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2ND STORY of Level 1 printed in FULL format.

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The Nation

March 24, 1997

SECTION: No. 11, Vol. 264; Pg. 16; ISSN: 0027-8378

IAC-ACC-NO: 19249851

LENGTH: 2615 words

HEADLINE: A bad air day: will industry lobbyists foul up the
E.P.A.'s newly
proposed regulations?U.S. Environmental Protection Agency clean
air policy;
Cover Story

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BODY:

It was thirty minutes before the start of the Senate
Environment and Public
Works Committee hearing. Outside the committee room, 150 people
waited in line
for the thirty seats open to the public. Standing with power-
suited lobbyists
were a dozen young blackmen, wearing baggy pants and sneakers.
Was this
democracy at work, with citizenry of different stripes gathering
to watch
Congress at work? Nah. As the 9:00 A.M. starting time approached,
the homeboys,
one by one, handed their spots over to yet more lobbyists, who had
paid \$ 29 an
hour to line-standing services to insure that they could witness
Republican
senators grill E.P.A. Administrator Carol Browner about corporate
America's
pressing concern of the moment: an E.P.A. proposal to tighten the
clean air

standards for soot and smog.

As lobbyists found their placeholders, C. Boyden Gray, once President Bush's counsel and now the comandante of a multimillion-dollar crusade against the proposed standards, huddled with confederates at the front of the line and made sure the right lobbyists were going to make it into the hearing room. The guards began letting people in. Almost all the available public seats went to industry types. (Talk about paying for access.) Gray--imagine Ichabod Crane in a gray suit and brown shoes--started striding down the hall. In what official capacity are you here? a reporter asked him. "I represent a company," he said, and turned away. He did not say that he is a leader of the industry-funded Citizens for a Sound Economy or the mastermind behind the Air Quality Standards Coalition, another fine-sounding industry group battling the new rules. (Outside the building a handful of staffers from Citizens for a Sound Economy, dressed in prison stripes, were passing out bumper stickers that read, "Tell the EPA that Barbecuing is Not a Crime!") Then, as the hearing started, a staffer for the Republican-controlled committee ushered Gray into its offices. That's true access.

Not since the NAFTA tussle or health care reform has corporate America assembled such a monster of a lobbying machine. The 600 firms and trade associations in the Air Quality Standards Coalition are each supposed to pony up between \$ 5,000 and \$ 100,000 for the anti-standards effort, which is similar to corporate campaigns of the past (think tobacco). The anti-regulationists of

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the business community are waving the usual banner of cost-benefit analysis, enlisting mega-P.R. firms to produce slick ads and manufacture "grass-roots" front organizations. They are backing a phony scientific think tank and decrying the scientific basis for the standards--in a move akin to industry's larger attempt to demean as "junk science" health and safety research that is inconvenient to corporations. Once again, the question is posed: Can a public health issue be decided on the merits in Washington without the undue influence of corporate lobbyists?

At the hearing, the pull of the anti-standards crowd was apparent. Republican senators repeatedly berated Browner for crafting new thresholds that would be too costly to meet. Chairman John Chafee, reputedly the most green-friendly of Republicans, excoriated the new soot and smog standards for pushing "too far, too fast." These days Chafee is under pressure from majority leader Trent Lott, who is hoping to revive a Republican jihad against regulations; the assault on the clean air standards is but one front. Browner patiently explained over and over that the Clean Air Act compels the E.P.A. to set standards solely on the basis of public health, not the potential cost to business, and that cost considerations can later be taken into account when states try to figure out how to meet the standards. As the room emptied after her appearance, one lobbyist said to another, "Hey, they [Republican senators] asked all your questions. Congratulations." The other exec was smiling beatifically.

Under the Clean Air Act, the E.P.A. has to review standards for assorted pollutants at least every five years. These standards are basically statements on what qualifies as healthy air. Once levels are set, the E.P.A. wrangles with states, localities and industries over how they can be met. Compliance plans often stretch out over a number of years. After the American Lung Association sued the E.P.A. in 1993, the agency reviewed the existing standards regarding ground-level ozone and particulate matter, a.k.a. smog and soot. It examined 5,000 scientific studies, held public meetings and submitted its preliminary findings to a panel of outside scientists. Then, last November, it issued proposed revisions that called for tightening the ozone standard by about 10 percent and for creating a new standard for smaller particles of soot--those at or below 2.5 micrometers in diameter. (Current standards cover only particles 10 micrometers or larger.) The E.P.A. maintains that the new ozone standard would protect about 37 million adults and 13 million children from the adverse health effects of smog. The agency also asserts that the strengthened soot standard would each year prevent 20,000 premature deaths, 250,000 cases of aggravated asthma, 250,000 incidences of acute respiratory problems in children, 60,000 cases of bronchitis and 9,000 hospital admissions.

