

NATIONAL CLEAN AIR COALITION

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FACT SHEET ON S. 2266 -- THE BYRD-FORD EAGLETON "CLEAN AIR REAUTHORIZATION AND ACID PRECIPITATION STUDY ACT OF 1982"

The Byrd-Ford-Eagleton amendments to the Clean Air Act, S. 2266, represent a drastic retreat from the Nation's commitment to controlling air pollution. If adopted, these amendments would seriously endanger both the public health and the natural environment. Though not dealing with mobile sources, the Byrd bill is identical in nearly every major respect to the industrial source provisions of the Dingell-Broyhill-Luken dirty air amendments introduced in the House of Representatives.

The Byrd bill:

- o Allows our national parks and wilderness areas to become more polluted.
- o Delays the date for achieving healthy air in polluted areas by as much as 11 years.
- o Cripples the tools in the current law for cleaning up unhealthy air.

Members of the National Clean Air Coalition are:

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American Lung Association
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Citizens for a Better Environment
Environmental Action
Environmental Defense Fund
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Environmental Policy Center
Friends of the Earth
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Natural Resources Defense
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Oil, Chemical & Atomic Workers
International Union
Sierra Club
United Steelworkers of America
Western Organization of Resource
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The Wilderness Society

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- o Totally ignores the problem of cancer causing air pollutants.
- o Does nothing to stop the growing problem of acid rain.
- o Allows the still clean air in nearly 90 percent of America to deteriorate to the levels allowed in urban and industrial areas.

I. THE BYRD BILL WOULD CRIPPLE THE "NONATTAINMENT" PROGRAM FOR CLEANING UP UNHEALTHY AIR

More than 150 million Americans still live in places with unhealthy levels of ozone (smog). For carbon monoxide, the number is over 60 million; for particulates, more than 70 million; for sulfur dioxide, more than 20 million. The Clean Air Act establishes deadlines -- 1982 and 1987 -- for cleaning up these "nonattainment" areas to provide air fit to breathe. It requires states to have a control plan that will achieve the standards.

That program is working. According to the National Commission on Air Quality, if currently programmed pollution control efforts are not allowed to falter, most of the nonattainment areas will meet the standards by the deadlines. This will mean healthy air quality for 15-70 million more people, depending on the pollutant.

The Byrd bill would strip away almost every part of this program needed for progress. It would substitute nothing effective. The bill would legitimize indefinite failure to provide healthy air.

- o The bill would slip the deadlines for attaining the health standards to as late as 1993. Any new health standards adopted by EPA would not have to be met for 9 years.
- o The bill provides the steel industry the opportunity to bypass the 3 year extensions granted in the "stretchout" legislation passed just last summer and obtain up to an additional 8 years more for compliance without making the modernizing investments needed to keep older plants in today's steel communities from closing.
- o The bill allows existing sources even to relax their current pollution controls!
- o Even the 1993 deadlines would be just a facade, for the bill would repeal most of the effective tools for progress towards the health standards.

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- The bill would eliminate the "lowest achievable emission rate" (LAER) requirement, which simply requires new sources locating in polluted places to control their pollution as well as the best existing ones do.
- The bill would allow states to eliminate the requirement that new sources in polluted places "offset" their additional pollution by obtaining reductions in pollution from existing sources in the area.
- The bill would effectively kill in most areas the inspection/maintenance program for automobiles, needed to keep pollution controls working properly:

Cities of under 500,000 population, or less than 50% more polluted than the health standard, would be exempted from the program;

Each state could exempt its larger and more polluted cities until 1987 wherever it decided inspection/maintenance was not "appropriate;"

In short, inspection/maintenance is required only when an area gets an extension for meeting public health standards beyond 1987.

- o The bill would provide for automatic approval of revisions to State plans, whether or not they meet the requirements of law, unless EPA took affirmative action to require a change.
- o Sanctions designed to encourage the submission and enforcement of pollution control plans would be drastically weakened:
 - All sanctions for states that failed to submit State Implementation Plans would be made discretionary, even though the National Commission on Air Quality found the permit restrictions in the present law have been an effective incentive for states to produce adequate plans, with no significant economic impact.
 - The current restriction on issuing permits for new major sources of pollution in areas that do not achieve healthful air quality by 1982 or 1987 would be emasculated by --

allowing extensions of the deadlines as late as 1993; and,

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giving EPA discretion to not impose these restrictions even when the deadlines are not met; and

allowing local agencies to "waive" any restrictions that EPA imposes for any new construction that emits less than what it replaces.

These changes would make State Implementation Plans a hollow shell. Removing the federal minimum requirements for state plans would put conscientious states at the mercy of those with less regard for their citizens' health. It would put all states at the mercy of industries which can play one state off against another to get weak control requirements.

