MSW Landfill Rule)] In the preamble to the MSW Landfill Rule, EPA stated that: "The additional methane reductions achieved by [the control technology option selected] are also an important part of the total carbon reductions identified under the Administration's 1993 Climate Change Action Plan." Id. at 9914. EPA further stated that, "The Climate Change Action Plan . . . calls for EPA to promulgate a 'tough' landfill gas rule as soon as possible." Id. at 9916. Please point to the provision in the Clean Air Act that authorizes EPA to consider climate change impacts in developing the NSPS and EG for MSW Landfills."

Answer: The statutory basis is section 111 of the Clean Air Act (CAA). Section 111(a) states "a standard of performance shall reflect the degree of emission limitation and the percentage

reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated". While global climate change is not specifically identified in section 111(a), the case law shows that EPA may consider the environmental impact, broadly viewed, of its actions in setting NSPS. See, e.g., Sierra Club v. Costle, 657 F.2d 298, 330 (D.C. Cir. 1981) (in setting NSPS under 111, EPA may "weigh cost, energy, and environmental impacts in the broadest sense – at the national and regional levels and over time . ."). Clearly, climate change is an important potential "environmental impact" of landfill gas emissions, and consideration of these impacts is permitted under Section 111 of the CAA.

Question 23b: "EPA acknowledged in the preamble to the MSW Landfill Rule that, despite a general concern that increasing emissions of greenhouse gases could lead to climate change, "the rate and magnitude of these changes are unknown." Id. at 9917. In light of this uncertainty, what was the basis for EPA's conclusion that the MSW Landfill Rule would have beneficial impacts with respect to climate change?"

Answer: The preamble language cited refers to the general problem of global climate change and the uncertainties in characterizing the overall effects. Landfills have been identified as a major source of methane, a greenhouse gas which has been determined to be twenty times more potent than carbon dioxide. The landfill rule will lead to a substantial reduction in methane emissions and thus it will have a beneficial impact on global climate change.

Question 23c: " Please provide to this Subcommittee any documents concerning the impacts of the MSW Landfill Rule on greenhouse gas emissions that were developed or considered by Agency staff during before or during the MSW Landfill rulemaking process."

Answer: During the rule development process, the benefit of methane reduction was recognized. For this reason, potential emission reductions for methane were calculated. This approach is documented in the proposal Background Information Document (BID) (EPA-450/3-90-011A, March 1991) and in the promulgation BID (EPA-453/R-94-021, December 1995) as well as in the promulgation preamble. In addition to discussion of the policy approach, both BID discuss the technical approach used to calculate the estimated emission reductions. Memoranda and other documents discuss the technical approach. A copy of the BID and representative memoranda are attached for your information.

Question 24a: In the preamble to a March 1994 final rule implementing the Significant New Alternatives Program (SNAP), EPA adopted the interpretation that "global warming potential" must be considered in determining what substances are acceptable substitutes for ozone-depleting substances (ODS). See 59 Fed. Reg. 13044 (March 18, 1994). Although public commenters objected on the grounds that EPA lacked authority under Section 612 of the Act to regulate substitutes based on global warming,

EPA disagreed with this interpretation and stated that: "In October 1993, the President directed EPA through the Climate Change Action Plan (CCAP) to use its authority under 612 of the Clean Air Act to narrow the uses allowed for hydrofluorcarbons and perflurocarbons with high global warming potential." Id at 13049. EPA reached this conclusion even though, in the process of amending the Clean Air Act of 1990, Congress deleted authority for EPA to phase out use of substances based solely on their global warming potential. Please explain EPA's legal theory for relying upon Section 612 of the Act to regulate ODS substitutes based on their global warming potential.

Answer: The Clean Air Act does not prohibit the consideration of a substance's global warming potential under the SNAP program. Section 612 directs EPA to prohibit or otherwise restrict the use of any product as a substitute for ozone-depleting substances if that product "may present adverse effects to human health or the environment," provided other substitutes reduce overall risk.

The Agency believes that the use of global warming potential as one of the SNAP evaluation criteria is consistent with the Congressional mandate to evaluate substitutes based on reducing overall risk to human health and the environment. In conjunction with the promulgation of the SNAP rule, EPA provided a thorough response to the comments referred to in your letter. These comments questioned EPA's statutory authority to consider global warming potential, particularly in light of the legislative history. With respect to the statutory language of section 612, EPA believes that "overall risk" includes any potential adverse effects, including ozone depletion, global warming, toxicity, flammability, or other environmental impact. No commenter identified any definition of overall risk that warranted excluding global warming.

