TESTIMONY OF CAROL M. BROWNER
BEFORE A HEARING OF THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

April 24, 2007

Good morning, Madam Chairman, Senator Inhofe, and members of the Committee. I appreciate the opportunity to speak to you today on the most pressing environmental and public health issue that our country, and for that matter the world, has ever faced. That is, climate change.

During my eight years as the Administrator of the EPA, I worked hard to protect the environment and public health, both for our generation and future generations. Today, I would like to discuss how the current EPA can use the mandate given by the Supreme Court in Massachusetts v. EPA to respond to the climate change crisis immediately.

First – the EPA can grant California its federal waiver to enforce its own greenhouse gas standards. California has thus far outpaced the federal government on greenhouse gas regulation – it has ignored critics and naysayers, moving ahead with an aggressive plan. The EPA should in turn recognize this plan by granting California the authority to put it into place. Second – EPA should act now on setting greenhouse gas standards for vehicles and power plants, two significant sources of emissions.

These are a few things EPA can do right now to regulate emissions, but it is not enough. The magnitude of the Supreme Court decision warrants Congressional leadership and immediate action as well.

As we seek to address climate change, both through the actions of EPA and through Congress, three realities should guide us. First, that the science on climate change cannot, at this point, be in doubt. Second, that we can find common-sense, cost-effective ways to regulate greenhouse gas emissions. And third, that EPA and Congress now have the undisputed authority and responsibility to regulate the emission of greenhouse gases.

When it comes to science, the facts continue to roll in, and the scientific community has reached a consensus. The considered judgment of twenty-five hundred of the world's top climate change scientists, 11 national scientific academies, and hundreds of scientists contributing to the IPCC is simply this: climate change is real, it is caused by human activities, it is rapidly getting worse, and it will transform both our planet and humanity if action is not taken now.

Such action need not bankrupt us or disrupt our economy. We can and we must find cost-effective ways to meet greenhouse gas standards. Historically, American innovation and ingenuity have served us well. Let us harness them now. In the past, we have been willing to set standards without having in hand the actual technology necessary to meet such standards. For example, when Congress decided to ban chlorofluorocarbons, there

was no technology to replace CFC's. But once Congress made the decision, there was a guaranteed market for replacement; companies competed with each other and, within a relatively short time, there was a replacement, and at far less cost than had been anticipated. We may not have a perfect formula for cutting greenhouse gas emissions yet, but that is no reason to hold off on setting regulations and enforcing them.

The EPA has the moral – and now the legal – authority to set greenhouse standards in accordance with the Clean Air Act to limit climate change and protect the heath of future generations. It is said that nine-tenths of wisdom is being wise in time. Congress also has the prerogative to ensure that EPA does its duty and to take bold action on its own.

We have the science; the will has been summoned; the technology will come. Have no doubt - we can stop global warming. Anything less would be a felony against the future, a failure to meet our responsibility to our children and theirs. My request is that we do our duty.

Thank you very much. Now I would be pleased to respond to any questions you might have.

Thank you.

Attachment A: "EPA's Authority to Regulate Pollutants Emitted by Electric Power Generation Sources" Memorandum from Jonathan Z. Cannon to Carol M. Browner, April 10, 1998

Attachment B: Testimony of Gary S. Guzy before a joint hearing of the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Reform and the Subcommittee on Energy and Environment of the Committee on Science, US House of Representatives, October 6, 1999

ATTACHMENT A:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
Office of General Counsel

APR 10 1998

MEMORANDUM

SUBJECT: EPA's Authority to Regulate Pollutants Emitted by Electric Power Generation Sources

