

Clean Air Act Overview

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Enacted in 1970, the Clean Air Act (CAA) is the most complex, comprehensive, and costly environmental statute in existence. Amended in 1977 and again in 1990, the CAA has spawned thousands of pages of regulations covering numerous sources of air emissions.¹ The CAA is divided into the following six titles:

- Title I regulates the six so-called criteria pollutants (particulate matter, sulfur dioxide, carbon monoxide, nitrogen oxides, ozone, and lead). The U.S. Environmental Protection Agency (EPA) sets National Ambient Air Quality Standards (NAAQS) for these six pollutants. Each state must submit State

Implementation Plans to the EPA spelling out how it will meet the NAAQS. States with areas that exceed these standards are subject to additional requirements and potential penalties. Title I also contains the air toxics program, which deals with a long list of so-called hazardous pollutants.

- Title II covers mobile sources of pollution: motor vehicles and fuels. The EPA has promulgated a large number of costly rules affecting the composition of motor fuels and vehicle emissions.
- Title III contains general provisions and authorizes lawsuits against the agency for failing to meet the statute's hundreds of requirements.
- Title IV addresses industrial emissions that are believed to contribute to acid rain.

1. 42 USC §§7401–671(q).

- Title V created an air emissions permitting program, which is operated by the states under EPA supervision.
- Title VI regulates the production and use of chemicals that are believed to deplete the stratospheric ozone layer, such as chlorofluorocarbons (CFCs).

During the 30-year existence of this federal regulatory scheme, the quality of air has improved dramatically.² These gains improve on trends that had begun prior to 1970, indicating that technological advances and state and local controls were having a positive effect before federal involvement.³ The extent to which air quality improvements likely would have continued (under state and local law and through private sector efficiency improvements) had Congress not passed the CAA is subject to debate. What is clear is that the law has proved very costly—quite possibly more than necessary to achieve its goals. The EPA estimates direct costs at approximately \$21 billion annually, increasing to \$28 billion annually by 2010.⁴ Others believe the actual costs, including the indirect ones, may be much higher.⁵

2. EPA, “National Air Quality and Emissions Trends Report: 2003 Special Studies Edition,” September 2003, EPA, Washington, DC. See also Steven F. Hayward, *Index of Leading Environmental Indicators: 2006* (San Francisco: Pacific Research Institute, 2006), 47–53.

3. Indur Goklany, *Clearing the Air: The Real Story of the War on Air Pollution* (Washington, DC: Cato Institute, 1999).

4. EPA, “Executive Summary,” in *The Benefits and Costs of the Clean Air Act*, (Washington, DC: EPA, June 1999).

5. Randall Lutter and Richard Belzer, “EPA Pats Itself on the Back,” *Regulation* 23, no. 3 (2000): 23–28.

Most notable is the 53 percent decline since 1970 of emissions of the six criteria pollutants.⁶ Technological advances have greatly contributed to these positive trends. For example, automobiles manufactured today pollute approximately 25 times less than their 1970s counterparts.⁷ These positive trends likely will continue even if no new regulations are enacted.⁸

Nevertheless, the EPA continues to tighten existing requirements and to add new ones, always claiming that much more needs to be done. Generally, these new initiatives provide fewer benefits but impose higher costs than previous ones. Unfortunately, the statute never answers this question: “How clean is clean?” Hence, its open-ended provisions continue to be tightened. For example, the agency is required to revisit the NAAQS every five years and set new standards if deemed necessary to protect public health with what the agency considers an adequate margin of safety. In 1997, this process led to costly and controversial new ozone and particulate matter standards. Even as those provisions are now being implemented, the agency is in the process of tightening them yet again.

More than ever before, Congress needs to pay close attention to new EPA regulations under the CAA and to use its authority to block those regulations that are not in the interest of the American people or the environment. In

6. EPA, “Air Emissions Trends—Continued Progress through 2005,” EPA, Washington, DC, http://www.epa.gov/air/airtrends/2006/emissions_summary_2005.html.

7. Joseph Bast and Jay Lehr, “The Increasing Sustainability of Cars, Trucks, and the Internal Combustion Engine,” Policy Study 95, Heartland Institute, Chicago, June 22, 2000).

8. Joel Schwartz, *No Way Back: Why Air Pollution Will Continue to Decline* (Washington, DC: American Enterprise Institute, 2003).

addition, as Congress takes up reauthorization of the CAA, it needs to consider placing sensible limits on the EPA's power to generate new provisions.

Recommended Readings

EPA. 2003. "National Air Quality and Emissions Trends Report: 2003 Special Studies Edition." EPA, Washington, DC, September.

Fumento, Michael. 1997. *Polluted Science: The EPA's Campaign to Expand Clean Air Regulations*. Washington, DC: American Enterprise Institute.

Goklany, Indur. 1999. *Clearing the Air: The Real Story of the War on Air Pollution*. Washington, DC: Cato Institute.

Schwartz, Joel. 2003. *No Way Back: Why Air Pollution Will Continue to Decline*. Washington, DC: American Enterprise Institute.

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