



ENVIRONMENT  
IN THE  
CROSSHAIRS

*Assessing Federal  
Legislation in 2001*

February 2002

# ENVIRONMENT IN THE CROSSHAIRS

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Natural Resources Defense Council

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### ABOUT NRDC

The Natural Resources Defense Council is a national nonprofit environmental organization with more than 500,000 members. Since 1970, our lawyers, scientists, and other environmental specialists have been working to protect the world's natural resources and improve the quality of the human environment. NRDC has offices in New York City; Washington, D.C.; Los Angeles; and San Francisco.

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Natural Resources Defense Council

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### EXECUTIVE SUMMARY

Environmental issues took center stage in the first half of 2001 as Americans watched the Bush administration attempt to roll back one environmental protection after another. Debates on arsenic in drinking water and drilling in the Arctic captured the public attention, but the administration's firm anti-environmental stance seemed unlikely to yield. It was only when the balance of power shifted in the Senate that the year's defining characteristic took hold: legislative gridlock. This gridlock prevented most substantive environmental legislation from getting passed, but it also halted major attacks on wildlands, water, and air quality. In the end, 2001 became a year of holding ground—neither gaining nor losing it—on protections for public lands, water, and health.

When the year began, most members of the environmental community feared a much more damaging outcome. With conservative forces at the helm in the White House and both houses of Congress, the post-2000 elections prognosis for the environment looked bleak. Conservationists and public health advocates braced themselves for a long and sustained attack on environmental protections and on many of the gains made during the Clinton administration.

The scope of this dramatic shift became clear in early 2001 when a congressional budget and a tax cut were passed that will likely require severe cutbacks in necessary funding for environmental programs in years to come. Several long-sought administrative victories, such as lower arsenic levels in drinking water and tighter energy efficiency standards, were put on hold or overturned very early in this new administration.

On June 6, however, the outlook changed. Frustrated with the conservative leadership of his own party and the Bush White House's distance from a more moderate Republican agenda, Vermont Sen. James Jeffords played his trump card in an evenly divided Senate by leaving the Republican party and becoming an Independent. Control of the Senate was thus thrown to the newly formed Democratic majority, and Sen. Tom Daschle (D-SD) took the reins from Sen. Trent Lott (R-MS). Since this pivotal power switch, environmentally damaging legislation passed by the House has been stopped in its tracks by the new Senate leadership.

Objecting to his loss of control over the Senate agenda, Lott led efforts in 2001 to block Democratic initiatives, abandoning the Senate to almost complete gridlock in the waning days of the first session. As a result, the atmosphere on Capitol Hill today became one of charged, partisan debate and little legislating. In this environment, finishing the remaining appropriations bills and responding to the war on terrorism after September 11 became more difficult, and Congress did not adjourn for the year until December 20.

Much unfinished business remains for Congress to consider in 2002. Congress will likely take up a farm bill, an economic stimulus package, and comprehensive energy legislation, each bill representing potential contentious debate. The lesson of the first session of the 107<sup>th</sup> Congress is clear: the current political agenda of both the House leadership and the White House is to weaken environmental protections and policies at every turn, and only the leadership of the Senate has prevented the worst from occurring.

# OVERVIEW: A DIFFICULT YEAR

In the early days of the 107<sup>th</sup> Congress, the environment quickly stood out as a defining political issue as the Bush administration moved quickly to reverse environmental gains made during the Clinton administration. The breadth and speed of the Bush administration's environmental assaults were alarming. In just the first 100 days, the new president suspended protections to limit arsenic in drinking water, abandoned international global warming negotiations, reversed himself on a campaign pledge to reduce global warming pollution from power plants, and pressed to open up not just the Arctic National Wildlife Refuge, but also our national monuments and other special lands to the operations of large oil, gas, and coal mining companies. In its ongoing coverage of Bush's record, the news media singled out environmental policy as the one area where this administration faltered.

In response to the flurry of anti-environmental actions, bipartisan coalitions of senators and representatives began to speak out against the administration's position on arsenic in drinking water, the roadless forest initiative, mining regulations, requirements that federal contractors follow health and environmental laws, and global warming. Even the conservative House of Representatives repudiated many of the administration's environmental positions during the appropriations process by blocking efforts to weaken the arsenic rule and to drill for oil off the coast of Florida, off the shores of the Great Lakes, and in national monuments.

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## ARSENIC AND THE ARCTIC WILDLIFE REFUGE

Although many other issues emerged later, two legislative battles dominated Congress and created nationwide engagement on environmental issues: arsenic in drinking water and developing a comprehensive energy policy. These two issues set the tone for the environmental debate for most of the year by pitting protections for public health and public lands against the interests of industry profits and cost cutting.

Very early in 2001, the Bush administration suspended new, more protective standards for keeping arsenic out of drinking water. Administration officials claimed that the standard was set arbitrarily high and would cost too much money to implement. House and Senate Democrats fought back. In the House, Reps. Henry Waxman (D-CA) and David Bonior (D-MI) led the charge to ensure that Bush could not walk away from the Clinton administration's more protective arsenic standard by attaching language to the



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House Environmental Protection Agency (EPA) funding bill; in the Senate, Barbara Boxer (D-CA) also attached a provision to the same funding bill that would have required even more stringent protection against this toxic chemical. This legislative activity paralleled the release of a National Academy of Science (NAS) report confirming health and environmental groups' arguments that even the Clinton standard of 10 parts per billion (ppb) presented high cancer risks. Clearly, the 40 ppb endorsed by the Bush administration posed even greater risks. NAS found that arsenic at 10 ppb still poses lung and bladder cancer risks about 30 times higher than the EPA's "maximum acceptable" cancer risk.

Despite this strong scientific consensus on the dangers of arsenic in drinking water, the EPA did not back down. The presence of arsenic in drinking water alarmed the public, and it soon began to seem as though the Bush administration was more interested in cutting costs for drinking water facilities than in protecting Americans from a known carcinogen. In the face of public outcry, the Bush administration capitulated in November and reinstated the 10 ppb standard.

The debate surrounding administration's energy plan took on a similar tone when it became clear that the plan granted new authority and taxpayer subsidies for energy companies to expand operations on public lands. This policy, developed in secret with industry officials, placed the interests of corporations above the public's right to protect its special places. It would also prolong America's dangerous dependence on oil by rejecting more sensible, long-term energy supplies from energy-efficient technologies and renewable resources such as wind, solar, and biomass—resources that support domestic industries without destroying national parks, coastal areas, and marine ecosystems.

*The 500-page House energy bill would provide more than \$35 billion in taxpayer handouts to coal, oil, and nuclear companies, with only modest incentives for energy efficiency.*

The Bush-Cheney energy plan became the basis for the House energy bill (H.R. 4), which headed to the House floor the week before the August recess. On August 1, after only 12 hours of debate and following a series of close votes, the House approved an energy bill that requires the secretary of Interior to pursue oil production in the Arctic National Wildlife Refuge on an accelerated schedule, bypassing environmental review requirements and foreclosing any opportunity to stop or question refuge drilling decisions in the courts. Reps. Nancy Johnson (R-CT) and Edward Markey (D-MA) tried to strip this provision from the bill, but their amendment failed in a close vote (206-223), largely as a result of intense last-minute lobbying efforts by some labor unions and the White House. Other provisions in the 500-page House bill would provide over \$35 billion in taxpayer handouts to coal, oil, and nuclear companies, with only modest incentives for energy efficiency. Instead of raising vehicle fuel economy standards, the House bill contains a sham provision that is weaker than the voluntary commitments already made by automakers. While a series of proposed amendments attempted to strip these and other damaging provisions, the bill ultimately passed by a vote of 240-189.

Senate Majority Leader Tom Daschle (D-SD) and Senate Energy and Natural Resources Chairman Jeff Bingaman (D-NM) strongly oppose drilling in the Arctic Refuge, and they have begun to develop a more balanced energy proposal that would reward energy efficiency initiatives and not contribute to global warming. Daschle will finish this new bill (introduced as S. 1766) and bring it to the Senate floor for debate in

mid-February. No doubt there will be vigorous debate over many of the energy provisions, and Sen. Frank Murkowski (R-AK) is expected to offer his bill to open the Arctic Refuge to drilling again. But Sens. Joseph Lieberman (D-CT) and John Kerry (D-MA) have pledged to filibuster any Arctic drilling amendments on the Senate floor.

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## **AFTER SEPTEMBER 11**

In the wake of the September 11 tragedy, the environment and domestic issues took a back seat to the war on terrorism, while Congress—like the rest of the country—entered a period of transition and reflection. At first, the tenor in Congress shifted as legislators and the White House attempted to find common ground to help the country recover. Congress focused on providing relief for the victims of the terrorist attacks, supporting the war in Afghanistan, improving airline safety, responding to anthrax attacks, and expediting economic recovery. While most environmental and energy issues were expected to move more slowly given these competing priorities, some members of Congress began to use the war to justify their existing agenda. Asserting that the terrorist attacks and the war justified quick action to open the Arctic National Wildlife Refuge to oil drilling, Sens. Murkowski, Larry Craig (R-ID), and James Inhofe (R-OK) attempted to attach an Arctic drilling provision to defense, antiterrorism, and economic legislation moving in the Senate. It did not take much time for the post-September 11 bipartisanship to fray, and the split between the two parties on domestic issues quickly became as acrimonious as ever.

As a result, some big-ticket environmental legislation remains for the spring session. The Senate still has to consider a farm bill, which will have implications for conservation program funding and factory farm policies. It will also review national energy legislation, and whether or not to grant the president “fast track” trade promotion authority without labor and environmental protections. Campaign finance reform legislation could be another big issue early in 2002, fueled anew by the Enron scandal. Clearly, however, the Senate energy debate is at the forefront of environmental issues to be addressed in 2002.



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### CHAPTER 2

# ENERGY, AIR, AND CLIMATE

In the wake of September 11, Americans are focusing once again on our nation's energy security, especially the dangers of our continued dependence on oil. Even though oil prices are relatively low at the moment, Americans are justifiably worried about our vulnerability to oil supply disruptions, surges in world oil prices, and a global petroleum market threatened by political instability in the Middle East. In addition, our energy facilities are high-risk targets for terrorist attacks

As our elected leaders debate the first major energy bill in a decade, it is critical to understand what makes us so vulnerable and how we can best ensure our energy security. Now, more than ever, we need an energy policy that quickly and substantially reduces oil demand. Nonetheless, the Bush administration, which includes numerous individuals from the boardrooms of the oil and automobile industries, issued a lopsided energy plan in early 2001 that is based on more oil and gas drilling and other fossil fuel and nuclear incentives. The plan heavily favors the industries most involved in its formation. By August 2001, the House of Representatives narrowly passed a partisan energy bill. This bill, with very few positive attributes, follows the Bush-Cheney plan approach by heavily favoring oil, coal, and nuclear power and opening America's few remaining pristine areas to oil and gas development, including the Arctic National Wildlife Refuge. It also encourages more oil drilling in parts of the Rocky Mountain Front and sensitive marine and coastal areas. The bill does next to nothing to improve the overall fuel economy of the nation's cars, light trucks, and sport-utility vehicles (SUVs).

These approaches are a throwback to the days when energy barons exploited oil, coal, and other natural resources without considering the impact on our land, air, or water. But for at least 30 years, we have known that energy policy cannot be made in isolation from environmental concerns. Making energy policy involves fundamental choices about the quality of the air we breathe, the water we drink, and the stability of the Earth's climate.

There is a path that leads to both energy security and environmental security. A safe, clean, and affordable energy bill will reduce U.S. reliance on oil. It should encourage the deployment of new technology that would allow our vehicles to drive farther on a gallon of gasoline and the development of new, cleaner sources of energy, such as solar and wind. Not only does improving our energy efficiency and shifting to cleaner, renewable sources of energy increase national security, but it will also ensure that we can protect our country's special places, such as the Arctic National Wildlife Refuge, the Rocky Mountains, and the Redrock wildlands of Utah, from unnecessary exploitation.

The Senate still has an opportunity to develop strong, well-considered energy security legislation in 2002. However, both the White House and the House of Representatives

proposed energy policies in 2001 that rely on the fossil-fuel-intensive vision of the nineteenth century, putting our future at risk by increasing our dependency on oil and coal.

The most important energy legislation considered in the first session of the 107<sup>th</sup> Congress, both good and bad, is discussed below. The comprehensive energy bills in the House and the Senate are discussed first.

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## ENERGY



### **H.R. 4, “Securing America’s Future Energy Act of 2001”**

**Rep. Billy Tauzin (R-LA)**

*Status: Approved by House (8/2/01)*

On August 2, the House approved its version of an energy bill (H.R. 4) by a vote of 240-189. The House passed four separate energy bills out of four committees, and combined them into one bill of more than 500 pages that does little to create a sound, balanced energy policy. Rather, the bill would provide tens of billions of dollars in subsidies to the coal, oil, gas, and nuclear industries, open the Arctic National Wildlife Refuge and other sensitive areas to oil and gas drilling, weaken environmental protections for special western places, and do nothing meaningful to improve fuel economy standards or promote renewable energy and energy efficiency programs.

The House energy bill, modeled on the Bush-Cheney plan, represents grossly unbalanced and irresponsible policies dictated by the energy industry, which bought influence through massive campaign contributions.

- The bill would offer a \$33.5 billion gold mine of taxpayer-financed subsidies—with 75 percent going to coal, oil, gas, and nuclear energy. Despite many references to “energy efficiency” and “conservation,” only a quarter of the bill’s tax credits would go to promote greater efficiency or renewable energy sources. Even these credits are largely misdirected, offering large subsidies to home builders, remodelers, and manufacturers in return for dubious energy savings.
- It calls for opening the Arctic National Wildlife Refuge to oil drilling, even though it would yield only a six-month supply of oil. It would also “fast track” oil and gas leasing in the lower 48 states, at the expense of complete environmental reviews.
- The bill encourages the reprocessing of plutonium from spent nuclear fuel—which could be used to make nuclear weapons should it fall into the wrong hands—despite the worldwide glut of uranium that is available to fuel existing nuclear plants.
- It offers only a sham increase in vehicle fuel efficiency standards—equivalent to just one day’s worth of oil consumption per year—even though the National Academy of Sciences has found that much larger increases would pay for themselves in fuel savings.

*Since September 11, Murkowski and a small group of conservative Republicans tried to attach their energy bill, or the equally bad House energy bill (H.R. 4), to every bill considered by the Senate.*

- The bill grossly distorts the tax credit for hybrid vehicles—which originally scaled the size of the tax credit to the amount of mileage improvement—by giving excessive credit for minor improvements to the most gas-guzzling SUVs and by removing air emissions criteria from qualification requirements.

The bill would provide no short-term relief for consumers and, over the long-term, it would increase pollution, despoil the environment, threaten public health, and accelerate global warming. Most of H.R. 4’s provisions purporting to improve energy efficiency or promote conservation are of minor significance or would be ineffective. The bill would have no impact on energy prices, and no practical effect on U.S. dependence on foreign sources of oil. In short, our national energy security would be more threatened if this legislation were passed into law than if we made better use of the laws that already exist.



**S. 388 and S. 389, “National Energy Security Act of 2001”**

**Sen. Frank Murkowski (R-AK)**

*Status: Referred to Senate Committee on Finance, hearings held in Senate Committee on Energy and Natural Resources (7/26/01)*

In February 2001, when Sen. Murkowski was still chairman of the Senate Energy Committee, he introduced the Republican leadership’s new energy bill, which emphasizes increasing the fossil fuel supply and opening the Arctic National Wildlife Refuge to oil and gas drilling. The bill contains only a few provisions to increase energy efficiency for buildings and equipment, and most of these are giveaways to big business. It fails to address adequately the need to decrease demand for fossil fuels. The bill also would effectively exempt coal power plants from clean air requirements and turn over federal oil and gas leasing to the states. After Sen. Murkowski lost control of the Senate Energy Committee to Sen. Bingaman (D-NM), Murkowski’s bill no longer served as the main Senate energy bill, and Bingaman began to develop his own comprehensive energy bill.

Since September 11, Murkowski and a small but influential group of conservative Republicans tried to attach this legislation, or the equally bad House energy bill (H.R. 4), to every bill considered by the Senate, including those responding to the attacks of September 11 and supporting our military. This tactic generated bitter animosity and delayed a number of bills at the end of the first session because Senate Democratic leaders were forced to oppose the same amendment on many bills.



**S. 1766, “Energy Policy Act of 2002”**

**Sen. Tom Daschle (D-SD)**

*Status: Introduced (12/06/01), pending on Senate floor calendar*

While it is far too soon to predict how it will look when it is finally considered on the Senate floor in 2002, the original bill has both significant strengths and weaknesses. S. 1766 provides a responsible framework for addressing key energy issues, such as encouraging the use of renewable fuels, increasing fuel economy, and preserving the Arctic Refuge from oil production. But it is missing key details on what the fuel-economy improvements would be, which tax incentives would be included, and whether they would be used to encourage use of clean fuels and improved energy efficiency rather

than fossil fuels. This bill could be improved by adding protections for landowners harmed by increased oil and gas production in western states and by ensuring EPA regulation of groundwater pollution from hydraulic fracturing during coal-bed methane mining. In addition, the bill needs requirements that would encourage utilities to support increased energy efficiency, and it should make sure that funding to coastal states from offshore oil and gas revenues does not harm the environment or create more incentives for drilling off the coast of Alaska.

