The original documents are located in Box C44, folder "Presidential Handwriting, 7/20/1976 (2)" of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

July 20, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: WILLIAM F. GOROG

FROM: JAMES E. CONNOR JEC

SUBJECT: Clean Air Amendments

Confirming a phone call to your office of this afternoon, the President has reviewed your memorandum of July 14th on the above subject and has approved the EPB/ERC Executive Committee recommendation that efforts be made to have members of Congress seek amendments on the issues outlined in Tab B of your memo.

Please follow-up with the appropriate action.

cc: Dick Cheney
Bill Seidman

THE WHITE HOUSE

WASHINGTON

July 20, 1976

MR. PRESIDENT:

Clean Air Amendments

Staffing of the attached memorandum from Bill Gorog/ Bill Seidman of July 14th has resulted in the following recommendations:

Phil Buchen -- no objection
Max Friedersdorf -- concur with EPB/ERC recommendations
Dave Gergen -- no comment
Jack Marsh -- approve
Jim Cannon -- no objection

Press Plan: See Gorog memo attached at Tab C. No public announcement, action will be taken by minority members of the House and Senate.

THE WHITE HOUSE

WASHINGTON

July 14, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: L. WILLIAM SEIDMAN

FROM: WILLIAM F. GOROG

SUBJECT: Clean Air Amendments

The Senate is scheduled to begin floor consideration of the Clean Air Amendments on July 22, with House action expected shortly therafter. This memorandum outlines the Administration's efforts relative to this legislation, and seeks your guidance concerning further action.

BACKGROUND

On May 28, you transmitted a letter to Senator Jennings Randolph and Congressman Harley Staggers in which your positions on auto emission standards and significant deterioration were outlined (Tab A). Subsequent to meetings held with minority Members of the Senate Public Works Committee and with members of the Administration, you asked that I determine changes needed in order to make the Clean Air Amendments acceptable to the Administration. In line with this effort, I have held several sessions with representatives of EPA, OMB, Domestic Council, Interior, and FEA, with the objective of determining an Administration position that would have the full support of all agencies involved.

1. Auto Emission Issue:

As indicated in your letter of May 28, the Administration supports the Dingell-Broyhill Amendment to the House Amendments. This Amendment would stabilize auto emission standards for three years, to be followed by stricter standards for two years thereafter.

2. Stationary Source and Other Issues:

With respect to the other provisions of the Clean Air Amendments, the interagency review group previously mentioned developed a list of fifteen Sections of the House and/or Senate Amendments where changes are needed (Tab B). Based on interagency agreement at the staff level on thirteen of these issues with respect to positions that would be acceptable to the Administration, the EPB/ERC Executive Committee recommended that we proceed in seeking amendatory changes through contact with the appropriate individuals in the House and Senate. Where amendatory actions are needed on these issues, amendments have been drafted and approved by the interagency review group. The two outstanding issues are to be resolved as explained in Tab B.

LEGISLATIVE CONSIDERATIONS

As your May 28 letter indicates, your position on significant deterioration calls for amending the Clean Air Act of 1970 "to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered." This position is based on the House and Senate Amendments as presently written. However, the amendatory changes which you asked to review would bring the Amendments on all stationary source issues, including significant deterioration, into a position acceptable to the Administration. At the same time, such changes would allow you to work from a position that is generally unified with that of the Congressional minority.

There is a strong possibility that the Moss Amendment to the Senate Clean Air amendments will succeed, in which case the entire significant deterioration issue would be submitted to a one year study commission. In so much as the proponents of the Moss Amendment show considerable strength, our amendatory efforts will probably be given serious consideration by the proponents of the overall Clean Air Amendments. Furthermore, while passage of the Moss Amendment would be preferable to accepting the Clean Air Amendments as presently written, I believe that if our amendatory changes were implemented, the resulting package would represent the best long term solution.

Concerning the auto emission issue, I believe that Senate action on the entire Clean Air package will force similar House action. This would be a step towards resolving the

auto emission question as quickly as possible. However, should House action continue to be stalled, a bipartisan coalition of Congressmen supported by the auto industry and the UAW will move to force immediate action.

RECOMMENDATION

The EPB/ERC Executive Committee recommends that you approve efforts to have Members of Congress seek amendments on the issues outlined in Tab B. Furthermore, the Committee recommends no change in your current public position that the Clean Air Amendments of both Chambers are unacceptable as presently written.

Approve JRC Disapprove _____

THE WHITE HOUSE

WASHINGTON

May 28, 1976

Dear Mr. Chairman:

Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be co-sponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

Gerald R. Ford

The Honorable Harley O. Staggers
Chairman
Interstate and Foreign
Commerce Committee
House of Representatives
Washington, D.C. 20515

B

PROPOSED CHANGES TO CLEAN AIR ACT AMENDMENTS

The following list includes coverage of all of the problem areas in House and Senate versions of the Clean Air Act Amendments, as well as an indication of how we might seek to resolve each problem area. When amendatory action is suggested, amendments have already been prepared.

