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Clean Air Act Issues in the 107th Congress

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Clean Air Act Issues in the 107th Congress

SUMMARY

In the 107th Congress, the most prominent air quality issue was whether state and federal regulations designed to protect air quality are having a negative impact on energy production, and, if so, whether such regulations should be reformed. The early discussion focused primarily on California, but with the release of the Administration's energy policy recommendations in May 2001 and subsequent congressional action, attention shifted to issues more national in scope.

Among these were whether the Clean Air Act's New Source Review requirements have been enforced consistently, whether they have prevented power plants from making improvements that would expand power output, and whether Congress should enact "multi-pollutant" legislation for power plants in order to provide certainty regarding future regulatory requirements. The Senate Environment and Public Works Committee approved a multi-pollutant bill, S. 556, June 27, 2002. The Administration also submitted legislation, S. 2815 / H.R. 5266, but no action was taken on it.

A second set of air issues in the 107th Congress concerned regulation of the gasoline additive MTBE. MTBE is used to meet Clean Air Act requirements that gasoline sold in the nation's worst ozone nonattainment areas contain at least 2% oxygen, but the additive has been implicated in numerous incidents of ground water contamination.

Since mid-1999, bills to diminish the use of MTBE have been near the top of the clean air agenda. On September 25, 2001, the Senate Environment and Public Works Committee approved one of these bills, S. 950, to ban MTBE use, waive the oxygen requirement, and provide additional funding for ground water cleanup (S.Rept. 107-131). Similar provisions, plus requirements that motor vehicle fuel contain ethanol or other renewable fuels were included in the Senate version of H.R. 4, the comprehensive energy bill passed by the Senate, April 25, 2002. The House version of H.R. 4 did not contain such provisions, however—one of many issues on which the House and Senate bills differed. H.R. 4 died in conference.

Congress last enacted major amendments to the Clean Air Act in 1990, and EPA is still implementing numerous provisions of those amendments. Recent efforts have included development of tighter emission standards for nonroad engines and for diesel engines and fuels. Review of state implementation plans for attaining ozone air quality standards is another ongoing agency activity. EPA decisions regarding implementation of these and other programs mandated by the Clean Air Act will provide continuing opportunities for oversight and possible legislation.

Note: This Issue Brief does not discuss the greenhouse effect or most issues related to global climate change. For a discussion of those issues, see CRS Issue Brief IB89005, *Global Climate Change*, updated regularly.

MOST RECENT DEVELOPMENTS

The 107th Congress did not pass major legislation amending the Clean Air Act. Of the bills that might have amended the Act, H.R. 4, the comprehensive energy bill, came closest to passage: it died in conference at the end of the Congress. The Senate version of the bill, passed April 25, 2002, would have banned use of the gasoline additive MTBE, eliminated the requirement to use MTBE or other oxygenates in reformulated gasoline, authorized additional funding for cleanup of ground water contaminated by the substance, and required that motor vehicle fuel contain ethanol or other renewable fuels. The House bill, passed on August 2, 2001, contained only the ground water cleanup provisions, not the ban on MTBE or the provisions requiring the use of ethanol.

Another issue that saw committee action was the regulation of electric power plants (so-called multi-pollutant legislation). On June 27, 2002, the Senate Environment and Public Works Committee narrowly approved S. 556, a bill to control emissions of sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide from electric power plants (S.Rept. 107-347). Although the bill did not proceed to the Senate floor, it marked the first time a congressional committee reported legislation to reduce utility emissions of the suspected "greenhouse" gas, carbon dioxide. S. 2815 / H.R. 5266, an Administration bill with less stringent requirements and no provisions on carbon dioxide, was introduced in late July 2002. It may serve as the starting point for future action on the issue.

EPA recommendations regarding the Clean Air Act's New Source Review (NSR) program were released June 13 and November 22, 2002. Under the Administration's energy plan, EPA and the Justice Department had been directed to review the impact on utilities and refineries of NSR and of recent enforcement actions taken under its authority. The new NSR rules (some proposed and others promulgated by EPA November 22) will make it easier for companies to modify their facilities without installing new pollution controls. A separate Justice Department review was released in January 2002; it concluded that EPA's enforcement actions "are supported by a reasonable basis in law and fact," but many argue that the enforcement actions will be undercut by the changes in the NSR regulations now being implemented by EPA.

BACKGROUND AND ANALYSIS

The Clean Air Act requires the Environmental Protection Agency (EPA) to establish minimum national standards for air quality, and assigns primary responsibility to the states to assure compliance. Areas not meeting the standards, referred to as nonattainment areas, are required to implement specified air pollution control measures. The Act requires federal emission standards for autos and other mobile sources of air pollution, for sources of 188 hazardous air pollutants, and for sources of acid rain. It establishes a comprehensive state-run permit system for all major sources of air pollution. It also addresses the prevention of pollution in areas with clean air, as well as protection of the stratospheric ozone layer.