S. 1766 will be substantially revised in 2002 before it reaches the Senate floor. Moreover, it is too early to tell what the tenor of the Senate debate will be on the energy bill, although it is highly likely that some senators will raise a number of controversial issues including drilling in the Arctic Refuge.



**S. 1333 and H.R. 3037, “Renewable Energy and Energy Efficient Investment Act”  
Sens. James Jeffords (I-VT), John Kerry (D-MA), Joseph Lieberman (D-CT),  
Olympia Snowe (R-ME), and Charles Schumer (D-NY)  
Rep. Frank Pallone (D-NJ)**

*Status: S. 1333 referred to Senate Committee on Energy and Natural Resources (8/2/01),  
H.R. 3037 referred to House Committee on Energy and Commerce (10/15/01)*

Introduced on August 2, the Renewable Energy Act of 2001 would increase the number of renewable energy and energy-efficiency programs. Clean, renewable sources of energy such as wind, geothermal, and solar energy are becoming increasingly cost-competitive, and can help protect consumers against fluctuating fossil fuel prices. S. 1333 would create a renewable portfolio standard, requiring an increasing percentage of electricity to come from clean renewable sources, reaching 20 percent of power generation by 2020. This bill also would create a public benefits trust fund collected from a charge of 0.2 cents per kilowatt-hour on electricity, equivalent to about \$1 per month for a typical household. This fund would provide some \$8 billion annually in matching funds to states for energy-efficiency programs, renewable energy technologies, and low-income assistance programs. A recent Union of Concerned Scientists report found that the renewable portfolio standard and system benefit fund in S. 1333 would save consumers more than \$70 billion by 2020, as well as reduce global warming emissions and smog- and soot-forming pollution. Rep. Pallone introduced the House companion bill (H.R. 3037 on October 4).

*If one-half of all new building construction reaches the energy efficiency goals of S. 207 over the next decade, overall air emissions would be reduced by the equivalent of taking 20 percent of the cars off America’s roads.*



**S. 207 and H.R. 778, “Energy Efficient Building Incentives Act”  
Sens. Bob Smith (R-NH) and Dianne Feinstein (D-CA)  
Reps. Randy Cunningham (R-CA) and Edward Markey (D-MA)**

*Status: S. 207 referred to Senate Committee on Finance (1/30/01), H.R. 778 referred to House Committee on Ways and Means (2/28/01)*

On January 30, 2001, Sen. Smith introduced this bill—which appeals to conservatives and liberal members alike—to provide tax incentives for new energy-efficient commercial and residential building construction and equipment. This legislation, supported by a broad coalition of business, environmental, and governmental organizations, would significantly reduce air pollution emissions that threaten public

health and contribute to global warming. It also would help solve the problem of brownouts and blackouts over the next several years. The bill would provide a six-year tax incentive for commercial and residential buildings that can meet ambitious performance-based energy savings targets. It is based on successful programs in Florida and California.

Energy use in buildings is currently responsible for 35 percent of air pollution emissions nationwide. If one-half of all new building construction reaches the energy efficiency goals of S. 207 over the next decade, overall air emissions would be reduced by the equivalent of taking 20 percent of the cars off America's roads. These air pollution reductions also would result in thousands of lives saved from air pollution, and at the same time save consumers and businesses more than \$40 billion.



**S. 1709 and H.R. 3455, Tax credits for energy efficiency in residential buildings**

**Sen. Bob Smith (R-NH)**

**Rep. Edward Markey (D-MA)**

*Status: S. 1709 referred to Senate Committee on Finance (4/4/01), H.R. 3455 referred to House Committee on Ways and Means*

Introduced on November 15 by Sen. Smith, this bill would provide energy-efficiency tax credits for existing residential buildings to install technology that would increase energy savings. In contrast to H.R. 4's tax incentives for residential energy efficiency retrofitting, this bill is structured to ensure ambitious and cost-effective energy savings.



**S. 686 and H.R. 1316, "Resource Efficient Appliance Incentives Act"**

**Sen. Blanche Lincoln (D-AR)**

**Rep. Jim Nussle (R-IA)**

*Status: S. 686 referred to Senate Committee on Finance (4/4/01), H.R. 1316 referred to House Committee on Ways and Means (3/29/01)*

This bill would institute a five-year manufacturer tax credit on the production of refrigerators or clothes washers—the two primary energy users in an average household—that meet certain high standards for energy efficiency. These appliances have seen dramatic gains in efficiency in the past several years, but continue to have great potential to achieve even greater energy savings. A credit of \$50 or \$100 would be awarded, depending on their relative efficiency. This federal incentive would build on successful programs initiated by state and local governments.



**S. 933, "Combined Heat and Power Advancement Act of 2001"**

**Sen. James Jeffords (I-VT)**

*Status: Senate Energy and Natural Resources Committee held hearing (7/19/01)*

This bill would amend the Federal Power Act to remove barriers to integrating cogeneration facilities into the electricity grid. It would ensure that highly efficient sources of electricity, such as combined heat and power systems, are able to connect nationwide with the electricity grid by establishing uniform, nondiscriminatory interconnection standards. Enabling these innovative, clean, and efficient technologies to

come online would reduce energy costs and help protect public health and the environment.



**S. 1566, “Renewable Energy Development Incentives Act”**

**Sen. Harry Reid (D-NV)**

*Status: Referred to Senate Committee on Finance (10/18/01)*

Sen. Reid’s bipartisan bill would create new tax incentives for solar, biomass, hydropower, geothermal, and landfill gas energy projects, while at the same time ensuring compliance with pollution laws. This bill needs to ensure that its definition of biomass excludes old growth forests and timber and materials that are environmentally sensitive, and that this definition does not also encourage more dams or increased damming of waters.



**S. 188 and H.R. 2000, Biomass Tax Incentives**

**Sen. Susan Collins (R-ME)**

**Rep. Jim Nussle (R-IA)**

*Status: S. 188 referred to Senate Committee on Finance (1/25/01), H.R. 2000 referred to House Government Reform Committee (5/24/01)*

Increased development and use of biomass fuel technologies play a central role in integral to sustainable energy production. However, for biomass to be an effective renewable fuel source, the proper restrictions on the type of resource to be used must exist. S. 188 and H.R. 2000 appropriately exclude old-growth wood from the definition of biomass, while including other acceptable forms of organic material such as dedicated biomass energy crops, agricultural residues and byproducts, and wood from crates, pallets, and other urban waste. Unfortunately, the bills include other forestry products, such as mill residues, brush, and precommercial thinnings as acceptable biomass fuels. All forestry products, not just old-growth wood, should be excluded from the definition of biomass fuels to encourage recycling and closed-loop manufacturing.

These bills provide tax credits to electricity-generating facilities that use at least 75 percent biomass fuel, providing incentives to move away from reliance on nonrenewable, polluting fossil fuels.



**S.760 and H.R. 1864, “Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2001 (CLEAR ACT)”**

**Sens. Orrin Hatch (R-UT) and John Rockefeller (D-WV)**

**Rep. Dave Camp (R-MI)**

*Status: S. 760 referred to Senate Committee on Finance (4/14/01), H.R. 1864 referred to House Committee on Ways and Means (5/16/01)*

On April 24, a bipartisan group of 10 senators led by Sens. Hatch and Rockefeller introduced S. 760, a bill aimed at making fuel-efficient hybrid gasoline-electric vehicles more affordable and saving consumers money at the gas pump by linking the amount of tax savings for vehicles to increased fuel efficiency. The most efficient hybrids could earn as much as a \$4000 credit, while fuel-cell vehicles achieving three times the efficiency of a conventional vehicle could earn as much as an \$8000 credit. By

stimulating demand for these advanced-technology vehicles, the bill would help decrease both the use of petroleum fuels and the carbon dioxide emissions that contribute to global warming. On May 16, Rep. Camp introduced H.R. 1864, bipartisan House companion legislation to S. 760.

S. 760 represents a major advance over previous vehicle-tax-credit proposals because the bill is the first to link publicly funded incentives—in this case the amount of carbon dioxide and petroleum displaced—directly to the public benefits provided by the vehicles that get the incentive. Cars and trucks produce one-fifth of U.S. CO<sub>2</sub> emissions and are responsible for more than two-fifths of our petroleum consumption. This tax incentive legislation would greatly speed up the commercialization of hybrids, pioneered by Toyota and Honda. And it would give a critical boost to fuel-cell-vehicle technology.



**S. 804 and H.R. 1815, “Automobile Fuel Economy Act of 2001”**

**Sens. Diane Feinstein (D-CA), Olympia Snowe (R-ME), Charles Schumer (D-NY), and Susan Collins (R-ME)**

**Reps. John Olver (D-MA) and Wayne Gilchrest (R-MD)**

*Status: S. 804 referred to Senate Committee on Commerce, Science, and Transportation (5/1/01), H.R. 1815 referred to House Committee on Government Reform and Committee on Energy and Commerce (5/10/01)*

This bill seeks to tighten corporate fuel economy standards for SUVs and light trucks. The bill would require that SUVs and other light trucks increase fuel economy to 27.5 miles per gallon (mpg) by model year 2007, expand the current fuel economy standards to trucks weighing between 8,500 and 10,000 pounds by 2007, and raise the fuel economy of the federal government’s fleet by 6 mpg. SUVs and light trucks currently use 43 percent more gasoline per mile than the average car. On May 10, Reps. Olver and Gilchrest introduced H.R. 1815, the House companion bill to S. 804.



**H.R. 2478, “Comprehensive Renewable Energy and Energy Efficiency Act of 2001”**

**Rep. Lynn Woolsey (D-CA)**

*Status: Referred to House Committee on Energy and Commerce, Subcommittee on Energy and Air Quality*

H.R. 2478 would create a statutory framework to enable the United States to generate 20 percent of its energy from non-hydropower, renewable energy sources by 2020. The bill is comprehensive, setting up programs for increased renewable energy, energy efficiency, biomass energy, and aeronautical system energy efficiency. It would also establish a performance initiative for increasing energy efficiency in buildings and equipment, a fuel-cell technology demonstration program, a fund to purchase clean energy for utilities, increased vehicle fuel economy standards, and a tire fuel-efficiency program. The bill would provide tax incentives to stimulate more energy-efficient appliances, homes, and commercial buildings.



**H.R. 3406, “The Electric Supply and Transmission Act of 2001”**

**Rep. Joe Barton (R-TX)**

*Status: Referred to House Energy and Commerce Committee (12/5/01)*

Rep. Barton has been trying to pass federal electricity deregulation legislation. His bill, however, misses a crucial opportunity to retain long-term environmental and consumer protections by repealing the 1935 Public Utilities Holding Company Act, which regulates the actions of interstate energy holding companies and their subsidiaries. The bill repeals the act without replacing lost public benefits by ensuring funding requirements for much-needed investments in markets for renewable energy and energy efficiency.



**H.J.RES. 44, “Joint Resolution expressing congressional disapproval of a rule issued by the Department of Energy with respect to clothes washers”**

**Rep. Joseph Knollenberg (R-MI)**

*Status: Referred to House Energy and Commerce Committee (4/16/01)*

Rep. Knollenberg introduced a resolution on April 16 to reject the Clinton administration’s rule increasing the energy efficiency of clothes washers (66 Fed. Reg. 3314; January 12, 2001). This Clinton rule updated efficiency standards for clothes washers and had the support of the clothes washer industry.



**S. 235, “Pipeline Safety Improvement Act of 2001”**

**Sen. John McCain (R-AZ)**

*Status: Passed in Senate (2/8/01), referred to House Committee on Energy and Commerce, Subcommittee on Energy and Air Quality*

On February 8, the Senate approved Sen. McCain’s pipeline safety bill by a vote of 98-0 despite its failure to provide adequate environmental protections. A few changes were made to strengthen the bill, including a requirement sponsored by Sens. Jon Corzine (D-NJ), Robert Torricelli (D-NJ), Maria Cantwell (D-WA) and Patty Murray (D-WA) for pipeline inspections at five-year intervals, as well as provisions by Sen. Kerry to strengthen enforcement of pipeline safety laws. Still, the Senate bill fails to include any of the key protections environmentalists believe are needed to improve pipeline safety. These provisions include holding polluters liable for releases, requiring the release of meaningful community right-to-know data, and allowing states to require stronger protections for interstate pipelines than the federal government requires.

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**NUCLEAR ISSUES**

Nuclear issues continue to play a role in the energy debate. The House energy bill (H.R. 4) would encourage uranium reprocessing—resulting in more material being available for nuclear weapons that could fall into the wrong hands—provide taxpayer subsidies to polluting uranium mining companies, expand insurance coverage, and further obstruct public involvement in the licensing of new commercial nuclear power plants. In light of the concerns of many members of Congress regarding the vulnerability of nuclear facilities to terrorist attack, the long-term ramifications of new and continuing subsidies for the nuclear industry are unknown. A report from the Nuclear Regulatory Commission noted that in tests conducted prior to September 11, nearly half of our nation’s commercial nuclear plants were highly susceptible to terrorist attack.

*Prior to September 11, Nuclear Regulatory Commission security tests found that 47 percent of nuclear power plants failed to detect or prevent a direct attack on critical systems.*



### **Nuclear Vulnerability Assessment Amendment to H.R. 2983, “Price-Anderson Reauthorization Act”**

**Rep. Edward Markey (D-MA)**

*Status: Passed by House (11/27/01)*

Prior to September 11, Nuclear Regulatory Commission security tests found that 47 percent of nuclear power plants failed to detect or prevent a direct attack on critical systems. A Markey amendment to H.R. 2983, the Price-Anderson Reauthorization Act of 2001, would increase the security of transported nuclear materials and would require the president to commission a study of the security of the nation’s nuclear facilities.



### **H.R. 2983, “Price-Anderson Reauthorization Act of 2001”**

**Rep. Heather Wilson (R-NM)**

*Status: Passed by House (11/27/01)*

The United States continues to artificially lower the costs of operating nuclear power plants pursuant to the 1957 Price-Anderson Act, which protects nuclear power plant owners from the full cost of accidents by capping the industry’s liability in the case of a severe accident. It has become clear that no private insurer would insure a commercial reactor without the federal government’s guarantee of picking up the tab for the cost of a serious nuclear incident. Efforts to reauthorize the Price-Anderson Act by the nuclear power industry demonstrate a continuing lack of faith in the safety of their own reactors. The act has historically allowed the industry to pass on much of its huge costs and potentially crippling liability to the American taxpayer. This law expires in August 2002.



### **S. 472, “Nuclear Energy Electricity Supply Assurance Act of 2001”**

**Sen. Pete Domenici (R-NM)**

*Status: Referred to Senate Committee on Energy and Natural Resources, last hearing held on 7/18/01*

Sen. Domenici introduced this bill to provide \$400 million in new subsidies for nuclear power. Among other things, this bill would reauthorize the Price-Anderson Act to continue the liability cap for nuclear power plants and provide millions in subsidies to federal contractors, private companies, and research institutions working with the commercial nuclear power industry. During the time that nuclear power has been used in the United States, taxpayers have paid billions in subsidies to the nuclear industry. This bill would continue the tradition of diverting much-needed funding from renewable and clean-energy programs.

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## **CLEAN AIR**

Legislative activity related to clean air has focused on reducing emissions for the four worst power-plant pollutants. This debate will begin in earnest in 2002 as the Senate Environment and Public Works Committee takes up consideration of S. 556. Meanwhile, Congress will soon respond to a Bush administration rollback of the New Source Review

program, a move that would give the oldest and dirtiest power plants a break from Clean Air Act obligations to improve their pollution controls.



**S. 556, “Clean Power Act of 2001”**

**Sens. James Jeffords (R-VT) and Joseph Lieberman (D-CT)**

**H.R. 1256, “Clean Smokestacks Act of 2001”**

**Reps. Henry Waxman (D-CA) and Sherwood Boehlert (R-NY)**

*Status: Referred to Senate Committee on Environment and Public Works (3/15/01), hearing held (11/15/01)*

These bills would require significant reductions at the nation’s power plants in four key pollutants—mercury by 90 percent, nitrogen oxide by 75 percent, sulfur dioxide by 75 percent, and carbon dioxide by 25 percent. The bills would also require the most outdated power plants to comply with the same air pollution standards that apply to construction of new plants, closing the loophole in the Clean Air Act that has allowed old, dirty coal plants to escape installation of pollution-reducing equipment or renovations. Although there appears to be widespread agreement in Congress and the Bush administration on the need to reduce three of the hazardous air pollutants below levels set by the Clean Air Act, the administration does not support proposals to reduce carbon dioxide emissions. Environment Committee Chairman Jim Jeffords says he is only interested in moving a bill addressing all four of the major power-plant pollutants.



