

# Overview on the Clean Air Act, Section 111 and the State Plan Structure

Webinar Presentation  
April 2, 2015

# Purpose

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- ▶ Today's webinar is part of EPA's overall outreach strategy to communities on the Clean Power Plan; today, we will:
  - ▶ Provide background information on:
    - The Clean Air Act
    - Section 111(d) of the Clean Air Act
    - State plan structure
  - ▶ Describing future outreach opportunities
  
- ▶ Note: This webinar is intended to be an educational overview of EPA's rulemaking structure; we will **not** be taking comments on any rulemakings during this webinar

# Clean Air Act (CAA)

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- ▶ The original CAA was passed in 1963
- ▶ There was no comprehensive federal response to address air pollution until Congress passed a much stronger CAA in 1970; that same year Congress created the EPA and gave it the primary role in carrying out the CAA
- ▶ Since 1970, EPA has been responsible for a variety of Clean Air Act programs to reduce air pollution nationwide
- ▶ In 1990, Congress dramatically revised and expanded the CAA, providing EPA even broader authority to implement and enforce regulations reducing air pollutant emissions; the 1990 Amendments also placed an increased emphasis on more cost-effective approaches to reduce air pollution

# Clean Air Act (cont.)

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- ▶ Under the CAA, EPA sets limits on certain air pollutants, including setting limits on how much can be in the outdoor air anywhere in the United States; this helps to ensure basic health and environmental protection from air pollution for all Americans
- ▶ The CAA also gives EPA the authority to limit emissions of air pollutants coming from sources like chemical plants, utilities and steel mills; individual states or tribes may have stronger air pollution laws, but they may not have weaker pollution limits than those set by EPA
- ▶ EPA must approve state, tribal, and local agency plans for reducing air pollution; if a plan does not meet the necessary requirements, EPA has the authority to implement and enforce applicable CAA requirements in that area
- ▶ EPA assists state, tribal, and local agencies by providing research, expert studies, engineering designs, and funding to support clean air progress; since 1970, Congress and the EPA have provided several billion dollars to the states, local agencies, and tribal nations to accomplish this
  - ▶ For more information on the Clean Air Act, please visit: The Plain English Guide to the Clean Air Act, available at: <http://www.epa.gov/air/caa/peg/>

# Section 111

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- ▶ Section 111 of the CAA was authorized in 1970
- ▶ It establishes a mechanism for controlling air pollution from categories of stationary sources
  - ▶ A stationary source is an industrial sources (some examples are chemical factories, refineries, power plants and incinerators)
    - EPA also regulates mobile sources (i.e., cars, trucks and non road vehicles) under other parts of the CAA
  - ▶ Applies to categories of sources for which the Administrator, in her judgment, finds “causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare”
  - ▶ Various sections of 111 apply to new, existing, modified and reconstructed sources
- ▶ More than 70 stationary source categories and subcategories are currently regulated under section 111
  - ▶ A full list of sources regulated under section 111 can be found in the Code of Federal Regulations (40 CFR Part 60)  
<http://yosemite.epa.gov/r9/r9nspns.nsf/ViewStandards?ReadForm>

# Section 111 (cont.)

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- ▶ Lays out different approaches for new and existing sources
  - ▶ New sources under section 111(b)
    - Federal standards for new, modified and reconstructed sources
  - ▶ Existing sources under section 111(d)
    - State programs for existing sources that are equivalent to federal guidelines

# Section 111 (cont.)

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## Section 111(b) for New Sources

- ▶ EPA sets a **standard of performance** for new stationary sources
- ▶ Standard reflects the degree of emission limitations achievable through the application of the **best system of emission reduction (BSER)** that the Administrator determines has been adequately demonstrated
  - ▶ Determining BSER takes into account: The costs of achieving emission reductions, non-air quality health and environmental impacts and energy requirements
  - ▶ EPA may distinguish among classes, types and sizes of sources
- ▶ Each new source (a source constructed after 111(b) rule is issued) must meet the standard
- ▶ EPA can delegate implementation and enforcement of the standards of performance to the states
- ▶ Standards are incorporated in state air permits
  - ▶ Standards are to be reviewed at least every 8 years and revised, if appropriate
  - ▶ The review process includes public participation