1. Source Coverage:

   The Senate version is acceptable, if amended to give the EPA Administrator sole discretion as to additional sources requiring regulatory coverage.

2. Mandatory Class I Areas:

   The House version is acceptable as written.

3. Expansion of Non-Attainment Areas:

   The Senate version is acceptable, if amended to allow expansion in portions of air quality control regions not in violation of Air Standards and to allow expansion at new sites.

4. Compliance Date Extensions and Delayed Compliance Penalties:

   The House versions are acceptable, if amended to preclude application of any penalties on isolated rural power plants before 1985.

5. Federal Facility Compliance:

   The House version is acceptable, if further amended to require substantive compliance only, without requirement for procedural compliance.

6. Priority Allocation:

   This area, as contemplated in the Senate version, should be stricken by amendment.

7. Best Available Control Technology:

   The House version is acceptable, if modified by amendment to preclude application of BACT to electric power plants prior to January 1, 1985, as well as to intermediate load electric power plants. Further amendment should be made to create a National Commission on Air Quality, as contemplated in the Senate version, and to seek from this Commission a practicable definition of BACT.

8. Exemption of Surface Mining Activities:

Both versions should be amended to exempt emissions attributable to surface mining operations from the determination of maximum allowable increases of particulates.

9. Emissions Increment Limits:

The House version should be amended to substitute the increment numbers contained in the current EPA regulations, and the Senate version should be amended to accommodate Class III areas. The effect would be to give statutory authority to the current EPA regulations concerning area classifications and incremental ceilings for each classification.

10. Increment Standard Violations:

The House version is acceptable, if amended to allow for violations no more than once per year rather than never.

11. Naturally Occurring Particulates:

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12. Coal Conversion:

The House version is acceptable, if amended to strike the provisions requiring concurrence of the Governor of the appropriate State before issuance of extensions, in order to prevent the States from pre-empting the actions of the Federal Government, and if amended to correct minor technical problems.

13. Transportation Control Planning Agencies:

The Senate version is acceptable, if amended to delete authorization of funding.

14. Administrative Standards:

The issue involved will be submitted to Counsel to determine how the language contemplated in the House version would change the current law.

15. Selective Enforcement Audit:

This area, as contemplated in the Senate version, should be stricken by amendment, assuming that a suitable SEA program is agreed upon by OMB and EPA and promulgated.

C

THE WHITE HOUSE

WASHINGTON

July 16, 1976

MEMORANDUM FOR JIM CONNOR

FROM: BILL GOROG WG

SUBJECT: Press Requirements for Clean Air Act Decision

As indicated in our recommendation, this decision memorandum suggests that no public announcement be made concerning our new approach to the Clean Air Legislation. I have discussed this with Max Friedersdorf and our action will be to communicate the President's decision to Senator Baker and Congressman Broyhill. Action will be taken by minority members of the House and the Senate.

returned 7/20/76

July 20, 1976

MR. PRESIDENT:

Clean Air Amendments

Staffing of the attached memorandum from Bill Gorog/ Bill Seidman of July 14th has resulted in the following recommendations:

Phil Buchen -- no objection
Max Friedersdorf -- concur with EPB/ERC recommendations
Dave Gergen -- no comment
Jack Marsh -- approve
Jim Cannon -- no objection

Press Plan: See Gorog memo attached at Tab C.
No public announcement, action will be taken by minority members of the House and Senate.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 15, 1976 Time:

FOR ACTION: cc (for information):

✓ Phil Buchen
✓ Max Friedersdorf ✓ Mike Duval
✓ Jack Marsh
FROM THE STAFF SECRETARY

DUE: Date: Friday, July 16 Time: 10 A.M.

SUBJECT:

Gorog/Seidman memorandum dated 7/14/76
re Clean Air Amendments

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
X For Your Comments
X For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Gorog - no comment
Mike Duval - see comments
Friedersdorf - concurs
Buchen - no objection
Marsh - no objection

See Gorog memo on Press Plane

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 19, 1976 Time:

FOR ACTION: Jim Cannon cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Monday, July 19 Time: c.o.b.

SUBJECT:

Gorog/Seidman memorandum dated 7/14/76
re: Clean Air Amendments

ACTION REQUESTED:

____ For Necessary Action ____X For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

____X For Your Comments ____ Draft Remarks

REMARKS:

Please excuse the fast turn=around on this one.

no objection

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE
WASHINGTON

7/19

7:20

Cannon's office says Cannon is going to talk to Russ Train in the a.m.

S.

THE WHITE HOUSE

WASHINGTON

July 16, 1976

MEMORANDUM FOR JIM CONNOR

FROM: BILL GOROG

SUBJECT: Press Requirements for Clean Air Act Decision

As indicated in our recommendation, this decision memorandum suggests that no public announcement be made concerning our new approach to the Clean Air Legislation. I have discussed this with Max Friedersdorf and our action will be to communicate the President's decision to Senator Baker and Congressman Broyhill. Action will be taken by minority members of the House and the Senate.