FROM: Jonathan Z. Cannon
General Counsel

TO: Carol M. Browner
Administrator

I. Introduction and Background

This opinion was prepared in response to a request from Congressman DeLay to you on March 11, 1998, made in the course of a Fiscal Year 1999 House Appropriations Committee Hearing. In the Hearing, Congressman DeLay referred to an EPA document entitled "Electricity Restructuring and the Environment: What Authority Does EPA Have and What Does It Need." Congressman DeLay read several sentences from the document stating that EPA currently has authority under the Clean Air Act (Act) to establish pollution control requirements for four pollutants of concern from electric power generation: nitrogen oxides (NOx), sulfur dioxide (SO2), carbon dioxide (CO2), and mercury. He also asked whether you agreed with the statement, and in particular, whether you thought that the Clean Air Act allows EPA to regulate emissions of carbon dioxide. You agreed with the statement that the Clean Air Act grants EPA broad authority to address certain pollutants, including those listed, and agreed to Congressman DeLay's request for a legal opinion on this point. This opinion discusses EPA's authority to address all four of the pollutants at issue in the colloquy, and in particular, CO2, which was the subject of Congressman DeLay's specific question.

The question of EPA's legal authority arose initially in the context of potential legislation addressing the restructuring of the utility industry. Electric power generation is a significant source of air pollution, including the four pollutants addressed here. On March 25, 1998, the Administration announced a Comprehensive Electricity Plan (Plan) to produce lower prices, a cleaner environment, increased innovation and government savings. This Plan includes a proposal to clarify EPA's authority regarding the

establishment of a cost-effective interstate cap and trading system for NOx reductions addressing the regional transport contributions needed to attain and maintain the Primary National Ambient Air Quality Standards (NAAQS) for ozone. The Plan does not ask Congress for authority to establish a cap and trading system for emissions of carbon dioxide from utilities as part of the Administration's electricity restructuring proposal. The President has called for cap-and-trade authority for greenhouse gases to be in place by 2008, and the Plan states that the Administration will consider in consultation with Congress the legislative vehicle most appropriate for that purpose.

As this opinion discusses, the Clean Air Act provides EPA authority to address air pollution, and a number of specific provisions of the Act are potentially applicable to control these pollutants from electric power generation. However, as was made clear in the document from which Congressman DeLay quoted, these potentially applicable provisions do nor easily lend themselves to establishing market-based national or regional cap-and-trade programs, which the Administration favors for addressing these kinds of pollution problems.

II. Clean Air Act Authority

The Clean Air Act provides that EPA may regulate a substance if it is (a) an "air pollutant,"and (b) the administrator makes certain findings regarding such pollutant (usually related to danger to public health, welfare, or the environment) under one or more of the Act's regulatory provisions.

A. Definition of Air Pollutant

Each of the four substances of concern as emitted from electric power generating units falls within the definition of "air pollutant. under section 302(g). Section 302(g) defines air pollutant" as

> any air pollution agent or combination of such agents, including any physical, chemical, biological, [or] -radioactive . . . substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent that the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

This broad definition states that "air pollutant" includes any physical, chemical, biological, or radioactive substance or matter that is emitted onto or otherwise enters the ambient air SO2, NOx, CO2, and mercury from electric power generation are each a "physical [and] chemical... substance which is emitted into . . the ambient air," and hence, each is an air pollutant within the meaning of the Clean Air Act.[1]

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[1] See also section 103(g) of the Act (authorizes EPA to conduct a basic research and technology program to develop and demonstrate nonregulatory strategies and technologies for air pollution prevention, which shall include among the program elements "[i]mprovements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM-

A substance can be an air pollutant even though it is naturally present in air in some quantities. Indeed, many of the pollutants that EPA currently regulates are naturally present in the air in some quantity and are emitted from natural as well as anthropogenic sources. For example, SO2 is emitted from geothermal sources; volatile organic compounds (precursors to ozone) are emitted by vegetation and particulate mater and NOx, are formed from natural sources through natural processes, such a naturally occurring forest fires. Some substances regulated under the Act as hazardous air pollutants are actually necessary in trace quantities for human life, but are toxic at higher levels or through other routes of exposure. Manganese and selenium are two examples of such pollutants. EPA regulates a number of naturally occurring substances as air pollutants, however, because human activities have increased the quantities present in the air to levels that are harmful to public health, welfare, or the environment.