The last comprehensive amendments to the Act, enacted November 15, 1990 (P.L. 101-549), included the program to control acid rain, new standards for emissions of

hazardous air pollutants, new requirements for motor vehicles and fuels, stringent new requirements for nonattainment areas, and the comprehensive permit program.

Many of these provisions (notably the acid rain and air toxics provisions, and some of the requirements for autos and fuels) were strenuously debated, but most have not been subject to controversy since enactment. The new provisions on acid rain and automobiles and some of those on air toxics have been implemented on schedule, in many cases at less cost than anticipated. There have also been noticeable improvements in air quality in recent years: of 98 metropolitan areas not attaining the 1-hour ozone standard in 1990, about half now do so. Even greater progress has been achieved with carbon monoxide: 36 of the 42 areas not in attainment in 1990 now meet the standard.

Nevertheless, major controversies remain concerning implementation of the Act. In addition, recent studies of the impact of air pollutants have led many to conclude that air pollution has harmful health effects at levels formerly considered safe. Based on this research, EPA tightened the standards for ozone and particulate matter in 1997. The Agency expects to implement the new standards beginning in 2004.

Issues in the 107th Congress

Two sets of air quality issues were on the agenda in the 107th Congress: 1) whether Congress should address the connections between energy production and air quality regulation; and 2) whether Congress should modify Clean Air Act requirements that have led to the use of a substance called MTBE in gasoline, in response to a growing number of ground water contamination incidents involving the substance.

Energy and Air Quality

In the early months of the 107th Congress, the most prominent air quality issue was whether state and federal regulations designed to protect air quality had a negative impact on energy production, and, if so, whether legislation should be enacted to temporarily or permanently relax such regulations.

The early discussion focused primarily on California. As California's energy situation worsened in the winter of 2001 (in part, it now appears, through manipulation of energy markets by trading companies such as Enron), the Bush Administration and others issued statements implying that air regulations may have contributed to the problem. Anticipating such concerns, federal and state air pollution officials, beginning in the summer of 2000, took steps to relax controls that might have prevented the use of emergency generators to cope with power shortages, and to lower the cost of emissions "allowances" under a California air pollution control program. Congress also briefly considered legislation that would have waived emission controls for both new and existing power plants (H.R. 1647). This bill was approved by the House Energy and Commerce Committee's Energy and Air Quality Subcommittee on May 10, 2001. Less than a month later, Energy and Commerce Committee Chairman Tauzin announced, after protracted negotiations, that further efforts to enact the bill would be suspended indefinitely.

New Source Review and Multi-Pollutant Legislation. With the release of Vice President Cheney's energy policy recommendations in mid-May 2001 and the easing of the shortage of electricity in California over that summer, the focus of discussion on air quality and energy issues shifted to issues more national in scope. The National Energy Policy (NEP) generally ignored California-specific issues. Instead, it took a longer and broader view, addressing issues that affect power production and energy supply nationally.

Two of the NEP's most important recommendations addressed air issues: the policy recommended a review of the air emission regulatory process known as New Source Review (NSR); simultaneously, it proposed to strengthen emission controls on power plants through new legislation (referred to as "multi-pollutant legislation").

The Administration was slow in developing the details of both its legislative and regulatory proposals. It announced some details in its "Clear Skies" proposal on February 14, 2002. It sent legislative language to Congress (H.R. 5266 / S. 2815) in late July 2002, only after the Senate Environment and Public Works Committee had ordered a more stringent bill (S. 556) reported. Regulatory proposals on NSR were released on June 13, 2002, and some were finalized November 22, 2002; other regulatory changes to the NSR rules are still in proposed form.

New Source Review. In an effort to ease regulatory burdens on power plants and refineries and provide additional incentives to expand output at existing facilities, the NEP recommended a review of the Clean Air Act's New Source Review requirements, with the EPA Administrator to report to the President within 90 days regarding the impact of NSR regulations on investment in new utility and refinery generation capacity, energy efficiency, and environmental protection. (The review was not completed until June 13, 2002, more than a year later. Regulations implementing the review's recommendations were released November 22.) The NEP also recommended that the Attorney General review existing NSR enforcement actions to ensure "that they are consistent with the Clean Air Act and its regulations." This review was completed on January 15, 2002, with the Justice Department concluding that EPA "reasonably may conclude that the enforcement actions are consistent with the Clean Air Act and its regulations."

The controversy over the NSR process stems from EPA's application of New Source Performance Standards to *existing* stationary sources of air pollution that have been modified. In Section 111, the Clean Air Act states that new sources (subject to NSR) include modifications of existing sources as well as plants that are totally new; industry has generally avoided the NSR process, however, by claiming that changes to existing sources were "routine maintenance" rather than modifications. In the 1990s, EPA began reviewing records of electric utilities, petroleum refineries, and other industries to determine whether the changes were routine or not. As a result of these reviews, since late 1999, EPA and the Department of Justice have filed suit against 14 electric utilities, claiming that they made major modifications to 53 units in 14 states, extending their lives and increasing their electric generating capacity without undergoing required New Source Reviews and without installing best available pollution controls. With one exception, these suits were filed by the Clinton Administration.

