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Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files

OA/ID Number: 29147
Folder ID Number: 29147-004

Folder Title:
Clean Air (1 of 3) (1990) [1]

Stack:	Row:	Section:	Shelf:	Position:
G	15	24	7	6

Governor -

Cicconi asked me
to bring this to you
for your review.

I'll phone in any
changes on the
Potus letter to Jim
if you have any.

Darry





EXECUTIVE OFFICE OF THE PRESIDENT

Washington, D.C.

TO: GOVERNOR SUNUNU (ATTN: JACK HOWARD)

LOCATION: _____

FAX NUMBER: 225-5337

Photo Copy Preservation

FROM: JIM CICCONI

ROOM NUMBER: _____

PHONE EXT: 456-2702

IMMEDIATELY!!

PLEASE DELIVER AS SOON AS POSSIBLE

TO GOVERNOR SUNUNU

Attached is the Clean Air letter for your approval. I've sent copy to POTUS concurrently. If you concur, we need to get this to Hill by late today. If someone can call with your changes, that would be the fastest.

Many thanks.

Jim

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Roger Porter to POTUS Re: Clean Air (1 pp.)	9/25/90	P5	

Collection:

Record Group: Bush Presidential Records
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WHORM Cat.:
File Location: Clean Air (1 of 3) (1990) [1]

Open on Expiration of PRA
(Document Follows)
By (NLGB) on 4/10/08

Date Closed: 12/7/2004	OA/ID Number: 29147-004
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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THE WHITE HOUSE

WASHINGTON

September 25, 1990

90 SEP 26 PM 1:19

MEMORANDUM FOR THE PRESIDENT

FROM: ROGER B. PORTER *RBP*

SUBJECT: Clean Air

Two developments make a letter from you to the Clean Air conferees valuable at this time. The first is that the conference is moving slowly and may not produce an agreed upon bill. This provides a great opportunity for you to correctly assign responsibility to the Congress for failing to pass your and the country's major environmental initiative.

Secondly, a presidential letter will position us well to sustain a veto if an unacceptable bill is produced by the conference. We don't want to find ourselves in the position of having not clearly and publicly articulated what is your position on the key elements of this legislation.

To date, the House and Senate conferees have made limited progress having only agreed to portions of three of the seven titles in the bill. The largest and most contentious titles dealing with mobile sources, air toxics, and acid rain still remain.

In addition, both Senate and House conferees have exhibited limited enthusiasm for a major administration role in the Conference. This has the potential for producing a bill that ignores the crucial element of achieving environmental benefits in the most cost effective manner. The Conference has also ignored the Administration's concerns with respect to how the bill will be administered. Finally, we need to generate some leverage with respect to eliminating the Wise amendment.

The attached letter and comprehensive proposal have been developed by the clean air working group including OMB, EPA, CEA, Energy, the Counsel's Office and my office.

Recommendation: That you sign the attached letter.

Attachment

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THE WHITE HOUSE

WASHINGTON

September 26, 1990

Dear Senator Baucus:

It has now been more than a year since I sent to Congress legislation to reauthorize and strengthen the Clean Air Act. As you know, my proposal would have permanently reduced sulfur dioxide emissions by 10 million tons below 1980 levels, cut smog-causing emissions by over 40%, brought virtually all of the 100 cities now in violation of our air quality standards into attainment with those standards by the year 2000, and cut by more than three-quarters the amount of toxic emissions into America's air.

As the current session of Congress draws to a close, I am concerned that the House-Senate conference committee still has not completed its work and that its direction has strayed significantly from that of my proposal and of the bipartisan Administration-Senate agreement announced in March of this year. In short, I fear that the slow progress and apparent course of the conference committee may jeopardize enactment of this critically important legislation.

It is particularly important that any bill presented to me for signature abide by certain principles:

o It must not contain extraneous and costly provisions that are unrelated to clean air and set highly adverse precedents for other environmental legislation;

o It must achieve, at a minimum, the environmental benefits I have set forth in my bill, and it must do so in an efficient manner, that is, for the lowest possible cost to American jobs, consumers, and businesses; and

o It must be capable of being administered in a straightforward and sensible manner, one that minimizes the kind of time-consuming litigation that could prevent the law from being implemented on schedule.

There are several pending features of both bills which are not in accord with these principles. The conference committee must act quickly to produce a bill that is environmentally strong and economically sound. All Americans deserve clean air, but they also deserve the good jobs and rising living standards that only a competitive economy can provide. Unless the committee produces such a bill, Congress will not have time to make any necessary adjustments, and the substantial progress made in the past 21 months will be undone.

-2-

To help avoid that outcome, I am enclosing an outline of a comprehensive proposal to the conference committee to help break the logjam that has once again appeared. This comprehensive proposal will achieve the same environmental benefits as either the House or Senate bills -- and in fact it draws on the best features of each proposal. By employing the most cost-effective approaches contained in each, and avoiding those provisions which add gratuitous burdens, this compromise will achieve those benefits at a cost to America's economy of several billion dollars per year less than either bill.

It has been 13 years since the Clean Air Act was reauthorized. By developing a comprehensive proposal and reaching an historic agreement with you and your colleagues, I have worked actively to break the legislative stalemate which has precluded earlier action on clean air. I offer the enclosed comprehensive proposal to help finish the job before time runs out in the current session of Congress.

It would be a terrible shame, and a disservice to the American people, if the prospects for cleaner air were to scuttled because of a continuing impasse in the conference, because of the addition by the conference of restrictive and inefficient provisions that saddle the American people with additional costs but yield no additional environmental benefits.

Sincerely,

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The Honorable Max Baucus
United States Senate
Washington, D.C. 20510

COMPREHENSIVE PROPOSAL

September 26, 1990

ACID RAIN

- o Senate acid rain provisions.
- o Modify House and Senate provisions on WEPCO (and related modification provisions in other titles) to parallel Administration proposal

The Senate acid rain provisions will provide utilities and independent power producers with greater certainty, and can be administered in a clear and efficient manner. The Senate acid rain provisions do not include extraneous provisions, such as the restrictions on clean coal technology funding found in the House bill. The Administration proposed solution to WEPCO addresses the serious uncertainties created by the WEPCO decision in a balanced manner that protects the operation of the allowance trading program.

AIR TOXICS

- o House provisions on MACT, residual risk, and utility emissions.
- o Senate provisions on the NAS study, voluntary risk reduction, and NRC regulation.

The House provisions requiring the maximum achievable control technology and the House provisions on residual risk, when coupled with the Senate voluntary risk reduction requirements, will provide for a 75 to 90 percent reduction in air toxics exposure in a cost-effective manner. The Senate National Academy of Sciences study and the House provision on toxic emissions from utility plants will allow for scientifically sound regulatory decisions that are based on the public health risks posed by those emissions.

NONATTAINMENT

- o Senate Title I provisions

The Senate provisions on stationary source controls would not saddle smaller businesses with excessive controls and would provide emissions reductions in a cost-effective and administratively superior way. The Senate Title I does not include extraneous and potentially costly provisions, such as the Wise provision on labor protection or the House visibility provision.

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-2-

MOBILE SOURCES

- o House Tier I and Tier II tailpipe standards
- o Senate approach to mobile source toxics

The House provisions for Tier I and Tier II standards for tailpipe emissions, modified by substituting the Senate study on mobile source toxics, ensure progress in reducing tailpipe emissions in a rational way that reflects cost, need, and feasibility of controls.

FUELS

- o Modified Senate reformulated gasoline program to include: (1) a 15% reduction in VOC and toxic emissions (as defined in the Senate bill); (2) a minimum 2% oxygenate requirement; and (3) a general equivalency program starting in 1993, with full phase-in by 1995.
- o Modified House oxygenated fuels program in all 44 CO nonattainment areas with a 2.7% oxygenate requirement; and new provisions to permit opt-out or opt-down from the 2.7% requirement based on modeling attainment demonstrations.
- o Senate nine city alternative fuels program with a composite standard of .75 gpm in 1995 and .66 gpm in 2000. States would have the flexibility to opt-in to the nine city program or opt-up to the California program.

This combination of Senate and House provisions builds upon the Administration's clean fuels program by achieving environmental benefits in a cost effective way. It will allow for the phase-in of the most promising low-emitting fuels in a way that avoids market dislocations and supply problems.

PERMITS AND ENFORCEMENT

- o The permit program as recently agreed to by the Conferees, striking the permit requirements in all other titles.

