



CLEAN AIR ACT PRIMER

ANNUAL AIR QUALITY CONFERENCE

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WHAT WE'LL TALK ABOUT TODAY

- ① **History of the CAA**
- ② **Overview of the CAA**
- ③ **Enforcement & Public Participation**



HISTORY OF THE CAA (1)

- ③ ***Air Pollution Control Act of 1955***
- ③ ***Clean Air Act of 1963***
- ③ ***Air Quality Act of 1967***



HISTORY OF THE CAA (2)

Clean Air Act Amendments of 1970

- ⊙ authorized the newly created EPA to carry out the Act's provisions
- ⊙ Congress preserved the primary role of the states
- ⊙ introduced command-and-control approach, created deadlines
- ⊙ sought to stimulate development of new technology



HISTORY OF THE CAA (3)

Clean Air Act Amendments of 1977

- ⊙ new requirements for nonattainment areas, including requiring states to adopt NSR permit programs for major stationary sources
- ⊙ imposed new requirements on clean air areas (PSD)



HISTORY OF THE CAA

(4)

Clean Air Act Amendments of 1990

- ③ strengthened enforcement and enhanced the role of citizens
- ③ provided for the authority of tribal governments to implement the Act
- ③ established the Title V operating permit program
- ③ established an acid rain program
- ③ established a stratospheric ozone program



CAA OVERVIEW

National Ambient Air Quality Standards (NAAQS)

- ◎ EPA identifies air pollutants
 - ◎ which may reasonably be anticipated to endanger public health or welfare
 - ◎ whose presence results from numerous or diverse mobile or stationary sources

- ◎ EPA then issues a criteria document and “proposed national primary and secondary ambient air quality standards for any such pollutant”

- ◎ EPA has promulgated NAAQS for six criteria pollutants:
 - ◎ sulfur dioxide
 - ◎ particulate matter
 - ◎ nitrogen dioxide
 - ◎ carbon monoxide
 - ◎ ozone
 - ◎ lead



CAA OVERVIEW

State Implementation Plans (1)

- ◎ CAA 110 requires each state to adopt a plan for the implementation, maintenance and enforcement of the NAAQS within its jurisdiction.
- ◎ States have some flexibility in designing their SIPs, selecting a mix of regulatory requirements that will be consistent with the state's political, economic and social policy concerns, while also meeting CAA requirements.
- ◎ EPA reviews each SIP and may approve or disapprove it, in whole or in part. Once a SIP receives EPA approval, it becomes an element of federal law. If a state fails to gain approval of its SIP, EPA may be required to promulgate a federal plan of its own, or "FIP."



CAA OVERVIEW

State Implementation Plans (2)

- ◎ Among the required components of SIPs are:
 - ◎ enforceable emission limits and control measures
 - ◎ regulation of the modification and construction of new stationary sources
 - ◎ assurances of adequate personnel, funding and authority to carry it out

- ◎ SIPs must be adopted by the state after reasonable notice and public hearing. Once approved, the measures in it become enforceable by EPA and the public.



CAA OVERVIEW

Designations

- ◎ The designation process is how areas suffering unhealthful air quality are identified.
- ◎ Under CAA 107, EPA promulgates designations of areas not meeting the standard as “nonattainment.”
- ◎ Nonattainment area boundaries are intended to capture both
 - ◎ the area suffering unhealthful air and
 - ◎ the area that needs to be controlled in order to solve the area’s problem.



CAA OVERVIEW

Nonattainment Areas

- ⊙ Perhaps the most important requirement for a SIP is that it must bring nonattainment areas into attainment by the relevant CAA deadline.
- ⊙ A nonattainment SIP must:
 - ⊙ include an “attainment demonstration”
 - ⊙ require existing major stationary sources to meet emission limits based on reasonably available control technology (RACT)
 - ⊙ include a New Source Review preconstruction permit program for major stationary sources



CAA OVERVIEW

Prevention of Significant Deterioration

- ◎ In the mid-70's, environmental organizations pointed out that the NAAQS regulatory scheme was insufficient to protect clean areas.
- ◎ To remedy this deficiency, EPA was required to adopt a New Source Review preconstruction permit program for clean air areas. Unlike nonattainment NSR, PSD is a federal program.
- ◎ The PSD program also includes special protections for areas designated "Class I," such as large national parks and wilderness areas. Under §164 tribes and states may redesignate areas under their jurisdiction as Class I.



CAA OVERVIEW

Air Toxics, aka Hazardous Air Pollutants

- ⊙ EPA is required to establish technology-based emission standards, called MACT standards, for sources of 188 pollutants listed in the legislation, and to specify categories of sources subject to the emission standards.
- ⊙ MACT standards for existing sources must be no less stringent than the emission limitations achieved by the best performing 12% of existing sources.
- ⊙ Section 112 also directs EPA to set health-based standards to address significant residual risk remaining after installation of MACT.
- ⊙ Also under 112, EPA is establishing standards for stationary “area sources” determined to present a threat of adverse effects to human health or the environment.



CAA OVERVIEW

General Provisions (Sections 301-327)

- ③ Section 301(d) provides for tribal authority to implement programs under the Act.
- ③ Section 304 authorizes citizen suits against EPA for failure to perform a non-discretionary duty, or against other persons alleged to be in violation of an emission limit, standard or order.
- ③ Section 307 contains procedures for EPA rulemaking and judicial review, which are significant for virtually all of EPA's regulatory activities under the Act.



CAA OVERVIEW

Other Provisions

- ③ Title IV: Acid Deposition, fulfills a treaty obligation to Canada.
- ③ Title V: Permits, required all major sources to obtain an operating permit issued by approved state or tribal programs (40 CFR Part 70). EPA is authorized to review these permits and veto those not in compliance with the Act.
- ③ Title VI: Stratospheric Ozone, phases out the production and consumption of substances which deplete the ozone layer.



CAA ENFORCEMENT

- ◎ Section 113 of the Act establishes federal authority to issue orders requiring compliance and to impose penalties for violations of Act requirements.
- ◎ The Clean Air Act is enforced primarily by states or local governments; the federal government functions as a backstop, with authority to review state actions, and also to file its own enforcement actions.
- ◎ EPA also takes primary responsibility for enforcing the Act in areas where programs are not delegated - for example, most Indian reservations.
- ◎ Section 114 authorizes EPA to require sources to submit reports, monitor emissions, and certify compliance with the Act's requirements, and authorizes EPA personnel to conduct inspections.



CITIZEN INVOLVEMENT



- ③ The key programs in the Clean Air Act, including planning, permitting and enforcement, incorporate provisions for public participation.
- ③ EPA adopts regulations and acts on state regulations and plans through a notice and comment process in the Federal Register.
- ③ Authorized state and local CAA programs are required to provide for public participation in the development of their SIP regulations and plans.
- ③ One of the most important aspects of Title V is the additional public participation it allows.



CITIZEN SUITS



- ◎ CAA Section 304 provides for citizen suits:
 - ◎ against persons (including corporations or government agencies) alleged to have violated emissions standards or permit requirements
 - ◎ against EPA in cases where the Administrator has failed to perform an action that is not discretionary under the Act



QUESTIONS?