Two of the 14 utilities charged with NSR violations (Tampa Electric and PSEG of New Jersey) have settled with EPA, agreeing to spend more than $1.3 billion over the next decade

on pollution controls or fuel switching in order to reduce emissions at their affected units. Two other utilities (Virginia Power and Cinergy) reached agreement in principle 2 years ago to spend more than $1 billion each to resolve NSR violations, but final settlement negotiations have not been concluded. A fifth utility, the Tennessee Valley Authority, has announced plans to spend $1.5 billion to reduce emissions at four of its plants, although not as part of a settlement agreement. Between July 25, 2000 and December 20, 2001, the Agency also reached agreement with nine petroleum refiners representing more than 30% of industry capacity. The refiners agreed to settle potential charges of NSR violations by paying fines and installing equipment to eliminate 153,000 tons of pollution.

Companies that have not settled with EPA and other critics of the Agency's actions claim that EPA reinvented the rules, and, in the process, provided disincentives for power producers and refineries to expand output. Critics have included the National Coal Council, an advisory committee to the Secretary of Energy composed largely of industry executives. It stated in a May 3, 2001 report that *existing* coal-fired power plants could make technical improvements to produce an additional 40,000 megawatts of electricity if the EPA would loosen current NSR restrictions.

In its November 22, 2002 announcement, EPA promulgated four sets of changes to the NSR requirements: first, it will allow facilities to use Plantwide Applicability Limits, rather than emissions from the individual units being replaced, to determine whether emissions will increase from a plant modification (this is expected to make it easier to modify facilities without triggering NSR); second, certain environmentally beneficial pollution control and prevention projects will be allowed to proceed without NSR permits, upon submission of a notice to the permitting authority; third, plants that install state-of-the-art pollution controls (referred to as "clean units") will be allowed to modify their facilities during the ensuing 10 years without undergoing further review provided they meet emission limits specified in their permit; and fourth, the methodology used to calculate whether emissions will increase (triggering NSR) will be changed—for example, facilities other than power plants will be able to compare projected emissions after a modification to the highest levels reached during any 24-month period during the previous 10 years.

In addition to the four promulgated changes, the Agency also proposed new regulations defining what constitutes routine maintenance, which is exempt from review. The proposal would exempt from NSR modifications that cost less than threshold amounts.

The proposed and promulgated changes (characterized by the Administration as streamlining or improvement of the program, and by environmental groups and a number of states as a significant weakening) are almost certain to trigger litigation, with enforcement of NSR blocked for the immediate future. In the meantime, the mere prospect of an NSR rollback, critics argue, has already caused utilities to withdraw from settlement negotiations over the pending lawsuits, delaying emission reductions that could have been achieved in the near future. (For additional discussion of NSR issues, see CRS Report RL30432, *Air Quality and Electricity: Enforcing New Source Review*.)

Multi-Pollutant Legislation. Simultaneous with its proposal for review of the NSR requirements, the National Energy Policy proposed to strengthen emission controls on sulfur dioxide, nitrogen oxides, and mercury from power plants through new legislation. Such legislation would replace numerous existing regulatory programs, including NSR, New

Source Performance Standards, Prevention of Significant Deterioration, Lowest Achievable Emission Rate standards, Best Available Retrofit Technology, and regulations under development to control mercury emissions from electric utilities.

The number of current and prospective regulations on power plant emissions has suggested to many in industry, environmental groups, Congress, and the Administration that the time may be ripe for such comprehensive, multi-pollutant legislation to regulate power plant emissions. The key questions are how stringent the controls will be, and whether carbon dioxide (CO_2) will be among the emissions subject to controls.

Regarding the stringency issue, seven bills that were introduced prior to the Administration's proposal would have required reduction of NOx emissions to 1.5 or 1.6 million tons (a nearly 80% reduction from 1998 levels) and reduction of sulfur dioxide emissions to 2.23-4.45 million tons (a reduction of roughly 65%-80% versus 1998). Regarding mercury, the bills would have either required EPA to determine the level of reductions, or required about a 90% reduction from current levels of emissions (from 48 to 4.5 or 5 tons). In general, these reductions would have taken place by 2005 or 2008, depending on the bill. Three of the bills would also have set caps on CO_2 emissions, at the level emitted in 1990. (For additional information and a detailed comparison of the legislative proposals, see CRS Report *RL31326, Air Quality: Multi-Pollutant Legislation*.)

The Administration bill (H.R. 5266 / S. 2815), known as the "Clear Skies" bill, envisions less stringent standards phased in over a longer period of time. For NOx, the Administration would reduce emissions to 1.7 million tons by 2018, with an intermediate limit of 2.1 million tons in 2008. For sulfur dioxide, the limit would be 3.0 million tons in 2018, with an intermediate limit of 4.5 million tons in 2008. For mercury, the limit would be 26 tons in 2010, declining to 15 tons in 2018.

The Administration opposes controls on CO_2, viewing them as a step towards implementing the Kyoto Protocol to the United Nations Framework Convention on Climate Change, which it opposes. Its critics, however—and even some of its supporters—note that the goal of providing regulatory certainty to power companies may not be met without the inclusion of CO_2 controls.