Photo Copy Preservation

-3-

- o Maintain core of Senate enforcement provisions with House citizen suit provisions and safe harbor for firms who initially discover potential violations while conducting internal audits.

The permit provisions found in the air toxics, nonattainment, and acid rain titles of the Senate bill are unnecessary and potentially conflicting.

CFCs

- o The CFC provisions as agreed to by the Conferees.

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ACID RAIN RATE IMPACTS

Current Expenditures ^{for} ~~as~~ Electric Power... \$160 billion

Impacts on Acid Rain Control

Option A

^{Electricity}

Sales in top 18 States (States of
top 107 plants)..... \$76.5 billion ✓
(^{full interstate trading})

Cost of Control Program:

First phase \$700 million
Percent increase -- First phase.. 0.9 percent

Sales in 31 States \$108 billion

Costs of Program:

Second phase..... \$3.8 billion
Percent increase -- Second phase. 3.5 percent

Option B

Sales of utilities which own 20
largest plants.....
(^{intra-utility trading})

\$16. billion

Cost of Control Program:

First phase..... +\$800 million to
\$1.3 billion
Percent increase -- First phase.. 5% to 8%

Sales in 31 States..... \$108 million

Costs of Program:

Second phase..... \$3.8 billion
Percent increase..... 3.5 percent

39971



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

MARIO M. CUOMO
GOVERNOR

May 24, 1989

Dear Mr. President:

In response to your request to the Executive Committee of the National Governors' Association, I am writing to express the State of New York's concerns about the air quality non-attainment amendments to the Clean Air Act now being formulated in your Administration. I appreciate your interest in soliciting the Governors' views on this vital matter, and hope these observations are useful to you.

Our message is simple but urgent: the Federal government must assume responsibility to put further controls on those sources of air pollution that can only be reached effectively from the national level. One critical source is motor vehicles, which are best controlled by uniform Federal standards. Another is interstate air pollution, in which pollution generated in one state substantially contributes to the violation of air quality standards in another.

Stronger motor vehicle emission standards are entirely feasible. Automakers privately admit that they can meet California's planned standards for 1993, which should be adopted nationwide. Reputable estimates place the cost of those additional controls at about \$100 per car. Those tighter emission controls also are absolutely necessary: more than half the emissions causing ozone pollution comes from motor vehicles. Thus, the argument of opponents of further controls that it is technologically and economically infeasible to remove more pollutants from automobile emissions is inaccurate.

Indeed, statements that auto manufacturers now remove up to 96 percent of pollutants are also inaccurate. That is essentially true only for new, perfectly-tuned prototype cars, which are tested under traffic-free conditions, in perfect weather, using ideal fuels that are rarely available commercially. This driving utopia bears no relation to the conditions faced by

America's motorists, whose autos emit more pollution than the prototypes, and whose vans and light trucks are now required to meet even weaker standards than passenger cars. To bring the real-world performance of our vehicles' emission controls much closer to their laboratory performance, new Federal requirements for fuels, certification conditions, inspection and maintenance, on-board diagnostics and emission system warranties and recall are necessary.

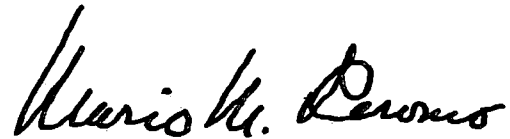
Interstate pollution is the other source for which effective new Federal controls are needed. Last summer, air quality standards were violated on the peak of Whiteface Mountain in New York's Adirondacks and in Acadia National Park, Maine -- both in the middle of the night, when ozone cannot form. Clearly, those violations were caused entirely by the long distance transport of pollution. Transport, both from cities and from some other areas that are themselves fairly clean, also bears much of the responsibility for air pollution in California, the Northeast and the upper Midwest. Dozens of cities will never be able to meet EPA's air standards unless all areas identified as long-distance contributors to pollution adopt measures (often quite modest ones) to reduce their contributions.

In recent years, New York State and its major cities have embarked on a sustained, dedicated initiative to improve our air quality and carry our fair share of the clear air effort. Our actions have included thorough inspection and maintenance requirements for motor vehicles, strict controls on air emissions from service station pumps and other sources as small as dry cleaners, auto body shops and offset printers, lower volatility requirements for gasoline (adopted along with New Jersey and the New England states) -- one of America's toughest air toxics programs -- and the Nation's first acid rain control program. These initiatives have been costly but we deem them necessary to safeguard public health and the environment.

Notwithstanding our diligent efforts in New York, and our willingness to adopt other, more costly measures if necessary, we cannot meet Federal air quality standards through our own actions alone. After years of improvement, we are threatened with a future of poorer air quality unless the Federal government takes on its proper responsibilities.

Your EPA Administrator William K. Reilly has said "pollution prevention is the best policy." If Americans today and in future generations are to gain their birthright of clean air, the issues of smog, acid rain and air toxics would be admirable places to apply that policy. The National Governors' Association firmly endorses the measures I have identified, which are so important to us in New York. I hope your Administration's legislation will be able to do so as well.

Respectfully,

A handwritten signature in dark ink, reading "Mario M. Cuomo". The signature is written in a cursive, flowing style with a large initial 'M'.

The President
The White House

MEMORANDUM

June 1, 1989

TO: Governor Sununu

FROM: Ned Helme

RE: Arguments Against EPA's 20 Power Plant Acid Rain Option

I understand that the option paper presented to the President includes EPA's proposal to target the 20 dirtiest plants for phase 1 emission reductions as a way to mitigate potential impacts of fuel-switching on the high sulfur coal industry. It also provides incentives to install scrubbers at these plants by giving them double credit for incremental reductions achieved by technology. As you know, we fear that if the Administration targets 20 plants for clean-up in the first phase of the acid rain bill, Congress will simply mandate scrubbers at these plants and provide a subsidy (i.e. national electric tax) to finance them. Whatever the Administration does to appease the high sulfur coal industry is likely to become the floor for the Congressional debate.

What is curious about the EPA proposal is that it comes at a time when EPA's own projections show a significant increase in high sulfur coal production between now and 2010, absent acid rain legislation. This projected increase in most scenarios exceeds the losses in production projected to occur in 2005 and 2010 as a result of a flexible acid rain law. In effect, the EPA plan could be preserving projected growth in high sulfur coal production, rather than preventing production losses below current levels.

Here are the facts:

- o High sulfur coal production is expected to increase significantly between now and 2010 if no acid rain legislation is enacted, according to EPA's 1989 Base Case Forecasts released last week:

	High Sulfur Coal Production (millions tons)				
	1985	2000	2005	2010	1985-2010 Growth
Low Emissions Case	295	331	363	408	+113 (+38%)
High Emissions Case	295	346	420	595	+300 (+102%)
Effect of Maximum Acid Rain Fuel-Switch					-100
Net Production with Flexible Acid Rain Law					+13 to +200

- o Growth in high sulfur coal production between 1985 and 2010 is more than enough to offset any losses in production which could result from acid rain legislation. EPA/ICF analyses suggest that the maximum amount of fuel-switching which will occur between high and low sulfur coal under flexible acid rain bills is about 100 million tons. High sulfur coal production is projected to grow by more than that in the low emissions base case, and up to three times that much in the high emissions base case, absent acid rain legislation.

- o High sulfur coal production could temporarily fall below today's levels in the early part of the next century under flexible acid rain legislation, but growth in demand for high sulfur coal is expected to offset any such losses within just a few years.
- o Eastern low sulfur coal production is projected to be flat in the low emissions case and to rise only slightly in the high emissions case. Heavy targeting of scrubbers could result in an actual decline in eastern low sulfur coal mining jobs below today's levels. What's more, in West Virginia at least, the economy of low sulfur coal producing counties is much more dependent on coal mining than the economy of high sulfur coal producing counties. Coal mining accounted for about 27% of the total "payroll" in 1984 in the three West Virginia counties which employ the most high sulfur coal miners, according to statistics compiled by the Census Bureau. In contrast, in the three West Virginia counties which are the major low sulfur steam coal producers, coal mining accounted for about 65% of the total county "payroll".

Conclusion

Given EPA's own projections of future growth in high sulfur coal production, it is hard to justify targeting 20 plants and including incentives to encourage the use of scrubbers in phase 1. The first phase should instead be based on achieving the desired sulfur dioxide emission reduction from 9-10 selected utility systems through a cap on each utility's total sulfur dioxide emissions from existing non-NSPS plants or through DOE's "107 plants at 2.5 lbs." option.

