The Clean Air Act of 1970

by Paul G. Rogers

[EPA Journal - January/February 1990]

Historians of the environmental movement are likely to peg Earth Day 1970 as a key turning point in the American public's consciousness about environmental problems. I believe that Congress' enactment of the 1970 amendments to the Clean Air Act a few months later was an equally significant landmark. For the 1970 amendments moved environmental protection concerns to a prominent position on Capitol Hill, where they by and large have remained ever since.

It seems appropriate, as Congress is considering new amendments to the Clean Air Act, to assess what lessons might be learned from the events of two decades ago.

The juxtaposition of Earth Day and the 1970 amendments was no accident. As a representative body, Congress was responding to the heightened public concern about the environmental pollution that was symbolized by the Earth Day demonstrations. Some have said that Congress reacted to public pressure too quickly and rushed through clean-air legislation that was not up to the task of responding to real air-pollution concerns. I disagree.

While the 1970 amendments may have been the first time that pollution-control efforts obtained such a high profile in Congress, they were not Congress' first effort to address air pollution problems. On the contrary, we drafted those amendments to correct previous pollution control strategies that had failed. With the passage of the 1970 amendments, Congress adopted new approaches to regulation such as national air quality standards and statutory deadlines for compliance that are commonplace today, but represented a significant turning point in 1970.

To put the 1970 amendments in proper context, one needs to look back at Congress' prior efforts to control air pollution, particularly the Air Quality Act of 1967. That statute authorized the Secretary of Health, Education, and Welfare (who then had chief responsibility for federal environmental protection programs) to designate so-called air quality regions throughout the country; the states were given primary responsibility for adopting and enforcing pollution control standards within those regions.

Some of us involved in the enactment of the 1967 statute had significant doubts as to the viability of the regional approach to air pollution control; after all, air contamination does not stop at neatly defined regional boundaries. Nevertheless, Congress as a whole and American industry were not yet convinced of the need for a national strategy for pollution control; therefore, as a first step, the 1967 statute's regional approach became the law of the land.

The approach was a notable failure. By 1970, fewer than three dozen air quality regions had been designated, as compared to an anticipated number in excess of 100. Moreover, not a
single state had developed a full pollution control program.

This unsatisfactory record, coupled with the public pressures created by the Earth Day movement, provided the necessary impetus to convince Congress that national air quality standards were the only practical way to rectify the United States' air pollution problems. Similarly, the record of inaction under the 1967 law led Congress to impose statutory deadlines for compliance with the emissions standards authorized under the 1970 statute, in the hope that those deadlines would spur action.

Thus, the two key provisions in the 1970 act were not a frenzied reaction to public pressure, but instead were a deliberate response aimed at correcting the demonstrated failures of previous regulatory efforts.

Of course, no one would argue that the 1970 statute achieved all of its objectives; the deadlines were extended, and for the most part, the national standards were not attained. Yet I believe that history, on balance, should judge the 1970 amendments as a major and positive turning point in the national environmental protection effort. The 1977 Clean Air Act amendments confirm this judgment.

For just as important as its deadlines and innovative nationwide standard-setting approach was the 1970 statute's underlying purpose: to raise the consciousness of the American public and American business regarding the importance of pollution control. In enacting the 1970 statute, Congress knew that a central element in any successful approach to air pollution control (and, indeed, environmental protection generally) would have to be a change in attitude about the value of environmental protection.

During the House floor debate on the amendments, one of my colleagues quoted a small town mayor, who (in expressing the previous conventional wisdom that environmental protection and economic growth were not compatible) is reported to have said: "If you want this town to grow, it has got to stink." Before 1970, there were still many persons and companies throughout the United States who agreed with the mayor that pollution was the inevitable price of progress. In the 1970 amendments, however, Congress signaled its firm belief that economic growth and a clean environment are not mutually exclusive goals.

In order to change these previously entrenched attitudes, it was necessary to get the attention of industry and the American people. By taking the then-bold step of making air pollution control a national responsibility, with strict deadlines for compliance, Congress accomplished that purpose in the 1970 statute. Even though the deadlines originally imposed in the 1970 amendments ultimately were not met, the amendments unquestionably succeeded in fostering a profound attitude shift in this country.

