

The Clean Air Act Is Obsolete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**

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The New Way

- **Congress tells an agency to protect health completely by a deadline**

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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

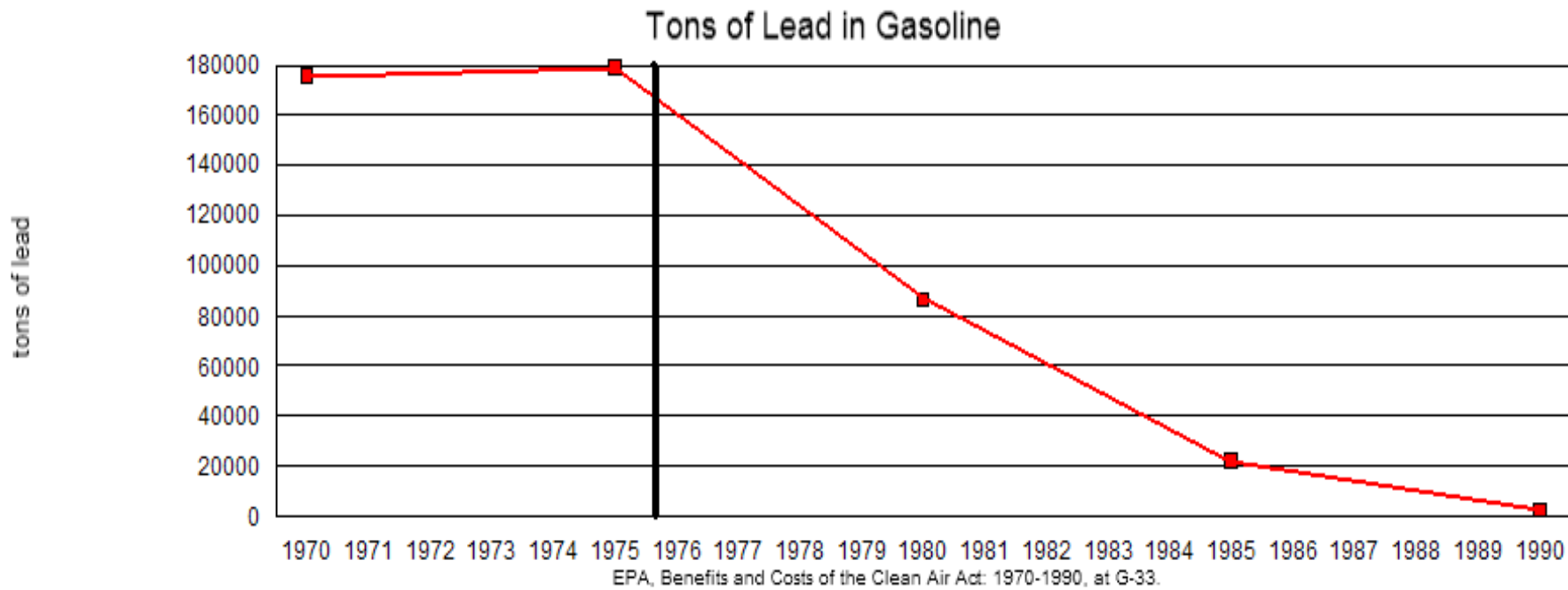
- Congress tells an agency to set emissions limit
 - **New factories**
 - **Gasoline**
- Congress sets the emission limits
 - **New cars**
 - **New cars to use unleaded gasoline**

The New Way

- 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

Why the CAA fails us

- 1. Promise to protect health phony**
- 2. Unnecessarily expensive and bureaucratic**



