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OA/ID Number:	29149
Folder ID Number:	29149-002

Folder Title:
Clean Air 1991 [1]

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Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Ede Holiday to John Sununu Re: Supplement to Cabinet Report on EPA Activities (3 pp.)	9/24/91	P/5	

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 1991 [1]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed:	1/3/2005	**OA/ID Number:**	29149-002
FOIA/SYS Case #:	1998-0004-F[2]	**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:**	
AR Disposition Date:		**MR Disposition Date:**	

RESTRICTION CODES

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

P-1 National Security Classified Information [(a)(1) of the PRA]
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]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
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(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

THE WHITE HOUSE

WASHINGTON

September 24, 1991

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: EDE HOLIDAY

SUBJECT: Supplement to Cabinet Report on EPA Activities

The following is a list of actions that EPA intends to take in the next two weeks that may generate media attention:

1) Hazardous Waste Exports Enforcement Initiative

This Thursday, September 26, 1991, EPA and the Department of Justice will announce an enforcement initiative against several U.S. companies for violating federal laws governing the export or import of chemicals and hazardous waste. The initiative involves approximately 18 administrative cases brought under various statutes, including the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act, and two judicial cases concerning ozone-depleting substances under the Clean Air Act.

Seven of the RCRA administrative cases involve shipments of hazardous waste to Mexico and were developed in cooperation with the Mexican government. Other cases involve the export of hazardous waste to Quebec's Stablex facility, a controversial commercial hazardous waste storage facility.

As with all enforcement initiatives, the action will be praised by some and criticized by others. In light of the recent release of the U.S.-Mexico Draft Environmental Border Plan and the NAFTA negotiations, the initiative will help demonstrate the commitment and cooperation of the U.S. and Mexico to the enforcement of regulations concerning transboundary environmental problems. Further, many environmental groups, Congressional offices and state governments also will be supportive of the initiative. However, companies involved in the import or export of hazardous waste or chemicals, and their trade associations, are expected to criticize the actions of EPA and DOJ. EPA has informed us that while several of the firms involved are small companies, there are no particularly sympathetic defendants.

2) <u>Regulations for Vehicle Fleets</u>

Later this week, EPA will issue proposed regulations under the Clean Air Act requiring that a percentage of vehicle fleets operating in the 22 cities with the worst air pollution meet more stringent air emission standards and use cleaner burning fuels. The regulations require owners of vehicle fleets (ten or more vehicles which are fueled at a central location) located in any of the 22 metropolitan "non-attainment areas" to purchase clean fuel vehicles when new vehicle purchases are made.

The regulations also create a Clean Fuel Credit Program to assist vehicle fleet owners in complying with the regulations. Fleet operators who buy more clean fuel vehicles than required can get credit against future purchase requirements, or can sell the credits to another operator who prefers not to make the required clean fuel vehicle purchases. EPA estimates that after the first year of the program in 1998, approximately 110,000 new vehicles will be clean fuel fleet vehicles.

The extent of media coverage is unclear, though the announcement will likely get some attention in the 22 "non-attainment areas," which include some of the Nation's largest metropolitan areas. The rule focuses on vehicle fleets, so the general public is not directly impacted. The Clean Air Act continues to be the primary example of the President's environmental initiative, and the regulations are promulgated under authority of the Act. Further, the Credit Program created by the regulation is an example of incorporating free market principles in environmental regulation. However, as with all regulations that impose federal mandates of some sort, the announcement will not be met with great enthusiasm by the regulated community.

3) <u>Report on Superfund Contractor Cost Overruns</u>

On October 2, EPA is expected to release its intra-agency task force report on cost overrun problems with EPA's Superfund contractors. On October 3, Bill Reilly is scheduled to testify before the House Public Works and Transportation Committee on the Superfund program and the report. The hearing, and the report, will attract considerable press and Congressional interest.

The report will: a) fully summarize the short history of the Superfund contractor program; b) describe how improved enforcement and clean-up technology led to a higher rate of private clean-ups and a reduction in the anticipated workload for the EPA contractors; c) analyze why the "start-up" costs (i.e. program management costs) of these contracts were so high; d) conclude that while there was waste in the contractor program, no fraud or criminal activity exists;

and e) make several recommendations for improving the program, including reducing program management costs, terminating some contractors, and instituting a more aggressive financial audit program.

While the EPA Task Force report demonstrates how EPA is prepared to move quickly to "clean its own house," the issue will provide fodder for critics in the environmental community and Congress about how EPA is managing the Superfund program. You will remember that the impact of this issue was mitigated by Reilly's quick announcement of the formation of this task force. The report, and its recommendations, will help demonstrate that the Administration is willing to move quickly to improve programs shown to be operating ineffectively, However, some may charge the report is a "white wash" and the recommendations are too lenient. The Press Office should work closely with EPA on an appropriate statement regarding the release of the report and its recommendations.

4) Clean Air Act Regulations

At the end of the month, EPA intends to publish proposed regulations to implement the acid rain allowance trading system and the use of reformulated gasoline and oxygenated fuels, as required by the Clean Air Act. As with all regulations promulgated by EPA, these regulations are being reviewed by OMB, OIRA, and the Competitiveness Council in accordance with Executive Order 12291. Publication of these proposed regulations may be delayed pending clearance by the Competitiveness Council and OIRA.

The announcement of the proposed regulations should be met with favorable press, since the allowance trading program is one of the hallmarks of the Clean Air Act. Both the acid rain allowance trading program and the regulation on reformulated gasoline were mentioned in the President's remarks at the Grand Canyon as examples of the Administration's commitment to environmental quality.

5) Report on Asbestos in Public and Commercial Buildings

This week, the Health Effects Institute, a non-profit research institution, is scheduled to release its report summarizing current information on the health effects from asbestos exposure in public and commercial buildings. Pursuant to a court order, EPA must, no later than 45 days after release of the report, decide whether to develop regulations requiring building owners to identify and manage asbestos in these buildings. EPA is working with OSHA to develop a common position on what should be done. Considering the topic, the report could attract media attention and additional pressure for a regulatory response.

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	From William Reilly to POTUS Re: Costs of Clean Air Compliance (5 pp.)	9/12/91	P-5	

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 1991 [1]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 1/3/2005	**OA/ID Number:** 29149-002
FOIA/SYS Case #: 1998-0004-F[2] **Re-review Case #:** 2005-0426-S **P-2/P-5 Review Case #:**	**Appeal Case #:** **Appeal Disposition:** **Disposition Date:**
AR Case #: **AR Disposition:** **AR Disposition Date:**	**MR Case #:** **MR Disposition:** **MR Disposition Date:**

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Document No. 270270ss

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/16/91 ACTION/CONCURRENCE/COMMENT DUE BY: TUESDAY, 9/17/91 COB

SUBJECT: REILLY MEMO RE COSTS OF CLEAN AIR COMPLIANCE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	✓	MCCLURE	☐	☐
SUNUNU	☐	✓	PETERSMEYER	☐	☐
SCOWCROFT	☐	☐	PORTER	✓	☐
DARMAN	✓	☐	ROGICH	☐	☐
BRADY	☐	✓	SMITH	☐	☐
BROMLEY	☐	☐	UNTERMEYER	☐	☐
CARD	✓	☐	BOSKIN	✓	☐
DEMAREST	☐	☐	DELAND	✓	☐
FITZWATER	☐	☐		☐	☐
GRAY	✓	☐		☐	☐
HOLIDAY	☐	✓		☐	☐

REMARKS:

Please forward your comments directly to Ede Holiday, 2nd Floor West Wing, x2174, no later than COB, TUESDAY, SEPTEMBER 17, with a copy to this office. Thank you.

RESPONSE:

PHILLIP D. BRADY
Assistant to the President
and Staff Secretary
Ext. 2702

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 12 1991

THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Costs of Clean Air Act Compliance

From time to time during the course of briefings or meetings such as your briefing before the G7 Summit, members of the Administration have cited very high costs for implementation of the Clean Air Act as a reason to oppose additional environmental initiatives. I have tried to learn the basis for these cost estimates, particularly the claim that Clean Air Act implementation will cost $40 billion per year. My information leads me to believe that the best estimates for the costs of the Act are $11 billion in 1995 and $24 billion by 2005. These numbers update those provided by CEA Chairman Boskin in a letter to Congressman Dingell last September on the estimated costs of the House and Senate bills.* EPA provided considerable input into that analysis and we have used the experience of the past year to update the analysis. It is as follows:

Compliance Costs in the year 2005
(billions of 1989 dollars)

Provision	**Current Analysis of**	**Sept., 1990 Boskin Estimates**	
	Final Bill	Senate Bill	House Bill
Smog Standards	12.2	14.7	13.4
Acid Rain	3.6	3.9	4.3
Toxic Air Pollution	7.9	6.7	7.5
Administrative Costs	0.2	not estimated	
Miscellaneous	0.1	0.1	0.2
Total	24.0	25.4	25.4

* Our analysis compares the House and Senate Bills to the Clean Air Act as passed. Where the final bill adopted the House version of a particular provision, we took the House Bill cost estimates from the Boskin letter. Where the Senate provision prevailed, our analysis used the Senate Bill estimates, again from the Boskin letter. We then updated the estimates to account for new information from EPA's clean air regulatory program over the last eight months.

Keeping the Costs in Perspective

One difficulty in quantifying the costs of the 1990 Amendments is that it is difficult to predict how much additional air pollution control would have been undertaken in the future had the Act not passed. Even in the absence of new federal legislation, many states would have required additional air pollution control programs and EPA itself would be legally obligated by citizen lawsuits, under the old Act, to impose more controls. Moreover, many firms have been developing voluntary emission reduction programs in response to mounting public awareness about environmental problems, growing liability concerns, and rising disposal costs. Thus, some portion of the $24 billion in control expenditures attributed to the new Act would have been undertaken even in the absence of new federal legislation.