P.S. GUS MARTIN + PERPICH ARE TRYING TO REACH
THE PRESIDENT THIS MORNING ON THIS ISSUE.
WE WOULD BE INTERESTED IN SETTING UP
SOME KIND OF JOINT PRESS CONFERENCE FOR
WED + THURS. TO SUPPORT THE ACID RAIN
BILL IF WE CAN CLEAN UP THIS "20 PLANTS"
PROBLEM GIVE ME A CALL IF YOU THINK THIS

PROBLEM, GIVE ME A CALL IF ...

WOULD BE HELPFUL OR IF YOU HAVE QUESTIONS,

624-5475

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02a. Memo	From Fred McClure to John Sununu Re: Meeting w/Representatives John Dingell and Norm Lent (2 pp.)	6/27/89	P5	

Collection:

Record Group: Bush Presidential Records
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Series: Sununu, John, Files
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 (Document Follows)
 By JP (NLGB) on 5/12/05

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THE WHITE HOUSE
WASHINGTON

June 27, 1989

20 TH.
MESSAGE
BOTH HOUSE / SENATE
+

MEMORANDUM FOR JOHN H. SUNUNU

FROM:

FRED McCLURE *fm*

SUBJECT:

Meeting with Representatives John Dingell and Norm
Lent; June 27, 1989 — 3:00 p.m.

In preparation for the meeting this afternoon with Representatives John Dingell and Norm Lent, several issues should be addressed. The major issue is:

- o What we can do to help them in the Subcommittee and Committee process?

- o Strategy

The House has already held hearings on reauthorization of the Clean Air Act (Rep. Waxman's Health Subcommittee) and the scheduling of mark up needs to be discussed with Dingell and Lent.

The Senate, according to Senator Baucus, will begin hearings in July. He plans to introduce acid rain legislation and intends to hold hearings on the entire package. He plans to hold mark up in September and report a bill for the Senate's consideration.

- o Sponsors of Legislation

We will begin "marketing" the fact sheet for Member consideration, however, the views of Dingell and Lent will be helpful. In my view, many of the members will want to hold off making a commitment until after they see the legislative language. We will try to discourage this by indicating that drafting will meticulously follow the fact sheet.

Perhaps the strongest House sponsors would be a Gephardt, Michel, Dingell, Lent package. This would send a strong signal to those who would seek to tear the President's package apart. All but Gephardt have indicated an interest in introducing our bill. Perhaps Dingell could approach Gephardt in this regard.

If a leadership package is not possible, perhaps a Dingell/Lent bill with as many Energy and Commerce members as possible -- from both sides.

o **Timing of Transmittal**

We should make a big deal out of transmitting the legislation to the Hill. Since the President will be out of the country until July 18, transmitting the bill later in that week would be beneficial. We have consulted with the Senate and holding off until then will not create a problem. Last night I spoke with Rep. Madigan, who also serves on the Committee, and he indicated that he did not think it would be a problem for a delay in the House. He did, however, suggest that we check with Dingell and Lent. Such a delay would also give us more time to tie down sponsors. The attractiveness of a high profile Presidential transmittal might be of use in picking up sponsors before introduction.

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02b. Agenda	Agenda for Meeting w/the Honorable John Sununu (1 pp.)	n.d.	P5	

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AGENDA FOR MEETING WITH THE HONORABLE JOHN SUNUNU

Objective: Coordinate with White House to assure that some version of the Administration Clean Air bill is the bill considered by the Congress.

Overall Strategy

Different Coalitions Supporting Ozone, Acid Rain, and Air Toxics

Floor Dynamics - Holding the President's package together on the Floor

Timing of the Release of the President's Bill

Pre-publicity, including comments at Economics Summit

Date of Release - July 18 or 19

White House meeting with Members, Press Conference on date of release

Send Presidential Message to Congress.

Cosponsorship

Loley Michael Mitchell
Urge President to make effort to line up sponsors in advance, then announce chief cosponsors from principal Committees prior to release of the bill. Urge other Members to cosponsor also.

Dingell/Lent on House side

Burdick/Chafee on Senate side

House Members Needing High-level Contact

Energy and Commerce Committee Members

Group of Nine *moderate D's Bunker*

Key Republicans and Democrats off the Committee

Concerns Re Bill

Jurisdiction - Avoid jurisdiction of other Committees

Length of Bill

WAYS & MEANS
TAX IN SEP.
TITLE

NOT TOO LONG

IF MUST THEN SEP. TITLE

AVOID POSSIBLE WORKS
SANCTIONS
H2O
HIGHWAYS
P. W. No Ford

Call Bill re EPA bill - Don't try to add litigation redemptive actions

Our Changing Planet:

A U. S. Strategy for Global Change Research



A Report by the Committee on Earth Sciences

To Accompany the
U. S. President's Fiscal Year 1990 Budget



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 19, 1989

MEMORANDUM FOR: JOHN H. SUNUNU
CHIEF OF STAFF TO THE PRESIDENT

FROM: ROBERT E. GRADY *RB*
ASSOCIATE DIRECTOR FOR
NATURAL RESOURCES, ENERGY AND SCIENCE

SUBJECT: Additional Clean Air Act Issues

I. Major Issues for Further Discussion

As we continue to develop the legislation implementing the President's Clean Air Act decisions, we have identified two additional issues needing resolution beyond those sent to you on last Friday. We have agreed with EPA on seven other issues which I am summarizing for your information in case you have any concerns.

A) EPA Enforcement Pending State Plan Revision

Under the current Clean Air Act, States develop implementation plans (SIPs) which are subject to EPA approval. Whenever a State submits a SIP revision, the statute requires EPA to approve or disapprove the revision in four months, although EPA rarely acts that quickly.

The issue concerns whether EPA can take an enforcement action against a source complying with the revised SIP if EPA has failed to act on the revisions within the statutory timeframe. EPA took such actions in the past until the Fifth Circuit Court of Appeals ruled it was illegal. EPA did not appeal the case to the Supreme Court but is proposing to fix the statute in two ways: 1) lengthen the unrealistically short period EPA has to review the SIP from 4 to 12 months, and 2) overturn the court ruling against EPA to allow them to take enforcement action even if EPA has missed the new deadline for approving or disapproving the SIP.

OMB agrees with the need to extend the deadline for SIP reviews, but does not believe that the court case should be overturned. While EPA may not act on all SIP revisions within 12 months, one year is certainly sufficient time to act on the important ones. It is unfair for EPA to penalize

a source for EPA's failure to act in a reasonable time period, particularly when the State Governor has approved the SIP revision. In effect, the EPA is presuming that the State's request is not justified until it approves the changes. If anything, we might argue that a SIP revision should be automatically approved if EPA does not act within 12 months.

EPA argues that the court case should be overturned because EPA can't always act on revisions in 12 months. Without the authority to take action, significant pollution may occur from sources whose revised (i.e. relaxed) emissions standard was not adequately reviewed by the State. Further, these two changes to the law are included in the moderate Group of Nine bill and the Reagan Administration said it supported the changes in response to a congressional inquiry last year.

B) Maximum Available Control Technology (MACT)

There is a disagreement over the definition of MACT in the air toxics section. We have come to agreement that MACT for existing sources would be defined as the "average of the best technologies" in common practice. The disagreement concerns the definition of MACT for new sources. OMB believes that MACT should have the same definition for new sources (i.e., "average of the best") because that is the standard used for new source performance standards in other statutes, and because EPA never raised the notion that new sources should meet something more stringent when the issue was debated. EPA believes that MACT for new sources should be the lowest achievable emission rate (a term of art known as "LAER") being achieved by anyone. It is unclear to OMB how costs could be considered under EPA's scenario, but clearly costs would be higher than previously estimated and if too stringent, this requirement will discourage plant modernization and the building of new sources.

II. Issues on Which Staff Has Reached Consensus

A) Definition of Unreasonable Risk

EPA wanted to leave the term "unreasonable risk", which governs the need for additional air toxic controls after MACT ("Phase II"), undefined in the statute. EPA's view was that defining the term would unnecessarily raise a red flag with the environmentalists. Others including OMB and CEA believe the term should be defined to ensure that costs and technical feasibility can be taken into account. The Fact Sheet explaining the President's decision clearly references unreasonable risk and the inclusion of costs as part of that concept, and did not provoke an adverse reaction. Defining the term in the statute should not provoke any additional political fallout. We finally agreed to define the term using the language in the Fact Sheet.

