

the Clean Air Act are not so encumbered.<sup>363</sup>

Support for this position is first derived from the legislative history of these two Acts, a short but complicated history which itself reveals how rapidly environmental law has changed.<sup>364</sup> The crucial language of § 102 of

<sup>363</sup> The author is in accord with Robert Zener's view, at notes 413 to 425 in the water pollution chapter of this study, that the regulatory activities under the Federal Water Pollution Control Act, except where specifically added by the 1972 Amendments, are similarly exempt. For a contrasting view, the reader is invited to read the chapter on NEPA in this study. *See also* Comment, *Litigation Under the Clean Air Act*, 3 ELR 10007.

<sup>364</sup> S. 1075, 91st Cong., 1st Sess. (1969) when introduced did not contain the "Policy Title." It was, however, the subject of the only public hearings held by the U.S. Senate Committee on Interior and Insular Affairs. The companion bill in the House, H.R. 12549, did not contain a policy title at introduction or when it passed the House on 23 September 1969.

A chronology of the events surrounding Pub. L. No. 91-190, The National Environmental Policy Act; Pub. L. No. 91-224, the Water Quality Improvement Act, and Pub. L. No. 91-604, the Clean Air Amendments of 1970, may be helpful in this context.

91st Congress-First Session

February 1969	Senate Committee on Public Works commenced executive sessions on S.7—the Water Quality Improvement Act.
18 February 1969	S. 1075 introduced, National Environmental Policy Act (without the Policy Title).
25 March 1969	House Committee on Public Works reported H.R. 4148, the Water Quality Improvement Act of 1969, H.R. REP. NO. 91-127.
16 April 1969	Hearing held on S. 1075 by the Senate Committee on Interior and Insular Affairs.
16 April 1969	House of Representatives passed H.R. 4148, the Water Quality Improvement Act of 1969.
29 May 1969	Amendment No. 25 to S. 1075 introduced proposing Policy Title.
9 July 1969	S. 1075 containing Policy Title reported by the Senate Interior Committee, S. REP. NO. 91-296.
10 July 1969	S. 1075 passed Senate by unanimous consent. No debate.
11 July 1969	House of Representative Committee on Merchant Marine and Fisheries reported H.R. 12549 to establish a Council on Environmental Quality.
7 August 1969	Senate Committee on Public Works reported S.7, including Title II, to establish an Office of Environmental Quality.
23 September 1969	House of Representatives passed S. 1075 without Policy Title, and appointed conferees.
8 and 9 October 1969	Senate passed S. 7, with agreement announced between Senators Jackson and Muskie on the relation of S. 7 to S. 1075.

- 10 December 1969 Senator Muskie introduced S. 3229 to amend Title II of the Clean Air Act.
- 17 December 1969 Conferees on S.1075 reported agreement on S.1075, National Environmental Policy Act, H.R. REP. NO. 91-765.
- 20 December 1969 Senate adopted conference report on S. 1075 with debate between Senators Jackson and Muskie relative to agreement.
- 23 December 1969 House adopted conference report on S. 1075.
- 1 January 1970 President Nixon signed S.1075 into law, Pub. L. No. 91-190.
- 91st Congress-Second Session
- 10 February 1970 S. 3466, the Administration bill to amend the Clean Air Act, *introduced.*
- 4 March 1970 Senator Muskie introduced S. 3546, a bill to amend Title I of the Clear Air Act.
- 16 March 1970 *Senate Committee on Public Works commenced 15 days of hearings on pending bills to amend the Clean Air Act.*
- 24 March 1970 Conferees on H.R. 4148, the Water Quality Improvement Act of 1970, reported agreement, with Title II The Office of Environmental Quality included, H.R. REP. NO. 91-940.
- 24 March 1970 Senate adopted conference report on H.R. 4148, the Water Quality Improvement Act of 1970.
- 25 March 1970 House adopted conference report on H.R. 4148, the Water Quality Improvement Act of 1970.
- 4 April 1970 President Nixon signed into law the Water Quality Improvement Act, Pub. L. No. 91-224.
- 3 June 1970 House Committee on Interstate and Foreign Commerce reported H.R. 17255, to amend the Clean Air Act, H.R. REP. NO. 91-1146.
- 10 June 1970 House passed H.R. 17255 to amend the Clean Air Act.
- 9 July 1970 President Nixon transmitted Reorganization Plan No. 3 to establish the Environmental Protection Agency.
- 17 September 1970 Senate Committee on Public Works reported S. 4358, to amend the Clean Air Act, S. REP. NO. 91-1196.
- 21 and 22 September 1970 Senate passed H.R. 17255 (in lieu of S. 4358) to amend the Clean Air Act.
- 17 November 1970 Secretary of Health, Education and Welfare Elliott Richardson sent letter of Administration position on H.R. 17255 to amend the Clean Air Act pending in conference.
- 1 December 1970 Senate Committee on Public Works held hearing on the nomination of William Ruckelshaus to be administrator of EPA.
- 2 December 1970 The Environmental Protection Agency came into being.
- 17 December 1970 Conferees reported agreement on H.R. 17255, to amend the Clean Air Act. H.R. REP. NO. 91-1783.
- 18 December 1970 House and Senate adopted Conference report on H.R. 17255, to amend the Clean Air Act.
- 31 December 1970 President Nixon signed H.R. 17255 into law, Pub. L. No. 91-604.