

CENTER FOR BIOLOGICAL DIVERSITY

Climate Law Institute

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Save — and Use — the Clean Air Act

January 2011

Some in Congress are attempting to roll back our strongest existing tool for reducing carbon pollution — the Clean Air Act.

The Clean Air Act has protected the air we breathe for four decades. By curbing air pollution, it is directly responsible for dramatically reducing dangerous pollutants such as lead, sulfur dioxide and fine particulates. The Act's successes have saved many thousands of lives, improved health and decreased hospitalizations, illnesses such as cancer and asthma, and lost school and work days. The Environmental Protection Agency (EPA) projected that in 2010 alone, the Clean Air Act would save 23,000 lives and prevent 1.7 million asthma attacks, 4.1 million lost work days and more than 68,000 hospitalizations and emergency room visits.

The Act has achieved these successes while saving us money and protecting our economy. In its first two decades alone, it created benefits valued at \$22.2 trillion — 42 times greater than the estimated costs of its regulations.

Similar results can be expected as the EPA starts using the Clean Air Act to reduce greenhouse pollution. Despite this proven track record, the Clean Air Act is under attack.

The Road Map to 350 ppm: The Clean Air Act

The scientific consensus is clear: We must reduce the level of atmospheric carbon dioxide, or CO₂, to 350 parts per million (ppm) or below to avoid global catastrophe. To reach 350 ppm, carbon pollution from the United States and other developed countries should be reduced by 45 percent or more below 1990 levels by 2020.

The Clean Air Act is our only existing environmental law that could allow us to reach the 350 ppm goal — and here's how:

In a seminal case from 2007, *Massachusetts vs. Environmental Protection Agency*, the Supreme Court found that greenhouse gases are “pollutants” as defined by the Clean Air Act. The EPA has begun to use some of the Act's tools to reduce these pollutants, and now needs to move much more decisively.

The Clean Air Act's **New Source Review Program** requires all new or modified major “stationary” sources of air pollution — sources like coal-fired power plants, oil refineries or cement plants — to implement pollution-control measures. Beginning on January 2, 2011, this program applies to greenhouse gas pollution as well: Certain new or modified sources now must obtain permits demonstrating that they will use the best available greenhouse gas pollution-control technology before proceeding with construction. However, the EPA narrowed the scope of this requirement considerably under its so-called “tailoring rule,” which initially limits the permitting program to only a few hundred very large sources of greenhouse gases, letting a huge number of smaller — but still significant — sources off the hook.

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Under the Clean Air Act's **New Source Performance Standards Program**, the EPA is required to set industry-wide limits on the amount of air pollution that certain categories of stationary sources may emit. This means each type of facility must meet the same minimum standards. The standards are based on the "best" emissions reduction method that has been "adequately demonstrated." Thus, this section of the Clean Air Act can help speed the development and deployment of new technologies to reduce carbon pollution and the creation of a green economy. In December 2010, the EPA announced it would finally set these industry-wide limits for greenhouse gas pollution from refineries and power plants. However, the agency has passed up opportunities to set limits for other sources, like cement plants.

Finally, the Act's "criteria" air pollutant program — the **National Ambient Air Quality Standards Program** — adds a critically important tool to reduce atmospheric concentrations of pollutants that threaten public health and welfare. Using the best available science, the EPA specifies the maximum permissible amount of the pollutant in the ambient air, based on what is necessary to protect the public health and welfare. To date, the EPA has designated six criteria pollutants, but greenhouse gases, including carbon dioxide, methane and others are not yet on the list. Once they are, a science-based cap that allows us to avert climate catastrophe — such as 350 ppm — must be set under the Act. The Center and 350.org petitioned the EPA in 2009 to set a protective, science-based cap on greenhouse gas concentrations, but so far the EPA has not responded to our petition.

The Clean Air Act Under Attack

The Clean Air Act is under attack from big polluters precisely because it is so powerful. Big corporate polluters are pushing Congress to gut or delay this cornerstone environmental and public health protection so that they can continue to foul our air and warm our planet. In 2010, we helped beat back their efforts and in 2011, as we begin to actually implement the Clean Air Act for greenhouse pollution, we will certainly need to do this again.

Industry special-interest groups and backward-looking states are also attacking Clean Air Act greenhouse gas rules — and even the basic, well-accepted science of climate change — in the courts. The Center is participating actively in current litigation to defend rules that help protect our climate and to urge prompt regulation of additional sources. Thanks in part to the efforts of several organizations including the Center, on December 10, 2010, the court denied an industry attempt to halt implementation of some Clean Air Act rules while litigation proceeds.

Save the Clean Air Act

Ninety-two percent of respondents to a recent survey by the Yale Project on Climate Change said the nation needs to act to reduce global warming. The same survey found that 80 percent of respondents thought government should regulate carbon dioxide as a pollutant. And the top two reasons cited for the need for government action were to provide a better life for our children and grandchildren (66 percent) and to save many plant and animal species from extinction (65 percent).

The Clean Air Act provides a comprehensive system of pollution control with a proven track record of success for the grave problem of global warming and carbon pollution. It can work immediately by itself or in conjunction with new climate legislation. Now is the time to ambitiously enforce the Clean Air Act, not to gut it.



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