**S. 1131, “Clean Power Plant and Modernization Act of 2001”**

**Sen. Patrick Leahy (D-VT)**

*Status: Referred to Senate Committee (6/28/01)*

Sen. Leahy’s bill presents a plan for modernizing U.S. power plants with provisions to reduce mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emissions. The bill would direct the EPA to publicize fuel sampling and monitoring methods used in calculating emissions reductions and ensure that plant operators will publicly disclose emissions level information.



**S. 60, “National Electricity and Environmental Technology Act”**

**Sen. Robert Byrd (D-WV)**

*Status: Referred to Senate Committee on Finance*

On January 22, 2001, Sen. Byrd introduced S. 60, which purports only to provide financial incentives to encourage the development of clean coal technologies. In fact, the bill represents a wholesale assault on the Clean Air Act’s pollution controls on coal-fired power plants. The Clean Air Act requires new and modified coal-fired power plants to install the most up-to-date pollution control measures to protect public health and the environment. But S. 60 would repeal these important protections. Through a series of exemptions, the bill would allow large coal-fired power plants to dramatically increase pollution without installing modern pollution controls and exempt the plants from installing controls for the next 10 years. The bill provides the same exemptions for new coal-fired plants. Consequently, the bill would have the perverse effect of offering incentives to convert a cleaner coal-fired plant to a far dirtier coal system and incentives

to build a new coal plant using “clean coal technologies” that are much dirtier than many of the traditional coal-fired plants built during the past decade. By granting coal-fired power plants relief from Clean Air Act requirements, the bill also could undercut recent government enforcement actions—a dozen of which are still pending—that mandate new pollution controls on dirty power plants and have assessed penalties of more than \$3.5 billion on polluters.

*Given the important role that MTBE plays in reducing toxic air pollution, phasing out its use must be done carefully, balancing the need to address water contamination with the goal of protecting air quality.*

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## **MTBE**

The increased use of reformulated gasoline containing the additive methyl tertiary butyl ether (MTBE) has significantly reduced air pollution in the United States. However, MTBE’s solubility in water and resistance to degradation, and the prevalence of leaking underground and aboveground storage tanks and pipelines, have resulted in groundwater and surface water contamination in many regions of the country. The undesirable taste and smell of even very small concentrations of MTBE renders drinking water unusable. Given the important role that MTBE plays in reducing toxic air pollution, phasing out its use as a gasoline additive must be done carefully, balancing the need to address water contamination with the goal of protecting air quality.

The House energy bill (H.R. 4) did not address the problems associated with MTBE. Reps. Henry Waxman (D-CA) and Christopher Cox (R-CA) unsuccessfully attempted to include in H.R. 4 language allowing state governors to waive the Clean Air Act’s 2 percent oxygenate standard for reformulated gasoline, which would have provided enough flexibility to carefully phase out the use of MTBE. Ultimately, H.R. 4 only called for the EPA to study the country’s current fuel system.



### **S. 950, “Federal Reformulated Fuels Act of 2001”**

#### **Sen. Bob Smith (R-NH)**

*Status: Passed by Senate Environment and Public Works Committee (9/25/01).*

Sen. Smith’s bill proposes a plan to eliminate the use of MTBE by 2004. S. 950 closely resembles a bill that Sen. Smith introduced last year, but unlike that bill, the Federal Reformulated Fuels Act of 2001 does not contain an ethanol incentives program. That omission is likely to prove the most contentious part of the bill, because lawmakers from ethanol-producing states wanted an ethanol incentives program to be addressed as part of the bill in committee rather than on the Senate floor. Last year’s bill never saw floor action, largely because of disagreements between legislators from ethanol-producing states who support the oxygenate mandate and those from states where MTBE contamination is a problem and the supply of ethanol and other clean fuels is limited.

S. 950 would fund remediation of MTBE groundwater contamination and allow governors to waive Clean Air Act oxygenate mandates while requiring states to continue adhering to strict performance standards to reduce harmful pollutants. It would also fund studies of the effects of ethanol on the environment and provide money to MTBE producers to help them make other, nontoxic gasoline additives.



## **S. 670, “Renewable Fuels Act of 2001”**

**Sen. Tom Daschle (D-SD)**

*Status: Referred to Senate committee (3/30/01)*

The Renewable Fuels Act of 2001 (S. 670), introduced by Sen. Daschle, is similar to Sen. Smith’s S. 950 and would also have banned the use of MTBE. Unlike the Smith bill, however, S. 670 included a renewable fuels standard to promote the production and use of ethanol, but the bill stalled in committee. Although this was the second year in a row in which the Senate Environment and Public Works Committee passed MTBE legislation that never saw floor debate, the full chamber is likely to address the issue early in 2002 as part of the energy debate. Nearly all of the provisions of Sen. Smith’s S. 950 are in the Daschle energy bill (S.1766), which also includes provisions mandating an increase in the use of renewable fuels such as ethanol and biodiesel over the next 10 years.

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## **CLIMATE CHANGE**

If there is a bright spot in the congressional record this year, it is that many members of Congress now publicly recognize the need for action on climate change—despite the Bush administration’s track record to the contrary. President Bush has backtracked from the position on global warming held by previous administrations, including his father’s. He walked away from international negotiations on the Kyoto treaty and has made no effort to develop an alternative plan to reduce U.S. carbon dioxide emissions.

In a sign of changing times, Rep. Joseph Knollenberg (R-MI) was unable to include on any fiscal year 2002 appropriations bill language that he has used in the past to block energy-efficiency work at federal agencies by suggesting it could be considered implementing the Kyoto Protocol. Reps. John Olver (D-MA) and Wayne Gilchrest (R-MD) led the efforts to strike the Knollenberg language.

Meanwhile, the Senate began to take climate change more seriously last session. The Senate Foreign Relations Committee, for example, unanimously accepted a resolution offered by Sen. John Kerry (D-MA) that calls on the United States to offer a proposal and engage in international negotiations on climate change policy. Sen. Ted Stevens (R-AK) held a hearing on the impacts of climate change on Alaska towns and subsistence fishermen, and introduced legislation with Sen. Robert Byrd (D-WV) that would provide a federal plan to address global warming. Sens. Tom Daschle (D-SD) and Jeff Bingaman (D-NM) recognized that climate change policy is inherently linked to energy policy by including a climate change section in their energy bill (S. 1766). Sens. John McCain (R-AZ) and Joseph Lieberman (D-CT) have indicated they will work together to introduce more comprehensive climate change legislation in 2002. The real Senate tests of progress on global warming, however, will be whether it can act on legislation that would reduce carbon dioxide emissions by including requirements in energy legislation (S. 1766) to increase vehicle fuel economy, and pass comprehensive power-plant cleanup legislation (S. 556).

*Many members of Congress now publicly recognize the need for action on climate change, despite the Bush administration’s track record to the contrary.*



**S. 1008, “Climate Change Strategy and Technology Innovation Act of 2000”**

**Sens. Robert Byrd (D-WV) and Ted Stevens (R-AK)**

*Status: Reported by Senate Government Affairs Committee (11/15/01)*

On June 8, Sens. Byrd and Stevens introduced the bipartisan Climate Change Strategy and Technology Innovation Act of 2001 (S. 1008). This bill would create a framework for the United States to develop a federal strategy to reduce pollution that contributes to global warming and increase research on and development of solutions. Although this bill would create a framework for climate change issues where little existed previously, it fails to require measures ensuring that the United States reduces its greenhouse gas emissions.

The bill would establish the U.S. Climate Change Response Strategy Review Board to oversee federal agencies involved in global warming and create a National Office of Climate Change Response in the White House to help develop and update the strategy and prepare an annual report. It also would establish the Office of Carbon Management and a Center for Strategic Climate Change Response in the Department of Energy. The bill stipulates that any global warming strategy must be aligned with U.S. energy policy.



**Sec. 745 of H.R. 1646, “Foreign Relations Authorization Act, FY 2002 and FY 2003”**

**Rep. Robert Menendez (R-NJ)**

*Status: Approved by House (5/17/01); accepted into final bill that passed*

The House approved a bill to reauthorize the State Department that contained language added by Rep. Menendez urging the United States to reduce greenhouse gas emissions and continue to participate in Kyoto Protocol negotiations.



**S. 1716, “Global Climate Change Act of 2001”**

**Sens. Ted Stevens (R-AK) and John Kerry (D-MA)**

*Status: Referred to Senate Committee on Commerce, Science and Transportation (11/15/01)*



**S. 1870, “National Greenhouse Gas Emissions Inventory and Registry Act of 2001”**

**Sens. Jon Corzine (D-NJ), James Jeffords (I-VT), and Joseph Lieberman (D-CT)**

*Status: Referred to Senate Committee on Environment and Public Works (12/18/01)*



**Title XI, S. 1766, “Energy Policy Act of 2002”**

**Sen. Tom Daschle (D-SD)**

*Status: Introduced (12/06/01), pending on Senate floor calendar*

These bills would require companies to report their annual emissions of carbon dioxide and other global warming pollutants, much as firms must now report toxic releases under right-to-know legislation. Although the bills stop short of actually cutting global warming pollution, emissions reporting by all sectors would be a modest step towards developing domestic policy on climate change. To be effective, however, these bills must provide for efficient and accurate accounting. S.1870 appropriately sends emissions reports to the EPA, which already collects CO<sub>2</sub> data from power plants and fuel-economy data from automobiles. In contrast, S.1716 gives the job to the Commerce Department, which has no expertise in emissions accounting, and S.1766 punts the issue

to the administration. All three bills also allow voluntary reporting of ill-specified emission *reduction* projects, a prelude to giving firms inappropriate “credit” for these projects. Under the current system for reporting on CO<sub>2</sub> reduction projects, run by the Department of Energy, companies routinely claim big project reductions even though their overall emissions keep going up. If companies are required to report their total emissions, and not claims of reductions, real emission trends will be properly recognized.



**S. 1294, “Climate Change Risk Management Act of 2001”**

**Sen. Frank Murkowski (R-AK)**

*Status: Referred to Senate Committee on Energy and Natural Resources (8/1/01)*

Although this bill would also provide for a national climate change strategy, supply funding for research and development of new technologies to reduce greenhouse gas emissions, and create a national registry of voluntary actions on domestic greenhouse gas emissions, it neglects some important provisions. It fails to mention specific targets or timetables for emissions reductions, require specific reductions, or even make carbon dioxide registry reporting mandatory.



**S. 1255, “Carbon Sequestration and Reporting Act”**

**Sen. Ron Wyden (D-OR)**

*Status: Referred to Senate Committee on Agriculture, Nutrition and Forestry (7/26/01)*

While this bill would try to encourage private forestry and agricultural companies to invest in carbon sequestration and would create monitoring and verification systems for reporting carbon in forests and soil, this is unlikely to be a viable strategy for ensuring carbon dioxide reduction and likely would not have much impact domestically. There is no market for trading carbon dioxide sequestration credits and much uncertainty remains about how effective such a system could be.



**S. 769, “International Carbon Conservation Act” and  
S. 765, “Carbon Sequestration Investment Tax Credit Act”**

**Sen. Sam Brownback (R-KS)**

*Status: Referred to Senate Committee on Agriculture, Nutrition and Forestry (4/24/01)*

These two bills attempt to stimulate national and international efforts on carbon sequestration to reduce U.S. carbon dioxide emissions. S. 769 would create a program at the Department of Commerce for international and local carbon dioxide sequestration projects. S. 765 also would create tax incentives for U.S. citizens to initiate sequestration projects. Although the theoretical basis for sequestration is sound, the accounting and analysis required for implementation of even the simplest incentive program raises a number of difficult questions. For example, how does one administer a trading scheme, what is an acceptable definition of a baseline, how does one monitor the program, and who should bear the monitoring expenses? Without better information and implementation, companies could easily avoid pollution-reduction requirements by investing in cheaper sequestration schemes and render greenhouse gas mitigation meaningless.



## ENVIRONMENT IN THE CROSSHAIRS

*Assessing Federal  
Legislation in 2001*

February 2002

### CHAPTER 3

## PUBLIC LANDS

It became clear almost immediately that the Bush administration was more interested in resource exploitation than protection. Rejecting more environmentally conscious Republican candidates, President Bush instead nominated Gale Norton to run the Department of Interior. From the beginning, Secretary Norton assembled her departmental leadership from the ranks of mining, timber, and oil lobbyists and companies. Industry representation is also evident at the highest levels of the Agriculture Department, home of the Forest Service.

After the high-profile legislative fight in the Senate over Norton's confirmation, congressional attention quickly turned to trying to protect our national monuments, our environmentally sensitive coastlines, and the Arctic National Wildlife Refuge from the administration's intention to increase oil production and development.

From her first day in office, Secretary Norton has been actively campaigning to open the Arctic Refuge and other special places to oil drilling and other resource extraction. In contrast, Congress has been relatively proactive in ensuring that current land and water protections are not weakened. The Interior funding bill, for example, denied funds for studying oil and gas development in sensitive coastal waters where offshore oil drilling is currently off-limits and prohibited new energy leasing in national monuments. However, the same bill dropped proposed new restrictions on oil and gas leasing in the eastern Gulf of Mexico, allowing the Bush administration to move forward with drilling in a new area that could harm Florida beaches. The Energy and Water funding bill included Sen. Debbie Stabenow's (D-MI) and Rep. David Bonior's (D-MI) two-year ban on oil and gas drilling in the Great Lakes. It also reflected a Senate compromise that would allow water from the Missouri River to be released in the spring to help save three endangered species by restoring the river's natural flow.

Sen. Mary Landrieu (D-LA) re-introduced the Conservation and Reinvestment Act (S. 1328), which closely resembled her bill from the last Congress and still contains provisions that could have significant negative effects on critical ocean and coastal resources by encouraging offshore drilling. A modified version of this bill, currently included in comprehensive energy legislation (S. 1766) sponsored by Sen. Tom Daschle (D-SD), would encourage oil and gas drilling off Alaska's ecologically sensitive coast and divert huge amounts of federal revenues from offshore drilling to a handful of coastal states, without any limits to using these funds for environmentally damaging projects.

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## SECRETARY OF INTERIOR GALE NORTON

Environmental groups, including NRDC, strongly opposed President Bush's choice for Interior Secretary, Gale Norton, whose record and philosophy are at odds with the Department of Interior's mission to preserve federal lands and natural resources. As a lawyer in private practice and with James Watt's Mountain States Legal Foundation, Norton consistently aligned herself with mining, grazing, and logging interests against the Department of Interior and environmental groups. In legal briefs, she argued that the Endangered Species Act and the Surface Mining Reclamation and Control Act are unconstitutional. Norton also supports opening the Arctic National Wildlife Refuge to oil and gas drilling.

During her nomination hearings before the Senate Energy and Natural Resources Committee on January 18 and 19, Norton offered few specifics on her views, committing only to the "goals" of environmental law while neglecting to voice support for existing laws or their regulatory requirements. In short, Norton failed to distance herself from her long and clear record of opposition to the very laws she is required to enforce. Despite the fact that Norton did not provide much detail on her positions, the Senate confirmed her by a 75-24 vote on January 30.

*From her first day in office, Secretary Norton has been actively campaigning to open the Arctic Refuge and other special places to oil drilling and other resource extraction.*

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## OIL DRILLING IN THE ARCTIC NATIONAL WILDLIFE REFUGE



### **S. 411 and H.R. 770, "Arctic Wilderness Act of 2001"**

**Sens. Joseph Lieberman (D-CT) and James Jeffords (I-VT)**

**Reps. Edward Markey (D-MA) and Nancy Johnson (R-CT)**

*Status: Referred to the Senate Environment and Public Works Committee*

On February 28, key members of both the House and Senate introduced bipartisan legislation to protect the coastal plain of the Arctic National Wildlife Refuge from oil and gas drilling by designating it a wilderness area. In the House, Rep. Nancy Johnson and Rep. Markey introduced H.R. 770, which now has the support of 150 cosponsors. In the Senate, Sen. Lieberman introduced S. 411 with the support of 26 senators, including Sen. Jeffords and Sen. Lincoln Chafee (R-RI).



### **H.R. 2436, "Arctic Coastal Plain Domestic Energy Security Act of 2001" and**

**H.R. 4, "Securing America's Future Energy Act of 2001"**

**Reps. James Hansen (R-UT) and Billy Tauzin (R-LA)**

*Status: H.R. 2436 included as part of H.R. 4: Passed by House (8/2/01), sent to Senate*

On July 10, House Resources Committee Chairman James Hansen introduced H.R. 2436, a bill that opens the Arctic National Wildlife Refuge to oil drilling, increases energy production on public lands, and provides billions of dollars in subsidies to fossil-fuel industries. Debate on the bill was very contentious in committee, with Democrats staunchly opposed. This bill was rolled into the omnibus energy bill (H.R. 4) that the House approved on August 2 after only 12 hours of debate. On August 1, the House

rejected by a vote of 206-223 an amendment offered by Rep. Markey (D-MA) and Rep. Johnson (R-CT) to protect the Arctic Refuge from oil development.