Whatever the merits of CO_2 regulation, some form of multi-pollutant legislation may remain on the agenda over the next few years. Hearings on multi-pollutant legislation were held November 1 and 15, 2001, and January 29 and June 12, 2002, by the Senate Environment and Public Works Committee. Senator Jeffords' bill, S. 556, was reported by the committee, with amendments (S.Rept. 107-347), on November 19, 2002. Opposed by the Administration and by the electric utility and coal industries, the bill died without reaching the Senate floor; but it marked the first time a congressional committee has reported legislation to reduce utility emissions of carbon dioxide. In addition to S. 556 and the other bills discussed above, an effort to reach middle ground (S. 3135) was introduced by Senator Carper, October 17, 2002. The Carper bill would have regulated CO_2 as well as the other three pollutants, but its deadlines and the required reductions in emissions fell somewhere between the Jeffords bill and the Administration's Clear Skies bill.

(For additional information on regulation of electric utility emissions, see CRS Report RS20553, *Air Quality and Electricity: Initiatives to Increase Pollution Controls*.)

MTBE and Reformulated Gasoline

Another set of issues that was on the agenda of the 107th Congress was whether Congress should modify the requirements of the Clean Air Act's reformulated gasoline program or regulate use of the substance MTBE in gasoline in response to incidents of ground water contamination by the substance. Under the Clean Air Act Amendments of 1990, numerous areas with poor air quality are required to add chemicals called "oxygenates" to gasoline as a means of improving combustion and reducing emissions. The Act has two programs that require the use of oxygenates; the more significant of the two is the reformulated gasoline (RFG) program, which took effect January 1, 1995. Under the RFG program, areas with "severe" or "extreme" ozone pollution (82 counties with a combined population of 55 million) must use reformulated gas; areas with less severe ozone pollution may opt into the program as well, and many have. In all, portions of 17 states and the District of Columbia use RFG, and a little more than 30% of the gasoline sold in the United States is RFG.

The law requires that RFG contain at least 2% oxygen by weight. Refiners can meet this requirement by adding a number of ethers or alcohols, any of which contains oxygen and other elements. By far the most commonly used oxygenate is MTBE. In 1999, 87% of RFG contained MTBE. MTBE has also been used since the late 1970s in non-reformulated gasoline, as an octane enhancer, at lower concentrations. As a result, gasoline with MTBE has been used virtually everywhere in the United States, whether or not an area has been subject to RFG requirements.

State and local environmental agencies and EPA attribute marked improvements in air quality to the use of oxygenated and reformulated gasoline. The improvements in air quality have not come without controversy. In Alaska and Wisconsin, residents complained of a wide array of effects, including headaches, dizziness, nausea, sore eyes, and respiratory irritation, from exposure to gasoline/MTBE exhaust, before refiners switched to alternative gasoline formulations using ethanol. MTBE from a number of sources, including leaking underground storage tanks, has also been linked to contamination of drinking water supplies. Removing MTBE from ground water is a costly and difficult process.

The principal issues for Congress are whether Clean Air Act provisions concerning oxygenate use in reformulated gasoline should be waived to allow refiners to discontinue or lessen their use of MTBE without substituting another oxygenate and whether stronger steps, such as a ban on MTBE use, should be considered.

Support for eliminating the oxygen requirement on a nationwide basis is widespread among environmental groups, the petroleum industry, and states. In general, these groups have concluded that gasoline can meet the same low emission performance standards as RFG without the use of oxygenates. But a potential obstacle to enacting legislation to remove the oxygen requirement lies among agricultural interests. About 6% of the nation's corn crop is used to produce a competing oxygenate, ethanol. If MTBE use is reduced or phased out, but the oxygen requirement remains in effect, ethanol use would likely soar, increasing demand for corn. Conversely, if the oxygen requirement is waived by EPA or legislation, not only would MTBE use decline, but so, likely, would demand for ethanol. Thus, Members of Congress and Governors from corn-growing states have taken a keen interest

in MTBE legislation. Unless their interests are addressed, they could pose a potent obstacle to its passage.

Concerns over MTBE have focused on California for much of the past 5 years. California has the most extensive reformulated gasoline program in the country, with state requirements separate and in addition to the federal requirements. In addition, it has experienced the most significant contamination of drinking water by MTBE. Responding to the drinking water contamination incidents, on March 25, 1999, Governor Davis of California signed an Executive Order to require a phase-out of MTBE use in the state by December 31, 2002 (amended earlier this year to December 31, 2003), and requested a waiver of federal requirements to use oxygenates in reformulated gasoline. (Fourteen other states—Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New York, Ohio, South Dakota, and Washington—have subsequently passed legislation to limit or phase out MTBE.)

