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**Change in the wind**

By MEREDITH GOAD, Portland Press Herald Writer

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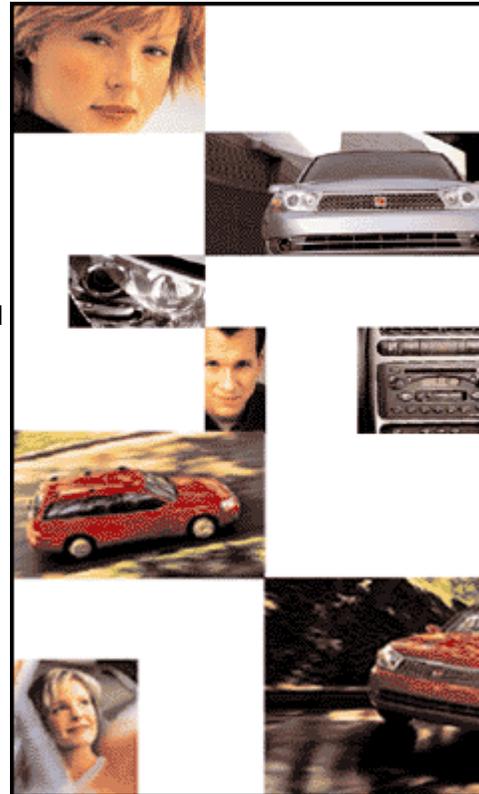
Leon Billings had a front-row seat for the creation of the 1970 Clean Air Act, the sweeping national legislation that over the past three decades has dramatically improved air quality in the United States.

As staff director of the U.S. Senate's clean air subcommittee, Billings helped write the legislation. He participated in the back-room debates, and watched as industry officials tried to intimidate his boss, Democratic Sen. Edmund S. Muskie of Maine, into backing down from measures that would clean the air but cost them money.

Now, more than 30 years later, Billings is alarmed by the changes in clean air policy that the Bush administration wants to make. The Bush administration has relaxed regulations requiring plants to invest in pollution controls, saying it will make it easier for companies to upgrade their plants, which will make the air cleaner. But environmentalists and public health officials say the changes will gut the Clean Air Act.

"I'm very, very, very fearful," said Billings, who is now president of the Washington, D.C.-based Clean Air Trust, an organization created by Muskie and Vermont's Republican Sen. Robert Stafford to defend the Clean Air Act from attacks by special interests.

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"The only thing right now that is saving clean air," he said, "is the fact that there are some people like (Maine Sens.) Olympia Snowe and Susan Collins, and a couple of other Republicans, who know that they can't go home having voted for dirty air."

Billings and others who worked hard to create or significantly improve the Clean Air Act over the years say current efforts by the Bush administration to relax it are "discouraging" and "very disappointing," and that Muskie would be "outraged" by what is happening to the legislation that he championed.

Former Senate Majority Leader George Mitchell, who shepherded major improvements to the act through Congress when it was reauthorized in 1990, said working on the clean air bill was "probably the most difficult legislative task that I encountered in all my years in the Senate."

"We had very high hopes when it was passed," Mitchell said, "although clearly it was a compromise reflecting the political circumstances which existed at the time, and it is very disappointing to see the efforts by the current administration, which in some respects have the effect of rolling back provisions of the act."

#### **At issue: Emission law**

In August, the EPA changed a key provision of the Clean Air Act that was added in 1977. Called "new source review," the provision requires older, dirtier power plants, refineries and factories that want to modernize their facilities to install up-to-date emission control technology.

The EPA relaxed the rule, allowing up to 20 percent of the cost of repairs or expansions at these plants to be considered "routine maintenance" not requiring any new pollution-control technology.

Environmentalists decried the change, saying that it essentially allows polluters to modernize their plants a little at a time in order to avoid spending money on emission controls. Maine's congressional delegation called the move "a giant step backward" in protecting New England's air quality.

Maine has joined Connecticut, Rhode Island and Massachusetts in suing the federal government over its air pollution policies.