THE WHITE HOUSE

WASHINGTON

July 14, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: L. WILLIAM SEIDMAN

FROM: WILLIAM F. GOROG WFG

SUBJECT: Clean Air Amendments

The Senate is scheduled to begin floor consideration of the Clean Air Amendments on July 22, with House action expected shortly therafter. This memorandum outlines the Administration's efforts relative to this legislation, and seeks your guidance concerning further action.

BACKGROUND

On May 28, you transmitted a letter to Senator Jennings Randolph and Congressman Harley Staggers in which your positions on auto emission standards and significant deterioration were outlined (Tab A). Subsequent to meetings held with minority Members of the Senate Public Works Committee and with members of the Administration, you asked that I determine changes needed in order to make the Clean Air Amendments acceptable to the Administration. In line with this effort, I have held several sessions with representatives of EPA, OMB, Domestic Council, Interior, and FEA, with the objective of determining an Administration position that would have the full support of all agencies involved.

1. Auto Emission Issue:

As indicated in your letter of May 28, the Administration supports the Dingell-Broyhill Amendment to the House Amendments. This Amendment would stabilize auto emission standards for three years, to be followed by stricter standards for two years thereafter.

2. Stationary Source and Other Issues:

With respect to the other provisions of the Clean Air Amendments, the interagency review group previously mentioned developed a list of fifteen Sections of the House and/or Senate Amendments where changes are needed (Tab B). Based on interagency agreement at the staff level on thirteen of these issues with respect to positions that would be acceptable to the Administration, the EPB/ERC Executive Committee recommended that we proceed in seeking amendatory changes through contact with the appropriate individuals in the House and Senate. Where amendatory actions are needed on these issues, amendments have been drafted and approved by the interagency review group. The two outstanding issues are to be resolved as explained in Tab B.

LEGISLATIVE CONSIDERATIONS

As your May 28 letter indicates, your position on significant deterioration calls for amending the Clean Air Act of 1970 "to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered." This position is based on the House and Senate Amendments as presently written. However, the amendatory changes which you asked to review would bring the Amendments on all stationary source issues, including significant deterioration, into a position acceptable to the Administration. At the same time, such changes would allow you to work from a position that is generally unified with that of the Congressional minority.

There is a strong possibility that the Moss Amendment to the Senate Clean Air amendments will succeed, in which case the entire significant deterioration issue would be submitted to a one year study commission. In so much as the proponents of the Moss Amendment show considerable strength, our amendatory efforts will probably be given serious consideration by the proponents of the overall Clean Air Amendments. Furthermore, while passage of the Moss Amendment would be preferable to accepting the Clean Air Amendments as presently written, I believe that if our amendatory changes were implemented, the resulting package would represent the best long term solution.

Concerning the auto emission issue, I believe that Senate action on the entire Clean Air package will force similar House action. This would be a step towards resolving the

auto emission question as quickly as possible. However, should House action continue to be stalled, a bipartisan coalition of Congressmen supported by the auto industry and the UAW will move to force immediate action.

RECOMMENDATION

The EPB/ERC Executive Committee recommends that you approve efforts to have Members of Congress seek amendments on the issues outlined in Tab B. Furthermore, the Committee recommends no change in your current public position that the Clean Air Amendments of both Chambers are unacceptable as presently written.

Approve _____ Disapprove _____

TAB A

THE WHITE HOUSE

WASHINGTON

May 28, 1976

Dear Mr. Chairman:

Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

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Sincerely,

Gerald R. Ford

The Honorable Harley O. Staggers
Chairman
Interstate and Foreign
Commerce Committee
House of Representatives
Washington, D.C. 20515

TAB B

PROPOSED CHANGES TO CLEAN AIR ACT AMENDMENTS

The following list includes coverage of all of the problem areas in House and Senate versions of the Clean Air Act Amendments, as well as an indication of how we might seek to resolve each problem area. When amendatory action is suggested, amendments have already been prepared.

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15. Selective Enforcement Audit:

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THE WHITE HOUSE
WASHINGTON

Sara i-

See my notes to Bergen + Neral - thought it best after reading to do it this way.

T Wade

Dave Gergen -

The attached package was put into staffing before Jim Connor informed that you were to receive all staffing items. Here is a copy of the paper and press requirements.

Let me know if you have any comments.

Trudy Fry
7/16/76

7/19
bergen - no comment

Mike Duval -

Attached is a copy of the Press Requirements for Clean Air Act Decision. You wanted to review?

Trudy Fry
7/16/76

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: A July 15, 1976 Time:

FOR ACTION: cc (for information): Phil Buchen

Phil Buchen (Ken Lazarus)
Max Friedersdorf Mike Duval
Jack Marsh
FROM THE STAFF SECRETARY

DUE: Date: Friday, July 16 Time: 10 A.M.

SUBJECT:

Gorog/Seidman memorandum dated 7/14/76
re Clean Air Amendments

ACTION REQUESTED:

____ For Necessary Action
X For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
X For Your Comments
____ Draft Remarks

REMARKS:

No objection. Ken Lazarus for Phil Buchen 7/16/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

July 16, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: MAX FRIEDERSDORF M.F.