A second difficulty in calculating control costs relates to limitations in our ability to predict technological change. The $24 billion estimate is based largely on the costs of <u>current</u> technologies. As you know, the 1990 Act relies extensively on market incentives to achieve its goals. These will undoubtedly result in the development of new pollution control technologies as sources attempt to free up additional emission allowances for trading. You may have read recently that the Chicago Board of Trade is interested in brokering trades in sulfur dioxide emission allowances. To the extent that newer, lower cost technologies are developed as a result of these innovative regulatory approaches, control costs will be lower than those reported here. I should add that it has been EPA's experience that the performance and cost of new technologies improve dramatically over time. These improvements are typically not foreseen when the technologies are first introduced. Two cases in point are catalytic converters for cars and scrubbers for utilities. Another example is the phaseout of lead from gasoline, where the use of market incentives served to lower the cost of compliance <u>and</u> to accelerate the reduction of harmful lead emissions.

Despite the limitations described above, the current cost analysis is useful in providing perspective on current U.S. environmental control costs. Current air pollution control expenditures represent about 29% of total national spending on the environment, accounting for 0.59% of GNP. With passage of the Clean Air Act Amendments of 1990, air pollution control spending will increase its share of national spending slightly -- rising to 0.84% of GNP in the year 2005. To put these expenditures in perspective, it is useful to compare then to other national expenditures:

COMPARATIVE U.S. EXPENDITURES

Expenditure	**Percentage of GNP**
Air Pollution Control Today	0.59%
Air Pollution Control in 2005	0.84
All Environmental Expenditures in 1990	2.14
All Environmental Expenditures in 2000	2.80
Personal Consumption in 1990 on:	
Electricity and Gas	2.50
Transportation*	8.12
Food	11.44
Housing	10.42
Medical Care	8.84

*Includes motor vehicles and parts, gasoline and oil, and transportation services as reported in the Economic Report of the President, February 1991.

Benefits of Control

I will not attempt here to calculate the benefits of air pollution control. It is worth noting, however, that EPA has developed estimates of emissions that would have occurred over the period 1970-1988 if pollution controls pursuant to the Clean Air Act had not been introduced. These data indicate that 1988 smog levels would have been 40-70% higher were it not for the controls imposed since 1970. Increases of this magnitude would surely affect labor productivity, medical and household expenses, as well as visibility.

I might add that the 1990 Clean Air Act will spawn new technologies which, had we been instituting additional controls in the 1980's, might have better positioned the United States in the expanding world market for air pollution controls. During the next ten years, for example, private companies such as Asea Brown Boverei are predicting that new worldwide orders for electrical generating equipment will exceed current installed U.S. capacity by 50%. These generating stations will need billions of dollars worth of air pollution controls.

The ideas that pollution control never benefits the economy, and is always a drag on investment, growth and economic development, as you were told in the briefing for the London Summit, strikes me as astonishing. Whether it's beaches and tourism protected from medical waste, or people's health and property secured against sulfur dioxides, or commercial fisheries maintained free of toxins, pollution control has real economic value. Poland is committing 15 percent of its GNP to the health impacts of its pollution. Just after our briefing, I was in California where a train derailment and pesticide spill delivered a devastating blow to the tourism economies of two counties.

I've made a point of seeing first hand what some companies -- 3M, Proctor and Gamble, Pacific Gas and Electric -- are doing. They are being highly innovative in product design, manufacturing, marketing, and disposal to reduce the effect of pollution on the environment. Ed Artzt, the CEO of Proctor and Gamble, told me after an extensive briefing on their introduction of recyclables, detergent concentrates and compostable paper diapers: "All these things we're doing, we're not doing them for you or because the law makes us do them. Out customers are demanding them and we are responding to stay competitive." Monsanto is committing $100 million to eliminate 90 percent of <u>lawful</u> toxic releases because they are in competition for the best graduating engineers and scientists who want to work for a clean company.

In short, the course laid out in the 1990 Clean Air Act is fully consistent with national economic trends and it will also spur innovation in pollution control technologies, leading to new products and processes. I believe that Clean Air Act also provides a powerful argument against those who would resist industrial growth. It reassures that growth will be clean. In the long run, it should help make the United States more competitive in world markets where the environment is playing an ever larger role in economic and political decisionmaking.

Respectfully,

Bill

William K. Reilly

ARCO

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

L. M. Cook
Chairman and
Chief Executive Officer

Energy

THE CHIEF of STAFF
has seen

May 22, 1991

John H. Sununu
Chief of Staff to the President
The White House
Washington, DC 20500

John,

Per our conversation of this morning.

Lod

Lod Cook

Alternative to CAFE Increase:

1. Raise gasoline tax by 4 cents or more - for 5 years - sunset after 5 years.

2. Tax revenues to buy back pre-1979 vehicles for a 5 year period.

3. Freeze CAFE at 27.5 MPG for 5 years - allows review of DOT report and permits auto manufacturers to develop technology to resume CAFE increases.

4. Set buy-back targets. If not reached by the end of 3 years, CAFE increase is triggered (2MPG).

5. Do not increase CAFE credits for 5 years.

6. Do not mandate sale of alternative fuels.

Implementation:

1. Tax imposed on all fuels, at the pump.

2. Revenue would be placed in a trust fund - not classified as general revenue, not subject to the appropriation process.

3. Auto manufacturers would purchase pre-1979 vehicles.

4. For each vehicle purchased and destroyed by the auto manufacturers, the trust fund would pay to them in the range of $1000 - $1200 per vehicle plus $300 for a processing fee.

Consequences:

1. Consumption of gasoline would be reduced - now, not over several years that CAFE requires.

2. Emissions would be reduced, now.

3. Auto manufacturers would have time to engage in research to increase CAFE.

4. At an average of $1000 - $1200 per vehicle, approximately one-quarter of the 24 million pre-1979 vehicles could be removed from the highway.

5. A market would be created for 1980 and newer vehicles (to replace destroyed cars) causing vehicle owners to trade up, ultimately creating a market for new, fuel efficient (27.5 MPG) cars.

OFFICE OF THE VICE PRESIDENT

WASHINGTON

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: Al Hubbard AH/

DATE: April 6, 1991

SUBJECT: Monitoring the Implementation Process of the Clean Air Act Amendments of 1990

For the purposes of your meeting Monday, April 8, on the implementation of the Clean Air Act Amendments, it might be helpful for you to be aware of what the Council on Competitiveness is doing to manage the process for review and clearance of regulations implementing the C.A.A.A. To provide some context for the update, I have attached an earlier clean air implementation memo that I understand was forwarded to you.

Competitiveness Council Action

The Council on Competitiveness will host meetings to monitor the implementation process every two weeks. The first meeting took place on March 19, and was attended by Bill Rosenberg (EPA), Tom Kiernan (EPA), Teresa Gorman (ODP), Richard Schmalensee (CEA), Howard Gruenspecht (CEA), Art Fraas (OMB), Bob Grady (OMB), Linda Stuntz (DOE), Richard Stewart (DOJ), Boyden Gray (W.H. Counsel), Jeff Holmstead (W.H. Counsel), David McIntosh (Council on Competitiveness), and myself. The issues we covered in the first meeting were: WEPCo, Top-Down BACT, Permitting, Reformulated Gasoline, Early Reductions, Acid Rain, and EPA's testimony before Waxman's Subcommittee on Health and the Environment. (agenda and background material attached)

WEPCo: WEPCo (general modification rules) is currently in EPA's court. The Administration players have supposedly reached agreement on what the general modification rules should look like, and EPA is drafting them up accordingly.

Top-Down BACT: As with WEPCo, EPA was supposed to send a draft rule on Top-Down BACT to OMB and CEA sometime this week. As of this writing, it has yet to be received.

Both WEPCo and Top-Down BACT are initiatives to give businesses more flexibility in reducing pollution that EPA agreed to as part of the Boskin/Reilly letter and are being handled by CEA.

Permitting: While the Administration supported permitting in the CAA -- because it could streamline enforcement of CAA requirements and allow businesses to look to one document for all requirements -- the final CAA provision on permitting creates the potential for additional burdens on industry. This is a rule that industry has had a great deal of concern about and has engaged in long discussions with EPA. EPA has agreed that they will go as far as legally possible under the statute to accommodate business concerns. We have been informed by White House Counsel's office that the legal issues have been resolved and comments by O.P.D., White House Counsel's office, and O.I.R.A. were forwarded to EPA on Saturday, April 6. If any issues remain outstanding, OIRA has scheduled a permitting closure meeting on Tuesday, April 9, at 11:15 in Jim MacRae's office. (see more detailed discussion in attachment to agenda from March 19 meeting)

Reformulated Gasoline: There is an on-going reg. negotiation with business and environmentalists on reformulated gasoline. They last met at the end of last week. They will meet next at the end of next week. EPA's announced target date for publication of the proposal is the end of May -- although this will require OMB review to be **concurrent** with the reg. negotiation. (see more detailed discussion in attachment to agenda from March 19 meeting)

Early Reductions: This is the rule that defers the timetable for compliance on toxic emissions levels if a business voluntarily reduces emissions levels by January 1, 1994 or whenever the rule is first proposed. Preliminary discussions with EPA last week indicated that there are a few outstanding issues. EPA sent a draft rule over to OMB today, along with an options paper to the Council on Competitiveness. They are seeking clearance early next week. OIRA has told EPA they need a chance to read the rule. (see more detailed discussion in attachment to agenda from March 19 meeting).

Acid Rain: CEA is doing an analysis of the effect of alternative approaches for distributing Phase I allowances on the use of scrubbers which will be completed COB Monday. Roger Porter and I have discussed this issue and we will see that a meeting is called to discuss this issue. (see more detailed discussion in attachment to agenda from March 19 meeting)

Waxman Hearing: Deputy Administrator of EPA for Air and Radiation Bill Rosenberg, along with EPA General Counsel Don Elliot, testified before Rep. Waxman's Subcommittee on March 21. The topic of the hearing was the Administration's implementation of the C.A.A.A., with an emphasis on the role the Council on Competitiveness would play. At the meeting, it was decided that EPA witnesses would rely heavily on the Council's legal documentation and press releases. (Attached is an LA Times article that appeared after the hearings.)