B) Prohibition of Emissions if Achievable

EPA's draft language on air toxics allows EPA to prohibit emissions, if technology achieving zero emissions can be demonstrated (e.g., closed loop system). OMB was concerned that this was tantamount to a technology requirement instead of a technology-based performance standard. We have now agreed, however, that it may be possible to achieve zero emissions through more than one method and that EPA's language is acceptable.

C) Urban Bus Clean Fuels Program

EPA wants to phase in a requirement beginning in 1991 so that, by 1994, all new urban buses would operate on clean fuels. While this was not a part of the option selected by the President, current EPA regulations include emissions limits for 1991 and later years that would be very difficult to meet except by using clean fuels. EPA would alter the current rule in the statute to make it consistent with the phase-in schedule, to avoid the lengthy rulemaking process.

D) Requirement for Specific Clean Fuels

Although the working group discussions assumed neutrality in the choice among different clean fuels in specific urban areas, the draft bill would give the EPA authority to specify a particular fuel for a particular area. This would be done in consultation with auto manufacturers, refiners, and States and is designed to better ensure the availability of clean fuels.

E) Clean Fuels for Major Transportation Corridors

Besides requiring that clean fuels be made available in the most serious nonattainment areas, EPA also wants the authority to require availability in "major transportation corridors" outside the nonattainment area. This authority would be used only if EPA determines that the automakers are prepared to make dedicated vehicles (i.e., using only clean fuels) on a broad basis. The availability of clean fuels in these transportation corridors would be needed if dedicated vehicles are to be widely accepted.

F) Neat Fuels Program Opt-out

In order for a city to opt-out of the neat fuels program, a state would have to demonstrate greater or equal benefits from an alternative control measure. EPA's draft would require this demonstration of equal benefits not only for VOC reductions but separately for air toxics reductions as well. While this interpretation is consistent with the Fact Sheet explaining the President's decisions, you should be aware that the requirement for equal air toxic benefits will make it very difficult for any city to obtain an opt-out.

THE WHITE HOUSE
WASHINGTON

May 22, 1990

MEMORANDUM FOR GOVERNOR SUNUNU
ADMINISTRATOR REILLY

FROM: Roger B. Porter, Assistant to the President *RBP*
for Domestic and Economic Policy

Robert E. Grady, Associate Director,
Natural Resources, Energy & Science *RG*
Office of Management and Budget

RE: CLEAN AIR ACT LETTER

Attached for your review and signature is the letter to the House leadership concerning H.R. 3030, the pending Clean Air Act Amendments of 1990, and the related attachments.

The letter has been reviewed by the White House Office of Policy Development, the White House Counsel's Office, the Office of Management and Budget, the Council of Economic Advisors, the Environmental Protection Agency, and the Departments of Energy, Justice, and Commerce.

THE WHITE HOUSE

WASHINGTON

May 22, 1990

The Honorable Thomas S. Foley
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

As the full House prepares to consider H.R. 3030, the clean air bill which has been reported by the Committee on Energy and Commerce, we would like to offer the Administration's views on both the bill as reported by the Committee and several likely amendments.

The Administration's goal is to secure passage of clean air legislation which obtains the urgently needed environmental benefits called for in the President's original bill in the most efficient and cost-effective manner possible. We are pleased that the bill incorporates many of the features which were included in the President's proposal for the purpose of achieving this goal.

We are particularly pleased that the bill contains the following central features:

- o An acid rain control program, built on the principles which the President put forward, which will achieve a *permanent* reduction in sulfur dioxide emissions of 10 million tons below 1980 levels by the year 2000; which will allow utilities the freedom to choose how to achieve the required reductions; and which incorporates the concept of emissions trading in order to reduce the impact on the nation's electric ratepayers;
- o A program to reduce air toxics emissions by 75 to 90 percent in the first phase by adopting a technology standard, Maximum Available Control Technology (MACT), similar to that proposed by the President; and
- o Provisions designed to bring the overwhelming majority of America's cities into attainment with standards for ozone, carbon monoxide, and particulate matter within 10 years; and provisions

suggested by the President to ensure steady progress toward attainment by requiring annual percentage reductions in ozone-forming emissions.

We do, however, have several concerns with the Committee bill and with several amendments that may be offered on the House floor.

On January 19th, the President sent a letter to the leadership of the Senate outlining five minimum tests of balance and reasonableness that must be met in any Clean Air legislation which he would sign. Specifically, the President believes that:

- o The environmental protections in the Administration's bill must be maintained and preserved over time;
- o The bill should not impose aggregate costs on the economy which exceed those embodied in the Administration's bill by more than 10 percent;
- o Controls in the bill should achieve reductions in the most cost effective way;
- o The system of acid rain emissions trading must be preserved and allowed to work; and
- o The legislation must not include a national electricity tax to pay for controls.

The estimated cost of the Committee bill is already at or slightly above the cost threshold outlined in the President's letter. Certain amendments could, if adopted, cause the bill to violate this and several other of the President's tests. These amendments are discussed below. Several additional concerns that the Administration has with the Committee bill as reported are discussed in the attachment.

Terminated Worker Assistance:

Representative Wise is planning to offer an amendment which is similar to the Byrd Amendment that was defeated in the Senate, and which the Administration opposes for similar reasons. The amendment would provide additional unemployment insurance benefits to workers who are deemed to have lost their jobs as a result of implementation of the Act.

This amendment would create a potentially open-ended liability for the Federal government because it contains no

effective means of distinguishing whether workers lose their jobs because of the Clean Air Act or because of other factors. Employment in the coal industry, for example, has declined by over 100,000 in the last ten years for reasons totally unrelated to clean air.

As worded, it is not clear that the "cap" on Federal outlays would be enforceable or effective. This amendment sets an undesirable precedent that would have massive budget implications if similarly applied to workers affected by job shifts as a result of any other environmental initiatives or, for that matter, other Federal actions. It would open a multi-billion dollar deficit-increasing door that may never be closed. Unless the various adverse characteristics of the amendment are addressed, the President's senior advisers would recommend that the bill be vetoed.

Permitting and Enforcement:

The Administration believes that the permitting and enforcement provisions in the final bill must be both effective and efficient. Provisions that are unduly cumbersome, that allow counterproductive and inappropriate citizen lawsuits, or that impose unnecessary regulatory burdens on the economy will only result in frustrating the goal of a workable permitting and enforcement system.

We are especially concerned about provisions which would:

- o Expand judicial micromanagement far beyond that authorized in current law;
- o Inappropriately expand the power of the courts to collect fines and distribute them;
- o Fail to make a distinction between modifying and codifying permits;
- o Fail to provide the flexibility needed for industrial innovation.

Alternative Fuels and Vehicle Production Requirements:

Representative Waxman is planning an amendment with automobile production mandate requirements which go far beyond those proposed in either the Administration's original bill or the Senate-Administration compromise. The amendment effectively dictates certain types of fuels and violates the "fuel neutrality" principle on which both the Administration and Senate-passed bills were based.

The Administration has consistently favored any combination of vehicles and fuels which achieves needed environmental benefits, with an option provided to the states to increase the contribution of alternative fuels toward cleaner air if this is needed to come into attainment.

Unilateral CFC Production Restrictions:

Representative Bates is planning an amendment which contains phaseout and other requirements for chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), halons, and methyl chloroform that go far beyond what is likely to be agreed to under the Montreal Protocol negotiations. This amendment may not be technically feasible, and in any event ties the hands of U.S. negotiators who are now seeking multilateral agreement on a worldwide phaseout of CFCs.

A unilateral phaseout will have little environmental effect, and if pursued on the schedule required in the amendment, could actually *impede* the development of safe substitutes. The Administration believes that any unilateral provisions adopted in the bill should not supersede or undo the terms of the ongoing Montreal Protocol negotiations if a successful outcome is achieved.

Other Amendments:

The Administration is aware that Committee amendments are likely to be offered on the floor concerning accidental releases of air toxics, "visibility" provisions in the acid rain title, and requirements for reformulated gasoline and oxygenated fuels. While the Committee compromises on these subjects represent substantial improvements over the original versions of the amendments, the Administration remains concerned that their adoption would result in few additional environmental benefits while causing the aggregate cost of the bill to exceed the levels which the Administration would support. The Administration will therefore be working in conference to modify these provisions.