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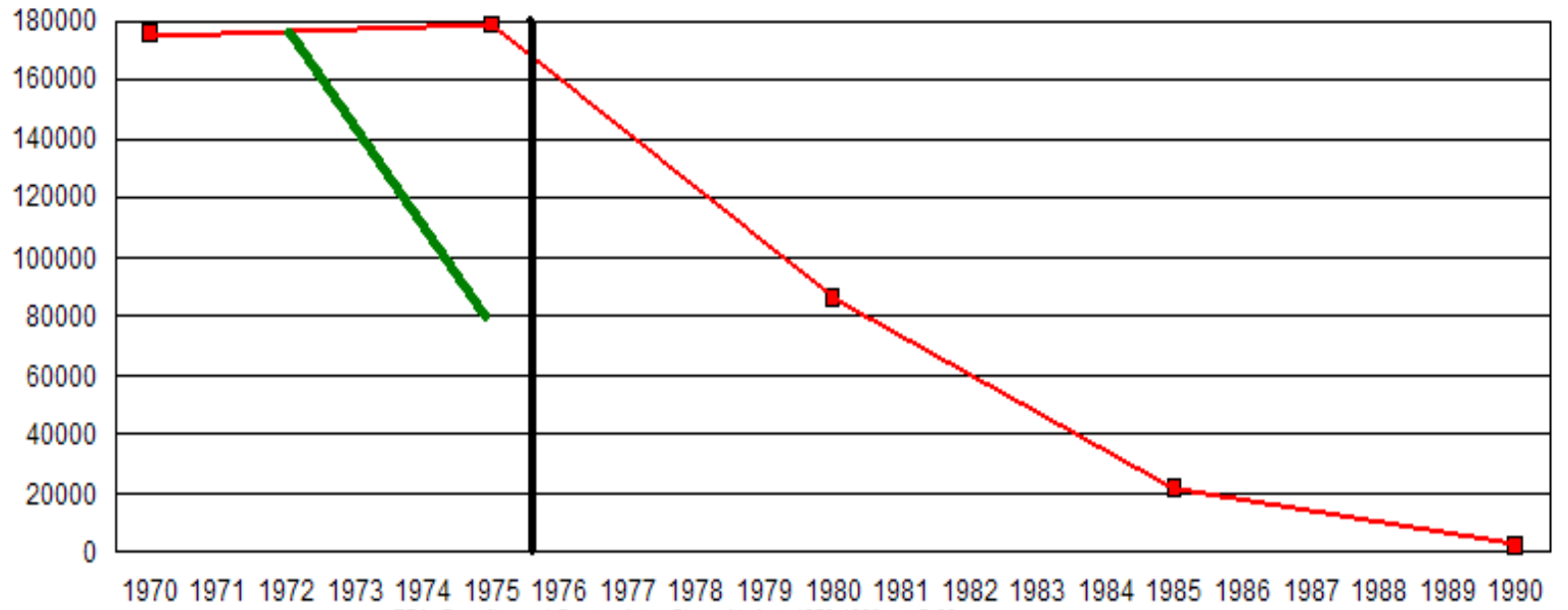
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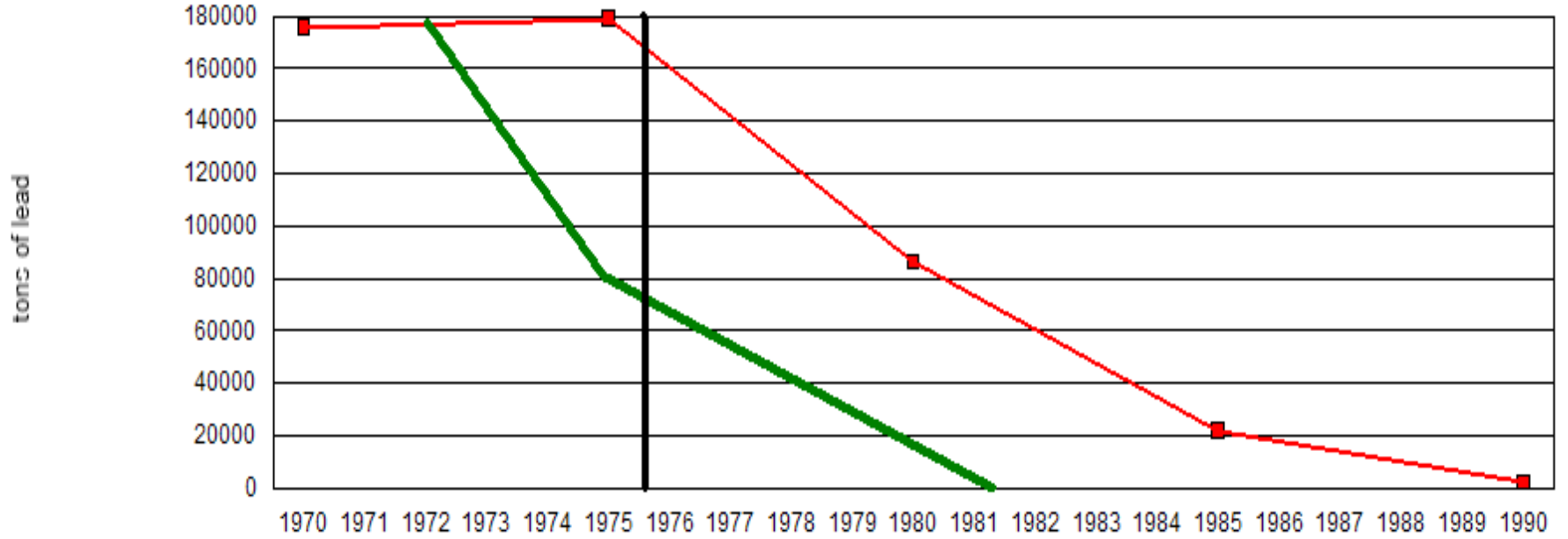
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Tons of Lead in Gasoline



