

Appendix G

Legal Authority

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LEGAL AUTHORITY¹

No plan for attaining a goal, the attainment of which is dependent upon regulatory action, can be used with any degree of effectiveness unless the legal framework is strong. Consequently, the Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR 51, as amended, define the necessary statutory powers which must be immediately available to states to carry out the responsibility to the Clean Air Act.

40 CFR 51.230 sets forth six specific requirements for State authority. The South Carolina Pollution Control Act, Act 1157 of 1970, as amended, S. C. Code Sections 48-1-10 thru - 350 (1976), provides the State's authority to respond to these requirements. The Attorney General of the State of South Carolina has given an opinion as to the adequacy of South Carolina laws, as follows:

Legal Authority Required 40 CFR 51	Adequacy of S. C. Law	S. C. Statutes Involved
(a) "Adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards."	Adequate	S. C. Code Secs. 48-1-20, 48-1-50(23)
(b) "Enforce applicable laws, regulations, & standards, and seek injunctive relief."	Adequate	S. C. Code Sec. 48-1-50(1), (3), (4), (5), (11); Secs. 48-1-120, 48-1-130, 48-1-210, 48-1-320, 48-1-330.
(c) "Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons, i.e., authority comparable to that available to the Administrator under section 305 of the Act."	Adequate	S. C. Code Sec. 48-1-290.
(d) "Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard."	Adequate	S. C. Code Sec. 48-1-50(5), (10); Secs. 48-1-100, 48-1-110.
(e) "Obtain Information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, Including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources."	Adequate	S. C. Code Sec. 48-1-50(10), (20), (22), (24).
(f) "Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such stationary sources; also authority for the State to make such data available to the public as reported and as correlated with any applicable emission standards or limitations."	Adequate	S. C. Code Secs. 48-1-50(22), 48-1-270.

¹ Section 2 of the EPA-approved South Carolina Air Quality Implementation Plan (SIP), which defines the State's statutory powers as required in 40 CFR 51.230.

Public Hearings

The South Carolina Pollution Control Act provides for notice and public hearings prior to action by the Board of Health and Environmental Control concerning adoption of regulations and standards, adoption or modification of final compliance dates, and other specified legal actions.

Additionally, Act 176 of 1977 enacted by the South Carolina General Assembly requires, among other things, that at least thirty days public notice be given before adoption, amendment or repeal of any rule. It also requires that the substance of the intended action or a description of the subjects and issues involved be made known. While this act escapes the actual requirement for a public hearing in each case, the two Acts taken together do impose the requirement of a thirty days notice of public hearing, assuring compliance with the requirements of 40 CFR 51.102, as amended.