

UNITED STATES



OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 93^d CONGRESS
FIRST SESSION

VOLUME 119—PART 27

OCTOBER 18, 1973 TO NOVEMBER 5, 1973

(PAGES 34551 TO 35988)

REFINERIES

They already have blocked construction of several refineries in the U.S. Let me just tick off a few: A Stuart Petroleum refinery at Piney Point, Md. to operate in conjunction with a bulk plant it already has there; a 100,000 barrel a day facility by Supermarine Inc. at Hoboken, N.J. on the site of the old Todd Shipyard; a 65,000 barrel a day refinery by North East Petroleum at Tiverton, R.I.; expansion of the Amerada Hess plant at Port Reading, N.J. and expansion by Chevron East at Perth Amboy, N.J.

Shell Oil Co. tried to build a 150,000 barrel a day refinery on Delaware Bay but ran into a state law obtained by the environmentalists which prohibits refineries and other heavy industry within 10 miles of the coast. McClean Fuels Co. wanted to build a 200,000 barrel a day refinery at three different locations, South Portland, Me., Searsport, Me. and Riverhead, L.I., but failed to get environmental approval.

FUEL PENALTIES

Discouragement for obtaining petroleum would seem to dictate stringent use of it, but environmentalism is resulting in just the opposite. At the beginning of this year when he was head of the Office of Emergency Preparedness, General George Lincoln said that cleaning up auto exhausts already has cost 300,000 barrels a day of extra gasoline and will cost about two million barrels a day by 1980. Additional safety equipment means more fuel penalties because of the extra weight. Also, taking the lead out to please environmentalists means a 15% to 20% decrease in fuel efficiency.

BOILER FUEL

Because of the natural gas scarcity, the Federal Power Commission has been trying to discourage wasteful use of it as a boiler fuel. But here again environmental demands are causing trouble. The Commission is finding that many firms feel forced to use clean natural gas for boiler fuel because of anti-pollution requirements. Incidentally, some who converted their facilities to use oil because of FPC pressure and natural gas scarcity now are having trouble getting oil.

COAL IS BLACK

Coal, of course, is the only domestic fuel in plentiful supply. But its name is black with environmentalists because it is dirty. Filters have not yet been perfected. Neither has liquified coal. Meantime reliance on limited supplies of low-sulphur coal is creating much economic hardship.

Since there are inadequate resources for extensive hydro-power, and technology is still evolving for oil shale, thermal, solar, tidal and other exotic sources of power, that leaves only the atom. But that's anathema to environmentalists.

NUCLEAR POWER PLANTS

In a massive fuel study released early this year, the National Petroleum Council said that 23 nuclear power plants with a capacity of 20,000 megawatts will be delayed six months to three years by environmental obstacles. Let me stop here to translate for you the meaning of 20,000 megawatts. That's 20 million kilowatts, and a kilowatt is equal to 1,000 watts. I have a good-sized home covering 3,000 square feet, and it has 50 kilowatts. The next time we have a brown-out or black-out, you might consider how many homes, offices and factories those 20 million kilowatts would power. (The Council also said each year's delay could cost the electric utility industry between \$5 billion and \$6 billion.) For 17 months following the Calvert Cliffs decision by the Court of Appeals the Atomic Energy Commission licensed no plants at all while it took time to do the environmental studies required.

Now Ralph Nader and Friends of the Earth have gone to court to force closure of 20 of

the 31 operating plants but have failed to obtain an immediate injunction, and the issue of whether they should be closed is still pending before a court of appeals.

AUTOS

A new game plan is to penalize use of private autos and compel greater travel by public transportation. This, so the reasoning goes, is only would mean purer air, but less use of gasoline, thus leaving more petroleum for other purposes. So far as I can determine however, no one has figured out how the nation's cities, already strapped financially, are going to be able to afford the big outlays for public transportation this will require. The tendency is to look to the federal government, but I suggest that those who do so also take a look at the current size of the federal budget. Also ignored is how greater public transport would affect the private auto market and, in turn, the nation's economy since the auto industry makes up such a large part of it.

