

**HEARING BEFORE THE SUBCOMMITTEE
ON HEALTH AND ENVIRONMENT OF THE
COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES ONE
HUNDRED FOURTH CONGRESS SECOND
SESSION. SERIAL NO. 104-69**

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**CLEAN AIR ACT AMENDMENTS OF 1990 AND
THE IMPACT OF THE SEVENTH MEETING OF
THE PARTIES TO THE MONTREAL PROTOCOL**

HEARING

P106-52

BEFORE THE
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OF THE

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HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS
SECOND SESSION

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**CLEAN AIR ACT AMENDMENTS OF 1990 AND
THE IMPACT OF THE SEVENTH MEETING
OF THE PARTIES TO THE MONTREAL PRO-
TOCOL**

THURSDAY, JANUARY 25, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON HEALTH AND ENVIRONMENT,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:09 a.m., in room 2123, Rayburn House Office Building, Hon. Michael Bilirakis (chairman) presiding.

Members present: Representatives Bilirakis, Barton, Burr, Bilbray, Norwood, Coburn, Lincoln, Stupak, and Hall.

Staff present: Robert Meyers, majority counsel; and Bill Tyndall, minority counsel.

Mr. BILIRAKIS. Good morning. The hearing will come to order.

I understand there may be a vote called in approximately a half hour from now, so even though we don't have all that many members here yet I think it wise that we get started so we can get as much in before the vote as we can.

I would like to thank our witnesses for being here for our hearing on Title VI of the Clean Air Act and the recent meeting of the Parties to the Montreal Protocol in Vienna, Austria.

Our first and only witness panel consists of U.S. officials who are in the direct line of responsibility regarding the administration and implementation of the Montreal Protocol. The State Department maintains overall responsibility for leading the U.S. delegation to the various meetings of the Protocol countries. Significant technical expertise is provided to the U.S. delegation by the Environmental Protection Agency and the Department of Agriculture. In addition, EPA is responsible for the implementation of Title VI, which incorporates the Montreal Protocol by reference and also through direct legislative language. So today we have the officials who we can praise—or perhaps, in some cases, blame—for the results of the most recent international negotiation.

In this regard, I would like to make some general comments concerning the Montreal Protocol process before yielding time to other members of this subcommittee for delivery of an opening statement.

As is evident from the submitted testimony, the Montreal Protocol is far from a static document. Indeed, much has changed from the initial Vienna Convention in 1985, to the Montreal Protocol in

1987, to the London amendments in 1990, and the Copenhagen amendments in 1992.

Some have praised this fluid nature for allowing U.S. Treaty obligations to follow the state of science in ozone depletion. Some have criticized the Protocol process for the very same reason. I would note, however, that whatever one's views are with regard to the science of ozone depletion, the Montreal Protocol process carries with it both a great potential for economic and social impact in the United States and a great responsibility on the part of those who staff the U.S. delegation and negotiate on behalf of the citizens of our country.

This is a responsibility I take most seriously. I think all of us do. A great degree of public trust has been invested in our U.S. delegation.

And while Ambassador Milam testified last August—before the Oversight and Investigations Subcommittee—that, and I quote him, “This is a negotiation, Congressman,” we are not negotiating the purchase of a home or who is responsible for taking out the trash on Sunday night. We are negotiating, in effect, significant laws and regulations that our citizens will live under for the next two to three decades.

In this regard, I think it is important to note that the Montreal Protocol allows substantial changes in Treaty commitments to take place not only under formal amendments—subject to ratification by the Senate—but less formal adjustments to phaseout schedules for controlled substances. Adjustments, such as those agreed to in Vienna, go into effect 6 months after agreed to by the parties.

Thus, I think it is the obligation of Congress to review such adjustments and ensure that the best interests of our citizens are protected. It is also the particular responsibility of this subcommittee to ensure that implementation of the Protocol, through Title VI of the Clean Air Act, is consistent with U.S. obligations and represents the best policy choices for our Nation.

Our subcommittee's legislative review of the Clean Air Act amendments then begins with the title added just over 5 years ago. As with other sections of the Act, Title VI indicates that our legislative craftsmanship, in the heat of a long and tortuous conference committee, was not entirely perfect. This hearing and the future review of the subcommittee will help determine the scope of adjustments we will propose to this and other titles.

So, again, I want to welcome our witnesses. I want to thank my few colleagues who appear to be in attendance and will be in attendance. And at least with respect to Assistant Administrator Nichols and associated staff from EPA, I believe we may be seeing quite a bit more of each other during the balance of this year.

I would recognize Mr. Stupak for an opening statement.

Mr. STUPAK. Thank you, Mr. Chairman, and thank you very much for holding this important hearing on results of the most recent meeting of the parties to the Montreal Protocol.

As you know, the international agreement seeks to restore stratospheric ozone levels by phasing out production and use of certain ozone-depleting compounds. In the United States, the Protocol is implemented through Title VI of the Clean Air Act amendments of 1990. However, in some ways Title VI of the Clean Air Act requires

the United States to move faster than required under the Montreal Protocol.

One example is this widely used pesticide and fumigant, methyl bromide, which is subject to a phaseout order in the year 2001, even though the Montreal Protocol until this fall did not have any phaseout requirement. Now as a result of the seventh meeting of the parties to the Montreal Protocol, the parties have agreed to have a phaseout date.

However, it will allow use of the pesticide until the year 2010, 9 years after a ban goes into effect in the United States. Even then, other countries may take advantage of an exemption for essential agricultural purposes. Worse, this phaseout applies only to developed countries. Developing countries, such as Mexico, are under no phaseout deadline.

There seems to be widespread support for the notion that methyl bromide is a significant depleter of the ozone. It is also a highly toxic pesticide that is a concern due to its impact on human health and our environment. However, to place U.S. farmers and import export companies at a competitive disadvantage by banning the pesticide use here, while many of our trading partners continue to use it, makes no sense. Certainly a solution can and must be found that protects not only the environment and our ozone layer but our farmers back here in the United States.

I am willing to work with the administration as well as the distinguished chairman of the subcommittee and the full committee to identify and implement a common-sense solution to this problem.

I thank you, Mr. Chairman. I yield back the balance of my time.

Mr. BILIRAKIS. I thank the gentleman.

Mr. Burr.

Mr. BURR. Thank you, Mr. Chairman.

Mr. Chairman, I appreciate you taking the time to hold this important hearing. As you know, I represent a predominantly agricultural district, and the issue of methyl bromide phaseout has not gone unnoticed by farmers in the Fifth District of North Carolina. I was an original cosponsor of legislation drafted by my colleague from Florida, Dan Miller.

I know from Ms. Nichols' testimony that the EPA does not approve of that approach. I look forward to having a dialog with her on this subject today.

I continue to be concerned that the United States is putting itself at an economic disadvantage in world markets. I noticed in Mr. Pomerance's testimony that developing countries have anywhere from 10 years lag time for phaseouts to an undetermined amount of time for the substance methyl bromide.

Under Title 608 of the Clean Air Act, substances must be scheduled for phaseout within 7 years where they either have an ozone-depleting potential, 0.2 or greater, or are known—and I quote—known or may be reasonably anticipated to cause or contribute to harmful effects in stratospheric ozone layer. Present United Nations environmental program statements place the ozone-depleting potential for methyl bromide to be 0.6. It seems neither reasonable or sensible to place the United States at a disadvantage for 9 years while the rest of the world continues to utilize methyl bromide.