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## RESOURCE EXTRACTION IN SPECIAL PLACES



### **H. Amdt. 107 to H.R. 2217, Interior Appropriations Bill**

**Reps. Jim Davis (D-FL) and Joe Scarborough (R-FL)**

### **S. Amdt. 893 to S. 2217, Interior Appropriations Bill**

**Sen. Bill Nelson (D-FL) and Sen. Bob Graham (D-FL)**

*Status: H. Amdt. 107 passed by House as part of H.R. 2127, S. Amdt. 893 rejected by Senate (7/11/2001); not included in final bill (Pub. L. No. 107-63)*

Reps. Davis and Scarborough introduced this amendment to the Department of the Interior's fiscal year 2002 appropriations bill in response to the Bush administration's plan to drill for oil and gas in a large area (the Lease Sale 181 area) of the eastern Gulf of Mexico. The proposed drilling area covered almost 6 million acres, extending to within 17 miles of Florida's northwest coast, famed for its white-sand beaches. Because of its implications for the environment and tourism, virtually every elected official in Florida opposed the lease sale, including Governor Jeb Bush.

The amendment would have prohibited the Department of the Interior from issuing permits for the exploration, development, or drilling for oil or natural gas in the eastern Gulf of Mexico. The House passed the amendment, signaling defeat for the administration's plan. In response, Interior Secretary Norton announced that the administration would only seek to allow drilling on 1.5 million acres in the gulf, in an area about one-quarter the size of the original lease sale, located primarily off the coast of Alabama rather than Florida. However, drilling in the new proposed area still poses threats to Florida and other coastal states from routine and potentially major oil spills.

Sen. Nelson introduced S. Amdt. 893 in response to the administration's compromise plan. The amendment would have prohibited the use of funds in the Interior appropriations bill to execute a final lease agreement for oil and gas development rights in the entire Lease Sale 181 area, effectively stopping the administration from going ahead with its new plan for development. The amendment was tabled, however, by a vote of 67-33, leaving the door open for the administration to pursue its scaled-back plans for development off the coast of Alabama, and potentially in the rest of Lease Sale 181 in the future.



### **Sec. 107 (OCS Moratorium Extension) of H.R. 2217, Interior Appropriations Bill**

**Sen. John Kerry (D-MA)**

*Status: Amendment included in conference report, passed by House and Senate*

Sen. Kerry's amendment to the Interior Appropriations bill prohibits the use of funds for offshore preleasing, leasing, and other oil and gas drilling-related activities in certain offshore regions, enhancing protection of these areas from offshore oil and gas development. Sen. Kerry's amendment provides a consistent level of protection to all

areas placed off limits to offshore oil and gas activities by Congress and former administrations.



**Sec. 503 (Great Lakes Drilling Ban) of H.R. 2311, Energy and Water Appropriations Bill**

**Rep. David Bonior (D-MI) and Sen. Debbie Stabenow (D-MI)**

*Status: Amendment included in conference report, passed by House and Senate*

Rep. Bonior offered in the House and Sen. Stabenow offered in the Senate an amendment to the Energy and Water Appropriations bill that would place a two-year ban on new oil and gas drilling in the Great Lakes. Their amendments also would request an Army Corps of Engineers study of the environmental impacts of oil and gas drilling in the Great Lakes, including their potential effects on the lakes' shorelines.



**H. Amdt. 108 to H.R. 2217, Interior Appropriations Bill**

**Rep. Jay Inslee (D-WA)**

*Status: Passed House (6/20/01), removed in conference*

One of President Bush's first actions after taking office was to call for review of the revised version of the 1980 hardrock mining rules (called the Section 3809 rules) implemented by the Clinton administration. The new Clinton regulations would require companies to post the full cost of reclamation before mining and impose outcome-based standards on mining operations, and included a provision giving Bureau of Land Management (BLM) land managers authority to deny mining permits when mining would cause irreparable harm to environmental or cultural resources.

In response to the Bush rollback, Rep. Inslee introduced this amendment to prohibit changes to the new rules. The House passed the Inslee amendment on June 20 by a vote of 216-194, but it was later removed in conference to avoid controversy and ease passage of the bill. Subsequently, BLM announced in October that it would reverse the provisions calling for outcome-based standards and mine veto authority for BLM land managers, while keeping the requirement that companies post full reclamation costs before mining.

*H.R. 4 would strip local forest service managers of their ability to prevent oil, gas, and geothermal development in national forests.*



**H.R. 2346, and H.R. 4, "Securing America's Future Energy Act of 2001"**

**Rep. James Hansen (R-UT)**

*Status: H.R. 2436 included as part of H.R. 4; passed by House (8/2/01), sent to Senate*

This bill threatens special places in the Rocky Mountain West, national forests, and other public lands. It elevates oil and gas production as a priority in these areas, even when this development is incompatible with the wilderness, roadless, wildlife habitat, or environmental values of the land. The bill would strip local forest service managers of their ability to prevent oil, gas, and geothermal development in national forests. If this provision had been in effect in 1997, it would have blocked the Forest Service decision to prohibit future oil and gas leasing in the spectacular Rocky Mountain Front of the Lewis and Clark National Forest in Montana. It would also prevent a similar pending Forest Service decision on the equally magnificent Bridger-Teton National Forest in Wyoming. Moreover, the bill would allow the oil and gas industry to force the secretary of the Interior to revisit administrative decisions protecting unique places, wildlife, and

sensitive resources like drinking water supplies and archeological sites, from energy development. It also encourages additional development by giving taxpayer money to companies to help them comply with environmental reviews and by reducing the overall royalties collected by the U.S. government from marginal oil and gas wells and geothermal development.

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## **FORESTS**

### **Secs. 806 and 911 of H.R. 2646, “Farm Security Act”**

### **Sec. 808 of S. 1731, “Rural Enhancement Act”**

### **Rep. Larry Combest (R-TX) and Sen. Tom Harkin (D-IA)**

*Status: H.R. 2646 Passed by House (10/5/01); S. 1731 pending on Senate floor*

Currently both the House and Senate farm bills contain provisions authorizing forest stewardship contracts that lack accountability standards and environmental safeguards. This provision would give the Forest Service broad long-term authority based on an untested pilot program. It also would provide powerful incentives for the Forest Service to pay for pet projects with the public’s most valuable trees.

The General Accounting Office recently concluded that the Forest Service does not accurately account for the costs of its timber sales. Lumping timber sales with restoration projects, as envisioned by this stewardship contract provision, would make congressional or public oversight even more difficult. Without clear statutory requirements or independent analysis of what works in these pilot projects, any new stewardship contracting authority would perpetuate such problems.

Both House and Senate farm bills also provide biomass grants that would encourage forest thinning to reduce hazardous fuels—even though there is no proof that thinning reduces forest fire intensity. In addition, this program would not limit the size of trees to be provided as biomass fuel, although scientific research shows that where increased tree density can make forests abnormally flammable, it is small trees that are responsible. Without meaningful restrictions on biofuel origin or tree diameter, this program could subsidize logging in roadless, riparian, and other sensitive areas and threaten endangered species habitat. Because thinning small trees in a limited area cannot produce enough fuel to supply an average biomass plant for long, the grants program also would create industrial demand that would soon encourage timber companies to log more and larger trees.

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## **NATIONAL MONUMENTS**



### **H. Amdt. 106 to H.R. 2217, Interior Appropriations Bill**

**Rep. Nick Rahall (D-WV)**

**S. Amdt. 879**

**Sen. Richard Durbin (D-IL)**

*Status: Approved by House and Senate; included in final bill that passed (11/5/01) (Pub. L. No. 107-63)*

By a 242-173 vote, the House overwhelmingly approved Amendment No. 106, offered by Rep. Nick Rahall (D-WV), to the Interior appropriations bill, H.R. 2217, prohibiting new energy leasing or related activities within boundaries of designated national monuments, including those created recently by President Clinton. Sen. Richard Durbin's (D-IL) amendment (S. Amdt. 879) to ban oil and gas drilling in national monuments was passed on July 11. These amendments were included in the final bill.

— **H.R. 601, “To ensure the continued access of hunters to those Federal lands included within the boundaries of the Craters of the Moon National Monument,”**

**Rep. Michael Simpson (R-ID)**

*Status: Approved by House (5/1/01); Senate Energy and Natural Resources Subcommittee on National Parks hearing held (7/31/01)*

The original version of this bill would have abolished the new Craters of the Moon National Monument in Idaho. On May 1, however, the House unanimously passed a substantially improved version of H.R. 601 that, as amended, would redesignate a portion of the Craters of the Moon National Monument in Idaho as a preserve where traditional hunting would be allowed. The final version of this bill reflected an agreement that the Clinton administration had reached with the local community, and it ensures that the Department of Interior will retain oversight of hunting in the preserve.



**H.R. 2114, “National Antiquities Fairness Act”**

**Rep. Michael Simpson (R-ID)**

*Status: Approved by House Resources Subcommittee on National Parks (7/31/01)*

On June 7, Rep. Simpson introduced the National Monument Fairness Act of 2001 (H.R. 2114), a bill seeking to curb the president's ability to either designate new national monuments or expand existing national monuments under the 1906 Antiquities Act. The environmental community opposes this bill, which would require congressional approval for monuments that are more than 50,000 acres, because it would block swift presidential action to protect important public resources threatened by development.

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## **WILDLIFE AND HABITAT**



**S. 990, “American Wildlife Enhancement Act of 2001”**

**Sen. Bob Smith (R-NH)**

*Status: Approved by Senate (12/20), sent to House Resources Committee*

On December 20, the Senate unanimously approved a bill introduced by Sen. Smith to strengthen wildlife conservation and restoration programs. This bill authorizes significant funding for the Pittman-Robertson Wildlife Restoration program, a matching grant fund to help protect endangered species on private land, and a \$58 million flexible fund to provide federal assistance to states seeking to conserve lands of regional and national significance by purchasing easements and acquisitions.



### **S. 1328 and H.R. 701, “Conservation and Reinvestment Act (CARA)”**

**Sen. Mary Landrieu (D-LA)**

**Rep. Don Young (R-AK)**

*Status: Approved by House Resources Committee (7/25/01); S. 1328 referred to Senate Committee on Energy and Natural Resources.*

*CARA would allow conservation funding to be used for environmentally damaging projects and encourage offshore oil and gas drilling in coastal Alaska.*

Sen. Landrieu and Rep. Young introduced identical bills intended to provide \$3 billion of offshore drilling receipts that would usually go to the U.S. Treasury in dedicated funding for conservation purposes such as coastal restoration, state wildlife programs, historic preservation, urban parks and forests, and endangered species. These bills would allow conservation funding to be used for environmentally damaging projects and encourage offshore oil and gas drilling in coastal Alaska. The two bills closely resemble a bill that the House passed last year.

Even though the Senate took no action on S. 1328, Sen. Landrieu convinced Sen. Tom Daschle (D-SD) to include a modified version of this legislation in his energy bill. Under this provision Louisiana and other coastal states that allow oil and gas leasing off their shores would receive new money from offshore oil and gas revenues for projects bolstering the security of offshore energy, public service, or transportation infrastructure facilities. This provision, however, fails to ensure that offshore drilling revenues would not be used to fund projects that could damage the environment, such as coastal roads, jetties, and other development infrastructure. Because funding for this program would be diverted from funds reserved for environmental purposes, any use of this money should be for environmentally beneficial projects. Moreover, this provision would encourage more offshore oil and gas drilling off the coast of Alaska because it ties the allocation of revenues that Alaska and its local coastal governments receive to new Outer Continental Shelf (OCS) activity. In addition, as revenues from OCS activity in the Gulf of Mexico begin to decline, pressure will escalate to open up more areas off Alaska to maintain a revenue stream.



### **S. Amdt. 2513 (Exemption from Environmental Laws) to S. 1731, “Farm Security Act”**

**Sen. Christopher Bond (R-MO)**

*Status: Defeated in Senate (12/13/01)*

Sen. Bond offered an amendment to the Senate farm bill that would grant waivers that exempt farming activities from complying with virtually all environmental laws, including the Endangered Species Act and the Clean Water Act, as well as nearly all other federal laws. His amendment would have permitted the president to exempt actions implementing, interpreting, or enforcing any federal environmental laws related to farming. The exceedingly broad language of the Bond amendment would have permitted waiver of even the most basic provisions of the Clean Water Act, the Clean Air Act, and the Endangered Species Act, as well as laws regulating hazardous materials management, wetland protection law enforcement, environmental impact statement preparation, and pesticide registration.



**S. Amdt. 2514 (Takings Amendment) to S. 1731, “Farm Security Act”**

**Sen. Gordon Smith (R-OR)**

*Status: Filed (12/12/01) and still pending*

Sen. Smith’s amendment to the Senate farm bill would use crop-disaster-relief funds to pay farmers for implementing environmental law. This amendment would create a precedent for compensating agricultural interests through the crop-disaster-relief program when federal resource management plans affect crop production. Paying regulated entities to comply with federal regulations would be a sweeping, unprecedented, and unwarranted change in federal resource management. Sen. Smith’s amendment also would require payments to agricultural interests for implementing federal resource management decisions that affect crop production under any resource management law or nationwide regulation.



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### CHAPTER 4

# WATER, COASTAL, AND MARINE RESOURCES

**A**lthough Congress made some progress last year on water-related legislation, no major authorization bill became law. The one bright spot, the EPA's funding bill, did add more resources for water quality projects, beaches, and sewage and drinking water facilities. Legislators also were able to strip from the Commerce-Justice-State Department appropriations bill a rider that would have blocked the National Oceanographic and Atmospheric Administration from spending money to establish new marine protected areas, and the bill fully funded the Pacific Coastal Salmon Recovery Fund.

Contentious fights on water issues loom on the horizon for next year. A multiyear farm bill has been proposed that would grant huge subsidies to expand and build highly polluting factory farms. Western water legislation, including a House bill to reauthorize the federal-state CalFed project, could undermine environmental restoration efforts. Reauthorization of the Coastal Zone Management Act may or may not include a coastal nonpoint runoff program, and funding levels will be decided for sewer overflow and treatment.

In addition, the U.S. Navy will likely lobby for exemptions from the Marine Mammals Protection Act for its underwater sonar program. A number of scientists, as well as environmental and animal rights groups, oppose the program because it poses a grave risk to marine mammals.

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### COASTS, OCEANS, AND MARINE SPECIES

#### **H.R. 2272, "Coral Reef and Coastal Marine Conservation Act of 2001"**

##### **Rep. Mark Steven Kirk (R-IL)**

*Status: Approved by House on (0/16/01); referred to Senate committee*

The House broke new ground in coral reef protection by passing H.R. 2272. Modeled on the Tropical Forest Conservation Act, the bill would provide debt relief to developing nations that protect coral reefs. Under the bill, the president would have the authority to reduce developing countries' debts to the United States if the debtor nations help pay for preserving, restoring, and maintaining coral reefs. Nongovernmental organizations, with boards made up of private and public U.S. officials, would run the facilities funded by the program.



**S. 328, “Coastal Zone Enhancement Reauthorization Act of 2001”**

**Sens. Olympia Snowe (R-ME) and John Kerry (D-MA)**

**H.R. 897, “Coastal Communities Conservation Act of 2001”**

**Rep. Jim Saxton (R-NJ)**

*Status: S. 328 placed on Senate legislative calendar; H.R. 897 subcommittee hearings held*

On February 14, Sens. Snowe, John McCain (R-AZ), John Kerry (D-MA), Ernest Hollings (D-SC), and John Breaux (D-LA) introduced S. 328, which provides funds to states for coastal management. The bill’s most significant provision designates funding to reduce polluted coastal runoff, the biggest water quality problem for shorelines and coastal ecosystems. Runoff pollution, called nonpoint source pollution, causes many offshore environmental problems. The number of shellfish beds that have been closed for harvesting because of coastal pollution increased 40 percent between 1966 and 1990. Sen. Snowe’s bill addresses this problem, as did a similar bill she introduced last year. Rep. Saxton’s bill provides funding for dedicated nonpoint pollution control, but it failed to advance because the full Resources Committee would likely have voted to remove the nonpoint provision on jurisdictional grounds. Rep. Don Young (R-AK), chairman of the House Transportation Committee (which has jurisdiction over the nonpoint program), objects to the coastal pollution program, and as a result neither the House nor the Senate took any action on these bills last year.

*The number of shellfish beds that have been closed for harvesting due to coastal pollution increased 40 percent between 1966 and 1990.*



**Marine Protected Areas Rider**

**H.R. 2500, Commerce-Justice-State Appropriations Bill, report language**

*Status: Removed in conference*

The House Commerce-Justice-State appropriations bill included a rider that could have hindered the federal government’s ability to develop and manage federal marine protected areas (MPA) programs. MPAs are zones where certain activities, such as fishing or resource extraction, are prohibited, either temporarily or permanently, to protect marine environments or species. The language could have undermined the government’s ability to rebuild fish populations, protect marine wildlife, support scientific research, and restore ocean habitats. The House language was replaced by acceptable Senate language in conference.

