



November 15, 1990

Today I am signing S. 1630, a bill to amend the Clean Air Act. I take great pleasure in signing S. 1630 as a demonstration to the American people of my determination that each and every American shall breathe clean air.

In July of 1989, I sent to the Congress a proposal to amend the Clean Air Act of 1970. My proposal was designed to improve our ability to control urban smog and reduce automobile and air toxic emissions, and to provide the enforcement authority necessary to make the law work. It also proposed new initiatives to cut acid rain in half and to promote cleaner automotive fuels.

As a result of that proposal, the 13-year legislative logjam has now been broken. S. 1630 contains all of the essential features of my original proposal and will lead to the achievement of the goals I originally set out. The bill I am signing today will permanently reduce sulfur dioxide emissions by 10 million tons below 1980 levels. It will cut NOx emissions by two million tons from projected year 2000 levels and reduce air toxic emissions by over 75 percent.

The bill will allow the Nation finally to meet air quality standards in every city; and, in total, almost 30 million tons per year of dangerous chemicals and noxious pollutants will be prevented from fouling the air.

The result of this new Clean Air Act will be that cancer risk, respiratory disease, heart ailments, and reproductive disorders will be reduced; damage to lakes, streams, parks, crops, and forests will greatly be lessened; and visibility will be notably improved. As an added benefit, energy security will on balance be enhanced as utilities and automobiles switch to cleaner burning alternative fuels.

The innovative use of market incentives in the bill represents the turning of a new page in our approach to environmental problems in this country. The acid rain allowance trading program will be the first large-scale regulatory use of market incentives and is already being seen as a model for regulatory reform efforts here and abroad. The acid rain program is based on some simple concepts -- that we should set tough standards, allow freedom of choice in how to meet them, and let the power of markets help us allocate the costs most efficiently.

By employing a system that generates the most environmental protection for every dollar spent, the trading system lays the groundwork for a new era of smarter government regulation; one that is more compatible with economic growth than using only the command and control approaches of the past. Other provisions to increase flexibility include increased opportunities for emissions trading and performance standards for fuel refiners to encourage alternative fuel reformulations. In all, these path-breaking features allow us to implement the legislation in a way that achieves my environmental goals at an acceptable cost. The result will be the dawning of a new era in regulatory policy, one that relies on the market to reconcile the environment and the economy.

To address the serious concerns raised by the cost of this legislation, I am directing Bill Reilly, Administrator of the Environmental Protection Agency, to implement this bill in the most cost-effective manner possible. This means ensuring that plants can continue to use emission trading and netting to the maximum extent allowed by law; that the Administration's proposed policy on WEPCO is implemented to the extent allowed by law as quickly as possible; and that the permit program is phased in over time in an orderly, nondisruptive manner. This Administration will also pursue the use of more realistic assumptions when estimating risk. These implementation strategies will help keep unnecessary costs and job losses down, while ensuring the achievement of the environmental goals of this bill in the most efficient manner possible.

Unfortunately, I must note several provisions of the bill that raise serious constitutional concerns. I strongly object to the bill's restrictions on removal or review of the Chemical Safety Investigation

Board. Although the Board's principal functions are investigatory and advisory, it has also been given regulatory and enforcement authorities clearly assigned by the Constitution to the executive branch. As such, the provisions purporting to limit my authority to remove Board members and provide them with policy guidance raise serious constitutional questions. Accordingly, although I believe that these provisions are severable, I am directing the Administrator of the Environmental Protection Agency to submit curative legislation in the next session of Congress insuring that the Board's activities are consistent with the Constitution. This legislation will also address the serious constitutional concerns created by those provisions relating to the Board that invade the deliberative processes of the executive branch. Similarly, because the Urban Air Toxics Research Center created by the bill exercises executive grant-making authorities, the provision of the bill vesting appointment of part of its Board in Members of Congress violates this principle. This defect must also be rectified by curative legislation.

In addition, there are certain aspects of the bill's enforcement provisions that raise constitutional questions. I note that in providing for citizen suits for civil penalties, the Congress has codified the Supreme Court's interpretation of such provisions in the Gwaltney case. As the Constitution requires, litigants must show, at a minimum, intermittent, rather than purely past, violations of the statute in order to bring suit. This requirement respects the constitutional limitations on the judicial power and avoids an intrusion into the law-enforcement responsibilities of the executive branch. I should also note my interpretation of the provision permitting courts to order that civil penalties be used in beneficial mitigation projects consistent with the Act and enhancing public health or the environment. Because the Congress may not impose on courts responsibilities inconsistent with their judicial function, I do not interpret this provision as imposing administrative responsibilities on the courts.

Even before the signing of this bill, the American public has begun to respond to the environmental leadership it embodies. In response to the direction we have signaled in this legislation:

- Cleaner reformulated gasolines are being produced by our leading refiners and are eagerly being sought out by consumers.
- Cleaner natural-gas-fueled trucks, electric vehicles, and flexible-fueled vehicles are or will soon be manufactured by domestic auto producers.
- Commitments have been made by the chief executives of leading chemical industries to reduce voluntarily their air toxic emissions by as much as 90 percent.

The speed with which companies and the public are voluntarily getting a head start is testimony to the need and timeliness of the measures I proposed, and the Congress has now passed.

Passage of this bill is an indication that the Congress shares my commitment to a strong Clean Air Act, to a clean environment, and to the achievement of the goals I originally set forth.

George Bush

The White House,

November 15, 1990.