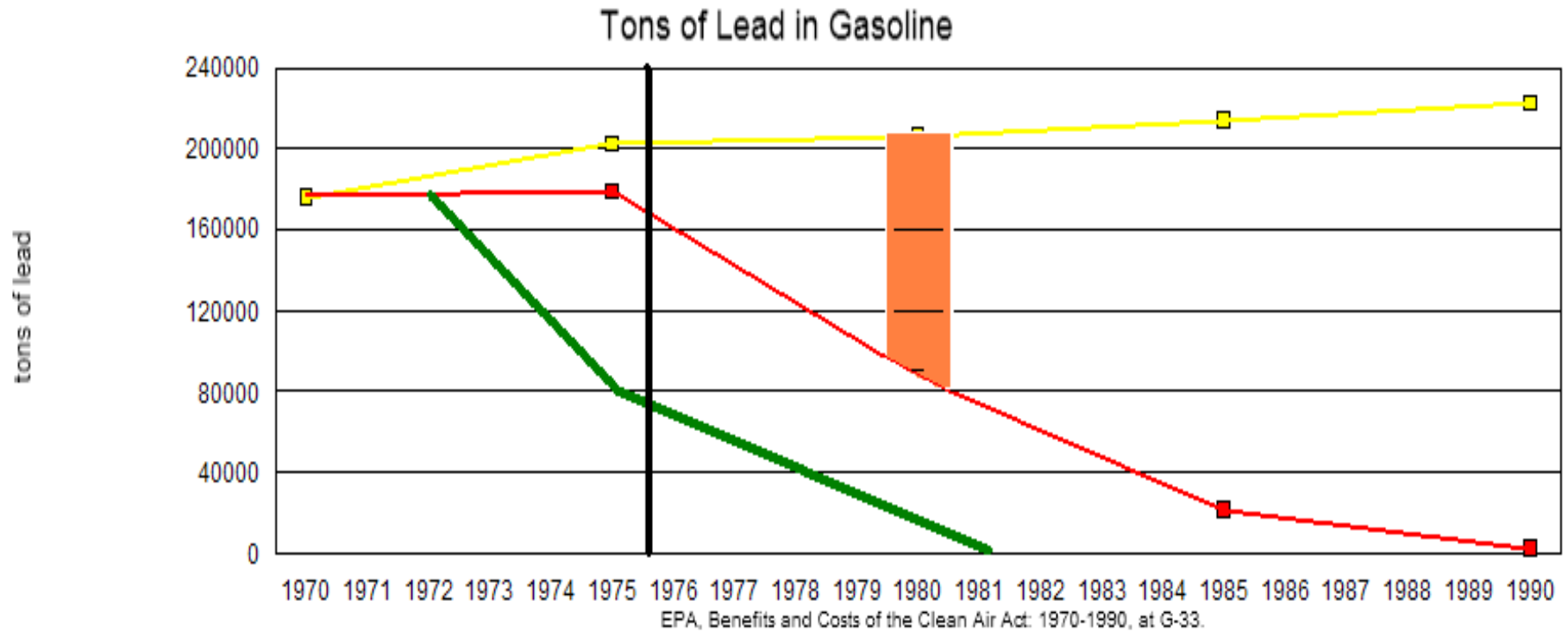
EPA, Benefits and Costs of the Clean Air Act: 1970-1990, at G-33.