Conclusion:

The Administration, the House, and the Senate have all devoted a remarkable amount of time to consideration of clean air legislation during the current Congress. We believe that the outlines of a consensus bill that affords significantly increased environmental protection in a cost-effective manner are clear.

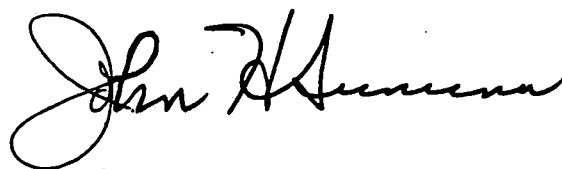
We now have an opportunity to break a decade-long logjam on clean air. The Administration believes that the House should seize this unique opportunity, and avoid the adoption

of any unnecessarily costly amendments which provide little incremental environmental benefit.

We urge Members of the House to support a bill which meets the President's five tests of balance and reasonableness so that clean air legislation can be signed at the earliest opportunity this year.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. Sununu". The signature is fluid and cursive, with a large initial "J" and "H".

John H. Sununu
Chief of Staff

William K. Reilly
Administrator
Environmental Protection Agency

THE WHITE HOUSE

WASHINGTON

May 22, 1990

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Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

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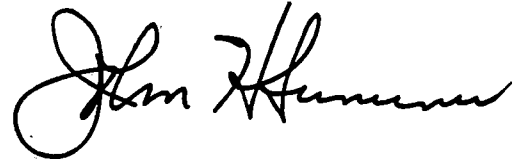
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William K. Reilly
Administrator
Environmental Protection Agency

John H. Sununu
Chief of Staff

ATTACHMENT

KEY ADMINISTRATION CONCERNS WITH COMMITTEE BILL AS REPORTED

FIP's: The House has deleted language that relieved EPA of its current obligations to complete federal implementation plans (FIP's). If current FIP obligations are not relieved, EPA must impose across-the board, draconian measures devastating the country's largest industrial area. In light of the new regime for state plan submissions, it makes no sense for EPA to impose FIPs before the states have had a chance to meet their new obligations. For these reasons, the Administration strongly objects to the Committee's approach.

In addition to current FIP obligations, the House Committee bill requires EPA to promulgate comprehensive FIPs in the future, regardless of how unworkable such federal measures would be or how impracticable it would be for EPA to implement the FIP. This requirement ignores the dismal history of the current attainment-FIP requirement, including the public uproar and virtual collapse of Title I of the Act that resulted from previous FIPs. It would be counterproductive to signal in this new law that states can avoid their new obligations by simply delaying and waiting for EPA to impose the necessary controls. As in the past, attainment FIPs would be an excuse for state inaction and an albatross around EPA's neck. It would be more responsible for the law to recognize the limitations EPA faces in this area and either allow partial FIPs on a discretionary basis or, as in the Senate bill, mandate only partial FIPs that would assure progress toward attainment.

Controls on Small Businesses in Non-Attainment Areas: The Committee bill extends controls on small businesses much further than under current law. By altering the definition of a "major source" from the current 100 tons per year of VOC emissions to 50, 25, and even 10 tons per year in many cities, the bill will extend controls to thousands of small businesses, greatly expanding both technology and paperwork requirements on small businesses and further restricting economic growth.

Offsets and Netting: The Committee bill requires any plant wishing to expand in most of America's largest cities to offset new VOC emissions by more than 1 to 1. The higher offset ratios will restrict economic growth in these cities more than either the Senate or Administration proposals. Since progress toward attainment is guaranteed by the annual percent reduction requirements already in the bill, these restrictions reduce flexibility and drive up the cost of the bill needlessly.

Permitting Veto: H.R. 3030 no longer includes authority for EPA to veto state permits, which was in the Administration's proposal to enhance the EPA's ability to enforce the Clean Air Act. Without this authority, violations of the Clean Air Act will occur more often and for up to a year before concluding the time-consuming revocation proceeding. Additionally, H. R. 3030 does not include the numerous enhancements made to the operating permits program through recent Administration changes. The key Committee omission is the so-called "codifying/modifying" permits scheme, which greatly simplifies the permits title, while maintaining necessary federal oversight.

Enforcement: H.R. 3030 should include provisions that were in the Administration's bill authorizing EPA to stop the operation of new sources which are violating new source review requirements. Additionally, H.R. 3030 should provide a process for challenging administrative compliance orders under Sections 113(a), 167, and 303 of the Act. The appropriate balance between swift enforcement and opportunities to challenge these orders is to provide administrative hearings, with such decisions appealable to federal district court for review on the administrative record.

Clean Coal Technologies: By restricting the use of Federal Clean Coal Technology (CCT) Demonstration funds to companies which own Phase I plants, the full benefits of the CCT program will not be realized. It is short-sighted and detrimental to the national interest to prevent projects which could provide long-term economic and environmental benefits from competing for these funds simply because they are not owned by one of 62 companies affected by Phase I, and located in one of the 21 states.

Acid Rain Implementation: The committee amendments of Title V confuse the trading system and will drive the industry toward more conservative and costlier responses. Because of the numerous reserves, special allowance allocations, alternative allocation elections, and ratchet provisions, no company can be sure of its emission reduction obligations until all other companies have selected their control actions and EPA has recalculated and reallocated allowances. Under such uncertainty, companies are more likely to overcontrol and/or hoard allowances, and less likely to use innovative pollution reduction technologies. Litigation with its attendant uncertainty is likely to be greater, and the economic benefits of the market-based approach are likely to be lost.

Progress Waiver: There are no provisions to allow waivers from the 3% requirement after the first 6 years for high cost controls or where lesser reductions are needed to attain. By adopting relevant provisions from the Administration bill that allow less than 3% after the first 6 years on the basis of feasibility (including costs) or attainment, more fair and

realistic expectations will be placed on local agencies. For example, this provision could result in controls in many areas equivalent to those required in Los Angeles, despite the dramatic differences between the nonattainment problems in Los Angeles and those experienced elsewhere.

Mobile Source Toxics: The Administration opposes the requirement that EPA regulate emissions of formaldehyde and benzene, regardless of the results of a mobile source study on regulating mobile source toxic air emissions. The original Administration proposal required EPA to conduct such a study, but enabled the Administrator to determine whether regulations were appropriate. That discretion should be restored.

NOx Requirements: The Committee bill encourages EPA to promulgate regulations to control NOx from power plants which go far beyond the cost-effectiveness of low NOx burners by requiring a 2.5 million ton reduction. The additional cost of such measures would be far out of proportion to the additional benefits which they would provide.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Letter	From Ambassador D.H. Burney to John Sununu Re: Clean Air Legislation (2 pp.)	5/19/89	(b)(1)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Clean Air (1 of 3) (1990) [1]

Document Declassified
(Document Follows)
 By SP (NLGB) on 8/14/98

Date Closed:	12/7/2004	OA/ID Number:	29147-004
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:	98-0004-F/1	MR Case #:	
AR Disposition:	Released in Full	MR Disposition:	
AR Disposition Date:	8/14/1998	MR Disposition Date:	

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 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Canadian Embassy



Ambassade du Canada

501 Pennsylvania Ave. N.W.
Washington, D.C. 20001

May 19, 1989

Mr. John H. Sununu
Chief of Staff to the President
Office of the Chief of Staff
Room 1/WW, The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. Sununu,

As the Administration is finalizing its draft clean air legislation, I would like to review with you Canada's views on the acid rain problem which remains the most important outstanding issue in our bilateral relationship.

We have put in place a program to reduce eastern Canadian sulphur dioxide emissions by 50% (i.e. to 2.3 million tonnes) by 1994 from the 1980 allowable level. Our program is working. Sulphur dioxide emissions have already been reduced by almost 40%. Flows of sulphur dioxide from Canada to the U.S.A. are down by one-third. There is no doubt that Canada will reach its objective on or before our 1994 deadline.

