

CONGRESSIONAL RECORD—HOUSE

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RALPH NADER OFFERS STRINGENT ANTISMOG PROPOSALS

HON. GEORGE E. BROWN, JR. OF CALIFORNIA IN THE HOUSE OF REPRESENTATIVES Wednesday,

July 1, 1970 .

Mr. BROWN of California. Mr. Speaker, existing smog-control legislation is a joke.

The words are blunt, but then, they should be.

Despite all the rhetoric, all the promises, all the beautiful language, the dismal truth is that air pollution continues to worsen.

Unfortunately, prospects for improvement remain dim. And smog is no laughing matter.

A valuable perspective on the whole situation – and especially legislative ramifications – was given recently in a letter from Ralph Nader to the chairman of the Senate Subcommittee on Air and Water Pollution, Mr. MUSKIE.

Ralph Nader's involvement with the smog crisis is long-standing. Nader was instrumental in the beginning steps which led to the landmark antitrust suit filed last year charging major automobile manufacturers with a 15-year conspiracy to retard development of air pollution controls. Nader and his co-workers-at the Center for the Study of Responsive Law have undertaken intensive analysis of existing smog legislation, and in the letter to Senator MUSKIE, a series of important new programs and policies are suggested.

I am proud that already I have offered new legislation similar to half the Nader proposals. Last October I introduced H.R. 14579 which would amend the National Emissions Standards Act by eliminating the requirement that established standards take into account economic costs. H.R. 15613, introduced this January, calls for increasingly stringent standards by 1975. And H.R. 16775, submitted in early April, would penalize companies cited for pollution violations by not allowing them to compete for Government contracts.

I agree with Mr. Nader in his biting criticisms of the clean air bill just passed in this body. I believe that the Nader letter to Senator MUSKIE is an important document and I am inserting it in the RECORD at this point:

JUNE 24, 1970

Senator EDMUND MUSKIE,

U.S. Senate,

Washington, D.C.

DEAR SENATOR MUSKIE: On May 12, 1970, a detailed Task Force Report on Air Pollution was issued by a group of students and young lawyers which I brought together for that purpose.

That Report documented a dismal picture of broken promises, governmental paralysis at all levels and rampant corporate irresponsibility – all taking place against a backdrop of legislative failures. Among other things, the Report explored the following alarming developments:

Deaths and diseases related to air pollution are rising to epidemic levels;

Air-borne contaminants are responsible for billions of dollars of economic losses annually;

The majority of identified pollutants are not being systematically monitored, much less controlled;

NAPCA and State agencies are hopelessly underfunded and understaffed to bring about effective abatement;

Automotive emissions have not been reduced and may even have increased, despite a federal "regulatory" program spanning the last three model years; and

Emissions from stationary sources (such as factories and powerplants) continue unabated and in many cases have increased.

Existing laws have failed. to have a perceptible impact on the growing violence of air pollution. The Air Quality Act of 1967 has yet to bring about the reduction of emissions from a single smokestack in the nation. Emission standards for automobiles have been set for only two pollutants – carbon monoxide (CO) and hydrocarbons (HC) – while emissions of equally dangerous nitrogen oxides have increased. Other automotive pollutants such as lead, asbestos, rubber, particulate and gaseous matter may be dealt with at another time, if ever. Furthermore, the Task Force disclosed that the failure of "control" systems for CO and HC is the general rule and that the government has shown an unwillingness or incapacity to enforce the law against automobile manufacturers.