With respect to the legislative history, the commenters pointed to language that relates only to the listing of ozone depleting and global warming substances, and is not relevant to EPA's authority under section 612 (c) to regulate substitutes based on an assessment of overall risk. The fact that Congress may have deleted authority for EPA to phase-out use of substances based solely on their global warming potential without regard to available substitutes certainly imposes no limitation on consideration of global warming potential as a factor in assessing the overall risk of identifying acceptable substitutes for ozone depleting substances. The President's directive to use the authority provided under section 612 specifically to limit use of substances with high global warming potential through overall risk assessment is consistent with the language in section 612 to assess substitutes based on overall risk. Furthermore, there is no legislative history regarding enacted section 612 that contravenes such an interpretation. Thus, EPA has concluded that it is appropriate to consider global warming potential as one factor in the SNAP analysis.

Question 24b: "How can the President's directive in the CCAP be reconciled with clear legislative intent to prohibit consideration of global warming potential in the SNAP analysis?"

Answer: See answer to Question 24a.

Question 25: "In EPA's Advance Notice of Proposed Rulemaking (ANPR) on integrated implementation of the ozone, PM, and Regional Haze rules, the Agency states that: "While the focus of control strategy integration centers around the ozone, PM, and regional haze programs, some consideration of how other programs affect these programs will need to be assessed ((i.e., acid rain, climate change, stratospheric ozone, ecosystem protection, toxics). [61 Fed. Reg. 65764, 65775 (December 13, 1996)] Is EPA planning to regulate greenhouse gas emissions through this "integrated implementation" program? If so, under what specific statutory authority? Please provide all legal analyses to support such a position."

Answer: By the statement in the ANPR, EPA meant only that as other programs such as acid rain, climate change, stratospheric ozone, ecosystem protection, and toxics are implemented, they will most likely provide benefits for the ozone, PM, and regional haze programs, while implementation of the ozone, PM, and regional haze programs will in turn provide benefits for the named programs. The integrated approach involves increased interaction among the air and water programs that are affected by various forms of atmospheric nitrogen. This interaction is needed so that, consistent with applicable statutory constraints, implementation of the NOx emissions decreases occurs in a manner that most cost-effectively achieves multiple public health and environmental goals. Thus, policy decisions regarding the control of NOx emissions to meet statutory requirements are being made in the context of the many environmental effects associated with NOx emissions. EPA has no intention of directly regulating greenhouse gas emissions as such through implementation of the ozone, PM, and regional haze programs.

Question 26: EPA has characterized the new NAAQS for PM2.5 and ozone as an electric utility issue. In addition, EPA's proposed SIP call on NOx focuses on emissions from electric utilities. Several other proposed or contemplated regulatory initiatives -- regional haze, revision to new source review requirements, revised new source performance standards for utility boilers, and air toxics standards for electric utilities boilers -- also appear likely to require substantial emissions reductions from electric utility plants. Has EPA performed any analyses of how any of these regulatory programs alone or in combination will affect emissions of any greenhouse gases covered by the Kyoto Protocol? Moreover, has EPA assessed the cumulative effects of these regulations, or any combination of them, on the U.S. energy system and economy? If so, please provide all records of such analyses, including drafts, and materials explaining how the analyses were performed and by whom. Also, please identify all individuals consulted in conjunction with such analyses and provide all records reflecting the date and content of such consultations.

Answer: EPA has done a number of analyses in different settings that are relevant to this request.

Analyses were done as part of the Clean Air Power Initiative (CAPI), a multi-stakeholder

project undertaken between December, 1995, and October, 1996. The project's goal was to understand the potential costs and cost savings of an integrated regulatory strategy for three major pollutants emitted from electric power generators; namely, sulfur dioxide (SO_2), nitrogen oxides (NOx), and, potentially, mercury (Hg). To support CAPI, the Agency developed the Integrated Planning Model (IPM), which can forecast the impacts on emissions of the major pollutants emitted from electric power generators -- SO_2, NOx, Hg, and carbon dioxide (CO_2) or carbon -- when any one, or combination of pollutants, was placed under a control program. The Agency received comments from across the spectrum of stakeholders that CO_2 should be included in the CAPI analysis. EPA set up the modeling framework to reflect a power industry that was operating under wholesale competition. The reports prepared under CAPI are attached for your review. Details of the analyses for the CAPI can be reviewed in greater depth at the Internet site for the project (http://www.epa.gov/capi).

