

The Lifecycle of an Air Quality Regulation

Carolinas Air Pollution
Control Association – Fall 2025

Presentation by:

Bill Lane
Parker Poe



Presentation Outline

- Federal statutory authority
- Rulemaking process
- Litigation
- 2025 and beyond



Federal Statutory Authority

Clean Air Act

42 USC §7401

- Title I: Air Pollution Prevention and Control
 - NAAQS § 109
 - State Implementation Plans § 110
 - NSPS § 111
 - Hazardous Air Pollutants § 112
 - Interstate Pollution Abatement § 126
 - Solid Waste Combustion § 129
 - PSD § 160-169b
 - Plan Requirements for Nonattainment § 171-193



Federal Statutory Authority Clean Air Act

- Title II: Mobile Sources
 - Emission standards for new motor vehicles and engines § 202
 - Motor vehicle, motor vehicle engines compliance testing and certification § 206
 - California waiver § 209
 - Nonroad engines and vehicles § 213



Federal Statutory Authority Clean Air Act

- Title III: General
- Title IV: Acid Rain
- Title V: Permits
- Title VI: Stratospheric Ozone Protection



Clean Air Act Rulemaking

HAPs Standards: § 112(d)(1)

- The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) of this section in accordance with the schedules provided in subsections (c) and (e) of this section. The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) of this section as the result of the authority provided by this sentence.



Clean Air Act Rulemaking

Good neighbor: § 110 (a)(2)(D)(i)(I)

- Each implementation plan submitted by a State under this chapter shall be adopted by the State after reasonable notice and public hearing. Each such plan shall ... contain adequate provisions—
- (i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—
- (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard



Clean Air Act Rulemaking

Title V permitting: §7661a(b)

- The Administrator shall promulgate within 12 months after November 15, 1990, regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency.



Clean Air Act Rulemaking

Mobile vehicle testing: §206(d)

- The Administrator shall by regulation establish methods and procedures for making tests under this section.



Clean Air Act Rulemaking

- EPA Statutory authority
- Data collection
- Discretionary or mandatory rulemaking
- Agency rulemaking agenda
- Lawsuit to force rulemaking after missed deadline



Clean Air Act Rulemaking

- EPA notice of data availability
- EPA advanced notice of proposed rulemaking
- EPA notice of proposed rulemaking
- Published in daily Federal Register



Clean Air Act Rulemaking

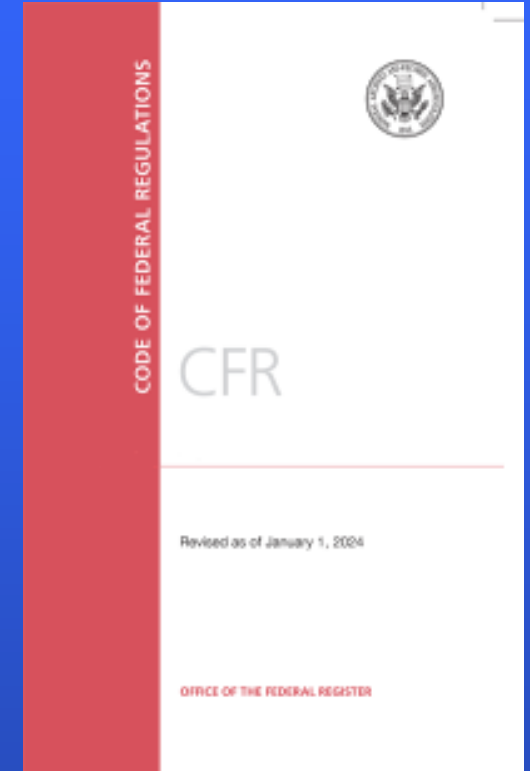
OMB review

- Office of Information and Regulatory Affairs
- Executive order 1993
- Enhance planning and coordination
- Reaffirm the primacy of Federal agencies
- Restore the legitimacy of regulatory review
- Make the process more open to the public
- Interagency review



Clean Air Act Rulemaking

- Comply with APA notice requirements
- Public notice, comment, hearing
- EPA final rulemaking in Federal Register
- Usually at least 60 days until effective date
- Codified in Code of Fed Regulations



Litigation/Reconsideration

- CAA §307: Nearly all air rules promulgated by EPA must be challenged in the D.C. Circuit
- The cases are heard on the record (no discovery or witnesses; only oral argument)
- DC Circuit is the place of last resort; except when case goes to SCOTUS



Litigation/Reconsideration

- Litigation: petitioner may only litigate objections raised during public comment period
- Public may request reconsideration based on new information that was not available during public comment
 - Must be of central relevance
 - May start new cycle of rulemaking



2025 and Beyond

- Jan 20: Day One Executive Order 14162
- Mar 12: EPA Deregulation Announcement; reconsideration of 31 EPA air rules
- Aug 1: Proposed rule to rescind Endangerment Finding; and then remove GHG regulations for light-, medium-, and heavy-duty on-highway vehicles



Thank you

Bill Lane

billlane@parkerpoe.com