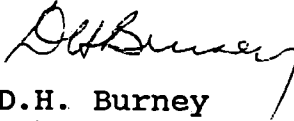
However, Canadian efforts alone cannot be sufficient to protect our environment, as at least 50% of the acid rain falling in eastern Canada originates in the U.S.A.. To reduce acidic deposition to an acceptable level, we calculate that, in addition to reduced emissions in Canada, the annual transborder flow of sulphur dioxide from the U.S.A. must be reduced to two million metric tonnes. (It appears that total U.S. emissions would need to be reduced by 10 million tons to achieve the necessary reduction in transborder flows, assuming at least three-quarters of the total reductions come from sources within 300 miles of the international border east of Manitoba. Our calculations show that this region accounts for almost 90% of the transborder flows.) If these scientifically derived targets are not met the result will be continued damage to the Canadian environment.

In his two meetings this year with President Bush, Prime Minister Mulroney has stressed the importance of the U.S.A. instituting its own reduction program. He has also highlighted the benefits, bilaterally and internationally, that would flow from a timely Canada - U.S.A. acid rain accord.

It is in that spirit that I wish to reiterate that your reduction program should ensure that transborder flows be reduced to no more than 2 million tonnes, that the program be instituted on a schedule that approximates that of Canada's as closely as possible and that we move at an early date to conclude a bilateral accord.

I would be pleased to meet with you at your convenience to discuss further Canada's views on this issue.

Yours sincerely,


D.H. Burney
Ambassador



515 South Flower Street
Los Angeles, California 90071
Telephone 213 486 2533

L. M. Cook
Chairman and
Chief Executive Officer

38683

May 18, 1989

The Honorable John H. Sununu
Chief of Staff to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Governor *John* Sununu:

I believe it is important to bring to your attention the ramifications of the possible inclusion of federal fuel mandates in the Administration's Clean Air proposal. Federal mandates of alternatives to gasoline will not only have a revolutionary impact on the way motor fuel is manufactured and delivered in this country, but also will worsen our energy security and hinder efforts to improve our nation's competitiveness.

I am not opposed to alternative fuels nor is the petroleum industry. As you know, ARCO is participating in a methanol demonstration project in California. Based on our experience and available research, a convincing case has not yet been made that air quality benefits derived from these fuels clearly outweigh the costs that would be imposed on the petroleum and automotive industries and ultimately on the nation as a whole.

Federal mandates for alternative fuels raise a number of serious concerns:

- O They would deter the development of more competitive and efficient fuel/engine/catalyst systems by freezing technology.
- O They will undermine the long-established philosophy that states should have flexibility in meeting their particular needs.
- O For methanol,
 - the feedstock is likely to be natural gas from the Middle East with methanol production offshore. Aside from energy security concerns, jobs will be shipped abroad and the trade deficit will increase;
 - the existing fuel distribution infrastructure

would need total overhaul. Massive investments - billions of dollars - will be needed to expand port facilities, terminals, pipelines and marketing facilities.

- the air quality benefits are still speculative. More intensive research is needed to determine the actual air quality benefits to be realized from methanol.
- o Formaldehyde emissions will be much higher and cannot be reduced with current automotive emission control technology.
- o Formaldehyde emissions will likely make it more difficult to achieve desired ozone reductions.
- o Any benefits would have to be compared to increased health risks since methanol is more toxic than gasoline.

I believe these concerns, which are shared by other industry chief executives, need a clearer resolution before the nation is committed to such a costly and uncertain policy. Because of the importance of this issue and the depth of our concerns, we would welcome an opportunity to meet with you to discuss this matter.

Sincerely,



L. M. Cook

ROBERT FORNEY - AIR TOXICS - DU PONT

SUPPORT MODIF. OF THIS SECTION
DO NOT DISRUPT ECONOMY -

HEALTH BASED

TECHNOLOGY BASED → IN EFFECT
GET GREAT RED.

GIVE EPA... FLEX. TO EVALUATE
→ RISK BASED STD.

ADDISON - ACID RAIN - SOUTHERN CO.

EPA.
4/15 NOV
• 6 COULD VSB
COMB. CONVEN

NO_x E. RATE...
SO₂ ↑ NO GROWTH
TONNAGE CAPS.
12% IN LEM.
SMALLER..

LEAST COST METHOD
MAXIMUM FLEX -
POSSIB. FOR CCT.
LARGEST COAL BURN. ENTRY...
ADV. MODEL SCREENED W. → BY PRODUCT
5/90 -

SINCE 1973
↓ SO₂ BY 21%
↑ 80% COAL BURN...

2000 WOULD PRECLUDE CCT
OPPOSE 20 PLANTS - & LEAST COST.
19% IN ALA/GA.
NOX...

10 MILL SO₂ / 2000

DAVE RODRICK / NON-ATTAINMENT USX

\$IMPACT

NOW \$74 B. ON ENV COMPLIANCE

\$33 B ON AIR

MITIGATION $\rightarrow$ $\approx$ \$70 B. $\approx$ 2 1/2% OF GNP.

TOXIC A... MANDATED TECHNOLOGY -

90% $\rightarrow$ CLOSE DOWN COKE PLANTS

NEED TO CONTINUE TO IMPROVE TOXIC

CONSUMER PRODUCT IMPACTS(?)

CLEAN AIR...

PROGRESS... AIR GETTING BETTER.

NEW CAR $\sim$ 1/13 OF 1980...

INT'L CONVENT

RICHARD MORROW - NON-ATTAINMENT AMCO

AGAINST METHANOL MANDATE

UNCERTAINTIES...

SERIOUS E. CONCERNS

¢/MILE

LOCAL CHOICE
FOR OXYGEN
FUELS

SUBSIDIES...

FORMALDEHYDE EMISSIONS $\rightarrow$ OZONE

PROJECTIONS...

NOX $\uparrow$

LARGE SCALE DEMO.

ROGER SMITH - GM - NON-ATTAINMENT

"CONVERT YOUR CUMBER" "SAVES P.
TRADE IN

NO INCREASE IN US CAR LIFE REQ.

DON'T MICRO-MANAGE

TRADE OFFS...

CAWG Comments -- Nonattainment (stationary)

o The nonattainment issue will decide the future growth of US industry and large and small businesses. Cities other than Los Angeles meet health standards more than 99% of the time. Flexibility is paramount -- allow each area to tailor its program using cost-effective solutions based on adequate planning and sound source monitoring and modeling. Include offsets, netting and bubbling.

o The use of alternative fuels should not be mandated for any specific geographic area or for any class of vehicles including urban buses, government or private sector fleets.

o The need for regulation of consumer products must: a) be based on credible data, b) be sensitive to commercial impacts and consumers' reaction to loss of performance of products they use and enjoy, and c) balance costs with environmental gains, if any.

Nonattainment (mobile)

o Fleet turnover alone will result in dramatic reductions of emissions. Must target old cars with enhanced I & M.

o Tailpipe standards have reduced hydrocarbon and carbon monoxide by 96%, nitrogen oxides by 76%. Further tailpipe standards are unnecessary, unduly expensive and will contribute little to environment.

o Do not increase warranty to 10 years/100,000 miles.

Air Toxics

o Air toxics legislation affects everyone -- the wrong air toxics bill could dwarf the severe impacts of nonattainment and acid rain.

o Do not legislate risk factors, rely instead on scientific community working with EPA.

o We favor reasonable standards based on technology.

Acid Rain

o Since 1973, US has removed 8 million tons of SO₂ (29.4%); Cost: \$100 billion. US reduced SO₂ by 4 million tons during Reagan/Bush Administration while doubling coal use and established the Clean Coal Technology Program. 149 scrubbers installed.

o Time is the most crucial factor. Earliest date for 10 millionth ton, using clean coal, is 2005; even 2005 will force technology.

o Clean coal technologies are the answer to acid rain. Given time their efficiencies will fund not only SO₂, but CO₂ and NO_x reductions.

o Freedom of choice essential--maximum flexibility. Set tonnage goals to meet by 2005, don't list plants or mandate technologies.



National Federation of
Independent Business

A WALK DOWN MAINE STREETS

Daniel Dedrick's Kennebunk Restaurant with a charcoal grill faces the cost of installing an expensive containment unit to meet air toxics goals.

Martin Cain's Garage will face restrictions on use of degreasers, solvents, engine detergents, windshield wiper fluid, paints and lacquers, and approximately \$30,000-\$60,000 in control equipment.

Shield's Meat & Produce will face higher transportation costs, which means higher food costs. Common household products are no longer available or currently under development for drastic reformulations.