We have also attached a copy of EPA's documentation of the modeling effort, Analyzing Electric Power Generation under the CAAA, July 1996. This document provides you the list of people at EPA that developed the modeling system, explains the public review process and changes in the modeling framework that occurred during CAPI, and provides the name of the contractor that prepared EPA's analyses. How EPA worked with the public in CAPI and the views of key organizations, such as electric utilities, are also explained in the enclosed final report of the effort entitled "EPA's Clean Air Power Initiative" (October 1996).

EPA has analyzed (and is continuing to analyze) the cumulative effects of the Clean Air Act pursuant to section 812 of the Clean Air Act Amendments of 1990, which requires EPA to assess periodically the effect of the Clean Air Act on the "public health, economy, and environment of the United States," and to report the findings and results to Congress. Section 812 requires EPA to evaluate the benefits and costs of the Clean Air Act's implementation, taking into consideration the Act's effect on public health, economic growth, the environment, employment, productivity, and the economy as a whole. The first of these reports was a retrospective analysis of the benefits and costs of the Clean Air Act from 1970 to 1990, and was sent to Congress last fall. This report can be found at www.epa.gov/oar/sect812. EPA currently is engaged in preparing its next report, which will detail findings of prospective analyses of the benefits and costs of the Clean Air Act Amendments of 1990. As part of the prospective report, EPA has conducted analyses examining the incremental costs and emissions changes the electric power industry is likely to have from 2000 to 2010 due to the Clean Air Act Amendments of 1990. This work in draft form is currently undergoing review by EPA's Science Advisory Board. We have enclosed two relevant draft reports from this effort. They are EPA's "Air Emissions Estimates from Electric Power Generation from the CAAA Section 812 Prospective Study" (February 1997) and Clean Air Act Section 812 Prospective Cost Analysis - Draft Report (sic January 1997).

The IPM model that was developed to support CAPI has also been run to provide information for other programs. The five analytic efforts were support for the Ozone Transport Assessment Group (OTAG), the CAAA Section 812 prospective analysis (mentioned above), the

regulatory impact analysis for the revised NAAQS, analysis of the cobenefits of options for NAAQS implementation and potential carbon reduction programs, and the regulatory analysis of the proposed NOx SIP call. Each of these efforts will be described below and representative documents will be provided to show what the analysis results provided. The same EPA staff and contractor used in CAPI were used in all of these efforts except the analysis of cobenefits, which will be explained further below. Although analyses done with the IPM model automatically provide changes in carbon emissions that would occur over time when any pollution control policy was examined, most of these efforts focused solely on criteria pollutants.

EPA used the IPM to support the evaluation of NOx control options that OTAG was considering. We provided analyses that were used by the Trading and Incentives, Technology and Cost, and Emissions Modeling work groups. The emphasis of all the analysis was to consider the cost and NOx emissions changes during the summer ozone season. All these runs also estimated carbon and other air pollutant emission changes. For the work done in 1997, EPA provided these results (including changes in carbon emission under different policies) at the CAPI web site mentioned earlier. However, briefings and papers on the results that were provided at OTAG meetings did not report carbon changes. The two EPA reports synthesizing most of analysis that are a part of OTAG's records are enclosed. They are entitled "Findings from the OTAG Cap-and-trade Analyses" (June 1997) and "Costs of NOx Control Strategies on Electric Power Generation Using the Integrated Planning Model" (summer 1997).

EPA also conducted IPM runs for the final regulatory impact analysis for the revised NAAQS, although the information regarding costs and impacts on emissions of CO2 was not considered in setting the NAAQS (as described more fully in response to question 20a/b above). EPA has enclosed the RIA and supporting appendices. We have also enclosed a summary document entitled "Impact of Regional NOx and SOx Strategies to reduce PM and Ozone on Climate Change" and a summary briefing report of the sensitivity analysis done of the energy efficiency cases entitled "Sensitivity Analysis of Revised NAAQS Controls on the Electric Power Industry - Costs and Emissions in 2010 Varying Energy Efficiency and NOx Control Levels."

As noted above, during CAPI, stakeholders requested that EPA conduct analyses that focused greater attention on carbon emission changes that might result from potential NO_x and SO_2 control strategies and on ozone and fine particles emission changes that could result from alternative carbon reduction policies that the U.S. could potentially pursue in the future. After CAPI, EPA used its modeling capability to examine these issue over time. Two briefings by Joe Bryson of EPA (who managed the contractor preparation of analyses) are enclosed to show the results that EPA found in these analyses. They are entitled "Results from the Integrated Planning Model (IPM): Co-benefits of Carbon and NOx/S02 Reductions in Electric Generation" (October 8, 1997) and "Co-benefits of CO2 and Other Air Pollutant Reductions from Electric Generation" (January 1998). The first briefing was prepared for EPA's CASAC Subcommittee on Energy, Clean Air, and Climate Change. The second briefing was presented at a conference sponsored by the Center for Clean Air Policy, which had included participants from the power industry,

State environmental agencies, and environmental groups.

