January 26, 1990
THE ADMINISTRATOR

Dear Senator:

In an effort to provide more detailed information concerning the proposed Clean Air Act amendments, I am enclosing three reports that I hope you will find useful in your deliberations:

- **Administration Report on S. 1630**
  
  A narrative description of the major provisions of S. 1630 and the differences and similarities between the Environment and Public Works Committee bill and the President's proposal.

- **Summary Side-by-Side Comparison of S. 1630 and Administration Bill**
  
  A side-by-side summary comparison of the major provisions of each title of S. 1630 and the President's proposal with suggested amendments.

- **One Page Detailed Descriptions of Major Provisions**
  
  Additional detailed information about major provisions of the Non-attainment, Air Toxics, Acid Rain, Permits, and Enforcement titles of each bill. These one-page summaries highlight the significant differences as well as the similarities between the bills. Where significant differences exist, the rationale for the Administration position is described. Where similarities exist, the rationale for the necessity of the provision is described.

I believe, as I'm sure you do too, that Clean Air legislation is long overdue. I look forward to working with you toward Senate passage of a bill which preserves a sensible balance between costs and benefits. Should you have any questions regarding the enclosed or related matters, please feel free to contact Patrick Quinn, my Associate Administrator for Congressional and Legislative Affairs at 382-5200.

Sincerely,

William K. Reilly

Enclosure
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<th>Administration Proposal</th>
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<td>First Phase:</td>
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<td>Substitute Administration or Dingell-Waxman provisions for Senate bill</td>
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<td>.25 gpm HC</td>
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<td>.7 gpm NOx</td>
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<td>No Second Phase</td>
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<td>(Note: this does not take the Dingell-Waxman compromise into account)</td>
<td>.125 gpm HC</td>
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<td>1.7 gpm CO</td>
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<td>CO2 standard beginning in 1996</td>
<td>No provision</td>
<td>Add Administration provision to Senate bill</td>
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<td><strong>ALTERNATIVE FUELS</strong></td>
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<td>Requirement to introduce cars which can use alternate fuels in the 9 worst ozone areas, 1995-500,000 vehicles 1996-750,000 vehicles 1997 and after- 1 million vehicles</td>
<td>No provision</td>
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areas, where there are uncertain effects on onshore air quality (except in California).

TITLE II - MOTOR VEHICLES: The mobile source provisions in S. 1630 differ from the provisions in the President's proposal in four key areas. These differences result in Senate bill motor vehicle provision costs of about $11 billion more than those in the President's proposal.

First, there is a major difference in the approach used to achieve further reductions in auto tailpipe emissions beyond the so-called Tier I tailpipe standards that are included in both proposals. The Administration believes that even more tailpipe reductions are needed in our most polluted cities. The President proposes to achieve these reductions through an innovative program to introduce clean cars and clean fuels. This program requires 1995 cars in certain cities to meet the equivalent of the Senate 2003 smog standards 8 years before 2003. Furthermore, the President's post-2000 car would have almost 70% lower ozone-causing emissions than the Senate's 2003 car. Other states or cities which desire these emissions reductions may opt into the clean fuels program under the President's proposal. S. 1630, on the other hand, requires that expensive emission control equipment be added to cars nationwide and does not allow for the potential benefits of cleaner fuels in combination with cleaner cars to be realized. Rather, each car sold throughout the country will be forced to have expensive new equipment which gives less environmental benefits at a much slower pace than under the President's proposal.

Second, S. 1630 includes a requirement for reductions in carbon dioxide (CO2) emissions from auto tailpipes. This is an effort to address emissions of greenhouse gases and is essentially a mandate to improve auto fuel efficiency. The Administration strongly opposes the inclusion of these measures. It is premature with respect to global climate change and raises many new, significant and controversial issues into the Clean Air debate which is already loaded with controversy and would impede the chances of legislation this year.