This legislative and administrative breakdown has been perceived more clearly by the American public than by the Congress. Unquestionably – as the burgeoning environmental movement testified – the nation is far ahead of its legislators with regard to its demands for forceful, immediate cessation of environmental hostilities. Forceful action is required more this year than ever before. The House of Representatives, despite the valiant efforts of a handful of members seriously committed to clean air, has enacted a bill which closely follows many of President Nixon's ill-considered proposals. Your leadership at this critical juncture will be measured in part

by your efforts to undo the damage that could be wrought by the final enactment of the House amendments to the Clean Air Act. More specifically, an adequate response on your part seems to require that you champion legislation based on the following principles:

(1) Pollution control – both from motor vehicles and stationary sources – must no longer be impeded by the pernicious phrase, "economic and technological feasibility." This stricture on the power of the Secretary to move expeditiously against contamination of our environment caters to the corporate strategy of deception and delay. With regard to issues vitally affecting the quality of life – indeed the very length of human life – the nation cannot pause to decide whether the effort is "feasible," a term which in industry parlance is construed to mean "convenient" and "profitable."

(2) Closely related to this is the need to establish legislatively a national timetable for cleaning up the environment: The Secretary should be required to immediately do the following: (a) ban the emission of extraordinarily hazardous materials (e.g. beryllium); (b) set standards which are national in scope and tailored to areas with the most serious problems for all identified pollutants. The Secretary should require the states to quickly develop plans to implement these standards by mandating the application of the best available control or foreseeable technology. Where control cannot be achieved by this method or by fuel substitution, industry has no business using our atmosphere as a free raw material to contaminate.

Quite simply, such operations should be banned. With this prospect facing industry, you may be astonished to observe the rapidity with which control technology is "discovered." In short, it is time to call a halt to the inverted procedures which permeate the air pollution laws – procedures which require the public to prove a danger to health before action can be taken. Enough evidence has been developed by eminent scientists to indicate that air pollution presents a health hazard to present and future generations of Americans; and yet, under present laws, administrators maintain that they cannot move expeditiously because they have not "proved" health effects. This approach is enshrined throughout the House-enacted bill and must be discarded if the 1970 air pollution legislation is to be something better than a fraud on the public. One of the many examples of this twisted thinking is contained in the fuel regulation provisions of the bill which would require the Secretary to meet a tortuous burden of proof before he could ban an obviously dangerous pollutant such as lead. HEW officials have privately confided that the provision is totally unworkable.

(3) Production-line vehicles must be tested in numbers large enough to assure statistical validity. In view of the abundant evidence that production cars have poorer emission characteristics than the hand-coddled prototypes tested by NAPCA, it was dismaying to note your failure to address this problem in your own proposed legislation. I hope that this omission will be rectified.

Furthermore, I hope that you will move beyond the House bill to: a) require that NAPCA test large numbers of vehicles in use at 5,000-mile intervals up to 50,000 miles and, b) require that manufacturers install, at no cost to the consumer, control devices on used cars, and c) require that manufacturers warrant the operation of all control-devices for a minimum of 50,000 miles.

(4) Standards-setting and more intensive surveillance of automobiles propelled by the internal combustion engine must be declared to be no more than interim national policy. The Secretary should be ordered to establish emission standards to be effective for no later than the 1975 model year which are at least as favorable as the presently feasible Rankine Cycle engine.

(5) Industrial secrecy is perhaps the best single weapon for keeping the forces of environmental clean-up at bay. The various proposals for visitation and inspection rights must be supplemented by full subpoena power and a requirement that polluters monitor and report their emissions under guidelines prescribed by the Secretary.

(6) The new law should prevent the purchase by the federal government of products manufactured by any company cited for violation of the air pollution laws. This would simply be an extension of the principle embodied in other laws and regulations which deny the right to do business with the federal government to corporations which violate various public policies.

These legal requirements will be illusory unless supported by civil and criminal penalties which are designed to provide realistic deterrence to violations, adequate funding and manpower for NAPCA (or its successor agency) and a strong provision for private class actions to enforce rights created under the law in order to assure that lapses in administrative vigilance may be corrected by affected citizens.

I have attempted to outline the steps which are indispensable for a modest start on the path of controlling the contamination of our atmosphere. I would be pleased to testify before your Subcommittee at your request, regarding a more detailed approach for controlling and preventing air-borne pollutants. Your response to the foregoing would be welcomed.

Sincerely,

RALPH NADER