The Council staff has scheduled another implementation monitoring meeting on Tuesday, April 9, at 4 p.m. The proposed agenda (attached) for this meeting is: **[1]** Permitting (if necessary); **[2]** Reformulated gasoline; **[3]** Early Reductions; **[4]** Tier I Tailpipe Standards; **[5]** WEPCo/General Modification Rules; **[6]** Top-Down BACT.

cc: Richard Darman
Roger Porter
Boyden Gray
Michael Boskin
William Kristol

OFFICE OF THE VICE PRESIDENT

WASHINGTON

M E M O R A N D U M

TO: BILL KRISTOL

FROM: AL HUBBARD

DATE: February 26, 1991

SUBJECT: Regulatory Review of Clean Air Act Amendments

The Environmental Protection Agency (EPA) is making an effort to bring the Executive Office of the President into the implementation process for the Clean Air Act Amendments of 1990. EPA has agreed to a series of briefings and meetings for the Executive Office (Council of Economic Advisors, Office of Policy Development, Counsel's office, OMB, and OVP) to discuss both implementation of the legislation and specific issues associated with EPA's initial actions under the Act. EPA and OIRA are serving as co-chairs for these meetings. Since early December, we have had seven meetings on general implementation issues and six meetings on specific rule-related issues (see attached summary and full implementation schedule which includes EPA's agenda and some but not all of the ExOP priorities). These meetings are intended to identify and resolve the key issues. When issues cannot be resolved on an informal basis, it may be necessary to raise them to the Council on Competitiveness (at which time the West Wing's support and guidance will be sought).

The clear way to achieve the most efficient implementation of the legislation is to apply cost/benefit analysis per Executive Order 12291. We have already identified the following potential disputes associated with initial rule-makings. Over the next 30 days, some of these issues may have to be resolved through the Council on Competitiveness.

Reformulated Gasoline - EPA is beginning regulation negotiations for a proposed rule for reformulated gasoline. This action will bring the mobile source issue to the forefront. The important aspects of this particular debate are certifying reformulated fuels, expediting the permitting of refineries, and oxygenated fuels waivers.

Permitting Rule - This sets out EPA's criteria for state permitting programs under Title V. The scope and the extent to which there is federal intervention into the state's programs is the source of conflict. EPA has submitted it for OIRA review. EPA's strategy has been to sit down with the most effective industry groups along with environmental groups and force them to address their differences in a common setting. This process will allow business concerns to be raised, but still require OIRA review for cost effectiveness and to protect state and local government interests on Federalism grounds. EPA, in carrying out this effort at achieving consensus, should avoid giving away Administration goals.

Early Reductions - This establishes the eligibility criteria for sources that seek exemption for a period of six years from MACT (maximum available control technology) standards under Title III. OIRA has an informal copy of this rule.

Top-Down BACT - This would revise EPA procedures for setting emissions control requirements beyond NSPS (new source performance standards) guidelines on a case by case basis. Under the prevention of "significant deterioration" provisions of the Clean Air Act, EPA effectively has established a presumption that sources must use the most stringent control technology. This rule-making would revise that procedure. While the present EPA guidance was put in place without ExOP review in violation of E.O. 12291, EPA's commitment to issue a **rule** ensures OIRA will be involved. This should allow for the current approach to be replaced with one that is cost effective and gives states the flexibility provided in the statute. EPA has outlined some alternatives now under OIRA evaluation.

Background

You may recall that when the Clean Air Act Amendments of 1990 were signed, EPA Administrator Reilly agreed to 16 items (see attached letter to Dr. Boskin). A few of these were discussed above and will receive only passing reference below. In the letter, Mr. Reilly committed:

o "to the maximum extent possible ... we will make use of the flexible, market-based approaches that are the hallmark of the President's successful initiative."

o to "embrace wherever possible a **performance standard** approach to achieving ... environmental objectives."

o to reach environmental objectives in the "most cost effective way."

Finally, Mr. Reilly made specific reference to the permitting problem and recognized that "micromanagement by EPA of permitting decisions is unnecessary and likely to be extremely costly."

The following list is a status report of the items in the letter from Mr. Reilly to Dr. Boskin. The attached EPA implementation schedule is indexed according to item number in the Reilly letter for quick reference. For those items not referred to OIRA, the Competitiveness Council will coordinate with the rest of the Executive Office of the President for monitoring:

1. <u>Netting/New Source Review</u>: EPA is in the drafting process. It has not yet gone to OIRA. There was no statutory deadline, but it is considered key to implementing the legislation. See tab 1.

2. <u>WEPCO/General Modification Rules</u>: EPA will almost certainly miss the four-month deadline agreed upon with Sen. Ford. CEA is chairing this for the ExOP. CEA will call a meeting with EPA on March 7 to map out a regulatory wrap-up strategy. The acid rain program is essentially tied up until this is settled. While EPA agreed to come up with an interpretative rule within four months, CEA now seems to think it is better not to rush them to meet the time clock in order to present a complete package. See tab 2.

3. <u>Pilot Regulatory Budget</u>: OIRA, through Counsel's office, sent draft language to EPA before Christmas. As of yet, there has been no response from EPA. Not covered in EPA implementation schedule.

4. <u>Permit Program Implementation and Regulatory Framework</u>: Discussed above. See tab 4.

5. <u>NOX Control in Nonattainment Areas</u>: Because these are specific transactions, this is not a rule-making and therefore will not go through OIRA. Not covered in EPA implementation schedule.

6. <u>Realistic Assumptions for Estimating Risk</u>: Although there have been no discussions on this to date, interaction on MACT may bring it into sharper focus. This is not a direct matter concerning entities other than EPA, but it does apply to analyses of rules. See tab 6.

7. <u>Top Down BACT Policy Revision</u>: Discussed above. This also has a four month time clock running for the rulemaking to reach OMB. This will probably be resolved before WEPCO. Not covered in EPA implementation schedule.

8. <u>Utility MACT Decision</u>: To date, there has been no discussion on this. The Council will work with EPA to establish a time table. Not covered in EPA implementation schedule.

9. Mobile Source Air Toxics Control: Discussed in previous section. See tab 9.

10. Enforcement Discretion: Enforcement is an issue that involves both EPA and DOJ. It very likely will require some White House coordination. Not covered in EPA implementation schedule.

11. Maximum Use of Subcategorization: This is of interest because it applies to the analysis of rules. There has been no discussion on this topic to date, and it will likely be an issue for the policy office at EPA. See tab 11.

12. Certifying Reformulated Fuels: It is not known if EPA will meet their 180-day deadline. Mentioned in prior section in reference to reformulated gasoline. See tab 12.

13. Expediting Permitting of Refineries: There has been no discussion of this to date. It does not really involve other Executive Branch offices. Mentioned in reference to reformulated gasoline. See tab 13.

14. EPA Policy Office Review: It appears that Mr. Reilly has issued a directive to implement this at least partially. However, we have a vacancy at the top of this office that **must** be filled. Not covered in EPA implementation schedule.

15. Oxygenated Fuel Waivers: This item was mentioned in reference to reformulated gasoline. There has been no formal discussion of this to date. The Council on Competitiveness will monitor progress in this area. See tab 15.

16. Allowance Trading Program: EPA will consult with economic agencies (OMB, CEA, OPD) before issuing guidelines on this program. See tab 16.

Finally, as an overall comment, Presidential personnel has been negotiating with EPA to hire an economist for Bill Rosenberg's staff. Ideally, this person would act as an in-house special assistant and watchdog over the development of market trading rules. With the slot in EPA's policy office filled, this would give us a third tier of review: OIRA, EPA's policy office, and the special assistant on Bill Rosenberg's staff.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 26 1990

THE ADMINISTRATOR

The Honorable Michael Boskin
Chairman
Council of Economic Advisers
Executive Office of the President
Washington, D.C. 20500

Dear Michael:

As you proceed with the analysis the President has requested of the economic costs of the Clean Air Act conference report, I wanted to assist this process by communicating to you the intention of this Agency with respect to implementation of the Act. Any attempt to calculate the cost of various provisions of the Act involves some interpretation of how those provisions will be implemented in the development of rules and guidelines. I thought a clear statement of how we intend to proceed would allow you to give the President the most accurate picture possible of the Act's economic implications.

As a general matter, the Agency intends to exercise the discretionary authority which it is granted under various sections in a manner consistent with the principles upon which the President's Clean Air proposal was based. This means that, to the maximum extent made possible by the actual statutory language, we will make use of the flexible, market-based approaches that are the hallmark of the President's successful initiative. For example, we will attempt in the rulemaking process to make maximum use of such concepts as banking and trading, as we have done both in the development of the acid rain proposal and in the proposed Federal Implementation Plan for California.

Moreover, as we did during the debate on the bill itself, we will embrace where ever possible a performance standard approach to achieving our environmental objectives, rather than the command and control approaches that have not been successful in the past. When not specifically prohibited by the statute, we will attempt in our decisionmaking to achieve environmental objectives in the most cost effective way to ensure that our national aspirations for economic growth are not compromised.

There are a number of issues on which the Administration as a whole reached consensus during the development of our proposal and the legislative debate on the bill. In some cases, of course, the Congress has reached a somewhat different position. On these, needless to say, we will follow the law, including meeting statutory deadlines. Others remain subject to interpretation in the rulemaking process. On these, it would be our intention to adopt as the basis for regulatory and administrative actions the position reached by the Administration during the clean air debate.

In several instances, implementation of the Act will require determination of the workability, feasibility, or cost of various actions. We, of course, will work closely with the relevant economic and line agencies, such as CEA, Treasury, OMB, Transportation, and Energy, in the design and application of such determinations.