SUBJECT: Gorog/Seidman memorandum dated 7/14/76 re Clean Air Amendments

The Office of Legislative Affairs concurs with EPB/ERC recommendations.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: A July 15, 1976 Time:

FOR ACTION: cc (for information):

Phil Buchen
Max Friedersdorf
Jack Marsh Mike Duval
FROM THE STAFF SECRETARY

DUE: Date: Friday, July 16 Time: 10 A.M.

SUBJECT:

Gorog/Seidman memorandum dated 7/14/76
re Clean Air Amendments

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
X For Your Comments
X For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Jim - We definately need an "announcement plan" for this BEFORE the President decides.

We need a one-page draft public statement on what the P has decided. Did like to review.

Mike

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: due Fri, 7/16

Date: A July 15, 1976 Time:

FOR ACTION:

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Phil Buchen
Max Friedersdorf
Jack Marsh

Mike Duval

FROM THE STAFF SECRETARY

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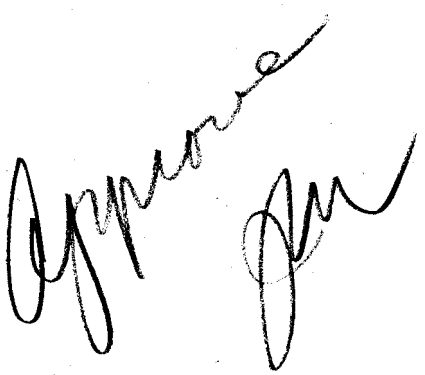
REMARKS:



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Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 19, 1976 Time:

FOR ACTION: Jim Cannon cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: Monday, July 19 Time: c.o.b.

SUBJECT:

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re: Clean Air Amendments

ACTION REQUESTED:

____ For Necessary Action ____X For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

____X For Your Comments ____ Draft Remarks

REMARKS:

Please excuse the fast turn=around on this one.

I have no objection to submitting the memorandum as written.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

July 14, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: L. WILLIAM SEIDMAN

FROM: WILLIAM F. GOROG

SUBJECT: Clean Air Amendments

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what is the difference between an "amendatory change" and an amendment?

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RECOMMENDATION

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Approve _____ Disapprove _____

THE WHITE HOUSE

WASHINGTON

June 9, 1976

MEMORANDUM FOR: JIM CANNON
JIM LYNN
BILL SEIDMAN

FROM: JIM CONNOR

SUBJECT: FOLLOW-UP TO MEETING WITH THE PRESIDENT

Yesterday, following the session with the Minority members of the Senate Public Works Committee, the President met with Russ Train.

The following are the two action items which require appropriate follow-up:

1. President agreed with Russ Train's suggestion that he (Train) should advise appropriate members of Congress that there should be some perfecting amendments clarifying the significant deterioration situation, which has resulted from the Supreme Court case mandating EPA regulations in this field. The President said that Train should indicate serious reservations about the way some want to go in this area, and that Train should specifically decline to support the Senate bill.

   We should take another look at the House bill and see whether or not we can support it with, perhaps, some amendments.

2. The President wants another decision memo on the subject of Selective Enforcement Audits for the pollution devices on automobiles. This issue was brought to the President's attention as a part of a bigger package earlier, but he wants to re-look at the issue.

Because the EPB has had the action on the Clean Air Act Amendments, I suggest that Bill Seidman take the lead on following up on both these items. Max Friedersdorf should be consulted prior to Train communicating with the Hill. The President should receive his decision paper on the SEA issue by close of business, Friday, June 11.

THE WHITE HOUSE

WASHINGTON

June 9, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: MIKE DUVAL

SUBJECT: MEETING WITH RUSS TRAIN ON CLEAN AIR ACT AMENDMENTS

The President met with Russ Train following his session with the Minority members of the Senate Public Works Committee yesterday afternoon on the subject of the Clean Air Act Amendments.

In the Train meeting were Cannon and Lynn. + me

Attached is a memorandum from you to Seidman (who generally has the action in this area with Bill Gorog as point man). Cannon and Lynn are following up on the action required from the meeting. I suggest this go out immediately because the whole matter is on a very fast track.

cc: Dick Cheney

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

June 8, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM F. GOROG

SUBJECT: Meeting with Minority Members of the Senate Public Works Committee concerning Clean Air Amendments, 2:00 p.m., June 8, Oval Office.

PURPOSE

To meet with Senator Buckley, ranking Minority member, Senate Public Works Committee, in order to discuss the significant deterioration and auto emissions sections of the Clean Air Amendments.

PARTICIPANTS

Senators Buckley, Stafford, McClure, Domenici, Baker.

Frank Zarb, John Hill, Russell Train, Jack Marsh, Jim Lynn, Bill Kendall, Joe Jencks, Bob Wolthuis, Jim Cannon, Max Friedersdorf, Bill Gorog, Elliot Richardson, Bill Seidman.

BACKGROUND

Senator Buckley and the other Minority members of the Senate Public Works Committee are essentially in agreement with the Senate Clean Air Amendments as they are now written. Your decisions, as reflected in the Clean Air Amendments options paper of May 11, indicate differences of opinion with the Senate Minority members, particularly regarding signification deterioration and auto emissions.