The California request for a waiver of the oxygen requirement resulted in two years of negotiation between EPA and the state before the Agency finally denied California's request, on June 12, 2001. Without a waiver, gasoline sold in ozone nonattainment areas in the state will be required to contain another oxygenate (most likely, ethanol) when the MTBE ban takes effect, unless Congress acts to change the oxygenate requirement. Legislation to waive the oxygen requirement for California (the Cox amendment to H.R. 4) was rejected by the House, 300-125, August 1, 2001, during debate on the House version of comprehensive energy legislation.

Besides the Cox amendment, many proposals to change the oxygen requirement have been advanced, and Congress has considered several bills over the last three years. On August 4, 1999, the Senate adopted by voice vote Senator Boxer's amendment to the FY2000 Agriculture appropriations bill (S. 1233) expressing the sense of the Senate that use of MTBE should be phased out. Since then, congressional committees have conducted hearings and marked up MTBE legislation several times. The Senate passed MTBE provisions in its version of comprehensive energy legislation, H.R. 4, April 25, 2002. The bill died, however, when the 107th Congress adjourned.

The MTBE provisions in the Senate version of H.R. 4 built on legislation reported by the Environment and Public Works Committee in December 2001, S. 950. S. 950 would have banned the use of MTBE, allowed Governors to waive the RFG program's oxygen requirement, provided additional authority to EPA to regulate fuel additives and emissions, authorized a one-time appropriation of $200 million from the Leaking Underground Storage Tank Trust Fund to clean up MTBE leaks from tanks, and authorized another $200 million over 6 years for states to use to oversee and enforce tank leak prevention and detection regulations. It would also have authorized $750 million in grants to assist conversion of merchant MTBE production facilities to production of cleaner fuel additives. The bill was reported on December 20, 2001 (S.Rept. 107-131). The Chairman and other members of the committee said they expected to engage in negotiations to add renewable fuel requirements to the bill before it could be brought to the floor.

Instead of S. 950 coming to the floor, however, similar MTBE provisions were added to the Senate's energy bill, as Sections 83-839 of S.Amdt. 2917. The amendment also provided for tripling the use of ethanol or other renewable fuels in motor vehicles by 2012,

in Section 820. These provisions passed the Senate in the Senate version of H.R. 4, April 25, 2002. The House passed its own version of H.R. 4 in August 2001, minus most of the MTBE and ethanol provisions, and different in many other respects, as well. The conferees did not reach agreement on the conflicting versions, and the bill died when the Congress adjourned.

As the deadlines for state phaseout of MTBE move closer, investment decisions involving hundreds of millions of dollars hang on the regulatory framework of the post-MTBE gasoline market. Thus, pressure for congressional action on this issue is likely to remain high. Whether this pressure will produce enacted legislation is less clear. (For additional discussion of the MTBE issue, see CRS Report 98-290, *MTBE in Gasoline: Clean Air and Drinking Water Issues*. For information on ethanol, see CRS Report RL30369, *Fuel Ethanol: Background and Public Policy Issues*.)

LEGISLATION

H.R. 4 (Tauzin)

Securing America's Future Energy Act of 2001. Comprehensive energy legislation. As amended and passed by the Senate, the bill includes provisions that would ban use of the gasoline additive MTBE within 4 years of enactment (but allow states to authorize its continued use), eliminate the requirement to use oxygenates in reformulated gasoline, require maintenance of the toxic emission reductions achieved by the RFG program, authorize additional funding for cleanup of ground water contaminated by MTBE, and triple use of ethanol and other renewable fuels in motor vehicles by 2012. S.Amdt. 2917 (Daschle) proposed February 15, 2002, and further modified March 5, 2002. Amendment agreed to by voice vote, April 25, 2002. Amendment incorporated into H.R. 4 and passed by the Senate, April 25, 2002. Conferees appointed by the Senate, May 1, 2002, and by the House, June 12, 2002.

H.R. 20 (Greenwood)

Amends Section 211 of the Clean Air Act to require the EPA Administrator to waive the reformulated gasoline program's oxygen content requirement in response to a state petition; requires EPA to limit use of MTBE beginning in 2005; and allows EPA to control or prohibit the use of any oxygenate, or to permit the states to do so under limited circumstances. Introduced January 3, 2001; referred to Committee on Energy and Commerce.

H.R. 25 (Sweeney)

Acid Rain Control Act. To reduce acid deposition by requiring additional controls on sources of sulfur dioxide and nitrogen oxides. Introduced January 3, 2001; referred to Committee on Energy and Commerce.

H.R. 52 (Condit)

Amends the Clean Air Act to permit the exclusive application of California state regulations regarding reformulated gasoline in federal RFG areas within the state. Introduced January 3, 2001; referred to Committee on Energy and Commerce.

H.R. 454 (T. Johnson)

MTBE Elimination Act. Prohibits the use of MTBE as a fuel additive, effective 3 years after the date of enactment; establishes an MTBE ground water contamination and remediation research grants program within the Environmental Protection Agency; and allows reformulated gasoline containing 3.5% ethanol to exceed current standards for volatility. Introduced February 6, 2001; referred to Committee on Energy and Commerce.