Decisions related to permitting and enforcement are some of the most important in the Act. We have worked in the development of the legislation for a permitting and enforcement regime that reduces unnecessary administrative burdens for permittees. It is our intent to implement the provisions which have been enacted with the same goal in mind. We worked to develop a comprehensive permitting section that reduces redundant paperwork requirements and the potential for "double jeopardy" in the Agency's permit review process; we recognize that micromanagement by EPA of permitting decisions is unnecessary and likely to be extremely costly.

I believe that the Clean Air Act Amendment of 1990 is a landmark achievement for the President which can be implemented in a way that is consistent with his principles of balance, flexibility, and support for market mechanisms. I have attached to this letter a more detailed statement of our intent in implementing the Act. I hope it is helpful to you as you prepare your final cost estimate for the President.

I look forward to working with you as the Administration continues to promote both economic growth and environmental protection.

Sincerely yours,

Bill

William K. Reilly

Attachment

1. Netting/New Source Review -- Where there is legislative discretion, EPA will allow sources to use netting to the maximum extent possible, in accordance with the President's original proposal.

2. WEPCO/General Modification Rules -- To the extent permitted by law, EPA will revise the Agency's draft interpretative rule on WEPCO within 4 months to conform to the Administration's recent legislative proposal, as indicated in Administration responses to recent queries from Senator Ford. To the extent permitted by law, EPA will issue an interpretative ruling to apply the same basic principles to pollution control projects undertaken to meet requirements imposed pursuant to other titles of the bill.

3. Pilot Regulatory Budget -- To the extent permitted by law, the EPA will develop an innovative pilot program for a regulatory budget for CTGs (Control Technology Guidelines) consistent with CEA's cost analysis.

4. Permit Program Implementation and Regulatory Budget -- EPA will implement the permit program in the following ways: (a) use the discretion of the bill to phase-in the permit program starting with major sources; (b) establish a policy of reliance on review of state permit programs, rather than the individual permit veto, as the primary oversight tool; and (c) ensure that modifications to install pollution controls do not in and of themselves trigger the issuance of a new permit, to the extent allowed by law.

5. NOx Control in Nonattainment Areas -- Before requiring NOx controls in nonattainment areas, the EPA will provide areas with a fair opportunity to show that these controls will not contribute to ozone attainment, and thus should not be required.

6. Realistic Assumptions for Estimating Risk -- EPA will continue to ensure that it uses realistic assumptions in its risk models, including accurate exposure modeling and maximum use of actual data. When allowed by law, EPA will base risk assessment on actual data and reasonable assumptions to the maximum extent possible.

7. Top Down BACT Policy Revision -- EPA will undertake a rulemaking on its BACT policy on an expedited basis to replace current guidelines. The rulemaking, to be proposed to OMB within 120 days, will be based on a cost-effective approach, and the current guidelines will not be binding precedent.

8. Utility MACT Decision -- EPA will base its utility MACT decision for particulates and mercury on the study undertaken pursuant to statutory requirements.

9. Mobile Source Air Toxics Control -- EPA will ensure coordination of increased air toxics controls with the existing regulatory requirements on autos and fuels.

10. Enforcement Discretion -- EPA and DOJ will develop an enforcement policy which provides incentives for company internal compliance audits which result in early detection and correction of problems. To the extent allowed by law, EPA and DOJ will also establish a criminal enforcement policy that focuses on significant violations.

11. Maximum Use of Subcategorization -- EPA will make maximum reasonable use of sub-categories for MACT determinations. In defining sub-categories, it will consider issues like technology, process differences, emissions potential, and exposure potential.

12. Certifying Reformulated Fuels -- EPA will act within 180 days, as required by the statute, to certify reformulated fuels.

13. Expedited Permitting of Refineries -- To the extent allowed by law, EPA will attempt to expedite permitting for refineries to meet the ambitious schedules for reformulated and oxygenated fuels in the statute.

14. EPA Policy Office Review -- EPA will ensure that the policy office within the Agency has reviewed all major regulations and guidelines before submitting them to OMB.

15. Oxygenated Fuel Waivers -- EPA will act promptly on waiver requests. In considering availability, EPA will not assume that oxygenate can be backed out of existing markets in which its use is currently subsidized by State programs.

16. Allowance Trading Program -- EPA will consult with economic agencies, particularly OMB, CEA, OPD (Office of Program Development), and Treasury, before issuing guidelines on the allowance trading program.

A G E N D A

Clean Air Act Amendments Meeting
Tuesday, March 19th
4:30 p.m., Room 180 O.E.O.B.

A] Working Group

B] Implementation Schedule

C] Reilly/Boskin letter: items with 120-day deadline.

1. WEPCO/General Modification Rules
2. Top-Down BACT

D] Other Major Regulatory Actions.

1. Permitting Rule
2. Reformulated Gasoline
3. Early Reductions
4. Acid Rain

E] EPA testimony before the House Subcommittee on Health and the Environment.

Enclosure 2

CLEAN AIR ACT AMENDMENTS OF 1990 IMPLEMENTATION SCHEDULE HIGHLIGHTS: THE FIRST TWO YEARS

Communications Focus		Regulatory Activities
Getting Started	DEC 1990	Title I - Nonattainment: Issue "Getting Started" Letter to Governors STATES Submit Request/Justification for 5% Classification Adjustments
State & Local Responsibilities	JAN 1991	Publish Two-Year Implementation Strategy Title I - Nonattainment: Publish Notice of Initial PM-10 Moderate Nonattainment Areas Initiate Additional PM-10, SO_x, Lead Designation Process
Building Consensus	FEB 1991	Title I - Nonattainment: Act on 5% Classification Adjustment Requests
Voluntary Reductions	MAR 1991	Title I - Nonattainment: STATES Submit Nonattainment Area Designations Title III - Air Toxics: Publish Draft Chemical List Petition Procedures Publish 90/95% Early Reduction Guidance Propose List of High Risk Pollutants (Lesser Quantity Cutoffs, 90-95% Early Reduction)
Permit Program	APR 1991	Title I - Nonattainment: STATES Submit PM-10 Areas Unable to Attain by 1994 STATES Respond to List of PM-10, SO_x, Lead Nonattainment Areas Title III - Air Toxics: Publish Draft List of Source Categories Title V - Permits: Propose State Permit Regulations

Communications Focus		Regulatory Activities
Cleaner Cars and Cleaner Fuels	MAY 1991	Title I - Nonattainment: STATES' Deadline for Reasonably Available Control Technology Requirements (Deficiency Corrections) Notify STATES of Intent to Modify Suggested Boundaries Publish Guidance on Stationary Source CO Contributions Finalize Criteria to Measure Ozone Transport Title II - Mobile Sources: Finalize Gasoline Reid Vapor Pressure Regulations Finalize Tier I Car and Truck Standards Propose Reformulated Gasoline Requirements Propose Clean Fuels Fleet and California Pilot Credit Programs Propose Urban Bus Regulations Propose Emission Control Diagnostic Rule Title III - Air Toxics: Propose Standards for Large Municipal Waste Combustors Publish Final Chemical List Petition Procedures Title IV - Acid Rain: Propose Regulations for Auctions and Sales Title VI - CFCs: Propose CFC Phase-out Regulations
Protecting the Ozone Layer	JUNE 1991	Title I - Nonattainment: Propose PM-10 Area Reclassifications Title VI - CFCs: Propose Mobile Air Conditioning Recycling Regulations
Assisting Small Businesses	JULY 1991	Title I - Nonattainment: Propose Revisions to New Source Review Program Finalize Ozone, CO Nonattainment Boundaries Finalize List of Additional PM-10 Nonattainment Areas and SO_2, Lead Designations Title V - Permits: Publish Guidance on State Assistance to Small Businesses Title VII - Enforcement: Propose Administrative Penalties Rules of Practice

Communications Focus		Regulatory Activities
Attainment of Air Quality Standards	AUG 1991	Title I - Nonattainment: Propose PM-10 Reasonably Available Control Measures/ Best Available Control Measures Guidance Issue Transportation Planning Guidance Publish Title I General Preamble Publish 1990 Air Quality Data Title II - Mobile Sources: Publish Marketable Gasoline Oxygen Credit Guidelines Title VII - Enforcement: Propose Rules for Citizen Suits
Acid Rain	SEPT 1991	Title IV - Acid Rain: Propose Emission Trading System Propose Acid Rain Permit Program Propose Continuous Emission Monitor Requirements Propose NOx Requirements for Utility Boilers Propose Conservation and Renewable Incentives Title VI - CFCs: Finalize CFC Phase-out Regulations
Business Opportunities in the Clean Air Act	OCT 1991	Title I - Nonattainment: Publish VOC and CO Emission Inventory Guidance Title II - Mobile Sources: Finalize Cold Temperature CO Standards Publish Study on Non-road Engines Title III - Air Toxics: Propose Maximum Achievable Control Technology for Coke Ovens

Communications Focus		Regulatory Activities
One Year of Progress Toward Cleaner Air	NOV 1991	Title I - Nonattainment: Propose Tank Vessel Rule Publish Conformity Criteria Publish Guidance on Control Cost-effectiveness STATES Submit PM-10 State Implementation Plans Publish Outer Continental Shelf Rule Publish Guidance on Inspection/Maintenance Programs Publish Guidance on Transportation Control Measures Title II - Mobile Sources: Propose Clean Fuel Vehicle Standard Finalize Vehicle Evaporative Emissions Regulations Finalize Onboard Controls Finalize Reformulated Gasoline Requirements Finalize Urban Bus Regulations Finalize Clean Fuels Fleet and California Pilot Credit Program Title III - Air Toxics: Publish Final List of Source Categories Propose Guidance for Modification Provisions Publish Draft Regulatory Schedule for All Source Categories Finalize Standards for Large Municipal Waste Combustors Propose List of Substances for Accidental Releases Prevention Program Propose Maximum Achievable Control Technology for Hazardous Organic Chemical Manufacturing Propose Maximum Achievable Control Technology for Dry Cleaners (per court order) Finalize List of High Risk Pollutants (Lesser Quantity Cutoff, 90%/95% Early Reductions) Title IV - Acid Rain: Finalize Regulations for Auctions and Sales Title V - Permits: Finalize State Permit Regulations Propose Federal Permit Regulations Title VI - CFCs: Ban Nonessential Uses Finalize Mobile Air Conditioning Recycling Regulations Title VII - Enforcement: Propose Rules for Field Citation Program Propose Rules for Contractor Listing
Air Toxics	DEC 1991	Revise Two-Year Implementation Strategy Title I - Nonattainment: Finalize PM-10 Area Reclassifications Title IV - Acid Rain: Propose List of Phase II Utility Allowances

