The Clean Air Act of 2018

Preface

- **Primary goals are to:**

1) Focus on ending pollution rather than finding a "safe" level of pollution;

2) Simplify and remove the need for approximately 75% of the current Clean Air Act;

3) Create a comprehensive multi-pollutant approach to addressing air quality and climate change concerns;

4) Realign responsibility and authority under the Act to increase the efficiency and effectiveness of International, Federal, State, and Local control efforts; and

5) Modernize and simplify the Act to make it more transparent and easier to implement and enforce.

- **Establishes an international component to managing and helping improve air quality in the U.S.**

    - Creates the authority to negotiate and develop a Multi-pollutant International Emissions Management Program (MIEMP)

- **Focuses on ending pollution rather than finding a "safe" level pollution**

    - Focus is no longer on finding a "safe" level of pollution through SIPs and the attainment/nonattainment mechanism, but to put us on a glide-path toward ending pollution.
    - Since 1970, emissions have decreased by approximately 1-2% per year depending on the pollutant (see https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data). The Clean Air Act of 2018 simply focuses on achieving such a percent decrease every year. The actual percent will be set by Congress every 10 years, but will be no lower than 2%. This will be known as the "Annual Emissions Reduction Percentage". In other words, the focus of the new Clean Air Act will be on emission reductions and moving us toward ending pollution—rather than attaining or finding a "safe" level of pollution.
    - NAAQS will be used to inform Congress on what percentage decrease is appropriate from a health-based perspective and Congress will weigh this along with costs in setting this annual percentage—which again will be no lower than 2%. In other words, the system will outperform the current Clean Air Act even if Congress does not increase the number.
    - The Annual Emissions Reduction Percentage will be achieved using the "Multi-Pollutant Market-Based System

- **Modernizes, simplifies, and consolidates much of the current air quality management system into a Multi-pollutant Market-based System (MMS):**

    - The Annual Emissions Reduction Percentage will be achieved using the "Multi-Pollutant Market-Based System". Almost all of the old Clean Air Act regulatory paradigms again will no longer exist. Companies will largely be free to do whatever they want and will simply be charged per pound of pollutant. Every year, Congress will then review the previous year's emissions to determine if the Annual Emissions Reduction Percentage has been met. If it has not been met, Congress will then increase the cost of that particular pollutant to a level that ensures the percentage is met in future years and makes up for any past shortfalls. Conversely, if the cost of that particular pollutant has been too high, Congress shall reimburse fee payers.
    - The Multi-Pollutant Market-Based System will be based on real-time emissions measurement technologies.
    - Money collected from the Multi-Pollutant Market-Based System could be reimbursed to tax payers, used to fund further emission reduction projects/research, and/or used for other purposes designated by Congress.
    - All emissions regardless of cause will essentially be treated the same. If a pollutant is emitted . . . a fee must be paid. Most companies will therefore want to purchase insurance to cover potential upsets.
    - Larger stationary sources are made subject to the MMS and are required to demonstrate compliance via real-time facility-wide source monitoring (PSD/NNSR, NSPS, MACT, and Title V were therefore no longer needed for these large sources and were removed). The MMS for mobile sources is generally implemented the same as under the current CAA. The MMS for smaller stationary sources is implemented via national performance standards (combining MACT and NSPS).

- States are placed in charge of enforcing the MMS, addressing potential fence-line or hot-spot concerns not addressed by the MMS, and functioning as innovators, information gatherers, and primary advisors on developing the MMS and national performance standards. States are provided with not only more rights to develop more stringent controls, but more ability to do so since less resources are needed to be spent on administrative exercises.