B. EPA Authority to Regulate Air Pollutants

EPA's regulatory authority extends to air pollutants, which, as discussed above, are defined broadly under the Act and include S02, NOx, CO2, and mercury emitted into the ambient air. Such a general statement of authority is distinct from an EPA determination that a particular air pollutant meets the specific criteria for EPA action under a particular provision of the Act. A number of specific provisions of the Act are potentially applicable to these pollutants emitted from electric power generation.[2]Many of these specific provisions for EPA action share a common feature in that the exercise of

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10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants.")

[2] See. e g., section 108 (directs Administrator to list and issue air quality criteria for each air pollutant that causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare and that is present in the ambient air due to emissions from numerous or diverse mobile or stationary sources); section 109 (directs Administrator to promulgate national primary and secondary ambient air quality standards for each air pollutant for which there are air quality criteria, to be set at levels requisite to protect the public health with an adequate margin of safety (primary standards) and to protect welfare (secondary standards)), Section 110 (requires States to submit state implementation plans (SIPs) to meet standards); Section 111 (b) (requires Administrator to list, and set federal performance standards for new sources in, categories of stationary sources that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare); section 111(d) (states must establish performance standards for existing sources for any air pollutant (except criteria pollutants or hazardous air po11utants) that would be subject to a performance standard if the sources were a new source), section 112(b) (lists 188 hazardous air pollutants and authorizes Administrator to add pollutants to the list that may present a threat of adverse human health effect or adverse environmental effects); section 112(d) (requires Administrator to set emissions standards for each category or subcategory of major and area sources that the Administrator has listed pursuant to section 119(c)); section 112(n)(1)(A) (requires Administrator to study and report to Congress on the public health hazards reasonably anticipated from emissions of limited hazardous air pollutants from electric utility steam generating units, and requires regulation if appropriate and necessary); section 115 (Administrator may require state action to control certain air pollution if, on the basis of certain reports, she has reason to believe that any air pollutant emitted in the United States causes or contributes to air pollution that may be reasonably anticipated to endanger public health or welfare in a foreign country that has given the United States reciprocal rights regarding air pollution control) Title IV (establishes cap-and-trade system for control of SO2 from electric power generation facilities and provides for certain controls on N0x).

EPA's authority to regulate air pollutants is linked to determination by the Administrator regarding the air pollutants' actual or potential harmful effects on public health, welfare or the environment. See also sections 108, 109, 111(b), 112, and 115. See also sections 202(a), 211(c), 231, 612, and 615. The legislative history of the 1977 Clean Air Act Amendments provides extensive discussion of Congress' purposes in adopting the language used throughout the Act referencing a reasonable anticipation that a substance endangers public health or welfare. One of these purposes was "to emphasize the preventative or precautionary nature of the act, i.e., to assure that regulatory action can effectively prevent harm before it occurs, to emphasize the predominant value of protection of public health." H.R. Rep. No. 95294 95th Cong., 1st Sess, at 49 (Report of the Committee on Interstate and Foreign Commerce). Another purpose was "[t]o assure that the health of susceptible individuals, as well as healthy adults, will be encompassed in the term 'public health,'..." Id. at 50. "Welfare" is defined in section 302(h) of the Act, which states:

> [a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.[3]

EPA has already regulated SO2, NOx, and mercury based on determinations by EPA or Congress that these substances have negative effects on public health, welfare, or the environment. While C02, as an air pollutant, is within EPA's scope of authority to regulate, the Administrator has not yet determined that CO2 meets the criteria for regulation under one or more provisions of the Act. Specific regulatory criteria under various provisions of the Act could be met if the Administrator determined under one or more of those provisions that CO2 emissions are reasonably anticipated to cause or contribute to adverse effects on public health, welfare, or the environment.

C. EPA Authority to Implement an Emissions Cap-and-Trade Approach

The specific provisions of the Clean Air Act that are potentially applicable to control emissions of the pollutants discussed here can largely be categorized as provisions relating to either state programs for pollution control under Title I (e.g., sections 107, 108, 109, 110, 115, 126, and Part D of Title I), or national regulation of stationary sources through technology-based standards (e.g., sections 111 and 112). None of these provisions easily lends itself to establishing market-based national or regional emissions cap-and-trade programs.[4]

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[3] 'The language in Section 302(h) listing specific potential effects on welfare, including the references to weather and climate, dates back to the 1970 version of the Clean Air Act.