CLEAN AIR ACT

The transportation edicts are framed by the Environmental Protection Agency under authority of the Clean Air Act which is one of the greatest instruments of tyranny fashioned by Congress. Although EPA itself admits that some of its orders under it lack scientific validity and that it is having trouble equating economic costs with health benefits, we be to anyone who doesn't obey EPA. The Act calls for fines of up to \$25,000 a day and imprisonment up to a year for a first violation of EPA rules and \$50,000 a day and two years for a second offense. In some instances compliance requires passage of state laws. Yet, the Bill of Rights notwithstanding, the penalties for non-compliance apply to state and local officials as well as ordinary citizens.

Under the Act, EPA also is struggling with what one official calls the "biggest challenge in the air program" by trying to nail down specific requirements for about 50,000 individual stationery sources.

NONDEGRADATION OF CLEAN AIR

But that's only one facet of the Clean Air Act. Last June, in a case brought by the Sierra Club, the U.S. Supreme Court upheld the ruling of a lower court that there must be no significant degradation of air quality, even for areas which presently have cleaner air than required by federal standards. This could throttle industrial development for clean areas. In a stab at defining "significant" in a way that would allow some development, EPA held hearings in August on four rules it suggested. The Sierra Club, however, has notified EPA that it doesn't like any of the ideas and will take the agency to court if it tries to implement any of them.

LAND USE CONTROLS

The draconian Clean Air Act notwithstanding, EPA officials still aren't satisfied with their tools for forcing purity in the air and elsewhere. They are advocating legislation which would require an EPA okay for any use to which land might be put. Thus, a buyer who paid a handsome sum for a choice site with a specific use in mind might find that use vetoed by EPA—if the land use planning legislation goes through. If it does, kiss property rights good-bye in the name of purity.

WATER POLLUTION

Agency action under the Water Pollution Act is not so far along since the measure was enacted only last year. Here too, however, it appears that EPA is using it to impose expensive controls on industry. They are expected to cost billions of dollars and cause some plant closings. Nevertheless, in a study for EPA not yet made public, the National Academy of Sciences has found that many of EPA's criteria are faulty and lack adequate scientific justification.

DDT

EPA also administers the nationwide ban on DDT. The depredations of the Gypsy Moth in the east as a result are well known. Now the Tussock Moth is devastating northwest forests and worsening the shortage of timber. Consequently, some of the original Senate sponsors of the DDT ban are trying to get it rescinded.

OSHA

The Occupational Safety and Health Act, administered by the Labor Department, is providing just as potent anti-business weapons as the environmental and consumer movements. A year ago George C. Guenther, then Assistant Secretary of Labor for Occupational Safety, told me that under OSHA, the Labor Department commands enough power to put everybody out of business. That is not hard to understand. Senator Carl Curtis (R., Neb.) told the Senate that regulations implementing the law make up a stack 17 feet high. Virtually every employer is in violation of OSHA one way or another, and the Labor Department has authority under the law to assess fines without court review. Critics of the law are legion and even include some of its original Congressional sponsors. One of the main complaints is that it is inflating the cost of doing business without corresponding gains in safety and health.

As this cursory glance shows, the environmental and allied movements are using the aims of angels to fashion the tools of tyrants. Let us hope that the hysterical crash program soon succumbs to the rule of reason so that we can get on with the job of cleaning up under the system which affords the greatest freedom, efficiency and general well-being of any yet devised by man.

ISRAEL'S RIGHT TO EXIST IN PEACE

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an eloquent statement written by an eminent group of professors at the Hebrew University of Jerusalem during the fighting in the Middle East.

Mr. President, I believe this statement is still worth reading now that a tentative cease-fire has been agreed to by Israel and Egypt. Indeed, their message becomes even more appropriate.

As the professors state:

We feel that it is the duty of free men . . . to insist on the overriding duty of the Arab states to recognize Israel's right to exist in peace, and to demonstrate this by agreeing immediately to meet the representatives of Israel for discussion and negotiation.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE STAFF OF THE HEBREW UNIVERSITY OF JERUSALEM, OCTOBER 10, 1973

For the fourth time since its creation, Israel is engaged in battle with the neighboring Arab world. It is a battle which is uneven in two respects. In the first place, if Israel wins, the Arab world will endure; if the Arabs win, Israel will cease to exist. Secondly, there is no equivalence in the forces engaged. Syria and Egypt have drawn on enormous forces, both of manpower and materiel. Sixteen other Arab countries have expressed their solidarity with them, and a number have already sent units of their armed forces to join in the battle. Israel faces this situation as a small people fighting on its own. Nearly all of our students, and most of our colleagues, are today in uniform.