Communications Focus		Regulatory Activities
Enforcement	JAN 1992	Title III - Air Toxics: Propose Standards for Small Municipal Waste Combustors Title VII - Enforcement: Finalize Administrative Penalties Rules of Practice
	FEB 1992	Title III - Air Toxics: Propose Maximum Achievable Control Technology for Chromium Electroplating Title VII - Enforcement: Propose Monetary Awards Rules
	MAR 1992	Title III - Air Toxics: Propose Maximum Achievable Control Technology for Commercial Sterilizers
	APR 1992	Title III - Air Toxics: Propose Maximum Achievable Control Technology for Asbestos
	MAY 1992	Title I - Nonattainment: Finalize PM-10 Reasonably Available Control Measures/Best Available Control Measures Guidance Finalize Revisions to New Source Review Program Finalize Rules for Ozone, NOx, VOC Enhanced Monitoring Title II - Mobile Sources: Finalize Emission Control Diagnostic Rule Publish Mobile-Source Related Air Toxics Study Title III - Air Toxics: Finalize Guidance for Modification Provisions Title IV - Acid Rain: Finalize Emission Trading System Finalize Continuous Emission Monitor Requirements Finalize NOx Requirements for Utility Boilers Finalize Conservation and Renewable Incentives Finalize Acid Rain Permit Program Title V - Permits: Finalize Federal Permit Program Title VI - CFCs: Finalize CFC and HCFC Labelling Regulations Title VII - Enforcement: Propose Rules for Compliance Certification
	JUNE 1992	
	JULY 1992	

Communications Focus		Regulatory Activities
	AUG 1992	Title I - Nonattainment: Publish 1991 Air Quality Data Title VII - Enforcement: Finalize Guidance/Rules for Citizen Suits
	SEPT 1992	
	OCT 1992	Title III - Air Toxics: Finalize Maximum Achievable Control Technology for Coke Ovens
Meeting the Deadlines in the Clean Air Act	NOV 1992	Title I - Nonattainment: Finalize Tank Vessel Rule Finalize Rules for Economic Incentives Program Propose First Set of NSPS Rules STATES Submit RACT Catch-up Rules, NSR Rules, CO Attainment Demonstration, and Contingency Measures STATES Submit Base Year Ozone/CO Emission Inventories Title II - Mobile Sources: Finalize Clean-Fuel Vehicle Standards Determine Significance of Non-road Engine Emissions Title III - Air Toxics: Finalize Maximum Achievable Control Technology for Dry Cleaners (per court order) Finalize Maximum Achievable Control Technology for Hazardous Organic Chemical Manufacturing Finalize Regulatory Schedule for All Source Categories Finalize List of Substances for Accidental Releases Prevention Program Title VI - CFCs: Finalize Safe Alternatives Program Title VII - Enforcement: Finalize Guidance/Rules for Field Citation Program Finalize Guidance/Rules for Contractor Listing Finalize Rules for Monetary Awards
	DEC 1992	Title III - Air Toxics: Finalize Standards for Small Municipal Waste Combustors Title IV - Acid Rain: Finalize List of Phase II Utility Allowances

Clean Air Act Regulations

Over the last several months, we have held a number of meetings with the Environmental Protection Agency (EPA) to discuss a variety of specific issues associated with EPA's initial regulatory actions under the Clean Air Act Amendments (CAA) of 1990. For purposes of presentation, this paper first addresses two of the issues listed in the letter from EPA Administrator Reilly to CEA Chairman Boskin and then discusses some other major regulatory actions that EPA will take in the next several months.

A) **Reilly Letter** - As a part of the Administration agreement on implementing the 1990 Amendments, EPA Administrator Reilly agreed to prepare draft rules addressing the "WEPCO" and "Top-Down Bact" issues within 120 days. While EPA has not met this 120-day deadline, there is now a general consensus--developed under the auspices of CEA--on the basic approach for both the WEPCO and Top-Down BACT rules. EPA is now preparing draft rules to address both issues (due by early April) and we expect publication by early May. The discussion below provides a brief summary of the issues and status for these two items.

-- **WEPCO/General Modification Rules** - In its recent WEPCO decision, EPA altered in some important ways the applicability of stringent New Source Performance Standards for certain changes or modifications in the operation of existing sources. These changes are of particular importance to the utility sector and could well have perverse consequences for a variety of utility decisions, including the adoption of "clean coal" technologies. For this reason, the Administration has long agreed that some important changes and clarifications needed to be made to restrict the application of new source requirements to the modification of existing plants.

  Status: We have reached an internal consensus to implement these WEPCO changes through both an interpretative and a legislative rule. EPA is preparing draft rules and plans to provide them for internal Administration review by early April.

-- **Top-Down BACT** - This rule would revise EPA's procedures for setting emission control requirements for new plants and facilities under the prevention of significant deterioration provisions of the Clean Air Act. This rulemaking would replace 1987 guidance to EPA's Regional offices that established a presumption requiring the use of the most stringent control technology (a top-down approach) through guidance.

Status: EPA has agreed to establish through rule-making a process that evaluates a representative set of control approaches, without establishing a presumption for the most stringent control. This approach will give States the flexibility provided by the statute and assure that required control levels are "cost-effective".

Next Steps: EPA is preparing a draft proposed rule setting out this approach and will submit it to OMB for review under E.O. 12291 in the next several weeks.

B) **Other Major Regulatory Actions** - Over the next several months, EPA will publish the initial set of major proposed rules under the 1990 Amendments. The discussion below provides a brief summary of the issues and status for several of these rulemakings.

-- **Permitting Rule** - This proposed rule sets out EPA's criteria for State permitting programs under Title V. Title V represents a major regulatory initiative under the 1990 Amendments establishing a comprehensive permitting program for major sources of air emissions.

Status: EPA has been holding roundtable meetings with representatives from environmental, State and local, and industry groups to discuss major issues associated with this rule. EPA has also met with staff from the Department of Energy, Department of Justice, and from the Executive Office of the President to discuss the draft proposal. As a result of these meetings, EPA has agreed to make a number of changes to the draft proposal. At least three major issues remain, however, the definition of source, the "operational flexibility" provisions, and the Federal enforcement of more stringent State standards.

Next Steps: EPA is revising its draft proposal and expects to circulate it by March 22.

-- **Reformulated Gasoline** - EPA is beginning a regulatory negotiation (Reg Neg) with a variety of interested parties to develop a proposed rule for reformulated gasoline. The key issues identified for resolution in the Reg Neg include: certification of reformulated fuels, anti-dumping provisions, averaging and trading of fuel credits, expedited permitting of refineries, and oxygenated fuel waivers.

Status: EPA held the first Reg Neg meetings last week; the schedule of meetings appear likely to carry the Reg Neg through May. Under this schedule, Administration review under E.O. 12291 will be concurrent with the Reg Neg if EPA is to meet its announced target date for publication of the proposal at the end of May. Given the importance of the issues embedded in this rulemaking, we believe the Administration should have at least a 45 day review after EPA prepares a draft proposed rule and we are unsure how well this works out with EPA's target date for publication.

Next Steps: EPA will brief staff from interested agencies and the EOP on March 26. This meeting will help identify issues of concern and establish a schedule for development and review of a proposed rule.

-- **Early Reductions** - This will establish the eligibility criteria for sources of hazardous pollutants that seek the six-year exemption from maximum available control technology (MACT) standards under Title III. EPA targeted publication of a proposed rule by early April.

Status: EPA has been holding roundtable discussions with interested parties on a variety of critical issues; however, there appears to be substantial disagreement among these different groups on several important issues including the definition of source and the treatment of shutdowns. OIRA is also concerned about EPA's approach to very hazardous substances. All of these issues may establish critical precedents for setting MACT standards under Title III.

Next Steps: EPA plans to discuss some of these troublesome issues with interested parties this week. EPA plans to submit a draft proposal for OMB review under Executive Order No. 12291 by March 20.

-- **Acid Rain** - EPA has been holding regular meetings with the Acid Rain Advisory Committee (ARAC) to identify key issues in implementing the acid rain provisions of Title IV. While there appears to be a general consensus of the best way to proceed for a number of the issues raised to date, there is disagreement within the ARAC on tow issues: the treatment of missing monitoring data and the distribution of Phase I allowances for utilities that install Phase I technology.

Status: Since there is no consensus within the ARAC on these two issues, they will need to be resolved in the course of developing proposed rules. CEA and OIRA have asked EPA to prepare an analysis of the effect on the use of scrubbing of alternative approaches for distributing Phase I allowances.

Next Steps: EPA expects to submit draft proposed rules on these two issues to OMB for E.O. 12291 review by the end of June.

__Municipal Waste Combustors__ - This rule would establish MACT standards under Section 129 for hazardous air pollutants emitted by municipal waste combustors. EPA reported in its CAA implementation plan that it would publish a proposed rule for municipal waste combustor MACT by ______.

__Status__: On reviewing the statutory language, EPA believes that MACT standards may well require emission limits for acid gases that are significantly more stringent for existing sources than the standards adopted for MWC's under its recent, court-ordered rulemaking. Since the Administration just determined in its February rule that such stringent (and costly) requirements were not justified, EPA has tentatively decided to defer indefinitely a proposed rule for MWCs.