Third, there is a serious difference in the magnitude and prescriptiveness of the enhanced inspection and maintenance (I/M) programs contained in the two proposals. Adopting the philosophy that pollution controls should focus on those areas needing them, the President proposed that serious and severe nonattainment areas be required to enhance their existing I/M programs. These are the areas needing significant additional controls. S. 1630 goes beyond this by making a costly, prescriptive proposal to require

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2 $11 billion includes costs attributable to S. 1630 for mobile source provisions that address air toxics.
allowances might be hoarded by allowing EPA to withhold 2% of the allowances and sell them if necessary to new sources.

There are also three acid rain issues concerning S. 1630 that the Administration does not support. First, regarding clean coal technology incentives, S. 1630 failed to include several incentives the Administration believes are critical for encouraging such emerging technologies and realizing their associated energy, environmental and economic benefits. Second, S. 1630 includes a clean state provision that exempts the dirtiest units in so-called clean states from the acid rain provisions, resulting in significantly higher emissions increases in the west than are allowed by the President's proposal. Finally, S. 1630 changes the NOx control requirements contained in the President's program from a technology standard for existing boilers to an allowance system with tighter controls. This change increases the overall costs of the acid rain program, for relatively small incremental emission reductions. This change is the primary reason that the costs associated with the Senate bill acid rain program are about $400 million higher annually than those of the President's proposal.

TITLES IV AND VI - IMPLEMENTATION AND ENFORCEMENT TOOLS: Both S. 1630 and the President's Proposal contain provisions that establish necessary tools for enforcing and implementing the Clean Air Act Amendments. In both proposals, the permit program requires that major air pollution sources and certain other sources obtain operating permits. In addition both bills contain similar enforcement provisions, including, among others, criminal prosecution, citizen suits and administrative enforcement proceedings. The Administration supports the permitting and enforcement provisions in S. 1630.

CFCs AND GLOBAL WARMING: S. 1630 adds provisions that are not in the President's proposal and which are aimed at addressing stratospheric ozone and global warming concerns, such as a requirement to control carbon dioxide emissions from auto tailpipes. The Administration does not support these provisions because unilateral action aimed at addressing a global problem is inappropriate to include in this bill. These proposed actions have been neither fully analyzed nor do they appear to be a particularly effective approach to such a geographically vast problem.

MUNICIPAL WASTE COMBUSTORS: The municipal waste combustor provisions in S. 1630 are extraneous, since EPA has recently proposed standards to address air emissions from both new and existing incinerators. In fact, the Administration believes that some aspects of the provisions in S. 1630 may be less environmentally protective than the proposed EPA program.

CLEAN FUELS: S. 1630 contains no clean fuels program. The Administration strongly urges the Senate to include a clean fuels program such as that in the President's proposal. As the President has said before, it is much more cost effective and technically feasible to implement a clean car program integrating clean fuels than to continue to depend only on vehicle controls. For decades we have reduced auto emissions by changing vehicle technology; it now time to view the fuel as a partner in gaining potential emission reductions.
auto emissions should require cleaner fuels, as well as cleaner cars. Therefore, its program requires the introduction of clean fuel cars in the nine most polluted cities, beginning in 1995. These cars would achieve the same emissions reductions as required by the Senate/Tier II cars but are built eight years earlier than would be required by the Senate. Further, the Administration would have a post-2000 clean fuel car that emits almost 70% fewer ozone-causing pollutants than the most stringently controlled Senate car.

The cost of Tier II nationwide Senate tailpipe controls is estimated to be about $300 per new car. Standard estimates of the price responsiveness of new car demand suggest that new car sales would fall by approximately 5 percent if this extra $300 per vehicle cost were passed through to retail car prices. This consumer response could have adverse environmental consequences in the years following the 2003 model year, since increased use could be made of older cars with significantly higher per mile emission factors. The Administration's cost is far lower (about $11 billion less annually, including costs associated with Senate bill motor vehicle provisions addressing air toxics) because the associated provisions allow the environmental benefits to be achieved through a combination of car and fuel technology.