Attached at TAB A is a background paper with detailed information on these issues.

TALKING POINTS

A. Auto Emission Standards

DOT-EPA-FEA recently completed a study analyzing health benefits, fuel costs, and economic effects of the Senate Bill versus your original request for a five year freeze and the new Dingell-Broyhill Amendment (Train's original March proposal).

You feel that this study justifies your original request for a five year freeze; but a pragmatic view of the situation indicates that such a position does not have a chance from a legislative standpoint. You therefore have decided to back the Dingell-Broyhill Amendment (Three years at current standard ... then two years at present California standard).

The DOT-EPA-FEA Study shows no appreciable health benefit advantage for more stringent standards. It shows significant fuel loss and cost to the consumer.

B. Significant Deterioration

I am opposed to the significant deterioration section as it is now written for several reasons:

- mandatory imposition of Class I areas decreases State authority and flexibility
- uncertainty over size and impact of buffer regions
- abolition of State discretion to designate Class III areas decreases State authority and flexibility
- mandated use of BACT at least as stringent as current New Source Performance Standards negates value of case-by-case review

Other concerns:

- numerous Governors have echoed considerations mentioned
- FEA concerned over impact on refinery, synthetic fuel, and electric power facility development. Studies are not complete
- Interior concerned over effect on new surface mines
- industry is uncertain about impact on job creation/ capital formation

There are too many doubts raised by responsible individuals. This is not a time to risk additional uncertainty regarding jobs.

TAB A

CLEAN AIR AMENDMENTS

A. Significant Deterioration:

In 1972, the Supreme Court affirmed the decision of a lower court that significant deterioration of air quality in any region of the country was contrary to the intent of the 1967 Air Quality Act to "protect and enhance" air quality. As a result of this decision, EPA promulgated regulations allowing the States to designate regions with air quality better than national standards in one of three categories:

- Class I -- pristine areas when practically any air quality deterioration would be considered significant;
- Class II -- areas where deterioration in air quality that would normally accompany moderate growth would not be considered significant;
- Class III -- areas where concentrated industrial growth is desired, and where deterioration of air quality to National Ambient Air Quality Standards levels would be allowed.

EPA originally designated all areas of the country as Class II, effective January 6, 1975. The States have been allowed in the intervening period to redesignate areas either as Class I or as Class III. In addition, the Federal Land Managers (Secretaries of Agriculture of Interior) have been allowed to propose redesignation of federal lands under their jurisdiction to Class I. To date, there have been no redesignations by States or by Federal Land Managers.

Under current EPA regulations, the States notify the EPA of all areas exceeding national standards for sulfur dioxide and total suspended particulates. All other areas become classified as Class II. Redesignations can be made as outlined above. The States are then responsible for filing State Implementation Plans to indicate how they will act to prevent significant deterioration. Upon receipt of EPA approval of the overall plan, the States are responsible for proper implementation. EPA, however, assures this through the use of a source-by-source preconstruction review system, with which development plans for industrial facilities in any of the specified source categories are reviewed to determine if the source would violate any of the appropriate increments.

Emission limitations are currently based on New Source Performance Standards (NSPS) for those sources covered

by a standard. In other cases, limitations are set at the discretion of the EPA Administrator, after consideration of costs, siting, and fuel availability.

In summary, with the present system, EPA has tremendous potential authority, with flexibility in the use of such authority. Costs and feasibility are major considerations in the determination of emission limitations. Finally, Federal Land Managers provide advisory comment only in connection with the preconstruction review system.

Changes Contemplated in Senate Bill

Under the Senate Bill, the States would submit to EPA lists of areas with air quality better than current standards. Each State would then submit a State Implementation Plan which categorizes these areas into Class I or Class II. National Parks, International Parks, National Wilderness Areas, and National Memorial Parks greater than 5,000 acres must be designated Class I. This provision would presently cover 131 areas, constituting 1.3% of the total U.S. land area.

States are given the option to redesignate Class II areas to Class I status, however, mandatory Class I areas may not be redesignated. Additionally, States would have to require each new major emitting source to apply for a permit before construction. Such permits would be granted only if:

1) Best Available Control Technology (BACT) is used, as determined by the State on a case-by-case basis, taking into account energy, environmental, and economic impacts and costs. (In no case could the application of BACT result in emissions exceeding those allowed under NSPS).

2) In the case of a protest notice from the Federal Land Manager, the Governor of another State, or the EPA, the source demonstrates to the State that the emissions from that source would not contribute to a significant change in air quality.

In addition, the State must deny a permit, regardless of increment violation, if the Federal Land Manager can demonstrate to the State that emissions from a source will have an "adverse impact" on air quality. Conversely, if the Federal Land Manager is convinced that a source will have no adverse impact, regardless of increment violations, the State may issue a without further review by EPA.

Major Differences

The Senate Bill does not provide for Class III designations, which would allow for deterioration up to National Ambient Air Quality Standards.