Industry officials say they need the change in the new source review rule in order to make their facilities more efficient and keep energy costs down. They argue that under the old policy, facilities were discouraged from making needed repairs and replacing old equipment for fear of triggering expensive pollution-control upgrades.

Maine's paper makers say the new policy is less ambiguous and will encourage more investments in their manufacturing plants that could actually reduce pollution, as well as improve efficiency.



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John Williams, president of the Maine Pulp and Paper Association, said there is now a clear standard for what is routine maintenance and what is a major improvement or expansion that requires upgrades under the Clean Air Act.

"Doing all of the studies and investing in new equipment can be very expensive," he said. "The rules were never very clear and there was interpretation by the EPA that anything you did with the plant, even if you did it every year, you had to go through the process. The new changes clear that up. If you're doing things that really are routine, like replacing steam tubes, that doesn't require you to get a completely new permit."

One Maine paper company wanted to switch to natural gas to fuel its manufacturing plant, a move that would have reduced emissions, he said. It dropped the plan because of the expense of going through a review and relicensing, according to Williams.

Williams said the law has discouraged investments in plants that are not the primary cause of air pollution. The real culprit, he said, are large power companies in the Midwestern states that send air pollution to New England and Maine. "We think that's really what should be addressed," he said.

### **What next?**

Many fear the Clean Air Act changes could allow those plants to discharge more pollution by avoiding new source review. But, Williams said, the rules shouldn't penalize other businesses, too.

"Here in Maine, our mills have done so much to clean the air," he said. "Much of Maine's air pollution is caused by sources downwind, and trying to address those sources is something we support."

In a Sept. 16 meeting with reporters from regional newspapers, including the Portland Press Herald/Maine Sunday Telegram, President Bush said his administration's version of new source review "says you can modernize plants without having to either get sued or going through enormous amounts of bureaucratic litigation.

"You need to make your plant more efficient and more clean, so you can produce more energy to encourage job growth and at the same time protect the environment," he said.

The Bush administration has also proposed legislation known as the "Clear Skies Initiative" that relies on a cap-and-trade program to cut power plant emissions of sulfur dioxide, nitrogen oxides and mercury by nearly 70 percent over 2000 levels. (Cap-and-trade sets a limit on the total amount of pollution that can be emitted from all regulated sources. It lets sources choose how to reduce emissions, including buying additional allowances from other sources that reduce emissions.)

But environmentalists question the EPA analyses underlying the proposal and say the initiative would actually increase air pollution. Rep. Tom Allen, D-Maine, and three other Democrats wrote to Bush two weeks ago, accusing him of misleading the public on the issue in his State of the Union address.

"Ed Muskie would be outraged" by the changes proposed by Bush, said Don Nicoll of Portland. The former Muskie administrative assistant oversaw the senator's work on environmental legislation from 1963 through 1966 - work that led to the creation of the Clean Air Act.

"He probably wouldn't show his outrage publicly, but he would be critical and he would be incisive in attacking the (administration's) positions," Nicoll said. "My guess is that he would be busy holding hearings around the country that would be designed to elicit the facts and mobilize people at the grass roots, something that isn't happening."

Marshall Burk of Winthrop, who lobbied for the Clean Air Act in 1970 when he was executive secretary of the Natural Resources Council of Maine, said that as a Republican, he is "very disappointed" in Bush's air pollution policies.

"I think it's horrible what they've been doing," he said. "I think it's ridiculous that anybody that cares for the quality of life in our country is allowing this to happen, and that's a quote you can use."

### **Crafting law took time**

The Clean Air Act was passed during the same year that Americans celebrated the first Earth Day. Muskie had worked throughout the 1960s to lay the scientific and constitutional groundwork for federal interest in air pollution control and protecting public health. Earth Day gave him the political muscle to move forward, Billings said.

"We were coming off a really difficult era following the war in Vietnam," Billings said, "and people were looking for something to feel strongly about."

Billings thinks the successful passage of the Clean Air Act is attributable in part to the era in which it was born. It came four years before the Federal Election Reform Act, which created political action committees and linked money and lobbyists more strongly to the political process.