Lastly, the President's program is targeted initially to the cities with the most severe smog problems. Other states or cities may opt into the program, at their discretion, if they believe the benefits are cost-effective. The Senate allows no such choices; all new cars must have costly control equipment while ignoring the major emission reduction potential of cleaner fuels.

b. Carbon Dioxide (CO2) Standard

S. 1630 would establish for the first time a standard limiting the amount of CO2 emissions from auto exhaust. Although CO2 is not harmful to health, it is a greenhouse gas which could cause global warming. The Senate sets a two-step standard: beginning in 1996 new cars must on average meet a CO2 standard which corresponds to 33 miles per gallon (mpg) fuel efficiency, and beginning in 2000 the standard corresponds to 40 mpg.

The Administration opposes the inclusion of CO2 standards in the Clean Air Act amendments for three reasons. First, it is premature to mandate specific controls to address global warming. International studies are underway. International negotiations on a framework convention for global climate change are scheduled for this year and should be completed prior to unilateral U.S. action. Second, fuel economy requirements raise important n..n-environmental questions that need to be carefully considered, such as feasibility, cost and the competitiveness of the U.S. auto industry with foreign manufacturers. Finally, the entire set of proposed Clean Air Act Amendments covers many complex and controversial
issues. To now include an auto control program aimed at reducing emissions of CO2 brings a host of new, equally complicated issues into the debate. The CO2 provision presents a real risk of overloading the proposals and preventing any legislative action on clean air.

c. Enhanced Inspection and Maintenance (I/M) Programs

There is a serious difference between the scope of the enhanced I/M programs embodied in the two proposals. While the Administration proposal contains a statutory requirement that serious and severe nonattainment areas enhance their existing I/M programs to make them more effective, S. 1630 would force at least 15 and perhaps as many as 34 areas to start entirely new I/M programs even though they probably do not need them. In addition, under S. 1630, 32 Northeast cities that presently are attaining the ozone standard would be required to start new I/M as part of the Northeast Ozone Transport Region requirements. Obviously, the cost differential between these varying approaches would be significant, with the Senate's approach costing significantly more than the Administration's approach.

d. Refueling Emissions

The Administration proposal and S. 1630 differ on the fundamental issue relating to refueling. While S. 1630 requires Stage II (at the pump) controls in all serious, severe and extreme ozone nonattainment areas (and in some moderate areas), it also mandates that, beginning with the 1993 models, "onboard" refueling controls must be installed on all cars. In addition, S. 1630 requires that Stage II be implemented statewide in the entire Northeast Transport Region.

The Administration believes it is appropriate to require Stage II controls that are targeted to areas which need refueling emissions control. Stage II controls are preferable to onboard controls because they will achieve emission reductions much sooner and they will avoid imposing unnecessary costs in attainment areas.

C. Toxic Air Pollution

1. Background

Toxic air pollution can be defined as the air pollution that is hazardous to human health but is not covered under the ambient air quality programs in the Clean Air Act. These pollutants include carcinogens, mutagens, and reproductive toxins. The current Clean Air Act has hindered EPA's efforts reduce emissions of these threatening substances. As a result, the Agency has only
address court decisions and legal issues which limit enforcement of the Clean Air Act; c) amendments to improve administrative enforcement authorities; and, d) amendments to clarify and confirm existing enforcement, and to correct technical problems with the Act. As a whole, the President's proposed amendments should ensure a substantially increased deterrent effect and consistency in implementation.

The amendments strengthen and clarify the Act's enforcement authorities in the following areas:

- Enhanced criminal enforcement
- Enhanced citizen suit enforcement (see below)
- Enhanced administrative enforcement
- Amendments to address technical problems and court decisions

The S. 1630 enforcement provisions are generally consistent with the President's proposed provisions, and are therefore supported by the Administration.

b. Judicial Review and Citizen Suits

Amendments proposed in S. 1630 would make significant changes in the citizen suit and judicial review provisions of the Act. The Administration is concerned about the potential impacts these provisions could have on EPA's ability to carry out its mission under the Act. The changes would dramatically expand the jurisdiction of district courts and create overlaps with existing Courts of Appeals jurisdiction. By providing citizens with broadly expanded opportunities to judicially challenge agency action—even discretionary action—and providing district courts with the authority to compel nonmandatory actions, these provisions could deprive the Executive Branch of control over EPA's policy and regulatory agenda and require the transfer of scarce resources from enforcement to defensive litigation.