At DMR Yachts, Inc., Dwight Raymond will have a hard time keeping a shiny coating on Fidelity if she goes in for repairs because certain substances are restricted under one or more air laws. Repairs will also be more expensive because of \$100,000 plus in pollution control equipment must be installed. Boat engines must be changed or retrofitted when technology allows.

Up the road in Biddeford, Southern Maine Medical's use of diethylene oxide and other solvents, anesthetics, disinfectants, cause air pollution. New formulations are not yet available. Hospital generators not meeting new standards will be subject to retrofits or replacement.

Renaud LaRoche at White Star Laundry faces bans or severe restrictions of perchloroethylene and other solvents. Consumer cost of drycleaning expected to rise 75-150% because control equipment per facility is expected to cost \$75,000 plus.

Pest control operators and maintenance firms, like BNS Rug and Spongy Janitorial owned by Dan & Sue Donegar, also face restrictions on chemical formulations, the cost of which will rise as the compounds are reformulated.

-over-

Suite 700
600 Maryland Ave. S.W.
Washington, DC 20024
(202) 554-9000
FAX (202) 554-0496



The Guardian of
Small Business

SMALL BUSINESS CONCERNS:

The average owner has no knowledge and no staff expertise to deal with complicated subjects like producing volatile organic compounds, obtaining permits, and finding the most efficient type of pollution control equipment.

Much information needed for compliance is not available yet. A business may install expensive catalytic equipment -- costing possibly 10 or 15 times the profit margin -- only to find that it does not attain the capture efficiency available through thermo-incineration, and there is no minimum term of years the owner is guaranteed for use of the equipment under law.

The lack of substitutes or process alternatives already on the market will hamper business' efforts to operate. Optimists say that technology will keep up with business' need to meet state plan deadlines. Small businesses will pay top dollar for equipment not readily available.

The profit margin in a small business is much less than a Fortune 500 firm. Often a price increase of less than five dollars on an important product used regularly in the business could be devastating. Thus, if this key product is finally reformulated and the cost of R&D by the manufacturer is passed on to the small business customer, the product cost could still be prohibitive.

Purchasing permits could turn out to be prohibitively expensive for the established business owner. Even doing a pre-construction environmental audit could inhibit business start-ups when looking at several thousands of dollars in offsets, permits and engineering contracts.

Creation of a Small Business Technical Assistance Office for air, water and waste problems headed by an Assistant Administrator of EPA out of existing funds would be a strong first step. EPA has on staff experts who set the standards and report on the maximum capture efficiencies available. This Office would encourage greater compliance by translating technical information on how to comply for use at the state level. It would also assure that once a company made the costly capital investment of pollution control equipment or reformulations, the firm could count on that investment for a given number of years. This Office would enforce the most essential element of a fair and equitable clean air bill -- that of cost analysis of imposition of controls on a small business.

THE WHITE HOUSE

WASHINGTON

April 29, 1989

Rec'd COS
APR 29 1989

MEMORANDUM FOR THE PRESIDENT

FROM: DAVID Q. BATES *DB*
ROGER B. PORTER *RBP*

SUBJECT: Memorandum on a "State of the Environment" Message

The EPA Administrator has sent to you a memorandum outlining his thoughts on several environmental issues. You should be aware of efforts already underway to address some of them.

Proposals to reauthorize the Clean Air Act are currently being developed through the Domestic Policy Council process. Meetings of the full Council will be held throughout May to refine the full range of options for your consideration. This should allow you to announce the specifics of a comprehensive Clean Air Act proposal by the end of May (including acid rain, attainment of air quality standards for ozone, and air toxics). The parts of the legislation are interrelated, and we would advise against early announcement of any specifics before you have had an opportunity to consider the bill as a whole. Your meeting with Prime Minister Mulroney could be used to emphasize that work on this issue is progressing well and an Administration proposal should be ready by late May.

The concept of a framework convention on climate change is also undergoing careful review through the Domestic Policy Council process. A working group is developing a number of options. Although the general concept seems to have some support, the details have to be worked out due to the great uncertainties in climate change science and the large potential impact of any new policy direction. The Federal government has done a considerable amount of work on global climate issues, and this could be stressed in your meetings with Prime Ministers Mulroney and Brundtland.

A working group of the Domestic Policy Council will soon begin to address wetlands policy issues. This could begin in late May, after work on Clean Air proposals is completed.

We will keep you posted on the progress of these and other environmental issues.

cc: Governor Sununu

THE WHITE HOUSE

WASHINGTON
May 9, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: KEN YALE *KY*

Air Toxics

SUBJECT: Sixth Meeting of the Domestic Policy Council

The Domestic Policy Council will hold its 6th meeting on Tuesday May 9, 1989 at 2:00 PM in the Roosevelt Room. The topic to be discussed is Air Toxics, second in a three part discussion of Clean Air Act proposals. Acid Rain was the topic of the last two DPC meetings. Non-attainment of air quality standards will be covered in a meeting on Thursday May 11. Meetings are scheduled next week for the DPC to meet with the President on these issues.

Clean Air Act

*Twin to Bill
10 min
open to
discussion*

- The Clean Air Act (CAA) was last amended in 1977. Due to controversial issues, it has been difficult to amend since then. The new Administration and changes in Congress have created a window of opportunity for clean air legislation.
- The President has committed the Administration to sending a Clean Air proposal to Congress soon.
- The Congress has introduced several clean air proposals.
- A small group, composed of EPA, DOE, OMB, CEA, OPD, and other White House staff put together the Air Toxics options paper. They have also held meetings with key Congressional leaders and interest groups on this issue.
- The DPC Working Group on Environment, Energy and Natural Resources (EENR) has reviewed the options paper.
- The Domestic Policy Council should be able to reach decisions on some issues, develop options and enable the President to make decisions on the framework for an Administration proposal.
- We anticipate seven meetings of the full DPC to work through the issues. The President may participate in the last three meetings.

*Staff will collect comments
→ paper for President
He read before he meets with
na
COB Thurs*

May 9 Meeting

- The presentation today will be made by Administrator Reilly -- which should take about 15 minutes. He will present an overview of air toxics.

- o After the presentation, the meeting can be opened for discussion of the issues.
- o The Attorney General has let the meetings flow rather freely, giving an opportunity to all in attendance to air their concerns. If there is substantial discussion and no consensus, he has asked that staff incorporate comments and get a final document to DPC members before the meeting on the issue with the President.
- o It is anticipated that major support for an expanded CAA will come from EPA. Energy will have a big interest in some of the options. Major concerns will be raised by OMB and CEA. Others with an interest include Transportation, Agriculture, Interior, and Defense.
- o The major issues on air toxics that will require the attention of the Council include:
 - The criteria and level of risk used to regulate toxic air pollutants.
 - Reductions in toxic pollutants under other current programs and the cost of further reductions under a new program.
 - Regulatory flexibility and the balancing of the economics and technical feasibility.
 - The sources of toxic air pollutants.
 - The overall strategy for approaching the issue.
- o The attached checklist outlines all the options in the paper and can be used to get a better overview of the decisions required in the paper.
- o The next DPC meetings are tentatively scheduled as follows:
 - May 11 -- Non-attainment of air quality standards
 - May 15 -- Non-attainment of air quality standards
 - May 16 -- Acid Rain, with the President
 - May 17 -- Non-Attainment, with the President
 - May 22 or 23 -- Air Toxics, with the President

May 9, 1989

MEMORANDUM FOR ROGER B. PORTER

FROM: NANCY A. MALOLEY

SUBJECT: Talking Points on Air Toxics

- o Since 1974, EPA has been required to set health-based standards for air toxics with "an ample margin of safety."
- o The statute is a risk-based statute, requiring EPA to set a "safe" level of emissions. Since it is difficult to set health-based standards "with an ample margin of safety" below which no risk will occur, EPA has regulated only seven toxics since 1974.
- o A court decision has further complicated the process. That decision (Judge Bork, 1987) said a safe level must be met without regard to costs.
- o Thus, no matter the questions concerning risk or cost, the relevant point is the statute must be changed. Decisions concerning air toxics are currently in the hands of the courts, and, driven by the 1987 court decision, could force the shutdown of some industries.
- o There are two approaches:
 - Risk based = the current statute and Alternative I (unreasonable risk)
 - A technology-based approach = Alternatives II and III.
- o Any risk-based approach would be plagued with the same problems as the current statute: litigation over what is a reasonable level of protection that is considered safe.
- o A technology-based approach would at least apply some agreed-upon level of controls on some source categories to get some reductions.