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**WESTERN WATER**



**S. 1768, “CalFed Bay-Delta Authorization Act”**

**Sens. Dianne Feinstein (D-CA) and Barbara Boxer (D-CA)**

*Status: Referred to Senate Committee on Energy and Natural Resources*

On December 5, Sens. Feinstein and Boxer introduced a bill (S. 1768) to reauthorize the California/Federal Bay-Delta Program (CalFed), a federal and state partnership in California that provides water for urban and agricultural users, as well as for wildlife and habitat restoration. Water flowing through the Sacramento and San Joaquin river delta

into the San Francisco Bay provides not only drinking water for California's 20 million residents, but also habitat for 120 wildlife species, some of them endangered. For decades, water has been diverted from these rivers for agricultural and residential uses, threatening sensitive ecosystems and numerous species. CalFed was established in 1995 to restore the Bay-Delta ecosystem and develop an environmentally and economically sustainable water policy.

This new Senate bill would provide the necessary federal funding for this program without jeopardizing environmental restoration, which increases the likelihood that it could pass in 2002. Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) has said he would consider S. 1768 on an expedited schedule in the second session.



**H.R. 2404, “California Water Quality and Reliability Act of 2001”**

**Rep. George Miller (D-CA)**

*Status: House Resources Subcommittee on Water and Power hearing held 7/26/01; bill unlikely to move in House*

Rep. Miller's bill would reauthorize the CalFed program without prematurely authorizing new dam projects, subordinating environmental uses of water to other uses, or trampling on California's water law and the CalFed process. The bill would create even stronger groundwater management protections for water.



**H.R. 3208, “Western Water Enhancement Security Act”**

**Rep. Ken Calvert (R-CA)**

*Status: Approved by House Resources Committee on 11/7/01, but did not advance to House floor*

Rep. Calvert's bill would upset the balance of the critical state-federal partnership under CalFed and jeopardize environmental restoration efforts. H.R. 3208 would allow new dam construction in California without appropriate review and could give agricultural users priority over the environment. Reps. George Miller (D-CA) and Hilda Solis (D-CA), who lead the opposition to H.R. 3208, have objected to language in the bill that would provide new water rights to a specific district and pre-authorized new projects while reducing federal oversight. The bill failed to reach the House floor because it was so controversial, even within the California delegation.



**S. Amdt. 899 (Klamath Basin rollbacks) to Interior Appropriations Bill (S. 2217)**

**Sen. Gordon Smith (R-OR)**

*Status: Rider rejected by Senate 7/12/2001*

The biggest western water issue in Congress last year involved the drought damage sustained by 1,400 Oregon farmers in the spring of 2001. In April, the Bureau of Reclamation used water from the Klamath Basin to increase river levels—based on an Endangered Species Act imperative—to protect the endangered suckerfish and Coho salmon, and refused to release water for irrigation. Sen. Smith proposed a rider to the Interior appropriations bill (H.R. 2217) to roll back fish habitat protections, but the

Senate rejected the amendment by a 52-48 vote. In the end, Congress adhered to the ESA and committed to protecting the endangered fish.

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## CLEAN WATER



### **H.R. 2375, “Working Lands Stewardship Act of 2001”**

**Reps. Ron Kind (D-WI) and Sherwood Boehlert (R-NY)**

*Status: Rejected by House (200-226)*

H.R. 2375, offered by Reps. Kind and Boehlert as an amendment to the House farm bill (H.R. 2646), would have transferred \$1.9 billion a year from wheat, soybean, sugar, and other commodity subsidies to farmers for farm conservation activities. H.R. 2375 would have raised farm conservation program funding for the Environmental Quality Incentives Program (EQIP). It would have also increased acreage for the wetlands reserve program, set up a wetlands reserve enhancement program, and established a demonstration program to promote ecosystem- and watershed-based conservation. The amendment also contained a crucial provision to retain the current law’s prohibition on granting federal conservation funds to large, confined animal feedlot operations (CAFOs) that have poor environmental track records for building waste management lagoons. Although 144 members cosponsored the amendment, it was defeated on the House floor by a 200-226 vote.



### **S. 1731, “Agriculture, Conservation, and Rural Enhancement Act of 2001”**

**Sen. Tom Harkin (D-IA)**

*Status: Considered on the Senate floor 12/10/01 through 12/19/01; still pending*

Although Senate Agriculture Committee Chairman Tom Harkin’s bill gathered momentum in the final weeks of last session, Republican opposition prevented the Senate from approving this \$90 billion, five-year farm bill in 2001. The Harkin bill would significantly increase conservation funding and improve farm conservation policies. It would provide more than \$500 million for clean energy programs that support wind power, biomass energy, fuel cells, and energy efficiency improvements on farms. The bill, however, also would encourage logging on public lands and subsidize large-scale factory-farm pollution. These deficiencies must be addressed in 2002 on the Senate floor.



### **S. Amdt. 2602 (CAFO funding limits) to S. 1731**

**Sen. Paul Wellstone (D-MN)**

*Status: Introduced on Senate floor during consideration of S. 1731*

The farm bill that emerged from the Senate Agriculture Committee would lift size restrictions on the eligibility of CAFOs to receive federal conservation funding. Ending size restrictions would allow new and expanding factory farms to receive conservation funding to subsidize waste practices that damage water quality and habitat. Sen. Wellstone introduced an amendment to keep these conservation funds from being used to encourage and subsidize more and larger factory farms. His amendment would prohibit

new and expanding CAFOs from receiving funding to install animal waste facilities and would set a maximum payment limit.



**H.R. 325 and S. 678, “Fishable Waters Act of 2001”**

**Rep. John Tanner (D-TN)**

**Sen. Christopher Bond (R-MO)**

*Status: S. 678 referred to Senate Committee on Environment and Public Works; H.R. 325 referred to House Resources Subcommittee on Fisheries Conservation, Wildlife and Oceans*

While protecting and restoring natural fish habitat are important goals, these bills could undermine Clean Water Act watershed protections for wetlands and other aquatic resources. They focus too narrowly on fish habitat, rather than taking a broader view of biodiversity and ecosystem health including restoration of wetland habitat for birds, amphibians, and other plants and animals. One of the bill’s most objectionable provisions is an exemption from Clean Water Act permitting requirements for discharges from “treatment” wetlands—wetlands that have received waste from CAFOs, silviculture activities, or other pollution sources. Exempting such operations from the Clean Water Act permitting requirements would allow increased discharges of animal waste and other pollutants into waters and wetlands and would degrade water quality and habitat for fish and other aquatic species.



**H.R. 2646, “Farm Security Act of 2001”**

**Rep. Larry Combest (R-TX)**

*Status: Passed by House (0/9/01)*

H.R. 2646, the House’s massively expensive farm bill, would relax current eligibility restrictions that prohibit large factory-farming operations from using conservation funding from the Environmental Quality Incentives Program (EQIP) to construct waste storage lagoons at large animal feedlots. These lagoons impair waterways and drinking water and threaten public health. The House farm bill would not only make new subsidies available to large facilities, but also would give large facilities priority for funding, thus reducing the amount available to family farmers. Other anti-environmental language in the bill would encourage logging on public lands and threaten the planned phase-out of the pesticide methyl bromide in 2005.

On October 5, the House approved this \$170 billion, 10-year farm bill by a 291-120 vote after rejecting an amendment by Reps. Ron Kind (D-WI) and Sherwood Boehlert (R-NY) that would have transferred \$1.9 billion per year from commodity subsidies to farm conservation, wetlands restoration, and wildlife habitat programs without weakening environmental standards for factory farms. An amendment by Reps. Dan Miller (R-FL) and George Miller (D-CA) to decrease sugar subsidies and apply the savings to Everglades restoration also failed. The Bush administration, meanwhile, criticized the House bill because of its high cost, its large subsidies, and its failure to help small farmers.

# PUBLIC HEALTH, TOXICS, AND URBAN SPRAWL

Legislative efforts in the arena of public health focused primarily on lowering the level of arsenic in drinking water, curbing suburban sprawl on rural and undeveloped land, and cleaning up contaminated former industrial sites known as brownfields. But Congress missed an opportunity to protect children from toxic chemical exposure by deleting a school pesticide-notification provision from the education bill that became law.

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## ARSENIC IN DRINKING WATER

Despite extensive scientific proof that the long-standing standard for arsenic in tap water of 50 parts per billion (ppb) did not adequately protect the public against this carcinogen, the maximum arsenic levels remained unchanged from 1942 until the Clinton administration reduced it to 10 ppb in January 2001. On March 22, EPA Administrator Christine Whitman withdrew the 10 ppb arsenic standard and asked the National Academy of Sciences (NAS) to do yet another review. NRDC immediately filed suit against the administration, and legislators responded with a flurry of bills and amendments to uphold the Clinton standard. In September 2001, NAS issued its report, finding that arsenic at 3 ppb “most likely” presents a 1 in 1,000 lifetime risk of lung and bladder cancer alone—10 times the maximum risk the EPA generally will accept. At the 10 ppb level established in January 2001, the risk for lung and bladder cancer is about 30 times higher than what the EPA says is the maximum acceptable cancer risk. According to the EPA, about 12 million Americans drink water containing 10 ppb or more of arsenic, and 36 million Americans consume water containing more than 3 ppb.

In the EPA funding bill, Congress clarified that it would not allow the administration to weaken the arsenic in drinking water standard. Rep. David Bonior (D-MI) attached an amendment to the House EPA bill prohibiting the use of federal funds to delay or increase the arsenic standard. In the Senate, an amendment by Barbara Boxer (D-CA) would have the EPA standard “fully take into account” threats to pregnant women, children, and the most susceptible members of the public—suggesting a standard below the Clinton level of 10 ppb.

Despite scientific evidence suggesting that 10 ppb was too high, and perhaps because Congress was poised to pass legislation mandating a stronger standard, EPA



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Administrator Whitman announced on November 1 that the administration would accept the 10 ppb standard.



**S. 796, “Community Right-to-Know Arsenic Risk Act”**

**Sen. Barbara Boxer (D-CA)**

*Status: Referred to Senate Committee on Environment and Public Works*

On April 26, Sen. Boxer and six other Democratic senators sponsored S. 796, a bill designed to inform the public about the health dangers associated with arsenic in drinking water. The bill also would publicize the fact that the EPA decided not to strengthen the arsenic standards because of cost concerns.



**H. Amdt. 261 and S. Amdt. 1219 to H.R. 2620, VA/HUD Appropriations Act**

**Rep. David Bonior (D-MI) and Sen. Barbara Boxer (D-CA)**

*Status: Both amendments approved, but modified in conference*

Rep. Bonior’s amendment would have countered efforts by the Bush administration to weaken the 10 ppb standard for arsenic in drinking water. Sen. Boxer later attached an amendment (S.A. 1219) in the Senate requiring the EPA to adopt arsenic standards that protect the most “at risk” populations, such as children, seniors, and those suffering from chronic illnesses. H.R. 2620 ultimately contained language added during conference that would require the EPA to issue a 10 ppb standard. But it also would sidestep the purpose of new arsenic protections by granting extensions to “small” water-supply systems based on claims of economic hardship in meeting the new standard.



**H.R. 1413, “Get Arsenic Out of Our Drinking Water Act”**

**Rep. Henry Waxman (D-CA)**

*Status: Referred to House Committee on Energy and Commerce*

On April 4, Rep. Waxman introduced H.R. 1413 to reinstate the standard for arsenic in drinking water to 10 parts per billion (ppb), which was issued by the Clinton administration in January and revoked by the Bush administration in late March. This bill also would provide funding to help local water authorities comply with the law. This bill attracted 173 cosponsors and helped ensure the success of Rep. David Bonior’s (D-MI) amendment to the EPA funding bill (discussed above).



**H.R. 1252, “Arsenic Reduction in Drinking Water Act”**

**Rep. Bernard Sanders (I-VT)**

*Status: Referred to House Committee on Energy and Commerce (4/16/01)*

H.R. 1252 would reduce the allowable level of arsenic in drinking water from 50 ppb to 10 ppb by the end of fiscal year 2003. The bill would then lower the arsenic standard to 3 ppb by fiscal year 2006, a level that the EPA recently found to be feasible. This comprehensive bill also authorizes an \$800 million grant program to help small public water systems meet federal testing requirements.



**S. 223, “A bill to terminate the effectiveness of certain drinking water regulations”  
Sen. Pete Domenici (R-NM)**

*Status: Referred to Senate Committee on Environment and Public Works (1/31/01)*

Sen. Domenici attempted to overturn the EPA’s new drinking water standard for arsenic with S. 223,. This new standard was based in part on a 1999 (NAS) report that found the old 50 ppb standard was much too high to protect public health. Sen. Domenici’s bill tried to replace a standard that reflects current scientific knowledge about the dangers of drinking arsenic with a standard set in 1942.

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**OTHER TOXICS**



**S. Amdt. 805 to S. 1, “School Environment Protection Act of 2001”  
Sen. Robert Torricelli (D-NJ)**

*Status: Failed by House override of a conference vote in favor*

The School Environment Protection Act (SEPA) of 2001 would make more information available to communities about children’s exposure to toxic chemicals in local school systems. Most children spend a large amount of their time on school property, where they are exposed routinely to toxic chemicals in the form of pesticides and cleaners. Children are far more vulnerable than adults to illness or chronic conditions resulting from exposure to cancer-causing or endocrine-disrupting toxic chemicals. This legislation would reduce overall exposure on school grounds by, among other things, creating more stringent regulations on pesticide use in playgrounds and athletic fields and requiring that a pest management plan be developed for each school to reduce or eliminate the use of chemical pesticides in areas where children may come into contact with them.

This bill was attached in the Senate to a wide-ranging education bill (S. 1, Better Education for Students and Teachers Act) amending the Elementary and Secondary Education Act. After initial support, the chemical industry changed its position and opposed the amendment during conference. On November 30, SEPA was removed from the bill in conference after the House vetoed a 20-18 vote in favor of keeping the amendment. (The Senate was 14-11 in favor; the House was 7-6 opposed with one abstention.)

*Most children spend a large amount of their time on school property, where they are exposed routinely to toxic chemicals in the form of pesticides and cleaners.*

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**TRACKING ENVIRONMENTAL HEALTH**



**H.R. 1723 and S. 830, “Breast Cancer and Environmental Research Act of 2001”  
Sens. Lincoln Chafee (R-RI), Harry Reid (D-NV), and Hillary Clinton (D-NY)  
Rep. Nita Lowey (D-NY)**

*Status: Referred to House committee, (5/15/01); referred to Senate committee (5/3/01)*

The two bills would amend the Public Health Service Act to authorize National Institutes of Environmental Health Sciences grants for developing and operating research

centers to investigate environmental factors causing breast cancer and to encourage a multidisciplinary approach to such research.

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## FOOD SAFETY



### **H.R. 2649, “National Uniformity for Food Act of 2001”**

**Rep. Richard Burr (R-NC)**

*Status: Referred to House Subcommittee, (8/10/01)*

**Also submitted as an amendment to S. 1731, “Agriculture, Conservation, and Rural Enhancement Act of 2001”**

**Sen. Tim Hutchinson (R-AR)**

*Status: Amendment proposed on December 13, 2001, S. 1731 consideration still pending before Senate*

Rep. Burr’s bill, identical to a bill he introduced in 1999, would nullify dozens of proconsumer state and local statutes, regulations, and ordinances. For years, consumers have relied on state and local labeling requirements and safety standards to fill regulatory gaps left by the Food and Drug Administration (FDA). But the Grocery Manufacturers of America and the dietary supplement industry are pressuring Congress to exempt them from these consumer safeguards. Their goal is to avoid complying with any state and local consumer protections that are stronger than what the FDA requires—even in areas, such as dietary supplements, where the FDA has very limited authority to regulate and few resources to enforce existing protections.

This legislation would imperil crucial state requirements for warning labels on shellfish, which frequently contain pathogens that can cause illness and death. It also would leave the dietary supplement industry almost entirely unregulated. The FDA has little regulatory authority over dietary supplements, and several states have attempted to compensate. This bill could invalidate such measures as Texas’s warning label requirement for ephedrine—a supplement that has been associated with hundreds of serious illnesses and several deaths. And it would thwart state attempts to require labeling of genetically engineered foods and foods that contain irradiated ingredients, even though consumers overwhelmingly support such requirements.

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## BROWNFIELDS AND SUPERFUND



### **S. 350, “Brownfields Revitalization and Environmental Restoration Act of 2001”**

**Sens. Lincoln Chafee (R-RI), Barbara Boxer (D-CA), Robert Smith (R-NH), and Harry Reid (D-NM)**

*Status: Signed into law (1/11/01); passed Senate (4/25/01); after combined with H.R. 2869, passed both House and Senate (12/20/01)*

The Senate sponsors of this bill, along with former Sen. Lautenberg (D-NJ), developed this popular bipartisan bill to authorize \$200 million in federal funding for the rehabilitation of thousands of urban brownfields. These sites typically remain polluted

and sit unused as a result of complex and lengthy legal issues involved in rehabilitation under the Superfund program. While its success depends on diligent federal oversight of state brownfields programs, this legislation provides much-needed financial support for improving and invigorating state programs. The bill also ensures that affected communities are involved in decisions on how to reuse the land, and encourages use of these properties as parks and green space.