EPA has used the IPM model to support its development of the proposed NOx SIP call. The analysis has focused on summer NOx reductions in Eastern States, but the model run results provide carbon and other air pollutant emissions changes. The work that EPA completed in support of the November 1997 proposal of this rule is described in the enclosed EPA report Proposed Ozone Transport Rulemaking Regulatory Analysis (September 1997). This report contains no information on carbon emissions changes since that was not the focus of EPA's effort. Details of this analysis (where changes in carbon and other air emissions are reported) can be reviewed at the CAPI web site. The enclosed regulatory analysis lists who at EPA managed the analysis and the contractor used to complete it. We also conducted additional analysis in support of the Supplemental Notice of Proposed Rulemaking that EPA recently issued on the proposed NOx SIP call. Enclosed is the regulatory analysis for it, entitled "Supplemental Ozone Transport Rulemaking Regulatory Analysis" (April 1998). Further details can be found on the CAPI web site.

Given the numerous times the IPM model has been run (over 200 analytic modeling runs that relate to NOx and SO_2 controls alone), and the volume of modeling and other work that has been done and is being done pursuant to section 812, producing "all records of such analyses, including drafts and materials explaining how the analyses were performed" would be extremely burdensome and require producing an enormous amount of paper. The final documents for the inputs and outputs of the IPM modeling runs alone would amount to more than 30 feet. To respond to your request, the Agency has identified and is producing the principle reports and analyses that it believes are responsive.

Question 27a: "In its proposal to require modification of SIPs to limit NOx emissions (62 Fed. Reg. 60318) (the proposed SIP "call"), EPA asserts that "on a global scale, decreases in NOx emissions will, to some degree, reduce greenhouse gases." 62 Fed. Reg. At 60374. Has EPA quantified the effect of the proposed SIP calls on greenhouse gases and/or global warming? If so, please provide copies of all records and analysis. Also, please indicate when any such analysis was performed and by whom."

Answer: EPA proposed the NOx SIP call based on its proposed finding that the transport of ozone and NOx (an ozone precursor) from 22 States and the District of Columbia significantly contributes to nonattainment of the ozone national ambient air quality standards (NAAQS), or interferes with maintenance of the NAAQS, in downwind States. The SIP call would require these states to limit NOx emissions to a prescribed amount, but would not require states to adopt any particular control measure. EPA's decision to propose the SIP call was based on the need to reduce the transport of ozone and its precursors so that downwind states could attain or maintain the ozone NAAQS, not on global warming or other non-ozone benefits.

As EPA is required to do under Executive Order 12866, EPA has looked at the SIP call's costs and benefits, including global warming and other non-ozone benefits. To the extent that

increased fuel efficiency and fuel switching would be used to meet requirements resulting from the proposed NOx SIP call, greenhouse gases would also tend to be reduced. As discussed in question 26, the IPM model used to estimate the reductions in NOx from the proposed SIP call also forecasts CO2 emissions. Please see question 26 for further information on this model and the records that are being produced. EPA has not otherwise quantified the effect of the proposed SIP call on other greenhouse gases covered by the Kyoto Protocol or on global climate change.

Question 27b: "If EPA has performed no such quantification of the effects of the proposed SIP calls on greenhouse gases, what is the agency's basis for asserting that one of the non-ozone benefits of the proposed SIP call will be its impact on global warming."

Answer: See answer to Question 27a..

Question 27c: " What role did global warming and other non-ozone benefits play in EPA's identification of a specific NO_x reduction program as a means of implementing the ozone NAAQS? Please identify the date(s) of any and all meetings at which the non-ozone benefits of the proposed SIP call were discussed and the identities of each participant in each such meeting. Provide all records relating to such meetings."

Answer: See answer to Question 27a.

Question 27d: " Did EPA consider whether other options for attaining the ozone NAAQS might yield equal or greater non-ozone benefits? If so, please provide copies of any and all analyses evaluating the benefits of such alternative implementation strategies and all records regarding consideration of the benefits of such alternative strategies. Please identify all EPA staff members involved in such analysis."

Answer: In deciding to pursue the NOx SIP call, EPA's decision was not based on whether other options for attaining the ozone NAAQS might yield equal or greater non-ozone benefits.