o What we are dealing with:

- 2.7 billion pounds (exposures unknown) ✓
- 280 toxic compounds are emitted in quantities which pose some risks ✓
- about 45 are carcinogens and cause between 1500 to 3000 cancer deaths annually.
- 25 percent caused by large stationary sources ✓
- 25 percent by small area-wide sources ✓
- 50 percent by mobile sources ✓

o Base program which can be accomplished without legislation which will still be needed to correct the program:

- Diesel particulates - proposed standard at EPA could save 520 cancers per year. ✓
- Aromatic hydrocarbons - fleet turnover and current tailpipe standards will save 214 cancers a year by 1995. ✓
- Alternative fuels under the non-attainment program could save 75. ✓
- RCRA current rulemaking will save 120 cancer deaths ✓
- In addition, VOC emissions will be controlled by the non-attainment program. ✓

THE WHITE HOUSE
WASHINGTON

May 4, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER *RBP*
SUBJECT: Status Report of the Bush Administration
Clean Air Act Amendment Process

Introduction

Over the last 2 1/2 months, Administration officials have been developing policies to amend the Clean Air Act. There are three major areas on which this policy development process has focused: Acid Rain, Non-attainment of Air Quality Standards, and Air Toxics. The focus is consistent with commitments made by President Bush during the campaign and reiterated in Building a Better America. Specifically, those commitments were laid out in principals reiterating the protection of the environment:

"The President is committed to cleaner air in the Nation's cities. This requires a credible commitment, timetable, and strategy for the different regions of the country."

"The President is also committed to ending the long debate on acid rain. The time for action has come. The Administration will ask Congress to establish an acid rain program that will attain significant SO₂ and NO_x reductions, balancing competing interests by specified dates."

Building a Better America
February 9, 1989

Background

Hill Consultations

Over the last 2 1/2 months, we have held a series of consultations with key blocks of Representatives and Senators, and with some members individually, who have shaped the debate on Clean Air. Those meetings have also been attended by the following Administration representatives: Administrator Reilly, Admiral Watkins, Boyden Gray, Nancy Maloley of my staff, Bob Grady of OMB, representatives of White House Congressional Liaison, and me.

Senate Meetings

March 14: Core group meeting of Senate Environment and Public Works Committee chaired by Senator Mitchell in his leadership office. In attendance were Senators Chaffee (R-RI), Burdick (D-ND), Baucus (D-MT), Durenberger (R-MN), and Domenici (R-NM).

March 15: meeting of Senators interested in Non-attainment issues: Chaffee (R-RI), Jeffords (D-VT), Lautenberg (D-NJ), and Humphrey (R-NH).

April 12: meeting with Western Senators Simpson (R-WY), Baucus (D-MT), Symms (R-ID), McClure (R-ID), Domenici (R-NM), DeConcini (D-AZ), Armstrong (R-CO), Hatch (R-UT), Reid (D-NV) and Garn (R-UT). In addition, I met individually that day with Senator Mitch McConnell (R-KY) concerning Acid Rain.

We have had an outstanding request to meet with Senator Byrd (D-WV) and high sulphur coal members. That meeting was originally scheduled and then cancelled by Byrd, to be rescheduled by him at a later date. That meeting has not yet been rescheduled.

House Meetings

March 9: meeting of key representatives from the House Energy and Commerce Committee: Congressmen Lent (R-NY), Madigan (R-IL), Fields (R-TX), Oxley (R-OH), and Tauke (R-IA).

March 9: meeting of the GOP Leadership Task Force on Acid Rain, chaired by Congressman Boehlert: Congressman Smith (R-NH) and Congresswomen Snowe (R-ME) and Schneider (R-RI).

April 6: meeting of the Group of Nine: a group of nine House Democrats who last year sponsored the most reasonable legislation so far dealing with Non-attainment. Present were Congressmen Swift (D-WA), Cooper (D-TN), Slattey (D-KS), Bruce (D-IL), Synar (D-OK), Sharp (D-IN). In addition, we also met individually with Representatives Waxman (D-CA), Chairman of the Subcommittee on Health and the Environment, and Dingell (D-MI), Chairman of the Committee on Energy and Commerce.

The consensus points from these meetings are:

- o A credible Acid Rain bill would ultimately be a 10 million ton bill. There are differences as to the strategic approach the Administration ought to take.

There is strong opinion for a 10 million ton bill, mainly from the GOP Leadership Task Force on Acid Rain and some members of the Group of Nine. However, some members (Republicans from the House Energy Committee, some of the Western Senators in particular) have suggested coming in with a lower tonnage of 8 million tons or so, given that anything the Administration proposes will be a bottom line bill. Chairman Dingell pressed for a bill that will leave negotiating room in all areas.

- o Nearly everyone (absent high sulfur coal Senators with whom we did not meet) encouraged a least cost strategy without specifically providing protection for high sulfur coal miners. Senator Mitchell (D-ME) did, however, point out that a bill would not be likely to pass the Congress without some attention to that problem.
- o All were encouraged by the Administration's leadership on this issue and urged the Administration to provide a bill by the end of May.
- o Meetings focused on the subjects of Acid Rain and Non-attainment, primarily because Air Toxics proposals had not yet been developed, with the exception of that introduced by Representative Dingell (H.R. 4) very early in the session. The Group of Nine pointed out that they are currently working on Air Toxics. Since our meetings, Senator Baucus and Representative Waxman have both introduced stringent Air Toxics bills. Representative Dingell's bill is by far the most moderate, but he is looking to the Administration to modify his bill.

The points of disagreement from the meetings are two-fold:

- o There is disagreement on whether the Administration should propose a bottom line bill of 10 million tons and take credit for a strong Acid Rain initiative, given that our proposals on Non-attainment and Air Toxics will be more conservative than current proposals. Those who disagree with that approach believe the Administration bill will be the floor and that we ought to come in with a lower number and then negotiate for higher tonnage.

- o The GOP Leadership Task Force on Acid Rain, anxious to have an Acid Rain bill, are encouraging that we send a separate bill on Acid Rain, and follow with Air Toxics and Non-attainment to ensure that Acid Rain progress is not slowed or bogged down in other initiatives. However, Chairman Dingell and many other members believe that a total package should be sent to the Hill by the Administration since the issues are intertwined and will be dealt with together, particularly in the House Committee.

Administration Activities

Since March 3, I have been chairing policy development and strategy meetings attended by Administrator Reilly, Admiral Watkins, Boyden Gray, Nancy Maloley, Bob Grady, representatives of CEA, and White House OPL, OCA and OCL. We have held a total of 15 meetings and have developed options papers on Acid Rain, Non-attainment and Air Toxics for consideration by the Domestic Policy Council (DPC).

In summary, our Acid Rain discussions have focused on tonnage reduction, timing, the use of clean coal technology, and a flexible regulatory scheme.

Non-attainment discussions have focused on how to address areas that are seriously out of attainment for ozone and carbon monoxide, considering as part of the remedy an alternative fuel strategy.

Air Toxics discussions have focused on developing options more conservative than any of the Congressional proposals, looking at current and proposed regulations which can deal with some of the Air Toxics problems and tying in remedies on Air Toxics with some of our Non-attainment proposals.

Meetings of the Working Group on Environment, Energy and Natural Resources

In addition to the meetings mentioned above, the EENR Working Group, an interagency group of Assistant Secretaries representing DPC members, have held 10 meetings between March 22 and May 9 to provide background on all of these issues and options papers. Given the concern about leaks, options papers were provided only a few days prior to each DPC meeting and on a very close hold basis.

Domestic Policy Council (DPC) Meetings

One DPC meeting was held on April 20 where Administrator Reilly provided background on these issues. There are six more DPC meetings scheduled on Clean Air Act issues: May 4, May 5, May 11, May 15 (with the President), May 17 (with the President), and May 18 (with the President). There is a possibility that a DPC meeting may be held on May 25, if needed.

Announcements

It has been discussed that the President would announce his decision on June 8 at a DUCKS Unlimited speech. If in fact the decision will be delayed until June 8, I believe we need to communicate that to the Hill immediately, as their expectations are that we will have a proposal announcement by the end of May.

Things We Need to Think About

- o Legislative strategy.
- o Press decisions.
- o Consultations before the announcement.
- o A Public communication plan.

We will be happy to brief you further on any of these issues.