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THE WHITE HOUSE
WASHINGTON

September 20, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

WILLIAM F. GOROG

FROM:

JAMES E. CONNOR *JEC*

SUBJECT:

House Clean Air Act

Confirming telephone call to Coleman Andrews this morning, the President reviewed your memorandum of September 17 on the above subject and approved the following:

"Work with the conferees to get the best possible bill out of conference. Let it be known that Frank Zarb and yourself are very concerned about the limiting aspects of the bill and that you feel strong enough about the problems to advise the President to veto the legislation unless progress can be made in Conference. "

Please follow-up with appropriate action.

cc: Dick Cheney

THE WHITE HOUSE
WASHINGTON

September 19, 1976

MR PRESIDENT:

House Clean Air Act

The attached memorandum prepared by Bill Gorog was staffed to Messrs. Cannon, Marsh, Lynn, Friedersdorf and Buchen.

Messrs. Cannon, Marsh and Friedersdorf concur with the recommendation.

Jim Lynn has no comments and Phil Buchen has no objection.

Jim Connor

THE WHITE HOUSE

WASHINGTON

September 17, 1976

DECISION

MEMORANDUM FOR: THE PRESIDENT
FROM: WILLIAM F. GOROG *WFG*
SUBJECT: HOUSE CLEAN AIR ACT

On September 15, the House passed their version of the Clean Air Act Amendments. The House and Senate Conferees are expected to meet during the week of September 27.

The House concurred in your recommendation to Chairmen Staggers and Randolph on May 28 to enact the Dingell-Broyhill automobile emission standards. However, the House passed a significant deterioration provision which is more stringent than the current EPA regulations. In addition, in other stationary source areas the House bill is significantly different than the approach we have favored and is in some respects more stringent than the Committee's reported bill. The following is an assessment of the two major stationary source provisions of the House bill.

1. Significant Deterioration

The significant deterioration amendments deal with areas of the Nation which are already "cleaner" than needed to meet EPA established health standards. You had recommended in your May 28th letter to Chairmen Staggers and Randolph that the Congress should preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The House provisions would permit the States to classify land areas into three geographical classes -- (I) those which must remain pristine, (II) those which would be permitted moderate, but well controlled growth, and (III) those areas which would be allowed some heavy industrial growth. However, unlike the current 3 Class EPA regulations which permit heavier growth and resultant pollution up to the ambient air quality standards in the third class, the House bill's provisions would more severely restrict growth through a variety of mechanisms:

- Arbitrary limits on the allowable incremental pollution in all areas up to only 90% of the National standards;
- Arbitrary limitations within each class for allowable incremental pollution (i.e., Class III allowable pollution increments are only 50% of current EPA regulations);
- Mandatory Class I areas (National parks and wilderness areas larger than 25,000 acres) which would be required to remain "pristine";
- All pollutants for which National ambient air quality standards have been promulgated (currently six) must be covered rather than the current EPA regulations which cover only sulfur dioxide and particulate matter.
- A broader definition of source coverage which could greatly expand the permitting mechanism coverage and include greater numbers and types of stationary sources;
- An extremely stringent continuous technology based definition of best available control technology for new sources which would require scrubber like technology.

These provisions, in addition to a generally cumbersome, legislatively-mandated permitting and redesignation scheme, could make the practicable application of the regulations incompatible with efficient planning for industrial growth.

2. Industrial Expansion in Non-attainment Areas

Under the current Clean Air Act, industrial expansion in non-attainment areas -- those areas not meeting National ambient air quality standards -- is not permitted since by definition more pollution would force continued violations and could preclude eventual or timely attainment of standards. EPA has delicately adopted a procedure to permit such growth via a pollution trade-off mechanism within a particular air quality area.

The House Committee bill's provision -- which devised a scheme for industrial expansion that could occur with certain trade-offs and with the installation of best available control technology -- was deleted by voice vote on the floor by an amendment offered by Congressman Carter. The House bill would now make industrial expansion in dirty areas extremely difficult, if not impossible. While this has applicability to many industries the emerging synthetic fuels and energy industries could be most adversely impacted by such a provision.

3. General Comparison to Senate Bill

In relation to the significant deterioration provisions, the House bill is less restrictive than the Senate bill. The Senate eliminated Class III -- those areas which would be allowed heavy industrial growth consistent only with the ambient air quality standards. In addition, the Senate bill provides for a greater number of mandatory Class I areas -- those which must remain pristine -- than does the House.

However, the Senate bill provides for a non-attainment provision which would permit limited growth in "dirty-areas." The Senate bill would permit only existing industries to expand at existing site locations and would preclude entirely new industries from entering the area unless they could "buy-up" existing plant locations. Best available control technology would be required. Our position has been to accept the Senate approach but only if amended to permit expansion anywhere within an air quality area and to allow expansion from entirely new sites.

4. Recommendation

Our proposed strategy is to work with the conferees to get the best possible bill out of conference. We propose to let it be known that Frank Zarb and I are very concerned about the limiting aspects of the bill and that we feel strong enough about the problems to advise you to veto the legislation unless progress can be made in Conference.

APPROVED

FRZ

DISAPPROVED _____

THE WHITE HOUSE

WASHINGTON

September 19, 1976

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House Clean Air Act

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APPROVED _____ DISAPPROVED _____

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 17, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

✓ Jim Lynn

✓ Jim Cannon

✓ Max Friedersdorf

✓ Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, September 17

Time: 3 P.M.

SUBJECT:

Bill Grogg memo 9/17/76
re: ~~the~~ House Clean Air Act

ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

Cannon OK
Marsh Approved
Friedersdorf - OK
Lynn - no comments

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

OMB -

his comment in
clear air today
memo -

Per Franconi
Joni Mitchell: New
9/17 12:40

THE WHITE HOUSE

ACTIGN MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 17, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

Jim Lynn

Jim Cannon

Max Friedersdorf

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, September 17

Time: 3 P.M.

SUBJECT:

Bill Grogmemo 9/17/76
re: House Clean Air Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

No objection

Ed Schultz 9/20

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Jim Connor
For the President