F. Major S. 1630 Additions

There are several provisions in S. 1630 that introduce entirely new air pollution control programs into the Clean Air Act amendments proposed by the President. These additional provisions are not supported by the Administration for reasons discussed below.

1. Proposed Provisions on CFCs and Global Warming

a. Stratospheric Ozone and Global Climate - S. 1630 contains provisions related to stratospheric ozone and global climate protection. While these sections have sought to build on the
structure and requirements currently contained in the Montreal Protocol, EPA believes that unilateral action would be inappropriate given the global nature of this problem. The Administration believes that stratospheric ozone and climate protection can best be addressed in the context of ongoing international negotiations. Unilateral actions, such as including requirements in the U.S. Clean Air Act Amendments, are not effective safeguards of the global environment and would unnecessarily punish national interests.

The process of strengthening the Montreal Protocol is well underway and should be allowed to run its course. Changes to the protocol are scheduled to be decided at the second meeting of the Parties which is scheduled for June 1990. Action prior to this, in the context of Clean Air Act amendments, would have almost no environmental benefit.

The Agency already has broad regulatory authority under Section 157(b) of the Clean Air Act to undertake many of the specific requirements (e.g., recycling, product bans, labeling) contained in the bill. Several of these actions are currently under consideration by the Agency as discussed in an advance notice of proposed rulemaking (53 Federal Register 30604; August 12, 1988) as supplements to its current production-based regulatory system. Specific Congressional action is therefore unnecessary.

Part B of Title VII of S. 1630 requires information collection and reports to Congress concerning methane role as a greenhouse gas. Since analysis of methane emissions and controls are being conducted as part of the Intergovernmental Panel on Climate Change, this section of the bill is not necessary.

b. Carbon Dioxide Emissions from Cars - As discussed previously (Section 2.B), the Administration does not support the inclusion of carbon dioxide standards for auto emissions. The Agency is actively involved in international efforts to deal with the issue of global warming. As with the stratospheric ozone and global climate provisions included in S. 1630, the Administration believes that unilateral actions are not an effective means of safeguarding the global environment. In view of this, such provisions would unnecessarily punish national interests.

2. Municipal Waste Combustors (MWCs)

Since the Senate municipal waste combustor (MWC) provisions were originally introduced as S. 196, EPA has proposed standards to address air emissions from both new and existing incinerators. The S. 1630 MWC provisions are therefore extraneous. In fact, these provisions may be less environmentally protective than the EPA proposed program, while also being more expensive.
Title IX

Issue: Carbon Dioxide Tailpipe Standards. Requires for the first time control of emissions of carbon dioxide; this is essentially a requirement to improve fuel efficiency.

Administration Position
No provisions included

Senate Position
Establishes the following CO2 standards, to be met on average by each manufacturer of passenger cars:

Grams per mile
1996: 266 g/mile
2000: 220 g/mile

Equivalent to (miles per gallon)
33 mpg
40 mpg

Why Administration's Position is Better

- It is premature to legislate specific control measures to reduce global warming; international negotiations are underway and should be completed prior to unilateral U.S. action.

- Fuel economy requirements raise significant non-environmental questions that need to be carefully considered, such as feasibility, cost, possible losses in safety, performance and other attributes valued by the car-buying public, and impacts on the competitiveness of the domestic auto industry with foreign manufacturers.

- The Administration recently testified that 31 mpg is an upper limit of what would be feasible by 1995, and that current market trends toward greater performance and luxury models will make this an ambitious goal for U.S. manufacturers.

- It is inappropriate to add this very complex issue to the Clean Air Act which is already full of complicated and controversial issues. To do so threatens any legislative action on clean air this year.