Question 28: According to an August 29, 1997 "Inside EPA" article, an EPA source "points out that EPA estimated last year that an aggressive strategy to reduce SO2, NOx, and mercury from utilities would only reduce CO2 emissions by five to seven percent. If mercury is removed from this equation, an administration source says this percentage is likely to fall since some utilities would have undoubtedly chosen to alter their fuel mix as a way to meet an onerous mercury reduction requirement." Please provide any and all analyses that relate to the comments made in this article. Why were any such analyses performed? Are there other similar analyses available for other industry sectors?

Answer: It is important to note that "Inside EPA" is a private newsletter with independent reporters, and is not a publication of EPA. Therefore, we do not know specifically what sources this article was based on. However, the information may have been calculated based on the

model results from the Clean Air Power Initiative (CAPI. documents enclosed). CAPI was a multi-stakeholder project intended to improve our understanding of the costs and benefits of various levels of pollution control. Similar analysis has not been performed for other industry sectors.

FACA Subcommittee on Energy, Clean Air and Climate Change (Question 29)

Question 29a: "In July, 1997, EPA announced the formation of a new subcommittee of its Clean Air Act Advisory Committee, the Subcommittee on Energy, Clean Air and Climate Change. Please provide a copy of the charter of the Subcommittee and copies of any and all records concerning the purpose or goals of the Subcommittee.

Answer: Attached is the charter for the Clean Air Act Advisory Committee and a Statement of Mission and Scope for the Subcommittee on Energy, Clean Air and Climate Change. There is no charter for the Subcommittee, as the Federal Advisory Committee Act at 5 U.S.C. App .2 only requires a charter for the parent committee.

Question 29b: "Please identify all EPA staff members who are involved in supporting or working with the Subcommittee or who have attended or participated in meetings of the Subcommittee:"

Answer: Following is a list of EPA staff who either chair the subcommittee or have made presentations at the subcommittee meetings:

Subcommittee chairs:
David Doniger, Counsel
Assistant Administrator for Air & Radiation

Kathleen Hogan, Director
Atmospheric Pollution Prevention Division

Designated Federal Officer to the Subcommittee:
Anna Garcia
Atmospheric Pollution Prevention Division
Office of Atmospheric Programs

Presenters:
Paul Stolpman, Director
Office of Atmospheric Programs

Caroline Petti
Office of the Administrator

Attachment 2

Economic, Policy and Legal Analyses

Question 13: Does DOE plan to revise any existing rules or propose any new rules relating to climate change (including regulatory actions that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of regulatory action)? If so, please identify and describe all such initiatives, including any cost-benefit analyses, and a timetable for their development and promulgation. Also, provide any and all analyses (prepared or considered) of the cumulative effect on the U.S. economy and/or energy system of all or any combination of regulations that were issued since 1992, that were proposed, and that are being developed that have or will have the effect of reducing greenhouse gas emissions.

Answer: Many of the energy-related regulations issued by the Department of Energy are likely to have the effect of reducing at least some greenhouse gas emissions. For example, financial assistance regulations governing grants to States for energy conservation programs or the weatherization of low-income homes will, indirectly, result in the reduction of greenhouse gases. DOE also establishes energy efficiency standards for new Federal buildings and issues rules for the calculation of the life cycle costs of energy efficiency projects undertaken by Federal agencies, both of which will also reduce greenhouse gases. However, the DOE regulations that have the largest and most direct impact on energy use and, therefore, the emissions of greenhouse gases are the Department's energy efficiency standards for appliances and equipment.

It should be noted that the purpose of energy efficiency standards for appliances and equipment, most of which were established by laws enacted in the 1980's, is to reduce energy use and life cycle costs to consumers - not reduce greenhouse gas emissions per se. However, consumption of fossil fuels and carbon dioxide emissions are directly related, so every unit reduction in energy use results in a proportional reduction in such emissions.

Below is the schedule of rulemakings, completed and in process. (Currently, there are no standards rulemakings for the commercial products which are triggered by revisions to ASHRAE/IES Standard 90.1, which are projected to occur at the end of 1999.)