[4] Title IV of the Act provides explicit authority for a cap and trade program for SO2 emissions from electric power generating sources.

The Clean Air Act provisions relating to state programs do not authorize EPA to require states to control air pollution through economically efficient cap-and-trade programs and do not provide full authority for EPA itself to impose such programs. Under certain provisions in Title I, such as section 110, EPA may facilitate regional approaches to pollution control and encourage states to cooperate in a regional, cost-effective emissions cap-and-trade approach (see Notice of Proposed Rulemaking: Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, 62 F.R. 60318 (Nov. 7, 1997)). EPA does not have authority under Title I to require states to use such measures, however, because the courts have held that EPA cannot mandate specific emission control measures for states to use in meeting the general provisions for attaining ambient air quality standards. See Commonwealth of Virginia v. EPA, 108 F.3d 1397 (D.C. Cir. 1997). Under certain limited circumstances where states fail to carry out their responsibilities under Title I of the Clean Air Act, EPA has authority to take certain actions, which might include establishing a cap-and-trade program.[5] Yet EPA's ability to invoke these provisions for federal action depends on the actions or inactions of the states.

Technology-based standards under the Act directed to stationary sources have been interpreted by EPA not to allow compliance through intersource cap-and-trade approaches. The Clean Air Act provisions for national technology-based standards under sections 111 and 112 require EPA to promulgate regulations to control emissions of air pollutants from stationary sources. To maximize the opportunity for trading of emissions within a source. EPA has defined the term "stationary source" expansively, such that a large facility can be considered a "source." Yet EPA has never gone so far as to define as a source a group of facilities that are not geographically connected, and EPA has long held the view that trading across plant boundaries is impermissible under sections 111 and 112. See, e.g., National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, 59 Fed. Reg. 19402 at 19425-26 (April 22, 1994).

III. Conclusion

EPA's regulatory authority under the Clean Air Act extends to air pollutants, which, as discussed above, are defined broadly under the Act and include SO2, NOx, CO2, and mercury emitted into the ambient air. EPA has in fact already regulated each of these substances under the Act, with the exception of CO2. While C02 emissions are within the scope of EPA's authority to regulate, the Administrator or has made no determination to date to exercise that authority under the specific criteria provide under any provision of the Act.

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[5] For example, section 110(c) requires EPA to promulgate a Federal implementation plan where EPA finds that a state has failed to make a required submission of a SIP or that the SIP or SIP revision does not satisfy certain minimum criteria, or EPA disapproves the SIP submission in whole or in part in addition, section 126 provides that a State or political subdivision may petition the Administrator for certain findings regarding emissions from certain stationary sources in another state. If the Administrator grants the petition, she may establish control requirements applicable to sources that were the subject of the petition.

With the exception of the SO2 provisions focused on acid rain, the authorities potentially available for controlling these pollutants from electric power generating sources do not easily lend themselves to establishing market-based national or regional cap-and-trade programs, which the Administration favors for addressing these kinds of pollution problems. Under certain limited circumstances, where states fail to carry out their responsibilities under Title I of the Act, EPA has authority to take certain actions, which might include establishing a cap-and-trade program. However, such authority depends on the actions or inactions of the states.

ATTACHMENT B:

TESTIMONY OF
GARY S. GUZY
GENERAL COUNSEL
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE A JOINT HEARING OF THE
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES AND REGULATORY AFFAIRS
OF THE
COMMITTEE ON GOVERNMENT REFORM
AND THE
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT OF THE COMMITTEE ON SCIENCE
U.S. HOUSE OF REPRESENTATIVES

October 6, 1999

Thank you, Chairman McIntosh, Chairman Calvert, and Members of the Subcommittees, for the invitation to appear here today. I am pleased to have this opportunity to explain the U.S. Environmental Protection Agency's (EPA) views as to the legal authority provided by the Clean Air Act (Act) to regulate emissions of carbon dioxide, or CO2.