On April 25, the Senate approved S. 350 by a vote of 99-0. The House, however, failed to pass the bill until it was combined with H.R. 1831, another waste-site liability relief bill, and only after resolving issues involving minimum wage requirements for hazardous waste cleanup (Davis-Bacon Act). This bill passed both the House and the Senate on the last day of the session as part of H.R. 2869 and was signed into law by President Bush.



**H.R. 2869, “The Small Business Liability Relief Act”**

**Rep. Paul Gillmor (R-OH)**

*Status: Passed by House and Senate (12/2/01); signed into law*

On the last day of the 2001 legislative session, both the House and the Senate passed H.R. 2869, an uncontroversial bill that exempts municipal solid waste and small quantities of hazardous waste from Superfund liability. The bill passed after it was combined with the bipartisan Senate brownfields bill (S. 350, see discussion above).

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**URBAN SPRAWL**



**H.R. 2646, “Farm Security Act of 2001” and S. 1731, “Agriculture, Conservation, and Rural Enhancement Act of 2001”**

**Rep. Larry Combest (R-TX), Sen. Tom Harkin (D-IA)**

*Status: H.R. 2646 passed House (10/9/01); S. 1731 floor consideration began on 12/10/01 through 12/19/01 and is still pending.*

Both the House and the Senate farm bills provided new funds for the Farmland Protection Program (FPP), which helps protect rural open space from encroaching sprawl. The current FPP, passed as part of the 1996 farm bill, provides \$35 million for purchasing development rights. According to the American Farmland Trust, this funding leveraged about \$290 million in easement purchases. Congress gave FPP an additional \$17.5 million in 2000, but the program remains seriously underfunded.

While the House bill would add \$500 million to the FPP over 10 years, the current version of the Senate farm bill would add as much as \$2.15 billion over the same period. The Senate bill also would increase enrollment levels and funding for conservation reserve programs that protect open space, boost funding for easements, and ensure that land trusts and other nonprofit organizations have access to these programs. In addition, the Senate bill would make it easier for farmers and others to use this funding for long-term and permanent easements.

*Both the House and the Senate farm bills provided new funds for the Farmland Protection Program (FPP), which helps protect rural open space from encroaching sprawl.*



**H.R. 1739, “The Urban Sprawl and Smart Growth Study Act”**

**Rep. Mark Udall (D-CO)**

*Status: Referred to House Resources Committee, House Energy and Commerce Committee (2/13/01)*

This legislation would require the White House’s Council on Environmental Quality to conduct a study on urban sprawl and smart growth, and ensure that federal agencies consider sprawl issues when they prepare environmental reviews under the National Environmental Policy Act of 1969.



**H.R. 318, “The Commuter Benefits Equity Act”**

**Rep. James McGovern (D-MA)**

*Status: Referred to House committee (1/31/01)*

H.R. 318 would have raised the tax-free fringe benefit available to mass transit riders from \$65 per month to \$175 per month, making the maximum benefit equal to current parking benefits. As of January 1, 2002, the benefit increased to \$100, but this is still substantially lower than the benefit for parking. This bill would have prevented mass transit riders from being unfairly penalized and ensured that the commuting benefit does not contribute to congestion and air pollution by encouraging commuters to drive to work instead of using public transit. By the end of 2001 the bill had 55 cosponsors.

# INTERNATIONAL ISSUES

After the Bush administration turned its back on the Kyoto climate change treaty process, both the House and the Senate approved resolutions urging the administration to reengage in international climate change negotiations. Regardless, the administration remained steadfast in its opposition. So Congress turned its attention elsewhere on the international front, focusing largely on the relationship between trade and environmental protection. A close and contentious vote in the House granted President Bush authority to approve final trade agreements. The House trade bill, which passed by one vote, failed to incorporate adequate environmental safeguards. Bills authorizing debt-for-nature swap programs advanced in Congress. Congress also boosted funding for international institutions, but it is still much too low.

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## THE INTERNATIONAL FRONT



### **H.R. 3005, “Presidential Trade Promotion Authority”**

**Rep. Bill Thomas (R-CA)**

*Status: Passed House (12/16/01); reported from Senate Finance Committee (12/12/01)*

After intense lobbying by the White House and House Republican leaders, the House passed H.R. 3005 by a single vote. The legislation would grant “fast track” authority to the president to negotiate new trade agreements without congressional approval. Democratic leaders, as well as environmental, consumer, social justice, and labor groups, opposed this bill because it fails to ensure adequate environmental and labor standards and could undermine current trade protections. On December 12, the Senate Finance Committee approved a fast-track trade bill similar to the House version after rejecting amendments to strengthen environmental and labor protections. This legislation will be among the top Bush priorities addressed by Congress in 2002.



### **H.R. 2131, “Tropical Forest Conservation Act Reauthorization”**

**Rep. Rob Portman (R-OH)**

*Status: Signed by president (8/17/01) (Pub. L. No. 107-26)*

This uncontroversial bill reauthorized a 1998 debt-for-nature swap program that allows other countries to apply debt payments to projects aimed at saving tropical forests.



**H.R. 2506, “Foreign Operations Appropriations Act for 2002”**

**Sen. Robert Byrd (D-WV)**

*Status: Signed by president (1/10/02) (Pub L. No. 107-115)*

Congress approved the final fiscal year 2002 foreign operations funding bill (H.R. 2506) on December 20. The final bill contains \$295 million for a new program at the U.S. Agency for International Development called the Environment, Clean Energy and Energy Conservation Programs Fund. This fund will promote energy efficiency, renewable energy, energy conservation, and greenhouse gas mitigation programs. However, Congress made cuts to funding for the Global Environment Facility (similar to Bush administration requests), which provides grants for projects that combat global warming and promote sustainable development worldwide. Fiscal year 2002 funding for the Global Environment Facility was pegged at \$100 million, \$7 million less than the previous year.

# ASSAULTS ON THE REGULATORY PROCESS

Not much legislative activity occurred last year involving changes to the regulatory process, but it was an important focus of the Bush administration upon taking office. Proponents of dismantling regulatory protections had the ear of the White House and top leadership at the Office of Management and Budget (OMB).

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## REGULATORY CZAR JOHN GRAHAM



On March 6, President Bush nominated Dr. John Graham—a longtime critic of health, safety, and environmental standards—to direct the Office of Information and Regulatory Affairs in the OMB, the chief position of regulatory oversight and information assessment. Graham was the director of the Harvard Center for Risk Analysis—an industry-funded research group that has argued against a range of regulatory proposals. A coalition of environmental, consumer, and labor groups opposed Graham’s confirmation, warning that as the gatekeeper for all federal regulations, Graham would use procedures for reviewing regulations that favor industry and work against public protection. Although his nomination was very controversial, the Senate confirmed Graham on July 19, by a vote of 61-37.

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## RIGHT TO KNOW / FIGHTING TERRORISM



### S. 1456 and H.R. 2435, “Critical Infrastructure Information Act”

**Sens. Bob Bennett (R-UT) and Jon Kyl (R-AZ)**

**Reps. Tom Davis (R-VA) and Jim Moran (D-VA)**

*Status: Referred to Senate Committee on Governmental Affairs (9/24/01), hearing held in Senate Environment and Public Works Committee (10/9/01); House bill referred to Government Reform Committee*

Although proponents say that S. 1456 is intended to improve cybersecurity in the event of a terrorist attack, its language is broad and could have the effect of bringing routine law enforcement and rulemaking to a grinding halt. The bill broadly covers information concerning any “physical infrastructure” that, if attacked, could affect the nation’s economy. As long as the owner of such infrastructure turns information over to the government voluntarily and claims that such information would disclose the

vulnerability of the infrastructure to a criminal act, the federal government could not disclose the content or source of the information without the company's consent, except in the context of a subsequent criminal prosecution. The legislation explicitly bars federal, state, and local governments as well as "any other party" from using the information in any civil action brought in court. In effect, the legislation would allow private companies that violate federal environmental laws to conduct self-audits documenting their shortcomings and receive amnesty for civil penalties upon turning them in. Although H.R. 2453 is not identical to S. 21342, it contains very similar provisions.



### **S. 1602, "Chemical Site Security Act of 2001"**

**Sen. Jon Corzine (D-NJ)**

*Status: Referred to Senate Committee on Environment and Public Works (10/31/01)*

The bill would require the EPA to issue regulations covering chemical plants and other facilities that could be targets for terrorists. The regulations would instruct the owners and operators of such facilities to reduce hazards by such measures as substituting less toxic materials, reducing storage of toxic materials, or adopting closed-loop manufacturing processes. Owners and operators would also be required to improve site security. There are no existing laws in either area, although the 1990 Clean Air Act amendments mandated the preparation of "worst case scenarios" and "risk management plans." The scenarios detailed how many people would be at risk in the event of an accident and the plans stated what the company would do in response to such catastrophes. The scenarios show that accidents at some 100 facilities could kill at least one million people, and that 700 facilities threaten 100,000 people.

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## **REGULATORY PROCESS**



### **H.R. 54, "Mandates Information Act of 2001"**

**Rep. Gary Condit (D-CA)**

*Status: Referred to House Committee on Rules (1/3/01)*

On January 3, 2001, Rep. Condit introduced H.R. 54, which would provide corporations and other parties with a new tactic to block critical health and environmental protections. By doing little more than voicing an objection, opponents of environmental legislation would be able to stop bill provisions that would impose costs exceeding \$100 million on the private sector, without a direct vote on the substance of the bill. Worse yet, H.R. 54 focuses on the cost of legislation without any consideration of its potential benefits.



### **H.R. 327 and S. 1271, "Small Business Paperwork Relief Act"**

**Rep. Dan Burton (R-IN), Sen. George Voinovich (R-OH)**

*Status: H.R. 327 Passed House (3/15/01), referred to Senate Committee on Governmental Affairs; S. 1271 passed Senate (12/17/01)*

This legislation is identical to what was called the Lawbreakers Immunity Act (H.R. 391) from the 106<sup>th</sup> Congress, only without the most objectionable provision that requires agencies to waive fines for first-time violations of paperwork requirements. However, the bill still places an unnecessary burden on agencies to compile all reporting requirements and attempts to encourage them to minimize reporting required of small businesses. H.R. 327 and S. 1271 place overly broad and burdensome obligations on federal agencies to annually compile a list of each piece of information they have requested from businesses. Because this requirement would be incredibly expensive and time-consuming, it could be virtually impossible for federal agencies to comply with it without severely disrupting their operations.



**H.R. 64, “To provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency.”**

**Rep. Vernon Ehlers (R-MI)**

*Status: Reported by House Committee on Science (11/30/01)*

On October 3, the House Science committee approved H.R. 64, which would create the position of deputy for science and technology at the EPA. This bill could be used for political reasons to undercut the science conducted at the agency and skew its policies. H.R. 64 also fails to address real scientific shortcomings at the EPA, including the agency’s continued heavy reliance on industry studies and industry-dominated external advisory committees in developing public health regulations.

*H.R. 64 could be used for political reasons to undercut the science conducted at the EPA and skew its policies.*



**H.R. 2694, “Department of Environmental Protection Act”**

**Rep. Steve Horn (R-CA)**

*Status: Referred to House Committee on Government Reform (8/1/01)*

H.R. 2694 would make the EPA a cabinet-level agency. A number of environmental groups have supported this idea, but only if the bill is free of extraneous proposals that undermine the agency’s environmental mission. Rep. Horn’s bill contains several objectionable provisions interfering with the agency’s ability to protect the environment. Most troublesome is the bill’s mandate that the EPA may not propose or promulgate a rule without performing an elaborate estimate of the risks addressed by the agency’s action—a process of projecting costs and benefits of the action that could result in potentially misleading comparisons between different kinds of risk. It further mandates that the EPA make a detailed certification for each action. This certification requirement is burdensome and wasteful because it duplicates an existing executive order, and does so in a way that creates additional bureaucracy, reduces administrative flexibility, and could misrepresent the value of a proposal by overstating costs and underestimating benefits.



**H.R. 2438, “Department of Environmental Protection Act”**

**Rep. Sherwood Boehlert (R-NY)**

*Status: Referred to House Government Reform Committee (7/10/01)*

Rep. Boehlert’s bill is similar to H.R. 2964 in that it would establish the EPA as a cabinet agency, but without the extraneous provisions intended to limit or modify

existing authority. This “clean” elevation of the EPA would be a positive step for public health and the environment by creating greater accountability within the executive branch on important environmental issues.

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## CAMPAIGN FINANCE



### **S. 27, “Bipartisan Campaign Reform Act of 2001”**

**Sens. John McCain (R-AZ) and Russell Feingold (D-WI)**

*Status: Passed Senate (4/2/01)*

On May 22, the Senate sent a campaign finance reform bill (S. 27) to the House for consideration. This bill, approved by the Senate on April 2, would ban corporate soft money donations to political parties, which currently are not subject to federal limits. Huge soft money contributions have made it easier for these large corporations to persuade members of Congress to attach anti-environment riders to funding bills and to gain special exemptions from environmental laws and regulations. S. 27 also contains a provision that would increase the amount of money individuals can give to candidates, which has the potential to increase the influence of the wealthiest Americans. Another provision would limit issue advocacy by nonprofit groups preceding an election. (This provision may be unconstitutional.) While environmental groups disagree on the merits of this particular bill, they generally support efforts to reduce the influence of corporate special interests in funding national elections. The House has also gathered enough signatures on a petition to bring a similar bill (H.R. 2356, introduced by Reps. Christopher Shays (R-CT) and Marty Meehan (D-MA)) to the House floor for consideration.

# FISCAL YEAR 2002 FUNDING AND ANTI-ENVIRONMENTAL LEGISLATIVE RIDERS

Proposed cuts in environmental funding sparked early fights in the last legislative session. The massive tax cut and the disappearance of any budget surplus will cut a deep slice into available funding for needed environmental programs in future years. While Congress restored much of the key funding that the Bush Administration proposed cutting in fiscal year 2002, in future years the money will be even tighter and the fights more serious.

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## BUDGET AND FUNDING

On April 9, President Bush submitted his proposed budget for fiscal year 2002, which called for major reductions in funding for environmental programs. The proposed cuts would significantly undermine environmental protections and could have crippled environmental programs long into the future. The administration proposed slashing overall spending for environmental and natural resources agencies by \$2.3 billion, or 7.2 percent, in fiscal year 2002, eliminating nearly \$500 million from the EPA, nearly \$400 million from the Department of Interior, and more than \$600 million from the U.S. Forest Service. The Bush budget also would have cut nearly \$450 million from the Department of Energy's clean energy and environmental cleanup programs.

Environmentalists were especially alarmed by the president's proposal to hamper the EPA's pollution-law enforcement by shifting \$25 million from the federal enforcement budget to state grants. This shift would have cut about 7 percent of the federal personnel responsible for compliance assistance and criminal and civil enforcement actions, significantly reducing the EPA's ability to act when states are unwilling or unable to enforce pollution laws.

Proposed cuts to programs protecting public land and conserving open space and wildlife habitat also present major concerns with the Bush budget. In 2000, Congress had enacted historic legislation establishing a new trust fund dedicated to land conservation called the Land Conservation, Preservation, and Infrastructure Improvement Act (LCPII), which was supposed to provide \$12 billion over six years. However, the Bush budget proposed reducing the congressionally approved level of funding for LCPII \$100 million and failed to fully fund the Land and Water Conservation Fund despite a Bush campaign pledge to do so.



## ENVIRONMENT IN THE CROSSHAIRS

*Assessing Federal  
Legislation in 2001*

February 2002

*For the most part, Congress restored the cuts in environmental funding proposed by the Bush White House, and in many cases increased funding over fiscal year 2001 levels.*

After the White House submitted the president's budget to Congress, a Republican House and Senate speedily approved the Bush administration's tax cut bill, H.R. 1836, on May 6. The bill authorizes a \$1.35 trillion tax cut over the next decade. This massive tax will make it difficult to find the revenue to adequately fund environmental protection in the future. In fact, in recent months government projections have confirmed that the budget surplus has evaporated and that the administration will have to rely on deficit spending for years to come. We expect that to save money, the Bush administration will target environmental programs for future cuts.

On March 28, the House rejected Rep. John Spratt's (D-SC) Democratic alternative budget by a 183-243 vote. This budget would have increased environmental and natural resources funding by 4 percent, reversing the Bush administration's proposed spending cuts. Later that day, the House passed the Republican \$1.98 trillion budget resolution for fiscal year 2002. Because of strong opposition by Democrats and moderate Republicans—led by Reps. Edward Markey (D-MA), Joseph Hoeffel (D-PA), and Nancy Johnson (R-CT)—the resolution did not include revenues from oil leases in the Arctic National Wildlife Refuge.