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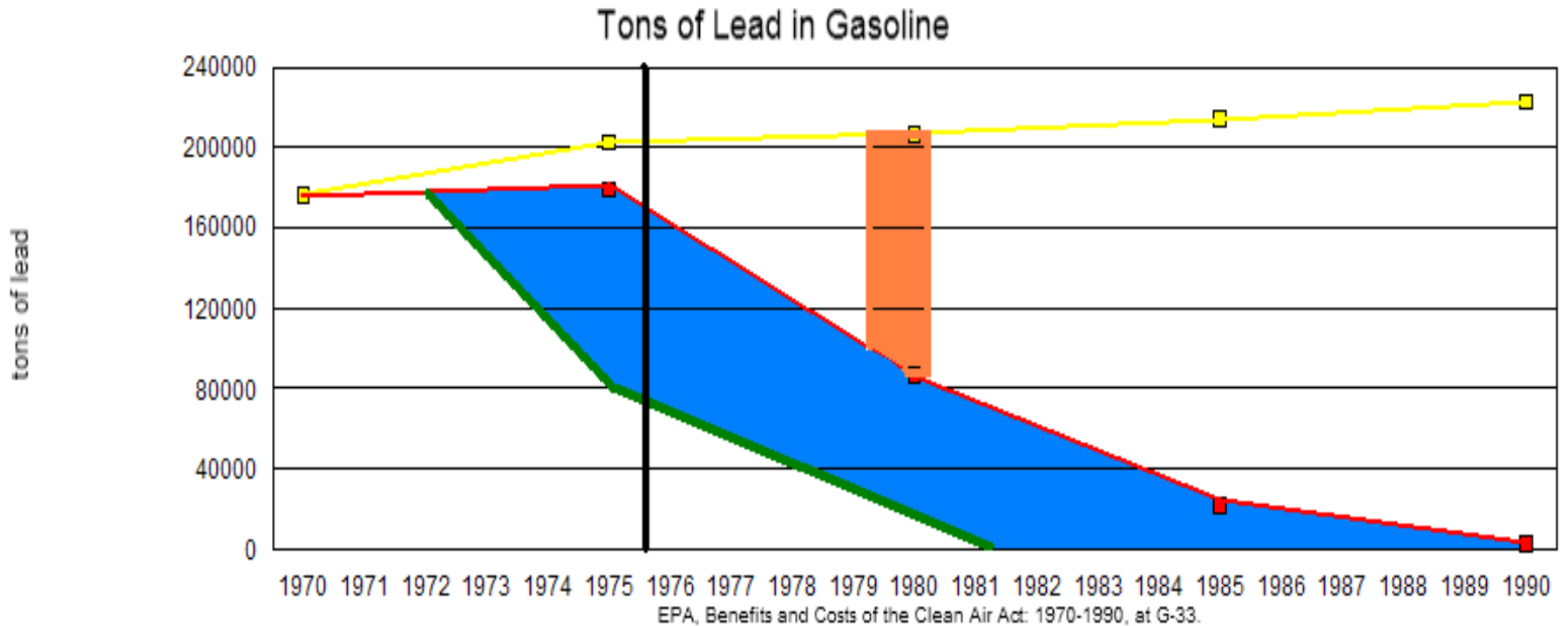


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20,100 children with IQs below 70
And more



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? Deaths
? children having their IQ=s reduced below 70
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The Old Way

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The New Way

- Congress tells an agency to protect health by a deadline
 - **Lead**
 - **Other air quality standards**
 - **Especially hazardous pollutants**