We, the undersigned, have always used our right as free men to express our views on

our country's policies, both external and internal; and some of us has disagreed with some of these policies in the past. Today it is clear to all of us beyond any shadow of doubt, that Egypt and Syria prepared this attack over a long period, and deliberately chose to launch it on the Day of Atonement, the most sacred day in the Jewish calendar.

It is equally clear to us that, though aware of the Egyptian and Syrian plans, the Government of Israel chose to abstain from a preemptive strike, and rather to do all it could to avert the danger by a diplomatic effort.

The real issue today, as it was in 1967, is the determination by Egypt and Syria to destroy Israel.

We are doubly convinced that the road to meaningful negotiations for a peaceful outcome has always been open to the Arab states. Had that road been taken by the Arab states, the response of our people and our government would have been such as to ensure that every conceivable step to bringing these negotiations to a mutually acceptable and positive conclusion would have been made by us.

The Egyptian and Syrian attack against us on the Day of Atonement, has led us to the painful conclusion that the policy of the present governments of the Arab states, is to go to any length to destroy the existence of Israel.

There can be no peace in the Middle East, unless the right of our people to independence and continued existence in Israel is fully recognized by our neighbors.

There can be no peace until the Arab states change their policy, and understand that the future of the Middle East must take the form of peaceful co-existence between them and Israel.

The cause of organizing a peaceful world is based on the right of all peoples to free existence and harmonious national self-expression and self-government. These rights cannot be denied to Israel and its people.

For this reason, we feel that it is the duty of free men throughout the world who cherish the cause of peace and see it as pre-condition for humanity's survival and development, to insist on the overriding duty of the Arab states to recognize Israel's right to exist in peace, and to demonstrate this by agreeing immediately to meet the representatives of Israel for discussion and negotiation.

The Arab doctrine of prior agreement by Israel to withdraw from territory, is illogical and unacceptable. Everyone of us is wholly convinced that our very existence today—that we have been able, at considerable cost in lives, to withstand Egyptian and Syrian assault and turn it back—are due to the fact that this doctrine was rejected by us. The way in which the Egyptian and Syrian attack was prepared and launched must convince the world that this rejection was thoroughly justified.

The argument has been heard that having suffered military defeat in the past, the Arabs cannot be expected to negotiate with Israel without a "gesture" from Israel. The "gesture" demanded has been that Israel should place the Arabs unconditionally, and before any agreement or commitment on their part, in a condition where, as experience shows, it would be made easier for them to attack Israel. We cannot agree that this is morally acceptable or practically feasible. Nor should the world agree. For the fourth time since 1948, we have seen our country besieged and attacked, our friends and relatives killed; we have been the target of terror on a world-wide scale; yet today, when everyone of us has members of his family, students and colleagues, at the front, we say that we remain ready for a peace process with our Arab neighbors. A peace process must mean mutual recognition, with peaceful co-existence as its goal, achieved

by free negotiations. In the circumstances which have arisen, the secure nature of the agreed boundaries is, more than ever, seem to be imperative. The nature of the territorial settlement will only emerge as a function of mutual trust.

We address ourselves to our colleagues, to students, and to men of good will all over the world in the hope that they will use their influence to the utmost to bring home to the Arab countries the demand of the world that the language of hate and vilification, and the dialogue of war, must be replaced by the dialogue of peaceful co-existence.

Shlom Avineri, Joseph Ben-David, Ernst Bergmann, Aryeh Dvoretzky, Samuel Eisentadt, Saul Friedlander, Natan Goldblum.

Jack Gross, Yehoshafat Harkabi, Avraham, Harman, Alex Keynan, Don Paltinkin, Joshua Praver, Michael Rabin. Nathan Rotenstreich, Gershon Scholem, Moshe Shilo, Gabriel Stein, Jacob Talmon, Ephraim Urbach, David Weiss.

The above signatories are on the staff of the Hebrew University in Jerusalem.