On April 6, the Senate passed its budget resolution. Led by Sen. Jon Corzine (D-NJ), Democrats tried to add \$50 billion in funding over 10 years for key environmental programs, but failed by a 54-46 vote. However, the Senate passed an amendment to the budget resolution offered by Sens. John Kerry (D-MA), Joseph Lieberman (D-CT), and Susan Collins (R-ME) to increase budget authority for energy efficiency and renewable energy programs by \$2 billion over 10 years. A modified version of the amendment was accepted in conference and helped pave the way for later increases in appropriations for fiscal year 2002. Sen. Harry Reid (D-NV) spearheaded an effort that restored funding for renewable energy research and development, while Sens. Barbara Boxer (D-CA) and Ben Nelson (D-NE) added money for local communities to reduce high levels of arsenic in their drinking water. The Senate budget resolution, like its House counterpart, made no mention of oil revenues from the Arctic National Wildlife Refuge.

For the most part, Congress restored the cuts in environmental funding proposed by the Bush White House, and in many cases increased funding over fiscal year 2001 levels. Fiscal tightening, however, slowed the progress of the funding bills this year, which were not finished until December 20.

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## **ANTI-ENVIRONMENTAL RIDERS**

On a bright note, Congress attached far fewer anti-environmental riders to funding bills this year than in the past. While legislators tacked on a few riders to the final bills—including ones to open Alaska's Glacier Bay to more cruise ship traffic, expand a military training facility without needed protection for threatened and endangered species, and offer a sweetheart land transfer of prime wildlife habitat on Alaska's Admiralty Island in the Tongass—many of them were stripped from the final bills. Lawmakers removed riders that could have hindered efforts to combat climate change or consider increases in vehicle fuel efficiency standards. Table 1 and Table 2 on the following pages chronicle important environmental riders faced in 2001.

**Table 1. Fiscal Year 2002 Budget: Anti-Environmental Riders**

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<b>AGRICULTURE (H.R. 2330/S. 1191)</b>			
<i>House:</i> Passed on 7/11/01 (414-16); Passed conference rpt. on 11/13/01 (379-33) <i>Senate:</i> Passed on 10/25/01 (91-5); Passed conference rpt. on 11/15/01 (92-7)		<i>Presidential Action:</i> Signed into law on 11/28/01	
<u>Hampers Climate Protection:</u> This would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries. It would also restrict the U.S. involvement in climate change discussions. See identical language in the Commerce-Justice-State, Foreign Operations, Interior, Transportation, and VA-HUD appropriations bills. (Original version Sec. 726.)	<u>House:</u> Included in the chairman's mark at the request of Rep. Knollenberg (R-MI).	Reps. Olver (D-MA) and Gilchrest (R-MD) introduced an amendment on the floor to strike the provision. The amendment passed by voice vote on 7/11/01.	—
<b>COMMERCE-JUSTICE-STATE (H.R. 2500/S. 1215)</b>			
<i>House:</i> Passed on 7/18/01 (408-19); Passed conference rpt. on 11/14/01 (411-15) <i>Senate:</i> Passed on 9/13/01 (97-0); Passed conference rpt. on 11/15/01 (98-1)		<i>Presidential Action:</i> Signed into law on 11/28/01	
<u>Hampers Climate Protection:</u> This would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries. It would also restrict U.S. involvement in climate change discussions. See identical language in the Agriculture, Foreign Operations, Interior, Transportation, and VA-HUD appropriations bills. (Original version Sec. 623.)	<u>House:</u> Included in the chairman's mark at the request of Rep. Knollenberg (R-MI).	An amendment was offered by Rep. Olver (D-MA) to remove the language and was agreed to by the managers during floor debate on 7/18/01.	—
<u>Grants Exclusive Fishing Rights to Industry:</u> This would give up fishing rights in the Pollock fishery of the North Pacific. The language awards the extended, exclusive rights to Seattle-based trawlers, Japanese-owned processors, and Alaska Native groups without any royalty payments to the U.S. Treasury. The rights are potentially worth hundreds of millions of dollars. The fishery is a public resource, and royalty payments should be made. The rights were initially granted for five years, to end in 2004. Sen. Stevens eliminated the end date in conference without hearings or debate.	<u>Conference:</u> Added to the conference report by Sen. Stevens (R-AK).	Included in the final conference report. (Final version Sec. 211)	X

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<u>Rolls back protection for endangered fish:</u> This would drain nearly half of the budget for National Marine Fisheries Service and would cut critical programs needed to protect fish and fishing communities across the nation. (H.Amdt.178)	<u>House:</u> Offered by Rep. Herger (R-CA) on the House floor 7/18/01.	Rep. Wolf (R-VA) raised a point of order against the amendment. The point of order was sustained, and the amendment was rejected by the House on 7/18/01.	—
<u>Undermines the Marine Protected Areas Program:</u> It would restrict the National Oceanic and Atmospheric Administration's (NOAA) ability to improve government-wide marine protected area (MPA) programs and develop scientific guidance for a nationwide system of MPAs. The language would undermine NOAA's designated MPA objectives to rebuild fish populations, protect marine wildlife, improve scientific understanding, and restore ocean habitats. (Report language, Title II)	<u>House:</u> Included in committee report.	The objectionable House provision was replaced by acceptable Senate language in conference.	—
<u>Undercuts Scientific Input to Endangered Species Act (ESA) processes:</u> It would reduce the National Marine Fisheries Service review process for decision making on ESA issues. The language could be used to delegate authority away from scientists and to states or political interests, despite a court ruling on Section 7 of the ESA that the jeopardy of species is a matter of science—not policy. (Report language)	Added to the conference report by Sen. Craig (R-ID) and Sen. Crapo (R-ID).	This language was removed in conference.	—
<p><b>DEFENSE APPROPRIATIONS (H.R. 3338)</b></p> <p><i>House: Passed on 11/28/01 (406-20); Passed conference rpt. on 12/20/01 (408-6) on 1/10/02</i></p> <p><i>Senate: Passed on 12/7/01 (voice vote); Passed conference rpt. on 12/20/01 (94-2)</i></p> <p style="text-align: right;"><i>Presidential Action: Signed into law</i></p>			
<u>Relieves South Dakota Gold Mine of Liability:</u> This would provide Homestake Mining Company with unprecedented, overly broad liability relief and indemnification by the federal government for any claim related to any portion of a 100-year-old underground gold mine in Lead, South Dakota, to be conveyed to the state and federal government for use as a nuclear physics laboratory. (Original version Division E, Title I.)	<u>Senate:</u> Added by Sen. Daschle (D-SD) on the Senate floor on 11/15/01.	Included in the final conference report. (Final version Division D, Title I)	X

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><b>DEFENSE AUTHORIZATION (H.R. 2586/S.1438)</b>  <i>House:</i> Passed on 9/25/01 (398-17); Passed conference report on 12/13/01 (382-40)  <i>Senate:</i> Passed on 10/2/01 (99-0); Passed conference report on 12/13/01 (96-2)</p> <p style="text-align: right;"><i>Presidential Action:</i> Signed into law on 12/28/01</p>			
<p><u>Threatens Endangered Species Habitat and Wilderness Study Areas:</u> This would transfer 110,000 acres of Bureau of Land Management (BLM) land in the Mojave Desert to the Army to expand U.S. Army Fort Irwin National Training Center, which already occupies 642,000 acres. This legislation allows the transfer prior to compliance with the National Environmental Policy Act (NEPA) and ESA, and does not include funding or other measures to mitigate the loss of wildlife and desert lands. The training operations that would occur on the expanded base land would destroy habitat critical to the threatened desert tortoise, the endangered Lane Mountain milkvetch, and two wilderness study areas in the Avatatz Mountains. (Title XXIX)</p>	<p><u>House:</u> Added in Military Installations and Facilities Subcommittee as part of the chairman's mark.</p>	<p>Included in the final conference report. (Final version Title XXIX)</p>	<p>X</p>
<p><u>Requires National Security Impact Statements:</u> It would create an additional analysis requirement as part of the NEPA process. This provision would require the Secretary of Defense to prepare an analysis of the impact on national security of any proposed action, and any alternatives to the proposed action, as part of an environmental impact statement (EIS) or environmental assessment (EA) drafted by it or other federal agencies. Adding this requirement to the NEPA process is unnecessary and could be used to undermine environmental laws such as the ESA. (Original version Sec. 312.)</p>	<p><u>House:</u> Added during the committee process by Rep. Weldon (R-PA).</p>	<p>The original language was included in the bill passed by the House. The language was mostly removed in conference; however, a provision requiring a report to Congress by the Secretary of Defense on whether it would benefit the department to have a "defense impact review process" remains in place. This was a considerable improvement, but the language remains objectionable. (Final version Sec. 1041)</p>	<p>X</p>
<p><b>ENERGY AND WATER (H.R. 2311/S. 1171)</b>  <i>House:</i> Passed on 6/28/01 (405-15); Passed conference rpt. on 11/1/01 (399-29)  <i>Senate:</i> Passed on 7/19/01 (97-2); Passed conference rpt. on 11/1/01 (96-2)</p> <p style="text-align: right;"><i>Presidential Action:</i> Signed into law on 11/12/01</p>			
<p><u>Prevents Cost-Sharing Changes for Beach Nourishment:</u> It would block the Bush administration from restructuring cost-sharing terms with local sponsors of beach nourishment projects. Current rules require local communities to pay only 35 percent of the cost of pumping sand onto unstable beaches. Dredging and beach nourishment occur at an enormous cost to taxpayers and the environment, affecting water quality, sea turtle nesting, and barrier reef systems. (Original version Sec. 105.)</p>	<p><u>House:</u> Introduced by Rep. Saxton (R-NJ), included in committee report.</p>	<p>Rep. Tancredo (R-CO) offered an amendment to strike section 105, but it failed to pass with a vote of 84-333 on 6/28/01. This provision was included in the bill as passed by the House and in the final conference report. (Final version Sec. 102)</p>	<p>X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><u>Puts Endangered Species in the Missouri River at Severe Risk:</u> This would stall the U.S. Army Corps of Engineers in its process to consider flow changes on the Missouri River, thereby undermining the ESA by preventing actions needed to protect three endangered species.</p>	<p><u>House (Sec. 106):</u> Added as an amendment in subcommittee by Rep. Latham (R-IA).</p> <p><u>Senate (Sec. 103):</u> Included in the bill as reported by the Appropriations Committee.</p>	<p>The provision remained unchanged in the bill as passed by the House. A more damaging rider to prohibit the Corps from making changes necessary for endangered species survival was proposed by Sen. Bond (R-MO) during floor consideration. That amendment was withdrawn, and a compromise amendment was adopted by the Senate in a 100-0 vote. The Senate language was adopted in conference. (Final version Sec. 116.)</p>	<p>X</p>
<p><u>Requires a New Study of Auburn Dam on the American River:</u> It would prevent the U.S. Army Corps of Engineers from completing ongoing studies of flood-control alternatives for Sacramento, California, until it completes a new analysis of a multipurpose Auburn Dam on the American River. Congress previously approved alternative flood-control measures for Sacramento, but this rider would delay the final decision on these alternative measures while the Corps studies Auburn Dam. (Original version Sec. 103.)</p>	<p><u>House:</u> Added in subcommittee as part of the chairman’s mark at the request of Rep. Doolittle (R-CA).</p>	<p>The rules committee passed a self-executing rule that struck this rider from the bill.</p>	<p>—</p>
<p><u>Makes Alternatives to Auburn Dam More Costly, Encouraging Dam Construction:</u> It would require the Sacramento Area Flood Control Agency to fund “make-up water” for downstream water users when Folsom Dam flood control operations authorized in 1996 and 1999 impair recreational use of the reservoir. This amendment is designed to push flood-wary Sacramento into supporting construction of Auburn Dam to reduce the financial risks generated by the new requirements imposed in this section. (Original version Sec. 202.)</p>	<p><u>House:</u> Included as part of the subcommittee chairman’s mark at the request of Rep. Matsui (D-CA).</p>	<p>The revised conference language of this provision is acceptable. (Final version Sec. 209.)</p>	<p>—</p>
<p><u>Attempts to Eliminate Commercial Rafting Activities Within the Auburn State Recreation Area (CA):</u> The rider’s reported goal is elimination of commercial rafting on certain key segments of the American River in California. By eliminating the rights of those who enjoy the river in its natural state, it is made easier for other interests—who may require unnatural or destructive flow patterns—to exert undue ownership over the natural state of the resource. (Original version Sec. 201.)</p>	<p><u>House:</u> Added by Rep. Doolittle (R-CA).</p>	<p>Included in the conference version. (Final version Sec. 208.)</p>	<p>X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><b>FOREIGN OPERATIONS (H.R. 2506/S. Rpt. 107-58)</b>  <i>House:</i> Passed on 7/24/01 (381-46); Passed conference rpt. on 12/19/01 (357-66)  <i>Senate:</i> Passed on 10/24/01 (96-2); Passed conference rpt. on 12/20/01 (unanimous consent)</p>			
<p><u>Hampers Climate Protection:</u> It would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries. It would also restrict the U.S. involvement in climate change discussions. See identical language in the Agriculture, Commerce-Justice-State, Interior, Transportation, and VA-HUD appropriations bills. (Original version Sec. 566.)</p>	<p><u>House:</u> Included in the chairman's mark at the request of Rep. Knollenberg (R-MI).</p>	<p>Rep. Olver (D-MA) moved to strike this language in full committee, and the language was removed.</p>	<p>—</p>
<p><b>INTERIOR (H.R. 2217/S. 2217)</b>  <i>House:</i> Passed on 6/21/01 (376-32); Passed conference rpt. on 10/17/01 (380-28) <span style="float: right;"><i>Presidential Action:</i> Signed into law on 11/5/01</span>  <i>Senate:</i> Passed on 7/12/01 (voice vote); Passed conference rpt. on 10/17/01 (95-3)</p>			
<p><u>Hampers Climate Protection:</u> It would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries. It would also restrict the U.S. involvement in climate change discussions. See identical language in the Agriculture, Commerce-Justice-State, Foreign Operations, Transportation, and VA-HUD appropriations bills. (Original version, Sec. 324.)</p>	<p><u>Senate:</u> Included in subcommittee by Sen. Byrd (D-WV) as part of the chairman's mark.</p>	<p>Included in the bill as passed by the Senate. The provision was removed in conference.</p>	<p>—</p>
<p><u>Allows the Oil Industry To Buy Federal Oil and Gas at Discounted Price:</u> This could allow the oil industry to avoid paying fair market value for oil drilled from federal lands under royalty-in-kind programs. Interior's Minerals Management Service recently lost \$3 million to the oil industry under the royalty-in-kind programs despite language in the FY 2001 Interior appropriations bill requiring that oil companies pay fair value for the government's oil. (Original version Title I.)</p>	<p><u>House:</u> Included in the bill as introduced by Rep. Skeen (R-NM).  <u>Senate:</u> Included in the bill as reported from the House.</p>	<p><u>House:</u> The provision was satisfactorily amended on the House floor by Rep. Maloney (D-NY) on 6/21/01 to prevent Congress from expanding potential deductions for the oil industry from royalty payments. The amendment passed on the House floor by voice vote. However, the Maloney amendment was dropped in conference, and the provision remains objectionable. (Final version Title I.)</p>	<p>X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><u>Opens the Door to Increased Logging in National Forests Under the Guise of Emergency Fire Management:</u> This would provide \$395 million to the Wildland Fire Management line items to remove hazardous material in the wildland-urban interface zone. The language would create economic incentives to remove large logs instead of small-diameter materials, which along with brush and old slash piles are the real hazards. (Original version Titles I and II.)</p>	<p><u>Senate:</u> Included in subcommittee as part of the chairman’s mark.</p>	<p>The provision remains unchanged and was passed as part of the bill by both chambers. (Final version Titles I and II.)</p>	<p>X</p>
<p><u>Allows the U.S. Army Corps of Engineers to Prevent the Establishment of a National Wildlife Refuge in the Kankakee River Basin (IN, IL):</u> It would prohibit the use of funds to establish a national wildlife refuge in Grand Kankakee Marsh, one of the largest freshwater ecosystems in North America, if it is inconsistent with the Corps efforts to control flooding in the area. The Fish and Wildlife Service has proposed this area as a wildlife refuge to preserve the remaining wetlands that make up this great marsh. The current language sets a dangerous precedent of essentially giving veto authority to another agency (the Corps) over establishment of a national wildlife refuge. (Original version Sec. 117.)</p>	<p><u>House:</u> Added in subcommittee as part of the chairman’s mark.</p>	<p>Included in the final conference report. This provision is similar to an objectionable FY01-enacted rider. (Final version Sec. 117.)</p>	<p>X</p>
<p><u>Allows Damaging Grazing on Public Lands to Continue Without Environmental Review:</u> It would allow grazing on public lands to continue without environmental review—regardless of the environmental damage that is occurring and notwithstanding prior congressional commitment not to enact this rider again.</p>	<p><u>House (Sec. 114):</u> Added in subcommittee as part of the chairman’s mark.</p> <p><u>Senate (Sec. 113):</u> Added in subcommittee as part of the chairman’s mark.</p>	<p>Included in the final conference report. This provision is similar to an objectionable FY01-enacted rider. (Final version Sec. 114.)</p>	<p>X</p>
<p><u>Creates a Special Deal for Washington Grazing Interests:</u> This would renew and extend livestock grazing permits within the popular Lake Roosevelt National Recreation Area in Washington State. This provision undercuts a National Park Service decision that livestock grazing was not an authorized activity within the recreation area and benefits 10 ranchers at a cost to the thousands of water-sport enthusiasts and recreationists visiting the 1000 acres of National Park System lands within the national recreation area each year.</p>	<p><u>Conference:</u> Included in Sec. 114 of the conference report by Rep. Nethercutt (R-WA).</p>	<p>This language was added during conference to an existing section on grazing. (Final version Sec. 114; see above.)</p>	<p>X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<u>Prevents Restoration of Glen Canyon and the Colorado River:</u> It would prevent land managers from studying or implementing any plan to drain Lake Powell below the range required to operate Glen Canyon dam, effectively preventing any restoration projects for Glen Canyon and the Colorado River near the Utah-Arizona border. (Original version Sec. 120.)	<u>House:</u> Added in subcommittee as part of the chairman's mark.	Included in conference language. (Final version Sec. 120.)	X
<u>Jeopardizes Glacier Bay's Park Resources and Endangered Species:</u> It would increase vessel traffic without completing a court-mandated Environmental Impact Statement (EIS) as required by NEPA. This circumvention of the NEPA process puts park resources and wildlife at risk. (Original version Sec. 130.)	<u>Senate:</u> Offered as an amendment by Sen. Stevens (R-AK) during floor consideration.	This amendment was included in the manager's package on 7/12/01 with amended language added by Sen. Bingaman (D-NM). The changes did include some improvements; however, the provision remains objectionable. (Final version Sec. 130.)	X
<u>Allows the Export of Tongass Red Cedar:</u> It would continue the failed policy of exporting wood and jobs from the Tongass National Forest by leveraging the amount of Western Red Cedar available for export to the lower 48 and international markets against the percentage of the Tongass's allowable sale quantity that is actually sold. (Original version Sec. 323.)	<u>House:</u> Added in subcommittee as part of the chairman's mark.  <u>Senate:</u> added in subcommittee as part of the chairman's mark.	The provision remains unchanged and was passed as part of the bill by both chambers. This rider is similar to an objectionable FY01-enacted rider. (Final version Sec. 323.)	X
<u>Undermines Real Restoration in National Forests:</u> This would authorize the Forest Service to enter into 28 new "stewardship contracts," which allow it to combine several activities in one project, such as timber sales, road repair, forest thinning, and habitat or stream rehabilitation. This rider bolsters the existing incentive for forest managers to pay for constructive environmental work with environmentally destructive timber sales. (Original version Sec. 327.)	<u>Senate:</u> Included in subcommittee as part of the chairman's mark.	This provision was included in the bill as passed by the Senate. It was modified during conference committee, but the final language remained objectionable. (Final version Sec. 332.)	X
<u>Opens the Door to More Logging in National Forests:</u> It would allow the Forest Service to miss the 15-year deadline for redoing forest management plans. More harmful logging could result from basing management plans on old information.	Added in conference.	The language in this provision replaced Sec. 327 of the Interior bill passed by the House, which directed the secretary of Agriculture to complete revisions to the forest plans as expeditiously as possible. (Final version Sec. 327)	X
<u>Rolls Back Protections for Endangered Fish:</u> It would roll back protections for threatened salmon and two other endangered fish in the Klamath Basin of California and Oregon.	<u>Senate:</u> Offered by Sen. Smith (R-OR) as an amendment during floor consideration.	Sen. Reid (D-NV) moved to table the amendment on 7/12/01. The Senate tabled this amendment by a vote of 52-48.	—