II. THE BYRD BILL WOULD EFFECTIVELY REPEAL THE PROGRAM TO CONSERVE OUR REMAINING CLEAN AIR (PSD).

The bill would reverse the very purpose of the PSD program (Prevention of Significant Deterioration), from conserving clean air to exploiting it. Areas that now enjoy clean air could become as polluted as major cities.

- o The bill would repeal all limits on the destruction of clean air resources except in the Class I National Parks and Wilderness areas -- which make up just 1 percent of the Nation's land.
- o Even in National Parks and Wilderness areas, the bill would drastically increase the pollution allowed:
 - The bill eliminates restrictions on short-term air quality degradation limits. Air quality could be ruined many days of the year as long as an annual standard was met.
 - This would allow pollution on the worst days to be as bad as those allowed in our cities.
 - "Fugitive dust," including pollutants from coal-mining or other industrial activities, would no longer be considered a pollutant under the PSD program.
- o The bill would effectively repeal the law's requirement for an up-to-date determination of "best available control technology" (BACT) for many new sources of pollution in clean air areas. It would legally equate BACT for any plant emitting less than 500 tons per year of a regulated pollutant with the often weaker "new source performance standards," where they exist.

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- o The bill would eliminate protection for "integral vistas" -- the views from the National Parks and wildernesses. These views are what millions of people come to the parks for.

III. THE BYRD BILL WOULD DO NOTHING TO CONTROL AIRBORNE TOXIC POLLUTANTS.

Airborne toxic chemicals account for a significant proportion of lung cancer, and cause other diseases. The current law's authority to regulate these pollutants has not proved sufficient, for in ten years EPA has managed to regulate only four of the dozens of toxic substances found in the air. The National Commission on Air Quality and the National Clean Air Coalition have recommended changes in the law to make it more effective. Yet the Byrd bill would leave the present ineffective program just as it is.

IV. THE BYRD BILL WOULD AGGRAVATE THE ACID RAIN PROBLEM

Acid rain is a serious environmental problem which the present Clean Air Act does not effectively address. The National Commission on Air Quality recommended that Congress "require a significant reduction by 1990 in the current level of sulfur dioxide emissions in the eastern United States." Calls for abatement have come from many quarters. Senators Mitchell, Stafford, and Chafee have introduced a bill which would carry out this recommendation. Yet S 2266 would actually increase emissions of the pollutants that cause acid rain.

- o The bill would exempt new large industrial boilers from the "percentage reduction requirement" in the NSPS, effectively assuring greater emissions.
- o The bill's emasculation of the PSD program would increase allowable emissions of sulfur dioxide from new plants.
- o The bill allows existing pollution limits to be "suspended" for as long as two years merely on an argument that the suspension could "reduce foreign imports of fuels."
- o The bill allows existing oil and gas-fired plants to switch to dirtier fuels and receive permission to increase their pollution levels above legal limits for up to six years.

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- o Instead of controlling acid rain, S. 2266 prohibits new regulations until a 5-year research program is completed.

V. THE BYRD BILL WOULD WEAKEN ENFORCEMENT BY EMASCULATING THE NONCOMPLIANCE PENALTY.

For years it has been less expensive to fight pollution controls than to install them. Consequently, polluting industries have had financial incentives to drag their heels. In 1977 Congress mandated EPA to adopt a "noncompliance penalty" program requiring all those not in compliance to pay a penalty equal to what they saved by violating the law. Industry has fought this program in the courts and at EPA. The Byrd bill would render it a shell.

- o The bill eliminates federal enforcement of noncompliance penalties by prohibiting EPA from disapproving a state-imposed penalty that is too small, and by prohibiting EPA from collecting a penalty if a state fails to.
- o The value of the noncompliance penalty as a deterrent and as an assurance that violators will not gain unfair advantages over their competitors who have complied will be destroyed. Rather than requiring the assessment and collection on a regular schedule from all those out of compliance, the bill would --
 - allow discretion never to assess a penalty from a noncomplying source;
 - allow "compromising" (even to zero) a penalty that has been assessed, instead of ever collecting it;
 - allow payment of a penalty that has been assessed to be postponed, even indefinitely, instead of being paid regularly.

VI. THE BYRD BILL WOULD EFFECTIVELY BLOCK ACTION NEEDED TO PROTECT THE OZONE LAYER

The Clean Air Act now authorizes EPA to limit emissions of fluorocarbons (mainly used in cooling and certain industrial processes), in order to protect the stratospheric ozone layer which guards us against cancer-causing ultraviolet radiation.

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- o The Byrd bill would block any action to limit chlorofluorocarbons emissions -- even just to keep them from growing.
 - The Byrd bill would block action until there was unequivocal proof that the damage had already been done.
 - The only other way EPA could act is if an international agreement is reached. This would put the safety of Americans in the hands of other governments.