Before the E.P.A. released the proposed standards, industry began preparing for war. In September, leading officials of the American Automobile Manufacturers Association, the American Petroleum Institute, the American Electric Power Company, the National Mining Association, the National Association of Manufacturers and Geneva Steel--a Utah company whose pollution

was linked in one study to respiratory problems in that region--
began recruiting
other corporate players for the Air Quality Standards Coalition.
(Geneva is the
company Boyden Gray represents.) At an October meeting of this
coalition, one
official noted that environmental and health public interest
groups were not yet
well organized, a generally accurate assessment, and predicted
that industry
could roll them. The coalition hustled to rally support in other
government
agencies--such as the Departments of Treasury, Energy and Defense--
and among

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state officials. At the same time, opponents of the stricter standards hired the P.R. powerhouse Burson-Marsteller to concoct grass-roots organizations--local affiliates of the loftily named Foundation for Clean Air Progress-- around the country. A

At the end of the last Congress, House Republicans were publicly contrite about their excesses, particularly on the environment. Industry lobbyists, though, were not similarly humbled. In the early stage of this squabble, corporate strategists let slip some insensitive remarks. One oil lobbyist noted that on bad air days "asthmatic kids need not go out and ride their bicycles." An auto industry official asserted that deaths caused by particulates were of elderly people and others with severe diseases who would have died within days anyway. Such rhetoric led to a spate of bad press. Still, the corporate gang took out ads claiming the stricter standards would lead to the end of the American barbecue as we know it. (The E.P.A. denies that barbecues are threatened.) In one radio ad, a son tells his father he's worried that the standards will cause layoffs at the local plant; the father replies that the family doctor says the standards are not based on sound science. And shortly after the hearing, Gray said the problem with dirty air might be solved by "getting poor people better air conditioning in the summertime." By the way, when he is not busy directing this deep-pocketed juggernaut, Gray can often be found supplying soundbites on the ethical lapses of the Clinton White House.

The corporate attack revives a familiar song: The science is unfounded and costs to business will be too high. These arguments have been deployed every time Congress has revisited the Clean Air Act. But cost estimates are difficult to assess, and the industry track record in the field is lousy. In 1990, when there was a debate on acid rain emissions, industry leaders howled that the cost of curbing sulfur dioxide emissions would be a whopping \$ 1,500 a ton. The E.P.A. said it would be \$ 450 to \$ 600. Today it is less than \$ 100. And when the General Accounting Office tried last year to investigate the impact of federal regulations on businesses, it found it could not do so because most companies it contacted declined to participate in the study. The few that did cooperate could not provide comprehensive information on the costs of complying with regulations.

Now industry spokespersons are crying that the standards could cost tens of billions of dollars a year; Gray has tossed around a \$ 200 billion figure. The E.P.A. estimates an annual tab of \$ 6.5 billion to \$ 8.5 billion. In her prepared testimony, Browner asked, "How do I put a dollar value on reductions in a child's lung function or the premature aging of lungs or increased susceptibility to respiratory infection?" Yet she also maintained that since the Clean Air Act's implementation in 1970, the "significant monetizable benefits [are] many times the direct costs."

Cost-benefit is the mantra of the anti-regulationists, but it's often an empty chant. "The question nobody is asking," notes Paul Billings, deputy director of the American Lung Association, "is how do you create a standard if

you do take costs into account? Say it takes three dollars to clean up some pollution and we can only account for two dollars in quantifiable health benefits--does that mean you don't do it? Then, the polluters bear nothing in costs, and breathers are forced to bear two dollars in costs. Or do you force industry to do only two dollars' worth of cleanup? Industry hides behind the shrill cry of costs and benefits without knowing what they all are and without any pragmatic idea of how to articulate a system based on true costs and

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benefits. In the meantime, they're not volunteering to spend anything to clean up the air. They want breathers, instead of their own enterprises, to bear all the costs."