The Senate Bill provides for more stringent control technology, mandating the use of BACT. The Bill is unclear in this area, and seems to include some contradictory language. The Committee Report states that the Bill "requires that large new sources use the best available technology to minimize emissions, determined by each State on a case-by-case basis." BACT is then defined to mean:

> "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable ..."

However, another section of the Bill states that the EPA Administrator or a Governor may seek injunctive relief to prevent permit issuance or facility construction if such facility "does not conform to the requirements" of BACT provisions. This appears to leave substantial control authority in the hands of the EPA Administrator, should he wish to override the decision of a State on what constitutes BACT.

Finally, the Senate Bill would mandatorily establish 131 Class I areas, removing voluntary authority to do so from the States.

Your Position

In your decision on the significant deterioration question, you indicated a desire to adhere to the Administration's original position that the Clean Air Amendments should be amended by deleting the significant deterioration provision. You further indicated the desire to retain flexibility to move to support of the Moss Study Amendment or to support of the Senate provision if Class III areas are allowed.

The Moss Amendment would authorize submission of the significant deterioration/BACT question to a one year study by an Air Quality Commission established by the Bill. During the one year period, the existing EPA regulations described previously would remain in effect.

The Minority Members' Position

In drafting the air pollution control strategy outlined in the 1970 Clean Air Act, the Congress gave careful consideration to the need for improving air quality in more polluted areas. Consideration of a strategy for the protection of cleaner air regions was largely overlooked. The Committee feels it has worked diligently to develop a suitable strategy for dealing with the problem of significant deterioration in cleaner air regions. The Committee held 45 markup sessions on the Clean Air Amendments during this and the previous session of Congress. Much of this time was spent dealing with the significant deterioration provisions.

They suggest that the Senate Bill is preferable to the existing regulations for several reasons:

1) The Committee Bill limits mandatory Class I designations to major parks and wilderness areas, while EPA regulations allow any federal area to be designated Class I at the sole discretion of the Federal Land Managers.

2) The Committee Bill rejected arbitrary buffer zones (areas around Class I regions where development would be predictably curtailed to protect the Class I sector) around Class I areas, while the EPA regulations effect buffer zones. In addition, the Committee Bill bases buffer protection of Class I areas on a case by case basis.

3) The Committee Bill would turn the EPA permit program over to the States with direction that economic and energy impacts be given appropriate consideration.

Discussion

While the Members claim that the above considerations are valid, and that the Senate Bill will allow more State control, greater flexibility, and clarity of application, the Administration's analysis of the Bill indicates contrary results.

First, State control over Class I designations would be decreased by the mandatory imposition of some Class I designations. To date, no federal lands have been voluntarily redesignated to Class I by the Federal Land Managers or by the States. The Senate Bill would automatically impose on the States designation of 131 Class I, amounting to 1.3 percent of total U.S. land area.

Second, the Committee Bill would require a programmatic approach to buffer zones. For example, EPA has already estimated probable buffer distances for various types of industrial facilities.

Third, while the permit authority would be turned over to the States, State authority would be diminished due to the removal of the right to designate areas to Class III. This removes from the States the authority to allow deterioration up to the National Ambient Air Quality Standards. Furthermore, the mandated use of BACT, as decided by the States on a case by case basis, still requires that regardless of economic or energy considerations, emissions could not exceed those allowed under the current New Source Performance Standards.

The statements of numerous Governors echo the concern over the contention that the States would receive greater authority and flexibility under the Bill. This concern has been raised most often regarding the difficulity in determining the effects of buffer areas, and the lack of flexibility to provide for less stringent emissions limitations where needed.

Perhaps the most compelling argument against the imposition of the changes contemplated in the Bill arises from the uncertainty of its final effects on industrial growth. By the estimation of OMB, the Bill is more restrictive than current EPA regulations. There are serious concerns within the Administration and industry alike that the bill would have adverse effects on future economic development, and that it bears a close relationship to Federal land use planning.

As examples, Interior is concerned about the adverse impact on new surface mining operations; and FEA expects adverse effects on the development of refineries, synthetic fuel plants, and electric power generating facilities. Various sectors of industry, in addition to those mentioned above, believe the impact of the Bill would be such as to impose serious constraints on job creation and capital expansion.

B. Auto Emissions

In a message to the Congress on June 27, 1975, you asked that the Clean Air Act of 1970 be amended to extend the current automobile emission standards from 1977 to 1981. This position in part reflected the fact that auto emissions for the 1976 model autos have been reduced by 83% compared with uncontrolled pre-1968 emission levels (with the exception of NOx), and that further reductions would be increasingly expensive to obtain. Both Chambers of the Congress have held extensive hearings on this matter, and the respective Committees on each side have reported Bills that include far more stringent emissions standards than you requested. The present law, without amendment, would establish standards beginning in 1978 that are even more stringent than those contained in the Senate or House Bills.