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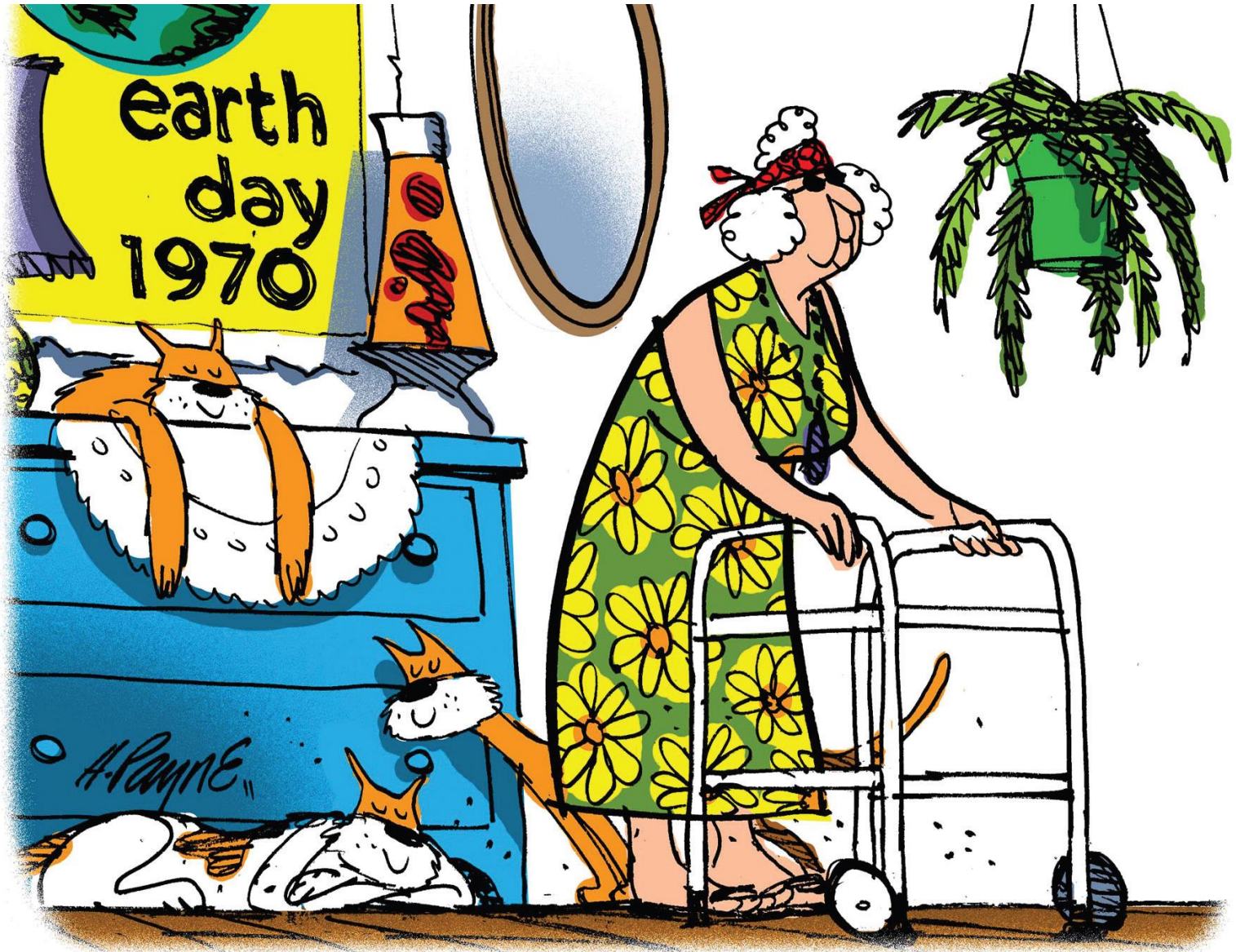
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- Congress sets the emission limits
 - **New cars**
 - **New cars to use unleaded gasoline**
 - **Chemicals that destroy the ozone layer**
 - **Tech based standard for especially hazardous pollutants**
 - **Acid Rain**

The New Way

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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

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“[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]”

Committee on Air Quality Management in the United States, National Research Council, “Air Quality Management in the United States” (Washington, D.C.: National Academic Press, 2004), at 28

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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

Why the CAA fails us

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2. **Unnecessarily expensive and bureaucratic**

David Schoenbrod, Richard B. Stewart, Katrina M. Wyman



Breaking the Logjam

Environmental Protection
That Will Work

<http://www.breakingthelogjam.org/>

MORE BANG FOR THE BUCK

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controlling 3000 largest sources**

MORE BANG FOR THE BUCK

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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
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 - 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

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PLENTY OF ROOM FOR A DEAL