

CENTER FOR BIOLOGICAL DIVERSITY

Climate Law Institute

351 California St., Ste. 600 • San Francisco, CA 94104 • (415) 436-9682 • www.BiologicalDiversity.org

Save the Clean Air Act

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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 saving many thousands of lives, improving health, and decreasing hospitalizations, illness, and lost school and work days. The Environmental Protection Agency (EPA) projects that in 2010 alone, the Clean Air Act will save 23,000 lives and prevent 1.7 million asthma attacks, 4.1 million lost work days, and over 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 when the EPA starts using the Clean Air Act to reduce greenhouse gas pollution, but despite this proven track record, the Clean Air Act is under attack.

The Clean Air Act Under Attack

In June 2009, the House passed the American Clean Energy and Security Act (ACES), H.R. 2454. ACES repeals important sections of the Clean Air Act, moving us in the wrong direction. ACES strips the EPA's authority to regulate carbon pollution from new and existing coal-fired power plants, thus facilitating the construction of these plants for years to come. ACES also bars the EPA from setting a cap on the maximum permissible amount of carbon pollution in the air.

The Kerry-Boxer bill, now pending in the Senate, removes the EPA's authority to regulate methane emissions, a potent greenhouse gas, for many uncapped stationary sources such as coal mines, landfills, and certain agricultural operations. And, like ACES, the Kerry-Boxer bill bars the EPA from setting an overall cap on the permissible amount of carbon pollution.

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, yet the Kerry-Boxer climate legislation would reduce emissions by just 4 percent below 1990 levels by 2020. ACES sets

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even weaker targets.

Clearly, pending legislation is not going to get us to 350 ppm, but the Clean Air Act could. In fact, 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 — meaning the EPA is required to regulate them.

Under the Clean Air Act, the EPA is required to set a limit on the amount of greenhouse gas pollution different sources such as coal fired power plants, oil refineries, and cement factories 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 helps speed the development and deployment of new technologies to reduce carbon pollution and the creation of a green economy. (New Source Performance Standards.)

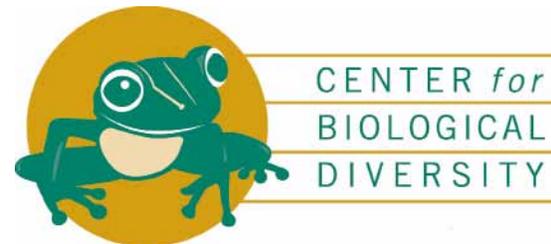
In addition, the Act requires all new or modified major sources of carbon pollution to adopt control measures through a permitting system. For example, each new or modified coal-fired power plant, oil refinery, or cement plant must obtain a permit to show that the proposed facility will use the best available carbon emissions control technology before it can proceed with construction. (New Source Review Program.)

Finally, the Act's criteria air pollutant program adds a critically important tool to reduce substances which the EPA has designated as “criteria” pollutants. Using the best available science, the EPA sets a cap — such as 350 ppm — on the amount of a criteria pollutant that may exist in the ambient air. The EPA specifies the maximum permissible amount of the pollutant based on what is necessary to protect the public health and welfare. To date, the EPA has designated six criteria pollutants, but greenhouse gasses, 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 will be set under the Act. (National Ambient Air Quality Standards.)

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92 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 enforce the Clean Air Act, not to gut it.



For more information contact:

Bill Snape, Senior Counsel, bsnape@biologicaldiversity.org or (202) 536-9351

Rose Braz, Climate Campaign Coordinator, rbraz@biologicaldiversity.org or (415) 436-9682, ext. 319

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