

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 20, 1967.

HON. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of June 28, 1967, for a report on H.R. 6981, a bill "to provide for the prevention, abatement, and control of air pollution in the District of Columbia."

This bill would establish regulations for the prevention and control of air pollution from fuel-burning installations, open burning and incineration of refuse, and other manufacturing and processing activities. The bill would also require the Commissioners of the District of Columbia to establish Air Pollution Control Agency and, through this agency, to perform various functions relating to the evaluation of air pollution problems in the District of Columbia, the development of plans for dealing with such problems, and enforcement of the regulations contained in the bill.

There can be no doubt that the current program for the prevention and control of air pollution in the District of Columbia is inadequate, largely because the existing statutory authority for the program is obsolete. Air pollution control activities in the District are currently conducted under the provisions of a law passed more than 30 years ago—a law which does not provide adequate authority to cope with many of the most complex and important aspects of the modern air pollution problem. A new statute is needed if the District of Columbia is to succeed in attacking its existing air pollution problem, which is a serious threat to the public's health and welfare, and in preventing the problem from reaching truly critical proportions.

This Department is strongly in favor of Congressional action to provide effective legislation for the prevention and control of air pollution in the District of Columbia. In our view, such action will be most effective, in the long run, if it leads to the adoption of enabling legislation, under which an agency of the District of Columbia government would be authorized or directed to establish and enforce appropriate regulations for the prevention and control of air pollution. This approach would be preferable to the enactment of such regulations into law, as proposed in H.R. 6981.

There are several reasons why enabling legislation would be more satisfactory. For one thing, scientific understanding of the problem of air pollution and its effects on public health and welfare is constantly improving, and, at the same time, technology for the prevention and control of air pollution is constantly being modified and improved. This means that new problems are frequently encountered and that new opportunities for effective control action are being found. To deal with such problems and to take full advantage of such opportunities, the District of Columbia must be in a position to alter its regulations without necessarily seeking the adoption of new legislation. H.R. 6981 would freeze detailed regulations into law and would apparently require the enactment of new or additional legislation by the Congress even for relatively minor technical changes in those regulations.

We recognize that the provisions of H.R. 6981 are taken from a model ordinance prepared by the Metropolitan Washington Council of Governments with technical assistance from the Department of Health, Education, and Welfare. Thus, those provisions of the model ordinance containing detailed standards for the prevention and control of air pollution do reflect technical judgments made by officials of this Department on the basis of data available at the time the model ordinance was being prepared; however, we have not endorsed the inclusion of such standards in Federal, State, or local legislation.

Their inclusion in Federal legislation affecting any part of the Washington area is particularly inappropriate at this time. This Department is currently engaged in a major new technical investigation of air pollution in both the District of Columbia and the suburban areas of Maryland and Virginia. This investigation is the first phase of action which this Department has initiated for abatement of interstate air pollution in the National Capital area, under provisions of the Clean Air Act, as amended. We expect to call an abatement conference within the next few months.

This new examination of the Washington area's air pollution problems may well indicate that the regulations needed for effective control of air pollution in both the city and the suburbs are markedly different from those contained in the Council of Governments model ordinance. We recommend, then, that those sections of the bill containing standards and regulations for the control of