__Next Steps__: EPA plans to brief OMB staff and staff from other interested agencies on the available options for regulating MWCs under Section 129.

A G E N D A

Clean Air Informational Meeting
April 9, 1991
4:00, Room 476

I. Permitting Rule

II. Reformulated Gasoline

III. Early Reductions

IV. Tier I Car and Truck Tailpipe Standards

V. WEPCo/General Modification Rules

VI. Top-Down BACT

Clean Air Act Regulations

Major Regulatory Actions - In April and May, EPA will publish the initial set of major proposed and final rules under the 1990 Amendments. The discussion below provides a brief summary of the issues and status for several of these rulemakings.

-- **Permitting Rule** - This proposed rule sets out EPA's criteria for State permitting programs under Title V. Title V represents a major regulatory initiative under the 1990 Amendments establishing a comprehensive permitting program for major sources of air emissions. As a result of discussions on the draft, EPA has agreed to make a number of changes to the draft proposal, including: the definition of source, the "operational flexibility" provisions, and the Federal enforcement of more stringent State standards.

<u>Next Steps</u>: EPA is revising its draft proposal to reflect these agreed to changes and expects to publish it within two weeks.

-- **Reformulated Gasoline** - EPA has begun a regulatory negotiation (Reg Neg) with a variety of interested parties to develop a proposed rule for reformulated gasoline. The key issues identified for resolution in the Reg Neg include: certification of reformulated fuels, anti-dumping provisions, averaging and trading of fuel credits, expedited permitting of refineries, and oxygenated fuel waivers.

<u>Status</u>: EPA has already held two sets of Reg Neg meetings; however, the schedule of meetings appear likely to carry the Reg Neg well into May. Under this schedule, Administration review under E.O. 12291 will have to be concurrent with the Reg Neg if EPA is to meet its announced target date for publication of the proposal at the end of May.

<u>Next Steps</u>: EPA will brief staff from interested agencies and the EOP prior to the next set of meetings on April 11 and 12. This meeting will help identify further issues of concern.

-- **Early Reductions** - This rule will establish the eligibility criteria for sources of hazardous pollutants that seek the six-year exemption from maximum available control technology (MACT) standards under Title III. EPA targeted publication of a proposed rule by early April.

<u>Status</u>: EPA has been holding roundtable discussions with interested parties on a variety of critical issues; however, there has been substantial disagreement within these discussions on several important issues including the definition of source and the treatment of shutdowns. OIRA is

also concerned about EPA's approach to the listing of very hazardous substances. All of these issues may establish critical precedents for setting MACT standards under Title III.

Next Steps: EPA submitted a draft proposal for OMB review under Executive Order No. 12291 on April 4, more than two weeks after the expected date of March 20.

-- **Acid Rain** - EPA has been holding regular meetings with the Acid Rain Advisory Committee (ARAC) to identify key issues in implementing the acid rain provisions of Title IV. While there appears to be a general consensus of the best way to proceed for a number of the issues raised to date, there is disagreement within the ARAC on tow issues: the treatment of missing monitoring data and the distribution of Phase I allowances for utilities that install Phase I technology.

Status: Since there is no consensus within the ARAC on these two issues, they will need to be resolved in the course of developing proposed rules. CEA and OIRA have asked EPA to prepare an analysis of the effect on the use of scrubbing of alternative approaches for distributing Phase I allowances.

Next Steps: EPA expects to submit draft proposed rules on these two issues to OMB for E.O. 12291 review by the end of June.

-- **Tier I Car and Truck Tailpipe Standards** -- This action establishes as a regulation the statutory Tier I emission limits for cars and trucks. EPA published the proposed rule in early March and plans to promulgate the final rule in May. There are several issues with the draft final rule. First, EPA believes the statute compels it to establish an 0.41 grams per mile total hydrocarbon tailpipe emissions standard; others are less sure. Second, EPA plans to exclude vehicles from California and the "opt-in" States in calculating the proportion of the fleet meeting the phase-in schedule in the mid-1990's.

Next Steps: EPA will brief OMB and other interested EXOP staff on the issues in this rulemaing package by the end of next week.

-- **WEPCO/General Modification Rules** - In its recent WEPCO decision, EPA altered in some important ways the applicability of stringent New Source Performance Standards for certain changes or modifications in the operation of existing sources. These changes are of particular importance to the utility sector and could well have perverse consequences for a variety of utility decisions, including the adoption of "clean coal" technologies. For this reason, the Administration has long agreed that some important changes and clarifications needed to be made to restrict the application of new source requirements to the modification of existing plants.

<u>Status</u>: We have reached an internal consensus to implement these WEPCO changes through both an interpretative and a legislative rule.

<u>Next Steps</u>: EPA is preparing draft rules and plans to provide them for internal Administration review by early April.

-- **Top-Down BACT** - This rule would revise EPA's procedures for setting emission control requirements for new plants and facilities under the prevention of significant deterioration provisions of the Clean Air Act. This rulemaking would replace 1987 guidance to EPA's Regional offices that established a presumption requiring the use of the most stringent control technology (a top-down approach) through guidance.

<u>Status</u>: EPA has agreed to establish through rule-making a process that evaluates a representative set of control approaches, without establishing a presumption for the most stringent control. This approach will give States the flexibility provided by the statute and assure that required control levels are "cost-effective".

<u>Next Steps</u>: EPA is preparing a draft proposed rule setting out this approach and will submit it to OMB for review under E.O. 12291 in early April.

LA TIMES
MARCH 23, 1991

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press

Quayle Accused of Trying to Weaken Clean Air Act

■ Environment: Vice president's committee has overturned several key regulations proposed by EPA.

By MICHAEL ROSS
TIMES STAFF WRITER

WASHINGTON—Sisyphus would have made a great clean air negotiator.

He was the king in Greek mythology who was condemned to pushing a boulder up a hill, only to have it roll to the bottom just as he got to the top.

The uphill struggle to enact and implement the Clean Air Act has been a lot like that.

Legions of lawmakers, lawyers and Bush Administration officials labored with Sisyphean persistence for most of last year to craft and finally pass the omnibus bill overhauling the nation's outdated air pollution laws.

But now, just when everyone thought the boulder had finally cleared the top of the hill, the Administration finds itself locked in another bitter fight with environmentalists and their congressional supporters over allegations that the White House is trying to sabotage implementation of the act.

During the fierce debate that accompanied the drafting of the act last year, the environmentalists' chief bogymen in the Administration were White House Chief of Staff John H. Sununu and Richard G. Darman, director of the Office of Management and Budget. Now that the struggle has shifted from the legislative battlefield to the

Please see AIR, A21

LOS ANGELES TIMES

AIR: Quayle's Role Draws Criticism

Continued from A1

regulatory trenches, a new target of criticism has emerged: Vice President Dan Quayle.

Quayle has come into the clean air fray in his capacity as chairman of the President's Competitiveness Council. The council, along with Darman's office, is responsible for reviewing the regulations being drafted by the Environmental Protection Agency to implement the Clean Air Act of 1990.

The drafting is still in its early stages, but, so far, several key regulations proposed by EPA have been overturned by Quayle's council on grounds that they do not meet its cost-benefit criteria. That has angered environment-minded Democrats in Congress, who charge that the council has acted arbitrarily, disregarding EPA-accumulated data in favor of often unsubstantiated assertions by business interests.

"Many Americans think that Dan Quayle's purpose is to provide jokes for Johnny Carson and Arsenio Hall and, frankly, many Americans would sleep better believing that to be true," Rep. Gerry Sikorski (D-Minn.) said this week at a hearing convened by Rep. Henry A. Waxman (D-Los Angeles), chairman of the House Energy subcommittee on health and environment.

"Unfortunately, on clean air and kids' health, he seems to have made the transition from irrelevant to dangerous," Sikorski said. "Recent efforts to dilute the clean air laws of the land have Dan Quayle's fingerprints all over them."

Democrats at the hearing took the White House to task for blocking three EPA proposals that would have mandated recycling of 25% of the waste burned at municipal incinerators, banned the burning of lead batteries and imposed stringent anti-pollution requirements on a giant power plant whose sulfur dioxide emissions are befouling visibility at the Grand Canyon.

In each case, Waxman said, the EPA's proposals were "dismissed out of hand by the White House," acting on the basis of "largely unsupported" conclusions.

"What's more," Waxman added, "industry now seems to have found a new front in their fight to undermine the new clean air law. A White House Council on Competitiveness chaired by . . . Quayle has taken on the task of helping polluters block EPA's efforts to write clean air regulations with the unabashed purpose of protecting industry from the cost of regulation."

Quayle's spokesman, David Beckwith, refused to comment on some of the more personal attacks on the vice president. "I am not going to respond to gratuitous, *ad hominem* comments by Democrats," he said.

But Beckwith said the Quayle council had reviewed the EPA proposals with a view toward "making sure that the deregulation gains of the [Ronald] Reagan years are not canceled out by creeping re-regulation generated from government bureaucracies."

The problem with applying that standard to the Clean Air Act, critics charge, is that the more-than-700-page bill is nothing if not a regulatory act. "If that's the standard they intend to apply all the way down the line, it is a very bad omen for what is to come under the Clean Air Act," said Daniel Weiss, director of the air toxics program for the Sierra Club.

A senior White House official denied that Quayle's intent was to gut the Clean Air Act. He said the anti-recycling ruling was based on an estimate that EPA's proposal would have cost "about $100 million a year" to implement while providing "no substantial benefits in reducing air pollution." He said also that, after discussions with the White House, EPA Administrator William K. Reilly had concurred with the rulings.

In testifying before Waxman's subcommittee, EPA Assistant Administrator William G. Rosenberg sought to defend the agency's acquiescence to the White House position on the three rulings. However, internal EPA documents obtained by The Times indicate the agency strongly objected to the White House findings, saying they often relied on "misleading" or "conjectural" arguments and reflected only a "cursory reading" of the studies done to support the original EPA proposals.