As for the science, industry advocates are trying to portray the research underlying the proposed standards as questionable. Given the technical issues involved, the lobbyists might be able to cast doubts. Epidemiological studies do link soot to asthma and premature death, but the research is not clear on how particulate matter causes these health effects. Industry lobbyists and their allies are making much of this missing biological link, as if to say that it is not necessary to strengthen the standard unless it can be shown exactly how soot does the damage. And with smog, the anti-standards crowd is emphasizing the fact that there is no so-called bright line between safe and unsafe levels of ozone. Thus, the lobbyists ask, how can you determine a precise threshold? At the hearing, Senator Craig Thomas, a Wyoming Republican, echoed the corporate criticisms and called for more studies. He noted that Dr. Morton Lippmann, who chaired an outside advisory panel that reviewed the E.P.A.'s work, has said that additional research is needed. Indeed, most scientists involved do want to see more research; but that does not mean they don't support tighter standards. In fact, Lippmann previously testified before the committee that the proposed changes are "a prudent step in the right direction. My personal preference would have been for a somewhat more stringent level."

The aim of the anti-standards lobby is to confuse the issue. To do so, it has sunk low. A scientific think tank innocently named the Annapolis Center has been reviewing the relevant studies. But the center's pedigree--it was started by an official of the National Association of Manufacturers and is funded by oil refiners, electric utilities and other soot-making outfits--was not a matter of public record until The Wall Street Journal exposed it as an industry shill.

On the other side, dozens of non-corporate-backed scientists and health professionals--organized by George Thurston at the Institute of Environmental Medicine at N.Y.U. School of Medicine--have maintained that the current standards "are not sufficiently protective of public health. Tens of thousands of hospital visits and premature deaths could be prevented each year by more stringent air quality standards for these two pollutants." The American Lung Association says the proposed standards are not vigorous enough. It argues that the new ozone standard should be set at .07 parts per million, not the .08 p.p.m. the E.P.A. is proposing. "Industry is always raising questions about the science," Billings says. "Well, where's the science that says emitting tons of pollution into the air isn't bad? Why is the burden only on one side?"

It's unclear how Boyden Gray's pals in Congress will proceed. House Republicans are still recovering from self-inflicted wounds in their attack on environmental laws in the last Congress, so most of the current action is in the Senate. Chafee wants to delay the soot standard for five years and largely scrap the ozone standard. If the Clinton Administration insists on putting through

these standards, he threatens, Congress might review the entire Clean Air Act.

The die-hard anti-regulators in Congress have discussed using a law passed last

year that allows Congress to block rules imposed on small businesses. They can

also try to deep-six the standards through the appropriations process. Such

specific moves, though, carry a high backfire potential and might meet

resistance even within Republican quarters. At this point, the goal of the

Gray-orchestrated G.O.P. harrumphing seems to be to force the E.P.A. to withdraw

or weaken its proposals.

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So far, the Clinton Administration has mostly held firm. In response to squawking from governors, the E.P.A. did try to extend by sixty days the time period reserved for public comments on the proposed standards and to delay for two months the issuance of final standards. A federal court allowed the E.P.A. to add only an extra three weeks to the comment period, and the standards are due out in July.

Between now and then, environmental and health groups are trying to counter the industry avalanche. It's hardly an even match. According to a study by Public Citizen, twenty-seven corporations and trade associations battling the standards (a small slice of the opposition) spent \$ 72 million lobbying Congress in the first half of 1996 alone. And there is also a distinct imbalance in campaign contributions. The member companies of the Business Roundtable, via political action committees, gave \$ 30 million to House and Senate candidates in the last election cycle. The American Lung Association has no PAC. The environmental and health outfits are airing television ads in favor of the standards. (They won't say how much money they are spending--but the amount is probably modest.) But the defenders of the standards might well find themselves confronted not just by the well-lubed alliance between lobbyists and Congress but by a public campaign reminiscent of the health care fight's Harry-and-Louise ads: They're coming for your barbecues!

Following the Browner hearing, Senator Chafee was asked about the effect of

the corporate campaign against the standards. "It doesn't affect me at all," he declared, a note of indignation in his voice. And his Congressional colleagues? Chafee shrugged and declined to speak for them. Soot and smog are not the only pollutants in the air of Capitol Hill. There is also money. So much, you can almost breathe it.

GRAPHIC: Illustration; Cartoon

LANGUAGE: ENGLISH

IAC-CREATE-DATE: April 14, 1997

LOAD-DATE: April 15, 1997