Schedule of Appliance Standards Rulemakings

COMPLETED ACTIONS		
Product	Final Rule Published	Effective Date of Standards
Refrigerators, Refrigerator-Freezers and Freezers	April 28, 1997	July 1, 2001
Room Air Conditioners	September 24, 1997	October 1, 2000

SCHEDULED ACTIONS				
Product	ANOPR Date	NOPR Date	Expected Publication Date	Expected Effective Date
Kitchen Ranges, Ovens, and Microwaves	September 1990	March 1994	September 1998	September 2001
Clothes Washers	May 1998	Jan. 1999	October 1999	October 2002
Fluorescent Lamp Ballasts	N/A	Feb. 1999	October 1999	October 2002
Residential Water Heaters	N/A	August 1998	December 1999	December 2002
Residential Central Air Conditioners and Central Air Conditioning Heat Pumps	July 1999	March 2000	October 2001	October 2006
Electric Distribution Transformers	June 2000	June 2001	June 2002	June 2005
Energy Efficiency Code for New Federal Residential Buildings	N/A	May 1997	December 1999	December 1999
Energy Efficiency Code for New Commercial and Multifamily High Rise Buildings	N/A	August 1996	June 1999	June 1999

In 1997, DOE updated standards for refrigerators manufactured after July 1, 2001 and for room air conditioners manufactured after October 1, 2000 (pursuant to legislative mandates enacted in the 1970's and 1980's). The new efficiency standard for refrigerators will use up to 30 percent less energy and will save consumers $1.1 billion annually by 2010, without sacrificing size, features or convenience. The new room air conditioner standards will use 10 percent less energy than current models in cooling homes, offices and apartments. With more than 4.8 million room air conditioners sold annually in the United States, the new standard will save consumers up to $450 million by 2030. More detailed analyses of the cumulative effects on the U.S. economy and/or energy system of these two standards have not been done because they are not effective yet.

The table below shows the projected reduction in greenhouse gas emissions for the two

standards issued as well as the projected reduction for five other appliance standards rulemakings currently underway in the Department.

Below are projections of reductions in greenhouse gas emissions (millions of metric tons of carbon equivalent) for possible future updates in the existing energy efficiency standards for seven products. These updated standards will be issued pursuant to the authority and direction of provisions of the Energy Policy and Conservation Act, originally enacted in the 1970's, and amended in the 1980's and 1990's.

Standards	2010	2030	Cum. 2010	Cum. 2030
Clothes Washer	2.1	4.0	7.4	96.0
Central A/C and heat pumps	3.0	8.3	11.4	146.1
Fluorescent lamp ballast	1.5	1.0	10.7	33.4
Water heaters	1.1	1.9	5.3	39.2
Kitchen ranges and ovens	0.2	0.2	0.9	5.0
Room air conditioners	0.4	0.6	2.5	13.5
Refrigerator/freezers	3.3	7.3	16.9	138.8

The following two tables address standards which were put into effect after 1992. The first table provides national energy savings estimates from appliance, plumbing, ballast, and lamp efficiency standards effective since 1992

Cumulative Savings (Quads)			
	1992-1997	1992-2010	1992-2030
Appliances*	2.44	20.87	72.01
Ballasts	0.43	2.47	5.62
Lamps	0.32	9.20	33.10
TOTAL	3.19	32.54	110.73

*Includes savings from plumbing standards.

The table below shows national greenhouse gas emission savings estimates (in millions of tons of carbon equivalent) from appliance, plumbing, ballast, and lamp efficiency standards effective since 1992.

Carbon Savings (Million tons)			
	1992-1997	1992-2010	1992-2030
Appliances*	46.8	379.4	1210.1
Ballasts	8.7	47.7	101.2
Lamps	7.1	192.6	788.5
TOTAL	62.6	619.7	2099.8

*Includes savings from plumbing standards.

In addition to the analysis of the effects of appliance and equipment efficiency described above, the Department's Energy Information Administration periodically assesses the impact of Federal regulations and other quantifiable government policies on the energy sector and on greenhouse gas emissions.

As a general practice, EIA incorporates all current laws, regulations, and standards into the baseline projections of its Annual Energy Outlook. EIA has also prepared analysis of various proposals that could reduce greenhouse gas emissions. These projects are summarized below.

The Annual Energy Outlook 1993, published in January 1993, was the first Annual Energy Outlook to incorporate the provisions of the Energy Policy Act of 1992. The provisions represented in the projections include building efficiency standards for Federal buildings and other new buildings receiving federally-backed mortgages; efficiency standards for electric motors, lights and other equipment; minimum purchases of alternative-fuel vehicles by centrally-fueled automobile fleet operators; and tax credits for wind, solar, and geothermal-generated electricity. No separate analysis was performed to evaluate the impact of the Energy Policy Act. Current requirements for reformulated gasoline, first mandated in the Clean Air Act Amendments of 1990, are also included in the Annual Energy Outlook reports.

The Annual Energy Outlook 1994, published in January 1994, was the first to incorporate the 4.3 cent-per-gallon increase in the Federal tax on highway fuels in the Omnibus Budget Reconciliation Act of 1993, which would have the impact of reducing fuel consumption and therefore emissions. No separate analysis was performed to evaluate the impact of the tax increase.