Before 1974, most senators spent little time fund-raising and campaigned only for the last six months of their terms, Billings said. There was much more time to devote to the details of public policy. Members of Congress often went over legislation line by line themselves, instead of delegating that task to their staff.

"In 1970, the Clean Air Act was written in a back room," he said.

"The members were sitting around a table. There were no lobbyists present, there were no cameras present. There was a very small staff of four or five people, and between eight and 15 members, depending on who was there on any given day. They talked through these issues in great detail."

At one point, the act was the subject of 43 committee meetings and 45 conference committee meetings, Billings said. Today, members of Congress often see a bill and vote on it the same day.

The bill that came out of that back room in 1970 has withstood constant attacks over the past 30 years. During the energy crisis in 1973 and 1974, opponents tried to use the oil embargo to gut the act, Billings recalled. There were more attempts at the end of the Carter administration.

When the act was amended in 1977, industry fought the new source review provision "more vigorously than anything I can remember," Billings said.

"In Maine, they sent the pulp and paper industry after Muskie," he said. "I've got a great tape recording of a meeting he had with a consultant to the paper industry where there were a bunch of union guys in the room, and they tried everything to intimidate Muskie and failed. Not only did they fail, he became firmer on the subject rather than softer."

The provision made it into law, but it was largely ignored throughout the 1980s.

There were more attempts to weaken the act in the 1980s, when President Reagan came into office. It was at this time that Mitchell began trying to push through another major revision of the act that would broaden its scope and strengthen it significantly. The entire process would take several years.

"All through the decade of the '80s, we were unable to move the legislation on amending or improving the Clean Air Act because of the opposition of President Reagan," Mitchell said.

### **Bush Sr. commended**

Mitchell said he finds "a huge irony" in the current Bush administration's actions because it was the first Bush presidency that helped make the 1990 reauthorization possible. When the first President Bush came into office in 1989, he said he favored action on clean air, although he had different ideas on how best to do it.

"The first President Bush deserves a great deal of credit because it was his decision to move the administration from the adamant opposition position that had been taken by President Reagan to one of support for change, although there was disagreement over what that change should be," Mitchell said. "So the whole focus shifted from whether there should be any improvement to what

kind of improvement should there be."

The 1990 legislation took two months to fashion as the Senate committee on the environment negotiated with Bush officials. In some ways, the process resembled what had occurred 20 years before - Mitchell conducted negotiations in his office, behind closed doors. He invited every senator to participate, and most of them did at one time or another, Mitchell recalls.

"Both sides made principled compromises, and we made an agreement," he said. "It was very difficult going. It was a very tough time."

In the end, they came out of the office with an act that was several hundred pages long, compared with the 41 pages of the original Clean Air Act. The bill included the first provisions to control acid rain, as well as new requirements for controlling air toxics, urban smog and pollutants that harm the Earth's ozone layer.

"There's an irony that the current president is undermining gains made really as a direct result of his father's actions," Mitchell said.

Others who have fought for the Clean Air Act over the years are worried, too, though not convinced that attacks on the act will be successful in the long run.

Burk is optimistic because the public is generally supportive of clean air issues and there are many experts willing to and able to discuss the hazards of air pollution to the environment and public health. Thirty years ago, he said, even many physicians were gunshy about supporting the act because they were sympathetic to industry's economic arguments.

"I just can't believe that there aren't enough public health-oriented people, that (they) will allow the law to be weakened," he said.

Billings said that rather than tampering with the underlying basis for the regulations - a common mode of attack in the past - the administration has now decided through new source review and other changes to "just cease requiring the controls themselves." He thinks the current tactics will lose in courts of law, as well as in the court of public opinion.

"I've always described the Clean Air Act as being a hot-stove issue," Billings said. "You don't put your hand on it. If you do, you're going to get burned. These guys are trying to come in the back door, but I don't think they're going to be successful."

*Staff Writer John Richardson contributed to this article.*

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