ENVIRONMENTAL PROTECTION AGENCY REGULATIONS

Mr. NELSON. Mr. President, the Environmental Protection Agency—EPA—has promulgated regulations in the July 5 and September 7 issues of the Federal Register pursuant to sections 301—effluent guidelines—and section 402, the National Pollutant Discharge Elimination System—NPDES—of the Amendments to the Federal Water Pollution Control Act—FWPCA—of 1972 establishing those agricultural pollution areas that will be classified as "point sources" and thereby have to file for a NPDES permit and meet the zero discharge of waste effluent guideline by 1985.

The EPA regulations define both large and small "concentrated animal feeding operations" as "point sources" although the EPA later excluded farm operations with less than 1,000 beef cattle, 700 dairy cows, 290,000 broilers, 180,000 laying hens, 55,000 turkeys, 4,500 hogs, 35,000 feeder pigs, 12,000 sheep and lambs and 145,000 ducks from compliance with sections 301 and 402 of the act.

During the debate of the FWPCA Congress clearly indicated that small farm operations were not to be considered "point sources" of pollution unless they met three criteria developed by Senator MUSKIE in a colloquy on the floor of the Senate with Senator DOLE. It appears that neither set of the EPA regulations follows the congressional intent in the manner small farm operations are excluded from the compliance with the act.

The Natural Resources Defense Council—NRDC—has filed suit against the EPA alleging that the agency cannot define all concentrated animal feeding operations as "point sources" and then exclude small operations when the act specifically states that all "point sources" are to be controlled through the issuance of a permit and compliance with published effluent guidelines.

The NRDC agrees that there should be a numerical cutoff determined with public hearings that distinguishes a small farmer-feeder operation, a "nonpoint source," from a large "concentrated ani-

mal feeding operation" that is a "point source." The public interest law firm does not specifically object to the feedlot-point source criteria established by Senator MUSKIE, rather they object to the way EPA has drafted its regulations.

Furthermore, numerous constituent letters indicate that the public has not had an adequate and full opportunity to draft responses for consideration in the decisionmaking process. In fact, public hearings were not held in Wisconsin until October 2, 7 days before the public comment period expired on the draft effluent guidelines.

Therefore, in a letter to the Administrator of the EPA, Mr. Russell Train, I have urged the EPA to: First, extend the public comment time for the September 7, 1973, effluent limitation guidelines, second, hold public hearings on both the NPDES and effluent programs, and third, redraft these two sets of regulations to reflect in specific language the congressional intent and legislative history—Legislative History, volume II, pages 1298-99—of the FWPCA as it pertains to agricultural problems.

The July 5 regulations developed the numerical cutoff point for farm operations that must file for a NPDES permit while EPA's second set of regulations establish effluent guidelines for point sources of pollution under section 301 of the act. The September 7 draft effluent regulations initially proposed that all farmers regardless of size would have to meet a zero-discharge-total confinement of runoff by 1985. Seven days before the public comment time expired, the EPA announced a dramatic change in policy: The farm operations that were exempt from the NPDES regulations would now be exempt from the effluent guideline limitation program. This action appears not only to be in variance with the law but contrary to published EPA policy—38 Federal Register, 128, page 18001.

The question is one of implementation rather than intent. Senator MUSKIE's colloquy clearly sets forth criteria which the EPA should follow in determining whether feedlots are "point sources" of pollution. The criteria state:

"If a man-made drainage ditch, flushing system or other such device is involved and if any measurable waste results and is discharged into water, it is considered a 'point source.' Natural run-off from confined livestock and poultry operations are not considered a 'point source' unless the following concentrations of animals are exceeded: 1,000 beef cattle, 700 dairy cows, 290,000 broiler chickens, 180,000 laying hens, 55,000 turkeys, 4,500 slaughter hogs, 35,000 feeder pigs, 12,000 sheep or lambs, 145,000 ducks. Any feedlot operations which result in the direct discharge of waste into a stream that transverse the feedlot are considered point sources without regard to number of animals involved."

This statement shows that if a feedlot is a "point source" a permit is to be required. The Congress gave the EPA the discretion to distinguish between a "concentrated feeding operation", which would require a permit and effluent guidelines and a farmer-feeder operation which would not.

The EPA admits the proposed regula-