The Annual Energy Outlook 1995, published in January 1995, was the first Annual Energy Outlook to incorporate the Climate Change Action Plan (CCAP), using EIA's assumptions on the impacts of CCAP. This analysis is updated each year to reflect changes in the funding of the various CCAP provisions and other factors. In the most recent report, the Annual Energy Outlook 1998, published in December 1997, Appendix G, Major Assumptions for the Forecasts,

includes the estimated greenhouse gas reductions other than what is already included in the baseline due to CCAP. In 2010, these reductions are estimated to be 8 million metric tons of carbon equivalent in the residential sector, 9 million metric tons in the commercial sector, 8 million metric tons in the industrial sector, and 5.3 million metric tons in the transportation sector. It is also estimated that 29 billion cubic feet of methane will be recaptured from coal mining activities in 2010 as a result of a CCAP program. The Annual Energy Outlook 1998 is attached.

EIA also performs analysis of pending, proposed, or potential legislation, standards, and other regulatory programs at the request of the U.S. Congress, other offices of the Department of Energy, and other government agencies. At the request of Congressman Sharp in 1993, EIA did a review of studies done on carbon taxes to restrict carbon emissions. This review is attached.

At the request of the Environmental Protection Agency (EPA) in 1996, EIA analyzed the impact of a number of carbon emission reduction scenarios, using assumptions specified by EPA. The results were published in the attached Service Report: EIA, An Analysis of Carbon Mitigation Cases, SR-OIAF-96-01 (Washington, D.C., June 1996).

Similar to the EPA request, EIA performed an analysis of carbon reduction scenarios at the request of the Department of Energy's Office of Policy and International Affairs in 1997 in partial support of the Office of Policy's participation in the Interagency Analysis Team. This analysis incorporated the assumptions of the Office of Policy and International Affairs. The results were published in the Service Report: EIA, Analysis of Carbon Stabilization Cases, SR-OIAF-97-01 (Washington, D.C., October 1997), which was attached as part of the response to question 8.

In 1997, EIA also performed an analysis of S.687, the Electric System Public Benefits Protection Act of 1997, at the request of Senator James Jeffords of Vermont, particularly the provisions for a renewable portfolio standard and for emissions caps on carbon dioxide, sulfur dioxide, and nitrogen oxide. The results were published in the attached Service Report: EIA, Analysis of S.687, the Electric System Public Benefits Protection Act of 1997, SR-OIAF-98-01 (Washington, D.C., February 1998).

In 1997, EIA was asked to provide an analysis of the DOE methodology and results supporting proposed efficiency standards for refrigerators and freezers. This analysis is attached.

Attachment 3

ENVIRONMENTAL PROTECTION AGENCY
Supplemental Answers to Questions 1 - 7

Question 2: In Section 2 (Programmatic Details:) of OMB's February 2, 1998 handout, "Climate Change Technology Initiative - 1999 Budget Briefing Materials," please provide the following information associated with each paragraph description in which your agency has been funded or is requesting funding: the associated funding in FY 97, FY 98 and FY 99. Also, for each paragraph, for the requested funding in FY 99, please provide evidence of any accomplishments from the FY 93 - FY 97 funding, if any. Lastly, for each paragraph, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

Supplemental information: The table below covers performance measures for the years 1990, 1995, 1996, and 1997. Performance for these programs is not measured against a 1990 base year. Rather, performance is measured against less efficient technologies and practices that would have been in place in the absence of the voluntary programs for the year in which the results are measured. As noted in the table, performance measures are not applicable for 1990 because the programs did not exist at the time. These measures supplement the performance measures provided in the original answer.

Buildings Sector

	1990	1995	1996	1997
Greenhouse Gas Reductions (million metric tons of carbon equivalent)	n/a	1.2 mmtce	2.4 mmtce	3.0 mmtce
Nitrogen Oxide (NOx) Reductions	n/a	11,000 tons	22,000 tons	35,000 tons
Energy Bill Savings	n/a	$0.4 billion	$0.8 billion	$1.2 billion
Energy Savings	n/a	5.5 billion kWh	10.5 billion kWh	17.2 billion kWh
Partners	n/a	2,500	3,800	4,600

Industry Sector

	1990	1995	1996	1997
Greenhouse Gas Reductions (million metric tons of carbon equivalent)	n/a	3.3 mmtce	5.3 mmtce	11.8 mmtce
Energy Savings	n/a	11 trillion btu	25 trillion btu	57 trillion btu
Partners	n/a	400	700	1,000