H.R. 608 (Ganske)

Clean Air and Water Preservation Act of 2001. Amends Section 211 of the Clean Air Act to prohibit the use of MTBE 3 years after the date of enactment, to provide flexibility within the oxygenate requirement of the RFG program, and to prevent backsliding on emissions by limiting the aromatic hydrocarbon content of RFG. Introduced February 14, 2001; referred to Committee on Energy and Commerce.

H.R. 1256 (Waxman)

Clean Smokestacks Act of 2001. Amends the Clean Air Act to reduce emissions of sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide from electric powerplants. Introduced March 27, 2001; referred to Committee on Energy and Commerce.

H.R. 1335 (Allen)

Clean Power Plant Act of 2001. Requires reductions in emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide from fossil fuel-fired electric utility generating units. Introduced April 3, 2001; referred to Committee on Energy and Commerce.

H.R. 1647 (Barton)

Electricity Emergency Relief Act. Includes provisions designed to temporarily waive NOx emission requirements for power plants during electricity emergencies. Introduced May 1, 2001; referred to Committees on Energy and Commerce and on Resources. Approved, amended, by Energy and Commerce Subcommittee on Energy and Air Quality, May 10, 2001.

H.R. 1695 (Pombo)

Amends Section 211 of the Clean Air Act to require EPA to prohibit the use of MTBE as a fuel additive and to prohibit any additive in gasoline unless it has been determined (through scientific testing and peer review) not to have any adverse effects on the public. Introduced May 3, 2001; referred to Committee on Energy and Commerce.

H.R. 1891 (Bryant)

Clean Diesel Fuel Provider Relief Act. Amends Section 211 of the Clean Air Act to eliminate the phase-in period (2006 to 2010) for the reduction of sulfur content in diesel fuel, making EPA's new sulfur standard effective September 1, 2006, and sets cetane and aromatic content requirements for such fuel. Introduced May 17, 2001; referred to Committee on Energy and Commerce.

H.R. 1999 (Nussle)

Ethanol Energy Promotion Act of 2001. Amends the Clean Air Act to prohibit the use of MTBE as a fuel additive and to require federal vehicles to use ethanol fuel, and to modify the small-ethanol-producer tax credit. Introduced May 24, 2001; referred to Committees on Energy and Commerce and on Ways and Means.

H.R. 2017 (Green)

Directs the EPA Administrator to conduct a study of the feasibility of developing regional vehicle fuel specifications for the United States and of implementing the use of a uniform blend of gasoline in the Midwest. Introduced May 25, 2001; referred to Committee on Energy and Commerce.

H.R. 2116 (Taylor)

Great Smoky Mountains Clean Air Act of 2001. Requires reductions of emissions of sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide from Tennessee Valley Authority electric powerplants by January 1, 2007. Introduced June 7, 2001; referred to Committee on Energy and Commerce.

H.R. 2230 (King)

Amends Section 211 of the Clean Air Act to prohibit the use of the fuel additive MTBE in gasoline. Introduced June 19, 2001; referred to Committee on Energy and Commerce.

H.R. 2249 (Blunt)

Gasoline Access and Stabilization Act of 2001. Amends Section 211 of the Clean Air Act to require a more uniform formula for gasoline and diesel fuel so that gasoline and diesel fuel manufactured for one region of the country may be transported to and sold in other regions. Introduced June 20, 2001; referred to Committee on Energy and Commerce.

H.R. 2270 (Issa)

Identical to H.R. 52. Introduced June 21, 2001; referred to Committee on Energy and Commerce.

H.R. 2729 (Allen)

Amends the Clean Air Act to require reduced emissions of mercury from fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants. Introduced August 2, 2001; referred to Committee on Energy and Commerce.

H.R. 3362 (Condit)

Transported Air Pollution Mitigation Act of 2001. Amends the Clean Air Act to impose certain requirements on areas upwind of ozone nonattainment areas. Introduced November 28, 2001; referred to Committee on Energy and Commerce.

H.R. 3596 (Ryan)

Amends the Clean Air Act to ban the use of MTBE in gasoline, eliminate the RFG program's oxygen requirement, require the use of renewable fuel, and reduce the number of "boutique" fuels. Introduced December 20, 2001; referred to Committee on Energy and Commerce.

H.R. 3880 (Fossella)

Provides a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act for areas in New York where the planning offices and resources have been destroyed by acts of terrorism. Introduced March 6, 2002; referred to Committees on Energy and Commerce and on

Transportation and Infrastructure. Forwarded by Subcommittee on Energy and Air Quality to Full Committee on Energy and Commerce, July 24, 2002. Reported, amended, by Committee on Energy and Commerce, September 9, 2002 (H.Rept. 107-649 Part 1). Passed the House (377-0), September 10, 2002. Passed the Senate by unanimous consent, September 12, 2002. Signed into law October 1, 2002.

H.R. 3946 (Sensenbrenner)

Fuel Price Stability Act of 2002. Amends the Clean Air Act to allow the Governors of Illinois, Indiana, and Wisconsin to permit the sale of conventional gasoline in reformulated gasoline areas if the Governor finds that reduced availability of RFG has resulted in, or is likely to result in, a significant price increase in that area Introduced March 12, 2002; referred to Committee on Energy and Commerce.