Before I do, however, I would like to stress, as EPA repeatedly has stated in letters to Chairman McIntosh and other Members of Congress, that the Administration has no intention of implementing the Kyoto Protocol to the United Nations Framework Convention on Climate Change prior to its ratification with the advice and consent of the Senate.1 As I indicated in my letter of September 17, 1999 to Chairman McIntosh, there is a clear difference between actions that carry out authority under the Clean Air Act or other domestic law, and actions that would implement the Protocol. Thus, there is nothing inconsistent in assessing the extent of current authority under the Clean Air Act and maintaining our commitment not to implement the Protocol without ratification.

Some brief background information is helpful in understanding the context for this question of legal authority. In the course of generating electricity by burning fossil fuels, electric power plants emit into the air multiple substances that pose environmental concerns, several of which are already subject to some degree of regulation. Both industry and government share an interest in understanding how different pollution control strategies interact. These interactions are both physical (strategies for controlling emissions of one substance can affect emissions of others) and economic (strategies designed to address two or more substances together can cost substantially less than strategies for individual pollutants that are designed and implemented independently). EPA has worked with a broad array of stakeholders to evaluate multiple-pollutant control strategies for this industry in a series of forums, dating back to the Clean Air Power Initiative (CAPI) in the mid-1990s. While the CAPI process focused on SO2 and NOx, a

broad range of participants, including representatives of power generators, the United Mine Workers, and environmentalists, expressed support for inclusion of CO2 emissions, along with SO2, NOx, and mercury, in subsequent analyses. One conclusion that emerged from these analytical efforts is that integrated strategies using market-based "cap-and-trade" approaches like the program currently in place to address acid rain would be the most flexible and lowest cost means to control multiple pollutants from these sources.

On March 11, 1998, during hearings on EPA's FY 1999 appropriations, Representative DeLay asked the Administrator whether she believed that EPA had authority to regulate emissions of pollutants of concern from electric utilities, including CO2. She replied that the Clean Air Act provides such authority, and agreed to Representative DeLay's request for a legal opinion on this point.

Therefore, my predecessor, Jonathan Z. Cannon, prepared a legal opinion for EPA Administrator Carol Browner on the question of EPA's legal authority to regulate several pollutants, including CO2 emitted by electric power generation sources. The legal opinion requested by Rep. DeLay was completed on April 10, 1998. It addressed the Clean Air Act authority to regulate emissions of four pollutants of concern from electric power generation: nitrogen oxides (NOx), sulfur dioxide (SO2), mercury, and CO2. Because today's hearing is focused exclusively on CO2, I will summarize the opinion's conclusions only as they relate to that substance.

The Clean Air Act includes a definition of the term "air pollutant," which is the touchstone of EPA's regulatory authority over emissions. Section 302(g) defines "air pollutant" as

any air pollution agent or combination of such agents, including any physical, chemical, biological, [or] radioactive . . . substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent that the Administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

Mr. Cannon noted that CO2 is a "physical [and] chemical substance which is emitted into . . . the ambient air," and thus is an "air pollutant" within the Clean Air Act's definition. Congress explicitly recognized emissions of CO2 from stationary sources, such as fossil fuel power plants, as an "air pollutant" in section 103(g) of the Act, which authorizes EPA to conduct a basic research and technology program to include, among other things, "[i]mprovements in nonregulatory strategies and technologies for preventing or reducing multiple *air pollutants, including* sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, *and carbon dioxide*, from stationary sources, including fossil fuel power plants." (Emphasis added.)

The opinion explains further that the status of CO2 as an "air pollutant" is not changed by the fact that CO2 is a constituent of the natural atmosphere. In other words, a substance can be an "air pollutant" under the Clean Air Act's definition even if it has natural sources

in addition to its man-made sources. EPA regulates a number of naturally-occurring substances as air pollutants because human activities have increased the quantities present in the air to levels that are harmful to public health, welfare, or the environment. For example, SO2 is emitted from geothermal sources; volatile organic compounds (VOCs), which are precursors to harmful ground-level ozone, are emitted by vegetation. Some substances regulated under the Act as hazardous air pollutants are actually necessary in trace quantities for human life, but are toxic at higher levels or through other routes of exposure. Manganese and selenium are two examples of such pollutants. Similarly, in the water context, phosphorus is regulated as a pollutant because although it is a critical nutrient for plants, in excessive quantities it kills aquatic life in lakes and other water bodies.