Transportation Sector

	1990	1995	1996	1997
Greenhouse Gas Reductions (million metric tons of carbon equivalent)	n/a	0	0.1 mmtce	0.1 mmtce
Energy Savings (gallons of gasoline)	n/a	16 million gallons	41 million gallons	48 million gallons
Partners	n/a	100	200	300

EPA Total

	1990	1995	1996	1997
Greenhouse Gas Reductions (million metric tons of carbon equivalent)	0	4 mmtce	8 mmtce	15 mmtce
Nitrogen Oxide (NOx) Reductions	0	11,000 tons	22,000 tons	35,000 tons
Energy Bill Savings	0	$0.4 billion	$0.8 billion	$1.2 billion
Energy Savings – electricity – gasoline	 0 0	 –5.5 billion kWh –16 million gallons	 –10.5 billion kWh –41 million gallons	 –17.2 billion kWh –48 million gallons
Partners	0	3,100	4,800	6,000

Attachment Y

Question 6: Please identify the full set of your agency-specific performance measures for the Administration's Climate Change proposal (besides those indicated in response to questions 2 and 3), including data for at least the 1990 base year, FY 97, FY 98, and FY 99. Also, please identify how any of your agency-specific measures (including those in response to questions 2 and 3) relate to those for any other Federal agency. Lastly, please describe any interagency efforts to identify and relate the entire set of climate change performance measures, including which agencies are involved and the names of the agency representatives.

Answer: The full set of the agency-specific performance measures are established each year in a performance agreement between the Secretary of Energy and the President. For FY 1997, there were two performance commitments in the Performance Agreement concerning climate change. In the Department's budget proposal for FY 1998, there were three proposed commitments and they are being considered in the development of the Performance Agreement for FY 1998 currently under White House review. For FY 1999, the Department proposed three performance commitments for climate change. The FY 1999 proposed performance plan will be converted into an agreement upon enactment of the budget for FY 1999. Each year's measures are identified as follows:

The **FY 1997** Performance Agreement (attached) includes two commitments associated with climate change: ER-9, and ER-10. The audited end-of-year status for all commitments is provided in DOE/CR-0057, the "U.S. Department of Energy Fiscal Year 1997 Annual Report" (attached).

For **FY 1998**, the Department identified many programs that are associated with climate change. Although not required by the Government Performance and Results Act of 1993, the Department prepared and submitted a performance plan with the budget as DOE/CR-0046, "FY 1998 Congressional Budget Request, Budget Highlights and Performance Plan" (attached). This plan is being converted into a performance agreement and currently under White House review. The proposed performance plan included goals on implementing the international climate change action plan sponsored by both Energy Supply R&D, page 25, and Energy Conservation page 135. In Departmental Administration, on page 105, the Department proposed continuing the on-going efforts to achieve U.S. goals under the United Nations framework convention on Climate Change.

For **FY 1999**, the Department's proposed performance plan is contained in "FY 1999's Budget Highlights and Performance Plan", DOE/CR-0050 (attached). Many programs and initiatives are associated with climate change. Three specific measures are identified in the proposed Performance Plan: ER-3 on pages 137-138, ER-5 on page 138, and ST-1 on page 149. The Energy Research activities proposed under the Climate Change Technology Initiative represent new research that would be launched in FY 1999.

Concerning agency-specific measures, there are no interagency efforts that have joint performance measures.

Concerning interagency efforts to identify and relate the entire set of climate change performance measures, we have no information to provide.

Attachments:
FY 1998 Budget Highlights and Performance Plan
FY 1999 Budget Highlights and Performance Plan
FY 1997 Performance Agreement
FY 1997 Annual Report

"We're going to have a program to pursue our course and we're going to do it whatever happens at Kyoto."

President Bill Clinton

December 1, 1997

This Document Prepared By Congressman David M. McIntosh's Office

"As the President has said, whether there is an agreement in Kyoto or not, the United States is prepared, under President Clinton's leadership, to unilaterally take the steps that we believe should be taken in order to deal with this problem."

Vice President Al Gore

December 1, 1997

This Document Prepared By Congressman David M. McIntosh's Office

"We have no intention through the back door or anything else, without Senate confirmation, of trying to impose or take any steps to impose what would be binding restrictions on our companies, on our industry, on our business, on our agriculture, on our commerce, or on our country, until and unless, the Senate of the United States says so."

The Honorable Stuart E. Eizenstat

Under Secretary of State for Economic, Business & Agricultural Affairs
before the U.S. Senate Committee on Foreign Relations
February 11, 1998

This Document Prepared By Congressman David M. McIntosh's Office