"It is clear," Waxman said, "that EPA was just overturned in an arbitrary and rather shabby way."

The next round in the environmental fight will probably occur when the Senate holds hearings on implementation of the Clean Air Act. Hearings had been scheduled for Jan. 15 but were put on hold because of the Gulf War and have not yet been rescheduled. A Waxman aide said the congressman may wait to hold another hearing until he sees "what impact his criticism" has on the White House.

cc

GEORGE V. VOINOVICH
GOVERNOR

STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43266-0601

June 20, 1991

The Honorable George H. W. Bush
The President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I was very unhappy to learn that the U.S. EPA negotiated rule making on the reduction of nitrogen oxides (NOx) under Title IV of the Clean Air Act Amendments of 1990 has been cancelled. The group had the promise of good dialogue on the issues and the potential for reaching a consensus on rules.

I very much support the efforts of the Administration in the use of alternative dispute mechanisms as a way of providing an opportunity for more meaningful public participation in rule making over traditional methods. As you know, Ohio is greatly affected by the Clean Air Act Amendments of 1990, thus it was very beneficial to the State that two Ohioans were selected to participate in the negotiated rule making on NOx and would have the opportunity to provide input to EPA directly.

It is my sincere hope that the decision to cancel the negotiated rule making on NOx will be rescinded, so that the interested and affected groups will have the opportunity to directly participate in policy discussions and make recommendations to EPA.

Also concerning the development of rules under the Clean Air Act, I would like to urge the Administration to expedite the process of distributing the scrubber bonus allowances. EPA has indicated the allowances will not be available until early next year. This delay has greatly complicated the ability of Ohio's utilities to complete their compliance planning and accurately determine the feasibility of installing scrubbers over the fuel switch option. Our utilities will have to make compliance decisions months before the allowances are distributed by EPA, and even then, under the telephone queue distribution method chosen by EPA, they cannot predict whether they will receive any of the limited number of scrubber bonus allowances.

Thank you for your cooperation.

Sincerely,

George

George V. Voinovich
Governor

GVV:ce

cc: John Sununu, Chief of Staff
William Reilly, Administrator, U.S. EPA

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Memo	From Michael Boskin to John Sununu Re: Minimizing Clean Air Costs (4 pp.)	10/23/91	P-5	

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 1991 [1]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 1/3/2005	**OA/ID Number:** 29149-002
FOIA/SYS Case #: 1998-0004-F[2]	**Appeal Case #:**
Re-review Case #: 2005-0426-S	**Appeal Disposition:**
P-2/P-5 Review Case #:	**Disposition Date:**
AR Case #:	**MR Case #:**
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AR Disposition Date:	**MR Disposition Date:**

RESTRICTION CODES

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THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

October 23, 1990

AC/ER

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: MICHAEL BOSKIN MJB

THE CHIEF of STAFF has seen

SUBJECT: Minimizing Clean Air Costs

Using the methods and assumptions we have employed throughout this process, CEA estimates that the direct costs of the Clean Air conference agreement substantially exceed those of the original Administration bill. The conference bill's costs are 37 percent higher ($26.8 billion v. $19.5 billion) in 2005 (the standard reference year for calculating fully phased-in costs) and 58 percent higher ($10.9 billion v. $6.9 billion) in 1995. Although the conference bill's fuels provisions are less burdensome than those in either the House or the Senate bill, the conference chose the more expensive provision from these bills in enough cases to more than outweigh these savings.

The actual economic cost will inevitably be somewhat higher than these numbers suggest. These estimates do not include the private sector's likely substantial (but extremely difficult to quantify) costs of navigating the regulatory process, for instance. Nor do they include the inevitable effects of regulatory uncertainty and delay on the general climate for investment.

More importantly, failure by EPA to implement this legislation in a manner consistent with the President's principles (as we have assumed they would) could raise the economic cost dramatically. If EPA decides to impose optional Tier II tailpipe standards, for instance, it can increase annual costs by $5.6 billion beginning in 2001. The dozens of decisions, rules, regulations, and guidance documents that EPA must produce under this legislation will have an enormous (though necessarily difficult to quantify) impact on costs.

Accordingly, it is important to get all feasible assurances **now** that EPA will implement this bill in a rational, balanced manner. If we wait until the President has announced that he will sign the bill, we will have lost all leverage with EPA. On the other hand, we must proceed carefully: if EPA staff become too aware of White House concerns, they can quietly arrange with their counterparts on the Hill to have the legislative history (yet to be written) rule out our preferred implementation strategies.

I propose that Bill Reilly be asked, in a small, senior-level meeting to agree to 4 general principles and to take a number of specific near-term administrative actions on important issues. The principles I have in mind follow. Some examples of important issues and actions are attached. (The first two are particularly important.) My staff is working with OPD to develop a more complete list to serve as the basis for discussion with Bill. Until the legislative history of this bill is complete, no such list should be given in writing to anyone in EPA.

Principles of Clean Air Act Implementation

1. All discretionary authority under the Act should be exercised in a fashion consistent with the principles on which the President's original proposal was based. This implies that maximum use should be made of flexible, market-based approaches and, where market-based approaches are not feasible, performance standards that maximize flexibility should be employed. Decision-making should, where permissible, balance economic and environmental concerns to ensure the compatibility of environmental protection and economic growth.

2. On all issues on which the Administration as a whole reached an internal position on the merits during the course of the legislative process, this position should be adopted as the basis for regulatory and administrative actions. This implies, for instance, that the Administration's WEPCO proposal should guide EPA's actions in this area.

3. Whenever studies involving determinations of the workability, feasibility, or cost of possible agency actions are conducted pursuant to the provisions of the Act, relevant economic or line agencies (such as OMB, Treasury, CEA, DOE, and DOT) should be involved in their design and execution. Any such studies should recognize that a margin of safety in terms of cost and feasibility is as important as a margin of safety in terms of environmental or health risks.

4. Decisions related to permitting and enforcement should consider fully the substantial administrative burdens and risks imposed on the private sector and attempt to minimize them consistent with the law. These decisions should recognize that detailed micro-management of abatement decisions is contrary to the President's principles and is likely to prove extremely costly.

Attachment

EXAMPLES OF IMPLEMENTATION/COST ISSUES IN THE CLEAN AIR ACT

1. <u>WEPCO</u>.

Issue: Under current regulations, existing utility plants are subjected to new source review whenever a major modification occurs. Modifications that may trigger new source review include the installation of pollution control equipment or non-routine repairs needed to allow for the more intensive use of cleaner plants as part of a strategy to meet acid rain emission reduction targets at the lowest possible cost. This problem, which also occurs outside the utility sector, is called the "WEPCO" problem.

Action: EPA's present draft rule on WEPCO, which was drafted before an Administration position on WEPCO was reached, should be scrapped. Instead, EPA will adopt, within the bounds of its discretionary authority, the Administration position on WEPCO set out in a legislative proposal and supporting material provided by the Administration to the Senate Committee on Energy and Natural Resources. (EPA's specific opportunities to implement the Administration position are explicitly spelled out in this material.) As time is of the essence, EPA will act within 120 days to produce a rule relevant to all Titles of the Act. The policy should be applied both inside and outside the utility sector.

2. <u>Netting to Determine Applicability of New Source Review</u>.

Issue: Presently, the applicability of New Source Review when a plant is modified is based on whether or not the modification results in a significant <u>net</u> increase in emissions of a regulated pollutant. Companies can often avoid new source review of modification projects, and its attendant costs, by netting emissions increases against emissions decreases they are able to generate within the modified facility. Netting is particularly important given the draconian technology and offset requirements the new clean air bill imposes on sources that are subject to the new source review process in some nonattainment areas. There is uncertainty, however, as to how the bill affects opportunities for netting.

Action: EPA should commit that all available discretion will be exercised in a fashion that allows maximum opportunity for netting.

3. Oxygenated Fuels.

Issue: EPA must act on waivers from the 1992 oxygenated fuels program within 6 months of enactment. Availability of oxygenate is the test for granting waivers, but the concept of availability is open to varying interpretations.

Action: In considering availability, EPA will not assume that oxygenate can be "backed out" of existing markets in which its use is subsidized through state tax programs. The focus of availability determinations will be free supply and excess capacity presently available. DOE, CEA and OMB will participate in the analysis of availability.

4. EPA Guidance for BACT determinations.

Issue: EPA, without prior consultation within the Administration, has issued very stringent guidelines to the regions regarding the determination of BACT (best available control technology) -- the level of technology required in the new source review process. NSPS standards issued by EPA are the "floor" for BACT, and many states have simply applied them. Now, EPA is requiring reviews to begin from the most stringent possible controls demonstrated anywhere, and to work down the list towards NSPS only if specific objections to these "Cadillac" controls (such as threat to economic viability) can be proven. The new legislation will subject many more sources to the new source review process, raising the cost of this policy change.

Action: EPA BACT guidelines will be reexamined and made more sensible. No explicit ordering of BACT analysis that goes beyond the statutory language should be mandated.

5. Utility MACT Studies (air toxics).

Issue: The bill includes two air toxics utility studies: one covering all toxics and one limited to mercury. These studies are due 3 and 4 years after enactment. Control technologies would likely be very expensive (exceeding cost of entire acid rain program), and could involve widespread scrubbing. Because of the nature of utility emissions (hot high plumes) a study of actual impacts and real effects is unlikely to show significant health effects.

Action: EPA will commit to conduct its health analyses on a real effects, actual exposure basis. It will also agree that any decision to regulate must be motivated by health considerations.