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><u>Threatens ESA Listing of Imperiled Species:</u> It would drastically restrict the ability of citizens to have imperiled species protected under the ESA by suspending a 1982 amendment that set forth clear deadlines to list imperiled species and gave citizens the right to enforce those deadlines. This is a critical provision—at least half of all endangered and threatened species listings have occurred as a result of citizen enforcement.</p>	<p>The Bush administration asked Congress to attach this rider to the Department of the Interior appropriations bill.</p>	<p><u>House:</u> The subcommittee did not include the requested rider in the bill.  <u>Senate:</u> The subcommittee did not include the requested rider in the bill</p>	<p>—</p>
<p><b>SUPPLEMENTAL APPROPRIATIONS ACT (H.R. 2216/S. 1077)</b>  <u>House:</u> Passed on 6/20/01 (341-87); Passed conference rpt. on 7/20/01 (375-30)  <u>Senate:</u> Passed on 7/10/01 (92-1); Passed conference rpt. on 7/20/01 (unanimous consent)</p> <p style="text-align: right;"><i>Presidential Action:</i> Signed into law on 7/24/01</p>			
<p><u>Removes Federal Oversight of Rio Grande Irrigation Project:</u> The Middle Rio Grande Conservancy District seeks to remove a layer of federal oversight over its irrigation operations by paying off its San Juan Chama Project contract about 40 years early. Citing federal reclamation law, the Bureau of Reclamation has refused to accept payment. The district’s appeal to the congressional delegation is consistent with its history of grudging (and non-) compliance with federal environmental laws. This rider will help it continue diversions from the beleaguered Rio Grande. (Original version Sec. 2401.)</p>	<p><u>Senate:</u> Added by Sen. Domenici (R-NM) during consideration of the bill by the full Appropriations Committee.</p>	<p>A slight technical correction was made during conference that did not substantially modify the provision, and it remains objectionable. (Final version Sec. 2402.)</p>	<p>X</p>
<p><u>Clears the Way for an Overhead Power Line:</u> It would require the Forest Service to use \$2 million of Jobs-in-the-Woods money to clear a right-of-way for an overhead power line through three roadless areas in Southeast Alaska. The power line will require at least a 200-foot-wide clearing 57 miles long through old-growth forests in the Tongass. Part of the route cuts a swath alongside Eagle Lake and River. The Forest Service refuses to study alternative transmission technologies such as an underwater route that would be less harmful to the environment, lower the high energy costs in small, rural villages, and cost less. (Original version Sec. 2605.)</p>	<p><u>Senate:</u> added by Sen. Stevens (R-AK).</p>	<p>The rider was included in the bill as passed on the Senate floor on 7/10/01. The provision remained in the bill as approved by conference committee. (Final version Sec. 2607.)</p>	<p>X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<p><b>TRANSPORTATION (H.R. 2299/S.2299)</b>  <i>House:</i> Passed on 6/26/01(426-1); Passed conference rpt. on 11/30/01 (371-11)  <i>Senate:</i> Passed on 8/1/01(unanimous voice vote); Passed conference rpt. on 12/4/01 (97-2)</p> <p style="text-align: right;"><i>Presidential Action:</i> Signed into law on 12/18/01</p>			
<p><u>Hampers Climate Protection:</u> It would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries, and would restrict the U.S. involvement in climate change discussions. See identical language in the Agriculture, Commerce-Justice-State, Foreign Operations, Interior, and VA-HUD appropriations bills. (Original version Sec. 331.)</p>	<p><u>House:</u> Included in subcommittee as part of the chairman's mark at the request of Rep. Knollenberg (R-MI).</p>	<p>Rep. Olver (D-MA) offered an amendment on the House Floor to allow funding for activities related to the Kyoto Protocol, however the amendment was subsequently withdrawn. The rider was not included in the final conference report.</p>	<p style="text-align: center;">—</p>
<p><u>Gives Public Land to Private Interests:</u> This would force the Coast Guard to convey 1,505 acres of public land within the Tongass National Forest to a private organization, the Alaska Lighthouse Association. The conveyance would set an alarming precedent as a giveaway of public land to private interests without agency approval, public input, or environmental oversight. The language would allow the Alaska Lighthouse Association to develop the land without regard for public access, historic preservation of the lighthouse, or habitat protection. (Original version Sec. 357.)</p>	<p><u>Senate:</u> Proposed during floor consideration by Sen. Stevens (R-AK), and added to the bill by Sens. Murray (D-WA) and Shelby (R-AL) as part of the manager's amendment.</p>	<p>The provision was amended in conference, but still includes the conveyance. Despite new language restricting use, operation, and public access, the provision remains objectionable. (Final version Sec. 357.)</p>	<p style="text-align: center;">X</p>
<p><b>VA-HUD AND INDEPENDENT AGENCIES (H.R. 2620/S.1216)</b>  <i>House:</i> Passed on 7/30/01 (336-89); Passed conference rpt. on 11/8/01 (401-18)  <i>Senate:</i> Passed on 8/2/01 (94-5); Passed conference rpt. on 11/8/01 (87-7)</p> <p style="text-align: right;"><i>Presidential Action:</i> Signed into law on 11/26/01</p>			
<p><u>Hampers Climate Protection:</u> It would restrict U.S. participation in international climate change activities. It could hinder the ability to negotiate international agreements on climate change by restricting U.S. involvement in finalizing rules to export clean technology to developing countries, and would restrict the U.S. involvement in climate change discussions. See identical language in the Agriculture, Commerce-Justice-State, Foreign Operations, Interior, and Transportation appropriations bills. (Original version Title III.)</p>	<p><u>House:</u> Included in subcommittee as part of the chairman's mark at the request of Rep. Knollenberg (R-MI).</p>	<p>This language was removed from the bill in a manager's amendment during full committee mark up on 7/17/01.</p>	<p style="text-align: center;">—</p>
<p><u>Misprioritizes Superfund Sites:</u> It would pressure the EPA to prioritize Superfund cleanup decisions based on the number of sites in a state, rather than the health risk posed to the public. (Report language.)</p>	<p><u>House:</u> Included in report language at the request of Rep. Frelinghuysen (R-NJ).</p>	<p>Included in the final conference report language.</p>	<p style="text-align: center;">X</p>

Anti-Environmental Rider	Who Attached The Rider	Final Outcome	Objectionable Rider Enacted
<u>Threatens Ground and Surface Waters:</u> This would direct the EPA to alter rules on hazardous waste classification based on recommendations from the chemical industry to change the Resource Conservation and Recovery Act (RCRA). The proposed changes would result in the exemption of millions of pounds of mixed wastes from RCRA. Disposal of such toxic wastes as nonhazardous materials would potentially lead to introduction of these still dangerous chemicals into ground and surface water. (Report language, Title III.)	<u>House:</u> This provision was included in subcommittee as part of the chairman's mark.	The conference report corrected the worst features of the House language but still tilts agency action toward removing low-risk waste from the system instead of making sure that high-risk wastes are adequately covered.	X
<u>Delays Action on Radon in Drinking Water:</u> It would interfere with the EPA's ability to complete a rule on a drinking water standard for radon, shown in two National Academy of Sciences (NAS) studies to cause cancer. This delay violates the Safe Drinking Water Act, which required a rule by August 2000. (Report language, Title III.)	<u>House:</u> Included in subcommittee as part of the chairman's mark.	The final conference agreement allows the House report language to stand.	X
<u>Threatens the Arsenic in Drinking Water Rule:</u> The committee report pressures the agency into conducting a six-month study on the relationship between doses and effects of arsenic and how this relationship is reflected in the agency's modeling. The NAS has already studied this issue and has made recommendations to the agency. Furthermore, the agency has already reviewed a variety of aspects of its modeling as part of its rulemaking on arsenic that was completed in January 2001. (Report language, Title III.) The final conference report also includes language not present in the bills approved by the House and Senate that allows "small systems" to obtain extensions beyond the established 2006 date for compliance.	<u>House:</u> Included in subcommittee as part of the chairman's mark.  <u>Conference Committee:</u> Extension for small systems added, though not present in House or Senate bills.	On 7/27/01 Rep. Bonior (D-MI) introduced an amendment on the House floor that would prohibit the use of funds to delay the national primary drinking water regulation for arsenic or to propose or finalize a rule to increase levels of arsenic permitted under that regulation. The amendment passed with a vote of 218-189. Favorable report language supporting the enforcement of a new standard limiting arsenic in drinking water was adopted in conference, but other report language could leave small communities behind in achieving the standard.	—
<u>Prevents the EPA from Implementing Needed Pesticides Protections:</u> It would undermine the implementation of the Food Quality Protection Act by blocking the EPA from collecting fees to pay for work ensuring safe levels of pesticides in food under the Food Quality Protection Act.	<u>House (Sec 421, 422):</u> Included in the subcommittee as part of the chairman's mark. <u>Senate (Sec 422):</u> Included in the subcommittee as part of the chairman's mark.	House statutory language was included in final conference report as Sections 422 and 423 and under Administrative Provisions for EPA.	X

**PROPOSED RIDERS: 38**

**ENACTED RIDERS: 24**

**Table 2. Anti-Environmental Riders Tracking Chart**

**X** = rider considered and included

— = rider considered and rejected or satisfactorily amended

<b>Anti-Environmental Rider</b>	<b>House Subcommittee</b>	<b>House Committee</b>	<b>House Floor</b>	<b>Senate Subcommittee</b>	<b>Senate Committee</b>	<b>Senate Floor</b>	<b>Conference</b>
<b>Agriculture</b>							
Hampers climate protection		<b>X</b>	—				
<b>Commerce-Justice-State</b>							
Hampers climate protection		<b>X</b>	—				
Grants exclusive fishing rights to industry							<b>X</b>
Rolls back protection for endangered fish			—				
Undermines the marine protected areas program	<b>X</b>	<b>X</b>	<b>X</b>				—
Undercuts scientific input to Endangered Species Act processes							—
<b>Defense</b>							
Relieves South Dakota gold mine of liability						<b>X</b>	<b>X</b>

<b>Anti-Environmental Rider</b>	<b>House Subcommittee</b>	<b>House Committee</b>	<b>House Floor</b>	<b>Senate Subcommittee</b>	<b>Senate Committee</b>	<b>Senate Floor</b>	<b>Conference</b>
<b>Defense Authorization</b>							
Threatens endangered species habitat and wilderness study areas	<b>X</b>	<b>X</b>					<b>X</b>
Requires national security impact statements	<b>X</b>	<b>X</b>	<b>X</b>				<b>X</b>
<b>Energy and Water</b>							
Prevents cost-sharing changes for beach nourishment		<b>X</b>	<b>X</b>				<b>X</b>
Puts endangered species in the Missouri River at severe risk	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	—	<b>X</b>
Requires a new study of Auburn Dam on the American River	<b>X</b>	—					
Makes alternatives to Auburn Dam more costly, encouraging dam construction	<b>X</b>	<b>X</b>	<b>X</b>				—
Attempts to eliminate commercial rafting activities within the Auburn State Recreation Area		<b>X</b>	<b>X</b>				<b>X</b>
<b>Foreign Operations</b>							
Hampers climate protection		—					
<b>Interior</b>							
Hampers climate protection				<b>X</b>	<b>X</b>	<b>X</b>	—
Allows the oil industry to buy federal oil and gas at discounted price		<b>X</b>	—	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

<b>Anti-Environmental Rider</b>	<b>House Subcommittee</b>	<b>House Committee</b>	<b>House Floor</b>	<b>Senate Subcommittee</b>	<b>Senate Committee</b>	<b>Senate Floor</b>	<b>Conference</b>
Opens the door to increased logging in national forests under the guise of emergency fire management				X	X	X	X
Allows the U.S. Army Corps of Engineers to prevent the establishment of a national wildlife refuge in Kankakee River basin	X	X	X				X
Allows damaging grazing on public lands to continue without environmental review	X	X	X	X	X	X	X
Creates a special deal for Washington grazing interests							X
Prevents restoration of Glen Canyon and the Colorado River	X	X	X				X
Jeopardizes Glacier Bay's park resources and endangered species						X	X
Allows the export of Tongass red cedar	X	X	X		X	X	X
Undermines real restoration in national forests					X	X	X
Postpones new forest management planning, and opens door to more logging in national forests							X
Rolls back protection for endangered fish						—	
Threatens Endangered Species Act listing of imperiled species	—			—			
<b>Supplemental Appropriations</b>							
Removes federal oversight of Rio Grande irrigation project					X	X	X

<b>Anti-Environmental Rider</b>	<b>House Subcommittee</b>	<b>House Committee</b>	<b>House Floor</b>	<b>Senate Subcommittee</b>	<b>Senate Committee</b>	<b>Senate Floor</b>	<b>Conference</b>
Clears the way for Alaskan overhead power line						<b>X</b>	<b>X</b>
<b>Transportation</b>							
Hampers climate protection	<b>X</b>	<b>X</b>	<b>X</b>				—
Gives public land to private interests						<b>X</b>	<b>X</b>
<b>VA-HUD and Independent Agencies</b>							
Misprioritizes Superfund sites		<b>X</b>	<b>X</b>				<b>X</b>
Hampers climate protection	<b>X</b>	—					
Threatens ground and surface waters	<b>X</b>	<b>X</b>	<b>X</b>				<b>X</b>
Delays action on radon in drinking water	<b>X</b>	<b>X</b>	<b>X</b>				<b>X</b>
Threatens the rule on arsenic in drinking water	<b>X</b>	<b>X</b>	—				—
Prevents the Environmental Protection Agency from implementing needed pesticides protections	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>