In light of legislative considerations and evidence compiled by EPA, as well as DOT-EPA-FEA in a joint study, you decided to shift to backing of an amendment to be offered by Congressman John Dingell on the House floor. The same position narrowly failed on a vote in Committee. The Dingell Amendment, which reflects the position of Russell Train at the conclusion of EPA's March 1975 Auto Emissions Suspension Hearings, compares to the Senate position as follows:

	DINGELL ADMENDMENT			SENATE BILL		
	HC	CO	NOx	HC	CO	NOx
	(units=grams/mile)			(units=grams/mile)		
1977	1.5	15.0	2.0	1.5	15.0	2.0
1978	1.5	15.0	2.0	1.5	15.0	2.0
1979	1.5	15.0	2.0	.41	3:4	2.0*
1980	.9	9.0	2.0	.41	3.4	1.0
1981	.9	9.0	2.0	.41	3.4	1.0
1982	.41	3.4	Waiver			

(*1.0 for 10% of light duty vehicles produced)

A recent interagency report by DOT, FEA, and EPA estimated increased total lifetime cost per vehicle ranging as high as $540 and fuel economy losses ranging as high as 4.64 billion gallons, per model year fleet, resulting from imposition of the current Senate Bill rather than the Dingell Amendment. Health and air quality benefits from the Bill's provisions are limited.

Your position in support of the Dingell Amendment as opposed to the Senate Bill is predicated on the limited health benefits and their relation to substantially increased costs due to:

- additional fuel consumption
- higher consumer purchase price
- higher maintenance and replacement costs

JOHN TOWER
TEXAS

COMMITTEES:
ARMED SERVICES
BANKING, HOUSING AND URBAN AFFAIRS
JOINT COMMITTEE ON DEFENSE PRODUCTION

United States Senate

WASHINGTON, D.C. 20510

June 4, 1976

Dear Colleague:

Recently the minority Members of the Senate Committee on Public Works sent you a letter urging your support for the nondeterioration provisions (section 6) of S. 3219, the Clean Air bill, scheduled to come to the floor in early June.

Among the reasons advanced for support of section 6 were that it automatically and permanently classifies existing National parks and wilderness areas of 5,000 acres in size as Class I areas in which little or no deterioration of air quality would be permitted. All National parks and wilderness areas established after enactment, regardless of size, would be automatically designated as Class I. In our view, this is a deficiency in the bill. Since one square mile encompasses 640 acres, existing areas as small as nine square miles would be automatically designated as Class I. Potential sources of pollution sixty or more miles away from such areas could be prevented from development if their emissions might violate Class I increments. Therefore, the total area limited by a small Class I area's increment could be more than eleven thousand square miles. Hence, classification of such areas should be considered on a case-by-case basis.

In our view, the preferable course would be to avoid imposition of any policy of nondeterioration pending completion of a thorough study to determine its effects. However, the EPA regulations implementing nondeterioration are already in effect. Although we are not convinced that Congress ever intended that such regulations be implemented under the existing Clean Air Act, they do provide the flexibility necessary to allow their continued effectiveness during the period that a study would be under way.

Among other points advanced in the letter for support of section 6 is that the bill shifts responsibility for protecting air quality to the states from EPA. However, under section 6, the Federal Government has, in effect, a veto power over the granting of any permit for construction of a facility if the Federal Land Manager or the Administrator of EPA merely alleges that emissions from a proposed major emitting facility may cause or contribute to a change in air quality in a Class I area. The burden of proof is on the owner or

operator of such facility to demonstrate that emissions of particulate matter and sulfur dioxide will not violate the infinitesimally small increases in pollution allowed in Class I areas. How the "negative" burden of proof may be met is not explained.

Another reason cited for support of section 6 is that EPA, under the existing Clean Air Act, approves Class I designations proposed by Federal Land Managers. The letter states that, "The Committee bill shifts these responsibilities to the individual states where they belong." However, under the bill, Class I areas are mandatory whereas under the EPA regulations all Class I areas are discretionary. Under the EPA regulations, the state may submit a proposal to redesignate areas as Class I or Class III providing certain procedures are followed. The advantage that the procedure provided in section 6 allows the states is not apparent.

The letter states that nondeterioration affects only new, major industrial sources and that it does not cover shopping centers, residential development or most types of industry. Although the review process to determine whether construction may commence only affects "large industrial sources," construction of other facilities for which a permit is not required will still affect the air quality in the region by "using up" a portion of the available increment. This means that the "next" applicant for a construction permit would have even less of a margin between existing air quality and the limits imposed by the increment.

The letter further states that arbitrary buffer zones are not created around Class I areas. Although buffer zones under section 6 are not mandatory, they are a very real possibility since, as explained above, section 6 requires Federal Land Managers to take affirmative action to prevent the issuance of a permit for any proposed source, regardless of distance from a Class I area, if he determines that the proposed facility may cause or contribute to a change in the air quality in such area.

In summary although we do not necessarily endorse the EPA nondeterioration regulations, vis-a-vis section 6 of S. 3219, it is important to recognize that this proposal is not the well thought out, easily implemented, costless environmental protection measure it is represented to be either by its proponents or in the Committee Report on the bill. Many questions regarding this policy including its relationship to restrictions and development in areas currently not

meeting the national ambient standards are unanswered. Congress should not give its blessing to any such far-reaching policy, the effects of which are largely speculative. We have a responsibility to ensure that the total quality of life of the citizen is not unduly burdened by any single, costly criterion, even the criterion of air cleaner than that required by the national ambient air health standards.