A consensus has emerged from the experiences gleaned under the 1970 amendments that environmental protection and economic growth can, and must, be accomplished hand-in-hand. Indeed, I suspect that if the mayor quoted by my colleague were to seek election today, he or she would be soundly rejected at the polls. This attitudinal change in American society is itself a significant achievement for which the 1970 Clean Air Act amendments deserve a share of the credit.

But a positive change in attitude and assumptions about environmental protection does not in itself clean up dirty air. Congress is still struggling with the difficult question of how to achieve that goal. Thus it is fair to ask what lessons the 1970 amendments might hold for Congress as it sets about revising the Clean Air Act once again. I believe several lessons may be drawn.
**Strike while the iron is hot.** While the 1970 amendments gradually evolved to correct previous statutory initiatives that had failed, their actual enactment by the full Congress was accomplished with unaccustomed speed. This was made possible because of the high priority assigned to environmental issues on the public agenda following Earth Day.

Today's political climate is similar. Rising public concerns over well-reported environmental problems such as acid rain, global warming, and fouled beaches, coupled with the high profile that environmental issues took in the 1988 presidential elections, provide this Congress with one of the most promising opportunities for legislative initiatives on clean air in recent years. Since this positive combination of events is likely to have a somewhat limited life span, Congress should seize the opportunity - as it did in 1970 - and act now to revise the statute.

**Avoid artificial limits on pollution control efforts.** Just as the 1970 amendments demonstrated Congress' acknowledgment that air pollution could not be effectively addressed on a regional level, the current effort to amend the statute should take into account the increasing emphasis on the international nature of air pollution problems. The recent Montreal Protocol on reducing use of chlorofluorocarbons and our ongoing dialogue with Canada regarding acid rain are but two examples of the growing recognition that air pollution does not stop at state or regional boundaries; it crosses national boundaries as well.

Just as in 1970 Congress took the ground-breaking step of making air pollution control a national effort, Congress today should not hesitate to lay the groundwork for international approaches to environmental issues.

**Take advantage of improved knowledge.** Striking developments since the 1970 amendments have been the explosion of knowledge about the nature of air pollution, and the advanced new technologies available to control that pollution. The study of pollution and the design of pollution control techniques were in their infancies in 1970. Congress did not have the benefit of the wealth of additional knowledge at society's disposal today. This expanded knowledge base should permit Congress to adopt compliance deadlines that are better pegged to technical feasibility than in 1970.

**Follow through with oversight and enforcement.** One of the reasons the 1967 Air Quality Act failed and thus spurred Congress to enact a tough national air quality program in 1970 was the almost complete lack of enforcement of the earlier statute. A similar fate befell the 1970 amendments and has continued to plague implementation of the Clean Air Act ever since (although the enforcement activity has increased somewhat in recent years).

Congress, of course, can only pass laws; it is up to the Executive Branch to enforce them. It is imperative that Congress follow through on the upcoming amendments to the Clean Air Act with a stringent oversight role. It will be critical to keep the pressure on in order to see to it that those who are covered by the statute obey it - or pay the requisite penalties for violations.

Overall, the concepts set forth in the 1970 Clean Air Act amendments and revised and strengthened in the 1977 amendments are still valid. A national approach to air pollution control remains the only practical way to respond to this problem. Indeed, as I mentioned earlier, the real question today is not so much whether more efforts should be ceded to more localized governments, but the extent to which international cooperation is needed to fight air pollution.

Similarly, the use of statutory deadlines to force compliance with air quality standards is, if
anything, more appropriate today, given our greater information base and technological capabilities upon which to base such deadlines. What is needed is not so much a change in approach from the framework of the 1970 amendments, but a reinvigorated commitment on the part of government, industry, and the population at large to meet the new compliance deadlines that are likely to be part of the Clean Air Act expected to pass later this year.

As our environmental problems accumulate, and as our concerns about air pollution grow broader and more complex, we cannot afford to let the current opportunity to amend the Clean Air Act go by without success. The 1970 Clean Air Act amendments were a watershed that paved the way for the widespread consensus in our country today that air pollution control must be a top priority of the federal government. Those of us who had a hand in drafting the 1970 amendments therefore can take satisfaction because that legislation has had a positive impact on our nation's environmental protection efforts. It is now up to our successors to build on that foundation and make further progress in improving air quality in the United States.

Rogers served as Chair of the House Subcommittee on Health and the Environment during the 1970 Clean Air Act deliberations. David F. Grady assisted in the preparation of this article.