The Clean Air Act Is Obsolete
The Need for Bold Reform

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The Old Way

- Congress tells an agency to set emissions limit or
- Congress sets the emission limits
The Old Way

• Congress tells an agency to set emissions limit or
  • CAPTURE

• Congress sets the emission limits
  • COMPROMISE
The Old Way

• Congress tells an agency to set emissions limit or
  • CAPTURE
• Congress sets the emission limits
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The New Way

• Congress tells an agency to protect health completely by a deadline
The Old Way

- Congress tells an agency to set emissions limit or
  - CAPTURE
- Congress sets the emission limits
  - COMPROMISE

The New Way

- Congress tells an agency to protect health completely by a deadline
  - PERFECTION
The 1970 Act

The Old Way

• Congress tells an agency to set emissions limit

• Congress sets the emission limits

The New Way

• Congress tells an agency to protect health by a deadline
  – put all harmful widespread pollutants on a list
  – for listed pollutants, set air quality standards sufficient to “protect health” = NAAQS
  – achieve the air quality standards nationwide through state plans = SIPs
Senator Muskie 1970

• “all Americans in all parts of the country shall have clean air to breathe within the 1970's.”

• The Clean Air Act “faces the air pollution crisis with urgency and in candor. It makes hard choices . . . .”
The 1970 Act

The Old Way

- Congress tells an agency to set emissions limit
  - New factories
  - Gasoline

- Congress sets the emission limits
  - New cars
  - New cars to use unleaded gasoline

The New Way

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  - put all harmful widespread pollutants on a list
  - for listed pollutants, set air quality standards sufficient to “protect health” = NAAQS
  - achieve the air quality standards nationwide through state plans = SIPs
Why the CAA fails us

1. Promise to protect health phony
2. Unnecessarily expensive and bureaucratic
Tons of Lead in Gasoline

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Tons of Lead in Gasoline

6,960 deaths
20,100 children with IQs below 70
And more
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The Old Way

• Congress tells an agency to set emissions limit or
• Congress sets the emission limits

The New Way

• Congress tells an agency to protect health by a deadline
  – Lead
  – Other air quality standards
  – Especially hazardous pollutants
The Old Way

- Congress tells an agency to set emissions limit or
- Congress sets the emission limits
  - New cars
  - New cars to use unleaded gasoline
  - Chemicals that destroy the ozone layer
  - Tech based standard for especially hazardous pollutants
  - Acid Rain

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  - Lead
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The Overwhelming Case for Clean Air Act Reform

43 Environmental Law Reporter 10969 (2013)

by Bill Pedersen and David Schoenbrod
False Assumption 1:
All Air Pollutants Have Safe Levels
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Muskie in 1977:

“Our public health scientists and doctors have told us [in 1970] that there is no threshold, that any air pollution is harmful. The Clean Air Act is based on the assumption, although we knew at the time it was inaccurate, that there is a threshold.”
False Assumption 2
Air Pollution Is a Local Problem
“[The SIP process consumes] extensive amounts of local, state, and federal agency time and resources in a legalistic and often frustrating proposal and review process, which … draws attention and resources away from the more germane issues of ensuring progress towards the goal of protecting health”

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Presidential candidate Obama in 2008 on cap-and-trade

• "a cap-and-trade system is a smarter way of controlling pollution" than traditional “top-down” regulation in which regulators dictate “every single rule that a company has to abide by, which creates a lot of bureaucracy and red tape and often-times is less efficient.”
MORE BANG FOR THE BUCK
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• National cap and trade program controlling 3000 largest sources
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• Abolish
  – Federal oversight of SIPS as we know it
MORE BANG FOR THE BUCK

• National cap and trade program controlling 3000 largest sources

• Abolish
  – Federal oversight of SIPS as we know it
  – PSD
  – Visibility
  – Clean Air Mercury Rule
  – BACT and LAER
  – NSPS
The Savings from Bold Reform

- The costs to the government of producing the paperwork
  - statute: 450 pages*
  - The EPA regulations: 23,000 pages*
  - EPA guidance: about 50 times longer than the regulations
  - In each state: statutes, regulations, guidance

*ordinary book pages
The Savings from Bold Reform

• The costs to the government of producing the paperwork

• The costs to firms of meeting their paperwork obligations
The Savings from Bold Reform

• The costs to the government of producing the paperwork
• The costs to firms of dealing with the paperwork
• The impact on firms of
  – Multiple pollutants
  – Each subject to multiple programs,
  – Each program subject to change
RESPONSE TO THE BREAKING THE LOGJAM PROPOSALS

• Environmental groups: if it makes the air cleaner
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• Environmental groups: if it makes the air cleaner
• Big corporations: if it costs less.
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PLENTY OF ROOM FOR A DEAL