Hence, we have opted to support Senator Moss' amendments to S. 3219 which would delete section 6 and have the National Commission on Air Quality, established under section 37, conduct a thorough and objective study of the whole issue of nondeterioration.

As discussed above, we recognize that this will leave in effect the EPA regulations already promulgated. Although they also have serious defects, we cannot see the logic in possibly compounding such defects by enacting this policy blindly into substantive Federal law. It will be far easier to amend these administrative regulations, if necessary, pending the outcome of the study, than to drag this matter through the Congress again.

We urge your support of the Moss amendments.

Sincerely,

John Tower — Dewey Bartlett

Barry Goldwater — Jake Garn

Jesse Helms — Strom Thurmond

Paul Laxalt — Roman Hruska

THE WHITE HOUSE

WASHINGTON

June 3, 1976

MEMORANDUM FOR: THE HONORABLE WILLIAM USERY
Secretary of Labor

THE HONORABLE WILLIAM COLEMAN
Secretary of Transportation

FROM: JAMES CANNON
Assistant to the President for
Domestic Affairs

The President has reviewed the memoranda of the Department of Labor, dated April 7 and April 21, 1976, and of the Department of Transportation, dated April 8 and May 28, 1976, and has considered the policy alternatives presented therein.

He has directed me to ask you to address the specific proposals outlined in the pages which follow and to submit for his decision your final, joint recommendations on these proposals by June 10, 1976.

The President has charged the Domestic Council with the responsibility for co-ordinating your effort. Judy Hope and David Lissy, of the Domestic Council staff, and I will assist in any way we can.

Attachments

PROPOSALS FOR SIMPLIFICATION OF PROCEDURES UNDER SECTION 13 (c) OF THE URBAN MASS TRANSIT ACT OF 1964, AS AMENDED

1. NEGATIVE DECLARATION WITH CHANGED BURDEN OF PROOF

Establish categories of capital grants that historically have had minimal, if any, adverse impact on transit employees. Such categories might include bus and rail car purchases which result in no reduction in fleet size. In such cases, there could be a simple departmental declaration that no adverse impact is likely to occur, and that no specific 13 (c) arrangement need be negotiated.

This procedure would shift the present burden of proof of adverse impact from local transit operators to the unions or the employees.

Provide a review procedure whereby an employee or union could ask for special protective arrangements in connection with any grant based upon a showing of a substantial prospect of "adverse impact."

2. SET TIME LIMITS

DOL could set time limits for the negotiation of agreements, after which the Secretary of Labor could make his own determination of what arrangements constituted "fair and equitable" protection. DOL could provide conditional certifications so that UMTA funds could flow before critical deadlines were reached (end of the fiscal year, or exhaustion of local operating funds).

3. MULTI-YEAR CERTIFICATIONS

Instead of having each grant of Federal dollars give rise to a new 13(c) agreement, DOL could establish a policy of granting multi-year certifications which would be good for all grants made within a specific period of time subject to review based upon the union or an employee showing "adverse impact."

4. SINGLE CERTIFICATION FOR SINGLE GRANT

Only a single certification should be required for a given project, even if such a project is funded through several successive grants or grant amendments.

5. PROMULGATE AND PUBLISH REGULATIONS

To assist all parties in participating in the 13 (c) process, simple published regulations should be available.

denied

THE WHITE HOUSE

WASHINGTON

May 25, 1976

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM F. GOROG WFG

SUBJECT: Clean Air Act Amendments

BACKGROUND

In your decision paper concerning the Clean Air Act Amendments, you indicated that you wished to have a meeting with Senator Baker and other minority members opposing his views prior to making your decisions on the issues involved. Subsequently, you made your decisions on the issues. There is a slight conflict, which this memorandum is intended to reslove.

Senator Baker is scheduled to meet with you on Thursday, May 27 at 2:30 p.m. This meeting concerns Clean Air, and was set prior to your actions in the decision memorandum on that subject.

The issues to be resolved include 1) whether you want to meet with Baker alone, with a minority group representing all viewpoints, with both parties in separate meetings, or with no Senatorial contingent; 2) if you meet with Baker or any group, should you advise them of your decisions, or confer and announce your decisions later.

OPTIONS

ISSUE I - Who should you meet with?

Option A - Meet with Senator Baker alone.

Option B - Meet with a minority group representing all viewpoints.

Option C - Meet with both parties in separate meetings.

Option D - Meet with no Senatorial contingent.

RECOMMENDATION

Option A - That you meet with Senator Baker alone (Gorog recommendation)

DECISION

Option A _____

Option B _____

Option C _____

Option D _____

ISSUE II - If you meet with anyone, should you advise of your decision at the meeting or delay such an announcement until a later time.

Option A - Advise of your decisions.

Option B - Listen and delay your decisions announcement until later.

RECOMMENDATION

Option A - Advise of your decisions at meeting (Gorog recommendation)

DECISION

Option A _____

Option B _____