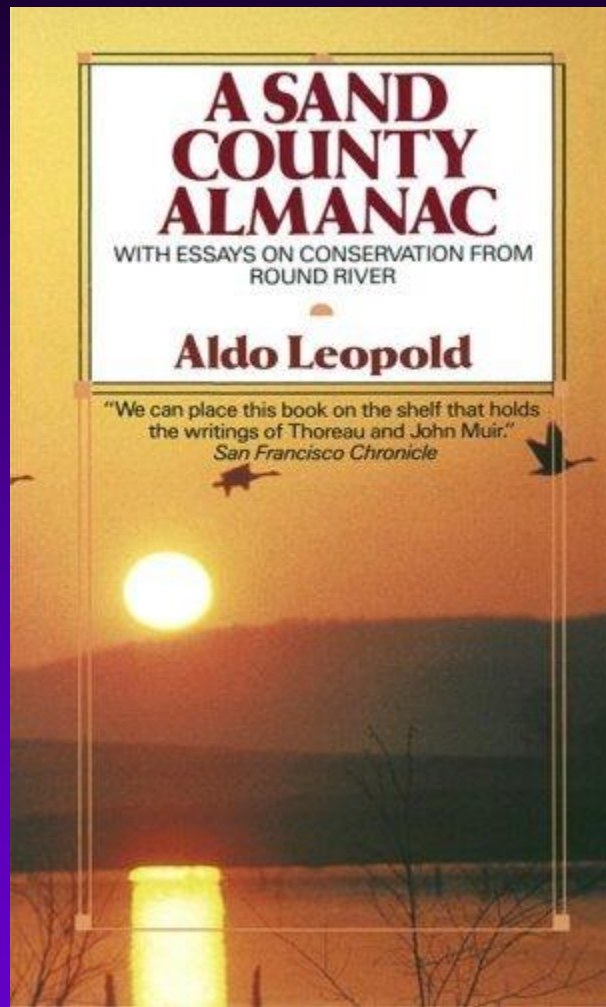


# Climate Change and the Law: An Historical, Statutory, and Regulatory Perspective

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1949

MAXINE ROOFS

# SILENT SPRING

*The CLASSIC that LAUNCHED  
the ENVIRONMENTAL MOVEMENT*

# RACHEL CARSON

*Introduction by LINDA LEAR / Afterword by EDWARD O. WILSON*

1962



**Cuyahoga River Fire (1969)**



**Santa Barbara Oil Spill (1969)**



**Valley of the Drums (Kentucky)**



Times Beach (Missouri)



**Love Canal (New York)**



# Major Environmental Statutes of the 1970s

- **National Environmental Policy Act (1970)**
- **Clean Air Act (1970)**
- **Clean Water Act (1972)**
- **Coastal Zone Management Act (1972)**
- **Federal Insecticide, Fungicide, and Rodenticide Act (1972)**
- **Marine Mammal Protection Act (1972)**
- **Endangered Species Act (1973)**
- **Safe Drinking Water Act (1974)**
- **Hazardous Materials Transportation Act (1975)**
- **Federal Land Policy and Management Act (1976)**
- **Fisheries Conservation and Management Act (1976)**
- **Resource Conservation and Recovery Act (1976)**
- **Toxic Substances Control Act (1976)**
- **Surface Mining Control and Reclamation Act (1977)**

# Environmental Statutes Since the 1970's

- **Comprehensive Environmental Response, Compensation and Liability Act (1980)**
- **Emergency Planning and Community Right-to-Know Act (1986)**
- **Oil Pollution Act (1990)**
- **Clean Air Act Amendments (1990)**

# Environmental Statues Since 2000

# The National Climate Program Act of 1978

It is the purpose of the Congress in this Act to establish a national climate program that will assist the Nation and the world to understand and respond to natural and man-induced climate processes and their implications.

# Global Climate Protection Act of 1987

The President, through the Environmental Protection Agency, shall be responsible for developing and proposing to Congress a coordinated national policy on global climate change.

# **Byrd-Hagel Resolution**

**(Approved 95-0 on July 25, 1997)**

That it is the sense of the Senate that--  
the United States should not be a signatory  
to any [Kyoto] protocol . . . which would--  
mandate new commitments to limit or  
reduce greenhouse gas emissions for the  
Annex I Parties, unless the protocol . . . also  
mandates . . . commitments to limit or  
reduce greenhouse gas emissions for  
Developing Country Parties. . . .

# 2008 Presidential Campaign

On Global Warming, McCain and Obama Agree:  
Urgent Action Is Needed

[http://www.nytimes.com/2008/10/19/us/politics/19climate.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2008/10/19/us/politics/19climate.html?pagewanted=all&_r=0)

# The American Clean Energy and Security Act of 2009

- Comprehensive Climate Change and Energy Legislation
- Established economy-wide cap and trade system for greenhouse gas emissions
- Passed by the House of Representatives by a vote of 219-212 on June 26, 2009
- Legislation introduced in Senate were shelved for lack of support in July 2010



# Climate Change Proposals in the 2013-14 Congress (Carbon Pricing Plans)

- The Climate Protection Act of 2013 (S.332) introduced by Sens. Bernie Sanders (I-VT) and Barbara Boxer (D-CA) on February 14, 2013;
- The Managed Carbon Price Act, 2014 (H.R.4754) introduced by Rep. Jim McDermott (D-WA) on May 28, 2014;
- The Healthy Climate and Family Security Act of 2014 (H.R.5271) introduced by Rep. Chris Van Hollen (D-MD) on July 30, 2014; and
- America's Energy Security Trust Fund Act of 2014 (H.R.5307) introduced by Rep. John Larson (D-CT) on July 31, 2014;
- The American Opportunity Carbon Fee Act (S.2940), introduced by Sen. Sheldon Whitehouse (D-RI) and Sen. Brian Schatz (D-HI) on November 19, 2014; and
- The State Choices Act introduced (H.R.5796) by Rep. John Delaney (D-MD) on December 4, 2014.

# Massachusetts v. EPA

- States petition EPA to regulate GHGs from automobiles under the Clean Air Act
- EPA concludes in 2003 it has no authority to regulate GHGs under the Clean Air Act
- Supreme Court finds that GHGs fall within “capacious” definition of air pollutants
- EPA must make endangerment finding or explain what finding cannot be made

# The EPA Endangerment Finding

- Bush Administration EPA refuses to make endangerment finding in 2008
- Obama Administration EPA determines in 2009 that GHGs emissions from motor vehicles contribute to elevated atmospheric concentrations of GHGs, which endanger public health and welfare
- Finding triggers motor vehicle regulation

# The Tailpipe Rule

- EPA and the Department of Transportation issue new motor vehicle standards in 2010
- Standards require average fuel economy of 35.5 miles per gallon by 2016
- Anticipated GHG emissions reductions of 30 percent from 2012-2016
- Estimated fuel savings over life of vehicle is \$3000; vehicle costs will increase \$1000

# The Clean Power Plan

- EPA has proposed rules to govern new and existing power plants
- Power plants responsible for one third of carbon pollution in the United States
- Seeks to cut carbon pollution from power plants by 30 percent from 2005 levels
- Provides states individual budgets and gives them flexibility about how to meet

# The Future of Climate Change Mitigation Law

- Supreme Court has twice upheld its ruling in Massachusetts v. EPA
- Congress continues to threaten to revoke or defund EPA regulatory efforts
- 2016 Presidential Election will be critical
- State and local governments may continue to provide strongest leadership on the development of the law of climate change