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Memo	From Roger Porter to POTUS Re: Clean Air Legislation (3 pp.)	10/23/90	P-5	

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 1991 [1]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 1/3/2005	**OA/ID Number:** 29149-002
FOIA/SYS Case #: 1998-0004-F[2] **Re-review Case #:** 2005-0426-S **P-2/P-5 Review Case #:**	**Appeal Case #:** **Appeal Disposition:** **Disposition Date:**
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THE WHITE HOUSE

WASHINGTON

90 OCT 24 PM 6:38

October 23, 1990

MEMORANDUM FOR THE PRESIDENT

FROM: ROGER B. PORTER RBP

SUBJECT: Clean Air Legislation

Late Sunday night, the Clean Air Act conferees completed their deliberations. As soon as the Conference Report is filed, the House will act on the report, with Senate action expected soon after.

Environmental Benefits

The agreement builds on the legislative proposal you transmitted to Congress over 16 months ago. Although we have not seen the final language, we believe the package achieves the environmental benefits sought in your legislative proposal, including:

- a 10 million ton reduction in SO_2 emissions to address the problem of acid rain;
- measures and incentives to address urban smog and bring virtually all cities into attainment by the year 2000; and
- a 75 to 90 percent reduction in air toxic emissions.

Cost Effective Approaches

The Conference agreement moves away from the command and control approach that has characterized most environmental legislation in the last twenty years. It embraces market oriented provisions by including several of the innovative features of your bill.

- The acid rain title includes a marketable permit trading system to reduce the cost of controlling acid rain.
- It establishes performance standards, such as for tailpipe emissions.
- It encourages technological innovation by requiring a greater reliance on the use of cleaner burning alternative fuels (including reformulated gasoline).

- It establishes incentives to use clean coal technologies.

Major Provisions

Title I on Urban Smog

- We are disappointed that the Conference report relies heavily on the House bill, and includes a more prescriptive stationary source control program than was achieved in our negotiations with the Senate leadership last spring.

- The Conferees, however, agreed to substantially modify the Wise amendment, and to delete the more stringent House provisions on visibility. The latter was a real victory for many Western states.

Title II on Mobile Sources

- We successfully avoided the mandatory Tier II tailpipe program that would have established more stringent tailpipe standards across the country at a cost of $600 per vehicle.

- A new vehicle pilot program in California, as well as a new program for fleet vehicles in the worst nonattainment areas will be used to demonstrate the use of cleaner vehicles and fuels.

- It includes a program requiring the use of reformulated gasoline in the nine most polluted cities in the country. Other cities have the option of also requiring reformulated gasoline if supplies are available.

Title III on Air Toxics

- The Conference report includes the more moderate technology based standards for stationary source control and the more flexible standard on residual risks from the House bill.

Title IV on Permits and VI on Enforcement

- The Conferees included the more streamlined and less punitive provisions from the House bill. Boyden Gray and his office were extremely helpful in the deliberations on these sections of the bill.

Title V on Acid Rain Emissions

- The Conference agreement builds off of the acid rain program we negotiated with the Senate which will be easier to implement and which better ensures an efficient trading program.

Problems

Although the Conference agreement is considerably better in many areas than what could have resulted, the agreement includes several expensive, and generally unwarranted provisions. These include:

- Expensive mobile source control provisions for toxic air pollutants ($1.1 billion);
- A carbon monoxide emissions tailpipe provision we have strongly opposed ($2.3 billion); and
- The more prescriptive controls on stationary sources in the nonattainment title.

There is still a possibility that we may be able to change the CO tailpipe provision before the conference report is brought to the House floor.

Next Steps

The interagency group developing the cost estimates, chaired by CEA, is hard at work reviewing the provisions agreed to by the Conference Committee.

It is clear from the language we have received so far that significant cost savings can be achieved through the discretion available to EPA in implementing the act. Teresa Gorman from my office, working with Dick Schmalensee (CEA), has developed a list of 16 specific implementation issues.

Michael Boskin, Bob Grady, and I met with Bill Reilly this afternoon and reviewed these issues with him. He is in agreement with these implementation guidelines.

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
05. Memo	From Roger Porter to John Sununu Re: Letter to Allen Murray, CEO Of Mobile (1 pp.)	12/18/90	~~P~~5	

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 1991 [1]

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(Document Follows)
By JF (NLGB) on 10/28/05

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FOIA/SYS Case #: 1998-0004-F[2]	**Appeal Case #:**
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THE WHITE HOUSE

WASHINGTON

THE CHIEF of STAFF has seen

December 18, 1990

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: ROGER B. PORTER RBP

SUBJECT: Letter to Allen Murray, CEO of Mobile

Attached is the response I sent to Mr. Murray concerning the reformulated gasoline provisions in the 1990 amendments to the Clean Air Act. While the enacted legislation addresses some of his concerns, the final reformulated gasoline program will require careful monitoring during its implementation. As you might expect, there are competitive differences among companies which result in some complaining more loudly than others.

Attachment

THE WHITE HOUSE

WASHINGTON

December 18, 1990

Dear Mr. Murray:

Thank you for your letter on the proposed amendments to the Clean Air Act concerning requirements to reformulate gasoline in cities with severe air pollution problems. As you know, the President signed the Clean Air Act Amendments of 1990 into law on November 15, 1990.

The Administration expressed some of the same concerns over the reformulated gasoline provisions during the House and Senate's deliberations on this issue. To address these concerns, the Conference Committee delayed the implementation dates of the program and reduced the oxygenate requirement from 2.7 to 2.0 percent. In addition, the Committee included in the wintertime oxygenated fuels program, a provision whereby any individual may petition the Administrator of EPA to delay the start of that program if there is an insufficient domestic supply of oxygenates.

Even with these changes, we believe that the final requirements present a major challenge to the oil industry. We plan to monitor this program closely over the next few years to identify in advance potential problems that may arise from either capacity or supply constraints.

Best wishes for a pleasant holiday season.

Warmest regards,

Roger B. Porter

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. Allen E. Murray
Chairman of the Board
President and Chief Executive Officer
Mobile Corporation
3225 Gallows Road
Fairfax, Virginia 22037-0001

Mobil Corporation

3225 GALLOWS ROAD
FAIRFAX, VIRGINIA 22037-0001

ALLEN E. MURRAY
CHAIRMAN OF THE BOARD
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

October 23, 1990

The Honorable John Sununu
Chief of Staff
The White House
Washington, DC 20500

Dear Governor Sununu:

As the Congress gets ready to consider the Conference Committee Clean Air bill, I would like to make you aware of some grave reservations Mobil has about the reformulated gasoline provisions of the bill. We have been expressing these concerns to members of the House and Senate Committees throughout their deliberations. Mobil has no quarrel whatsoever with the goal of the bill, and we are committed to produce reformulated gasoline. Cleaner air is in everybody's best interest, and we support reasonable and cost effective efforts to reduce emissions.

Our problem, and it is a big one, is achieving the extremely stringent, perhaps unattainable, performance standards mandated by the legislation over a very short time. What this bill proposes would change the basic way our industry manufactures and distributes gasoline. The net result will be that the industry's ability to supply gasoline in the volumes required and in the places where it is needed will be seriously constrained. In our view, there is a serious risk of major supply disruptions and associated price volatility.

The Conference bill provisions establish performance standards for 1995 that include a 15% reduction in automotive emissions based on changes to the fuel alone. And the bill doesn't stop at 15%. It mandates further reductions in the year 2000, without even determining if the original reduction can be achieved. The technology to meet these standards simply does not exist today. Yet to meet the bill's implementation schedule, the design, permitting and construction of new facilities would have to start before we know what technology is required. Even if the technology were known today, the engineering, construction and financial resources may not be available to implement the massive investments needed by 1995 to provide adequate supplies of reformulated fuels.

Mobil

Mobil and the industry have for some time been hard at work developing cleaner fuels. Since fuel is chemically changed during the burning process in the engine, it is essential to evaluate the fuel/vehicle system to achieve the most cost effective solution. That's why Mobil joined with 13 other oil companies and the domestic auto industry to launch a research program to develop information on how to modify fuel/vehicle systems to reduce auto emissions. But we simply don't know at this point whether these efforts will produce the information required to develop reformulated gasoline that meets all the bill's stringent standards in the time-frame specified.

Another problem is the provision mandating that gasoline for the nine cities with the worst smog problem contain a specified amount of oxygen. Scientific evidence indicates that adding oxygenates to gasoline has little effect on smog. Furthermore, requiring oxygen in gasoline in approximately 25% of the nation's gasoline market year-round is wasteful and costly since smog is a summer problem.

In summary, we have serious concerns in a number of areas: Are the performance standards achievable? Are the deadlines reasonable? Will enough oxygenate be available? What will all of this cost the consumer? What will be the impact on the economy?

These are critical concerns which must be resolved. We've urged the Committees to address these issues by including a feasibility assessment in the legislation. This would permit adjustments to the performance standards and mandated deadlines. In our view, such a provision would assure adequate supplies of reformulated gasoline while meeting our shared goal of cleaner air for the nation.

Very truly yours,

Allen E. Murray

Allen E. Murray

12/18 - Brad

THE WHITE HOUSE
WASHINGTON

DATE: November 15, 1990

TO: ROGER PORTER

FROM: GOVERNOR JOHN H. SUNUNU

Are these concerns addressed in the final bill?

Mobil Corporation

3225 GALLOWS ROAD
FAIRFAX, VIRGINIA 22037-0001

ALLEN E. MURRAY
CHAIRMAN OF THE BOARD
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

October 23, 1990

The Honorable John Sununu
Chief of Staff
The White House
Washington, DC 20500

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In summary, we have serious concerns in a number of areas: Are the performance standards achievable? Are the deadlines reasonable? Will enough oxygenate be available? What will all of this cost the consumer? What will be the impact on the economy?

These are critical concerns which must be resolved. We've urged the Committees to address these issues by including a feasibility assessment in the legislation. This would permit adjustments to the performance standards and mandated deadlines. In our view, such a provision would assure adequate supplies of reformulated gasoline while meeting our shared goal of cleaner air for the nation.

Very truly yours,

Allen E. Murray