

MEMORANDUM

SUBJECT: Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards

TO: Regional Air Division Directors
Regions I-X

Attached is guidance that clarifies EPA's policy on what constitutes "as expeditiously as practicable" for the purposes of attaining the national ambient air quality standards (NAAQS) for ozone nonattainment areas. The guidance contains information on EPA's determination of whether a State's submission provides for all RACM needed for attainment and whether implementation of those measures occurs as expeditiously as practicable. This guidance should be used by ozone nonattainment areas that are subject to the Clean Air Act requirement to submit an attainment demonstration and to submit RACM.

If you have any questions on this guidance, please contact Sharon Reinders at 919/541-5284.

Attachment

cc: Bill Becker, STAPPA/ALAPCO

Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas

Preface

The purpose of this guidance is to set forth EPA's current interpretation of the relationship of the "as expeditiously as practicable" requirement and the attainment demonstration requirement for ozone nonattainment areas. While EPA intends to proceed under the guidance that it is setting out today, the EPA will finalize this interpretation only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations for ozone nonattainment areas. At that time and in that context, judicial review of the EPA's interpretation would be available.

Background

Sections 172(a)(2)(A) and 181(a) of the Act require ozone nonattainment areas for to attain the ozone NAAQS as expeditiously as practicable and provide outer-limit dates for attainment based on an area's classification. Furthermore, section 172(c)(1), provides for "the implementation of all reasonably available control measures as expeditiously as practicable." This policy addresses how EPA interprets these requirements with respect to the adoption of control measures within the intrastate portion of the modeling domain for ozone nonattainment areas.

To ensure compliance with the Act, EPA will review each attainment demonstration submission for the ozone NAAQS to determine whether it provides for all RACM necessary to attain the standard as expeditiously as practicable and provides for implementation of those measures as expeditiously as practicable. The State's submission needs to contain sufficient information for EPA to make such determinations.

In order for the EPA to determine whether a State has adopted all RACM necessary for attainment as expeditiously as practicable, the State will need to provide a justification as to why measures within the arena of potentially reasonable measures have not been adopted. The justification would need to support that a measure was not "reasonably available" for that area and could be based on technological or economic grounds. Sources of potentially reasonable measures include measures adopted in other nonattainment areas and measures that the EPA has identified in guidelines or other documents.

In order for the EPA to determine whether an area has provided for implementation as expeditiously as practicable, the State must explain why the selected implementation schedule is the earliest schedule based on the specific circumstances of that area. Such claims cannot be general claims that more time is needed but rather should be specifically grounded in evidence of economic or technologic infeasibility. While it may be appropriate for some control measures to be implemented shortly after adoption, the EPA recognizes that other measures may need a longer period.

The EPA will review the State's submission to ensure that sufficient information is provided for the EPA to determine whether the State has adopted all RACM necessary for attainment as expeditiously as practicable and provided for implementation of those measures as expeditiously as practicable. The EPA will make those determinations based on the information provided by the State and any other information available to the EPA at the time the Agency approves or disapproves the attainment demonstration.