H.R. 4611 (Olver)

Amends the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions. Introduced April 25, 2002; referred to Committee on Energy and Commerce.

H.R. 5261 (Kirk)

Great Lakes Mercury Reduction Act. Prohibits the issuance of new source permits under the Clean Air Act for certain sources that would result in the deposition of mercury into the Great Lakes. Introduced July 26, 2002; referred to Committee on Energy and Commerce.

H.R. 5266 (Barton, by request)

Clear Skies Act of 2002. The Administration's multi-pollutant legislation for electric utility emissions of sulfur dioxide, nitrogen oxides, and mercury. Introduced July 26, 2002; referred to Committee on Energy and Commerce.

H.R. 5433 (Barcia)

Amends the Clean Air Act to ensure reasonable emissions standards for highway motorcycles. Introduced September 24, 2002; referred to Committee on Energy and Commerce.

H.R.5732 (K. Brady)

Amends the Clean Air Act regarding the conformity of transportation projects to state implementation plans. Introduced November 14, 2002; referred to Committee on Energy and Commerce.

S. 60 (Byrd)

National Electricity and Environmental Technology Act. Authorizes accelerated research and development programs for advanced clean coal technologies for use in electricity generating facilities; amends the Internal Revenue Code to provide financial incentives to encourage retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies. Introduced January 22, 2001; referred to Committee on Finance.

S. 265 (Fitzgerald)

MTBE Elimination Act. Prohibits the use of MTBE as a fuel additive, effective 3 years after the date of enactment and establishes an MTBE ground water contamination and remediation research grants program within the Environmental Protection Agency. Introduced February 6, 2001; referred to the Committee on Environment and Public Works.

S. 389 (Murkowski)

National Energy Security Act of 2001. To protect the energy and security of the United States and decrease America's dependency on foreign oil sources to 50% by the year 2011 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies; to improve environmental quality by reducing emissions of air pollutants and greenhouse gases; and to mitigate the effect of increases in energy prices on the American consumer, including the poor and the elderly. Introduced February 26, 2001; referred to Committee on Finance.

S. 517 (Bingaman)

Energy Policy Act of 2002. Comprehensive energy legislation. As modified by S.Amdt. 2917 (Daschle), Section 819 requires increasing use of ethanol or other renewable fuels in motor vehicle fuel each year from 2004 to 2012. Sections 831-839 would ban the use of MTBE in gasoline within 4 years, allow governors to waive the oxygenate requirement in reformulated gasoline, prevent backsliding on emissions of air toxics from RFG, and authorize funds for remediation of MTBE leaks. S. 517 introduced March 12, 2001. Amendment in the nature of a substitute introduced February 15, 2002; amendment, as modified, adopted March 5, 2002. Senate consideration began March 5, 2002.

S. 556 (Jeffords)

Clean Power Act of 2001. Amends the Clean Air Act to reduce emissions of sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide from electric powerplants. Introduced March 15, 2001; referred to the Committee on Environment and Public Works. Hearings held, November 1 and 15, 2001, and January 29 and June 12, 2002. Reported with amendments (S.Rept. 107-347), November 19, 2002.

S. 588 (Schumer)

Acid Rain Control Act. Amends the Clean Air Act to reduce emissions of sulfur dioxide, nitrogen oxides, and mercury from electric powerplants. Establishes a NOx emissions trading program. Introduced March 21, 2001; referred to the Committee on Environment and Public Works.

S. 670 (Daschle)

Renewable Fuels Act of 2001. Amends the Clean Air Act to ban MTBE from the U.S. fuel supply not later than 4 years after the date of enactment, to increase production and use of ethanol, and to authorize $400 million from the Leaking Underground Storage Tank Fund for remediation of MTBE contamination. Introduced March 30, 2001; referred to the Committee on Environment and Public Works.

S. 892 (Harkin)

Clean and Renewable Fuels Act of 2001. Amends the Clean Air Act to phase out the use of MTBE in fuels or fuel additives and to promote the use of renewable fuels. Introduced May 15, 2001; referred to the Committee on Environment and Public Works.

S. 947 (Feinstein)

Amends the Clean Air Act to allow Governors to waive the oxygen content requirement for reformulated gasoline. Introduced May 24, 2001; referred to the Committee on Environment and Public Works.

S. 950 (B. Smith)

Federal Reformulated Fuels Act of 2001. Requires EPA to ban the use of MTBE as a fuel additive within 4 years of enactment; allows Governors to waive the oxygen content requirement for reformulated gasoline; requires maintenance of toxic air pollution reductions achieved under the reformulated gasoline program; authorizes $400 million from the Leaking Underground Storage Tank Trust Fund for remediation of MTBE leaks, release prevention, and compliance; requires studies of the health and environmental effects of MTBE substitutes; expands the authority for states to opt in to the RFG program; and other provisions. Introduced May 24, 2001; referred to the Committee on Environment and Public Works. Reported December 20, 2001 (S.Rept. 107-131).