# Section 111 (cont.)

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## **Section 111(b) for Modified and Reconstructed Sources**

- ▶ EPA must also set a standard to address modified and reconstructed sources
  - ▶ Modification
    - A physical or operational change that increases the source's maximum achievable hourly rate of emissions
  - ▶ Reconstruction
    - When a single project replaces components and exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility
- ▶ Follows same regulatory process as setting standards for new sources
- ▶ Each modified or reconstructed source must meet the standard
- ▶ Standards are incorporated in state air permits
  - ▶ Standards are to be reviewed at least every 8 years and revised, if appropriate
  - ▶ The review process includes public participation



# Section 111(cont.)

## Section 111(d) for Existing Sources

- ▶ Requires a different approach for achieving emission reductions than the approach used for new sources
- ▶ Provides that EPA establish:
  - ▶ A procedure for states to submit a plan establishing performance standards for existing sources in the source category and a program that provides for the implementation and enforcement of such standards of performance
  - ▶ Guidance about the appropriate level of the standard
- ▶ EPA has established section 111(d) regulations for existing sources for 5 source categories

### Section 111(d) regulations

- Sulfuric acid plants (acid mist)
- Phosphate fertilizer plants (fluorides)
- Primary aluminum plants (fluorides)
- Kraft pulp plants (total reduced sulfur)
- Municipal solid waste landfills (landfill gases)

# Section 111(cont.)

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## **Section 111(d) is broad by design**

- ▶ Congress anticipated there may be air pollution problems that EPA would need to address beyond those covered by national ambient air quality standards (such as ozone and fine particle pollution) or air toxics standards
- ▶ Also recognized that existing sources do not have as much flexibility as new ones to build emission controls into their design
- ▶ Section 111(d) provides flexibility to states to design a program to achieve the standards of performance that the state establishes

# Section 111–State Plan Structure

## How Section 111(d) Has Worked

- ▶ EPA previously has set “emission guidelines” for 5 source categories
  - ▶ EPA has not prescribed technology that must be used to comply
- ▶ Once EPA set the guidelines, states developed section 111(d) plans establishing standards of performance for the covered sources in their state
- ▶ States then submitted section 111(d) plans to EPA for review and approval
- ▶ EPA subsequently evaluated the plans and took action through notice and comment rulemaking
- ▶ EPA has authority to prescribe a plan for a state in cases where the state fails to submit a satisfactory plan and to enforce the provisions of a plan in cases where the state fails to enforce them

### Common elements of past guidelines

- Description of the Best System of Emission Reduction (BSER) that has been adequately demonstrated
- Degree of emission limitation achievable, costs and environmental impacts of application
- Time required to implement
- Other information to facilitate development of state plans
- A goal for reductions – or “standard of performance” – based on a BSER analysis

# Section 111–State Plan Structure (cont.)

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- ▶ States are required under General 60 Subpart B to:
  - ▶ Have a public hearing at state level
  - ▶ Have a source inventory
  - ▶ Demonstrate legal authority
- ▶ Past plans have included emission standards and compliance schedules
  - ▶ Increments of progress usually outlined in Emission Guidelines (EG)
    - Examples (i.e., control plan submittal date, achieve final compliance date)
- ▶ Other Subpart B requirements:
  - ▶ 60.24(g): Allows states to adopt and enforce emissions standards more stringent than the EG as well as have an earlier final compliance deadline
  - ▶ 60.27(a): “The Administrator may, whenever he deems necessary, extend the period for submission of any plan or plan revision or portion thereof”

# Outreach and Training

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- ▶ EPA will hold additional webinars before the final Clean Power Plan is signed
- ▶ Information on this rulemaking is available online at:
  - ▶ The Clean Power Plan website: <http://www.epa.gov/cpp>
    - Toolbox for the Clean Power Plan is available on this website and includes webinars that we have previously conducted
- ▶ If you have any further questions or have ideas for future outreach activities, please contact:
  - ▶ Angela Hackel: [hackel.angela@epa.gov](mailto:hackel.angela@epa.gov), 919-541-5262
  - ▶ Laura McKelvey: [mckelvey.laura@epa.gov](mailto:mckelvey.laura@epa.gov), h 919-541-5497