While CO2, as an "air pollutant," is within the scope of the regulatory authority provided by the Clean Air Act, this by itself does not lead to regulation. The Clean Air Act includes a number of regulatory provisions that may potentially be applied to an air pollutant. But before EPA can actually issue regulations governing a pollutant, the Administrator must first make a formal finding that the pollutant in question meets specific criteria laid out in the Act as prerequisites for EPA regulation under its various provisions. Many of these specific Clean Air Act provisions for EPA action share a common feature in that the exercise of EPA's authority to regulate air pollutants is linked to a determination by the Administrator regarding the air pollutant's actual or potential harmful effects on public health, welfare or the environment. For example, EPA has authority under section 109 of the Act to establish National Ambient Air Quality Standards for any air pollutant for which the Administrator has established air quality criteria under section 108. Under section 108, the Administrator must first find that the air pollutant in question meets several criteria, including that:

it causes or contributes to "air pollution which may reasonably be anticipated to endanger public health or welfare;" and

its presence in the ambient air "results from numerous or diverse mobile or stationary sources . . . ."

Section 302(h), a provision dating back to the 1970 version of the Clean Air Act, defines "welfare" and states:

all language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.

Thus, since 1970, the Clean Act has included effects on "climate" as a factor to be considered in the Administrator's decision as to whether to list an air pollutant under section 108.

Analogous threshold findings are required before the Administrator may establish new source performance standards for a pollutant under section 111, list and regulate the pollutant as a hazardous air pollutant under section 112, or regulate its emission from motor vehicles under Title II of the Act.

Given the clarity of the statutory provisions defining "air pollutant" and providing authority to regulate air pollutants, there is no statutory ambiguity that could be clarified by referring to the legislative history. Nevertheless, I would note that Congress' decision in the 1990 Amendments not to adopt additional provisions directing EPA to regulate greenhouse gases by no means suggests that Congress intended to limit *pre-existing* authority to address any air pollutant that the Administrator determines meets the statutory criteria for regulation under a specific provision of the Act.

I would like today to reiterate one of the central conclusions of the Cannon memorandum, which stated: "While CO2, as an air pollutant, is within EPA's scope of authority to regulate, the Administrator has not yet determined that CO2 meets the criteria for regulation under one or more provisions of the Act." That statement remains true today. EPA has not made any of the Act's threshold findings that would lead to regulation of CO2 emissions from electric utilities or, indeed, from any source. The opinion of my predecessor simply clarifies -- and I endorse this opinion -- that CO2 is in the class of compounds that could be subject to several of the Clean Air Act's regulatory approaches. Thus, I would suggest that many of the concerns raised about the statutory authority to address CO2 relate more to factual and scientific, rather than legal, questions regarding whether and how the criteria for regulation under the Clean Air Act could be satisfied.

I also want to note, however, EPA has strongly promoted voluntary partnerships to reduce emissions of greenhouse gases through the EnergyStar and Green Lights programs and other non-regulatory programs that Congress has consistently supported. These successful programs already have over 7,000 voluntary partners who are taking steps to reduce greenhouse gas emissions, reduce energy costs and help address local air pollution problems. These programs also help the United States meet its obligations under the United Nations Framework Convention on Climate Change, which was ratified in 1992. I would also note, as EPA has indicated in past correspondence with Chairman McIntosh and others, in the course of carrying out the mandates of the Clean Air Act, EPA has in a few instances directly limited use or emissions of certain greenhouse gases other than CO2. For example, EPA has limited the use of certain substitutes for ozone-depleting substances under Title VI of the Act, where those substitutes have very high global warming potentials. I wish to stress once more, however, that while EPA will pursue efforts to address the threat of global warming through the voluntary programs authorized and funded by Congress and will carry out the mandates of the Clean Air Act, this Administration has no intention of implementing the Kyoto Protocol prior to its ratification on the advice and consent of the Senate.

This concludes my prepared statement. I would be happy to answer any questions that you may have.