S. 1131 (Leahy)

Clean Power Plant and Modernization Act of 2001. Promotes economically sound modernization of U.S. electric power generation capacity, establishes requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, reduces emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide, requires that all U.S. fossil fuel-fired electric utility generating units meet new source review requirements, promotes the use of clean coal technologies, and promotes alternative energy and clean energy sources. Introduced June 28, 2001; referred to the Committee on Finance.

S. 1870 (Corzine)

Amends the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse gas emissions. Introduced December 20, 2001; referred to the Committee on Environment and Public Works.

S. 1875 (Leahy)

Amends the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boilers, solid waste incinerators, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment. Introduced December 20, 2001; referred to the Committee on Environment and Public Works.

S. 2065 (Campbell)

To implement air quality programs on the Southern Ute Indian Reservation in Colorado. Introduced March 21, 2002; referred to the Committee on Environment and Public Works.

S. 2579 (Bond)

Amends the Clean Air Act to limit access to off-site consequences analysis information submitted to EPA by facilities handling hazardous chemicals, in order to reduce the risk of criminal release from stationary sources. Introduced June 5, 2002; referred to the Committee on Environment and Public Works.

S. 2815 (B. Smith, by request)

Clear Skies Act of 2002. The Administration's multi-pollutant legislation for electric utility emissions of sulfur dioxide, nitrogen oxides, and mercury. Introduced July 29, 2002; referred to Committee on Environment and Public Works.

S. 3135 (Carper)

Clean Air Planning Act of 2002. Amends the Clean Air Act to establish a national uniform multiple air pollutant regulatory program for the electric generating sector. Introduced October 17, 2002; referred to Committee on Environment and Public Works.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress. House. Committee on Energy and Commerce. Subcommittee on Energy and Air Quality. *H.R. 1647, The Electricity Emergency Act of 2001*. May 1 and May 3, 2001.

—. *Accomplishments of the Clean Air Act* and *Clean Air Act Implementation: Experience of State and Local Regulators*. May 1 and June 5, 2002.

—. Committee on Science. *Health Effects of Particulate Air Pollution: What Does the Science Say?* May 8, 2002.

U.S. Congress. Senate. Committee on Environment and Public Works. *S. 556, the Clean Power Act.* November 1 and 15, 2001; January 29 and June 12, 2002.

—. *Impact of Air Emissions from the Transportation Sector on Public Health and the Environment.* August 1, 2001.

—. *Health and Environmental Effects of Power Plant Emissions.* July 26, 2001.

—. *Health Effects of $PM_{2.5}$ Emissions*. October 2, 2002.

—. *MTBE in Gasoline*. April 27, 2001.

—. Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety. *Clean Air Act and National Energy Policy*. March 21, 2001.

—. Committee on the Judiciary. *New Source Review Program of the Clean Air Act*. July 16, 2002.

FOR ADDITIONAL READING

CRS Reports

CRS Report RL30432. *Air Quality and Electricity: Enforcing New Source Review*, by Larry B. Parker and John E. Blodgett.

CRS Report RS20553. *Air Quality and Electricity: Initiatives to Increase Pollution Controls*, by Larry B. Parker and John E. Blodgett.

CRS Report 98-236. *Air Quality: EPA's Ozone Transport Rule, OTAG, and Section 126 Petitions — A Hazy Situation?*, by Larry Parker and John Blodgett.

CRS Report RL31326. *Air Quality: Multi-Pollutant Legislation*, by Larry Parker and John Blodgett.

CRS Report RL31515. *Air Toxics: What Progress Has EPA Made in Regulating Hazardous Air Pollutants?* by Anne L. Hardenbergh.

CRS Report RL30853. *Clean Air Act: A Summary of the Act and Its Major Requirements*, by James E. McCarthy.

CRS Report RL30737. *Diesel Fuel and Engines: An Analysis of EPA's Proposed Regulations*, by Brent D. Yacobucci, James E. McCarthy, John W. Fischer, Alejandro E. Segarra, and Lawrence C. Kumins.

CRS Report RL30878. *Electricity Generation and Air Quality: Multi-Pollutant Strategies*, by Larry Parker and John Blodgett.

CRS Report RL30369. *Fuel Ethanol: Background and Public Policy Issues*, by Brent D. Yacobucci and Jasper Womach.

CRS Report RL30131. *Highway Fund Sanctions and Conformity Under the Clean Air Act*, by James E. McCarthy.

CRS Report 98-290. *MTBE in Gasoline: Clean Air and Drinking Water Issues*, by James E. McCarthy and Mary Tiemann.

CRS Report RL31531. *Particulate Matter Air Quality Standards: Background and Current Developments*, by Anne L. Hardenbergh.

CRS Report RL31149. *Snowmobiles, Environmental Standards, and Access to National Parks: Regulatory and Legislative Issues*, by James E. McCarthy.

CRS Report RS20860. *The Supreme Court Upholds EPA Standard-Setting Under the Clean Air Act: Whitman v. American Trucking Ass'ns*, by Robert Meltz and James E. McCarthy.