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December 6, 2013

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Dear Larry and John:

The National Association of Clean Air Agencies (NACAA) appreciates this opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) draft *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions* dated October 28, 2013 and released by EPA on October 31, 2013. NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 43 states, the District of Columbia, four territories and 116 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. These comments are based upon that experience. The views expressed in these comments do not necessarily represent the positions of every state and local air pollution control agency in the country.

Developing State Implementation Plans (SIPs) for nonattainment areas (NAAs) designated under the 2010 primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) is an important, challenging and resource-intensive responsibility for state and local air agencies and one we take very seriously. As we immerse ourselves in this endeavor we cannot overstate the critical importance of a strong partnership with EPA. As with everything we do as federal, state and local environmental regulators, the success of all our mutual efforts on the 2010 primary SO₂ NAAQS will depend in large part on the degree to which we work collaboratively and constructively.

With respect to the draft guidance on SO₂ NAA SIP submittals, NACAA offers comments on the following issues.

1) *Attainment Demonstration*

In the Attainment Demonstration section of the draft guidance document, in the last paragraph on p. 9, EPA states the following:

Air agencies should generally have all necessary controls in place so that the control measures will result in the achievement of 3 years of air quality monitoring data showing attainment by the statutory attainment date. However, a NAA SIP may be approvable if enforceable control measures will be operational prior to the attainment date even if the air agency does not anticipate having 3 calendar years of clean air quality data by the attainment date.

NACAA requests that EPA clarify the first sentence of this statement. Specifically, states have already encountered questions from affected sources as to when compliance with SO₂-controlling rules needs to occur. One interpretation suggests that since the attainment date is October 2018 states would need to use the air quality monitoring data from the previous three full calendar years – 2015, 2016 and 2017 – therefore, controls would need to be in place by January 1, 2015. For many major sources of SO₂, such as electric generating units, this short timeframe is virtually impossible. Such sources need to schedule upgrades and shutdowns far in advance in order to accommodate power generation needs and Regional Transmission Organization requirements and may not be able to add controls until mid to late 2016; this would still accomplish the objective of reducing emissions in time to attain the standard ahead of the attainment date but would not meet a compliance date of January 1, 2015.

We further request that EPA clarify the conditions under which the “NAA SIP may be approvable... even if the air agency does not anticipate having 3 calendar years of clean air quality data.” In designing regulations and an attainment demonstration, states need to know, in a timely manner, what is required and allowed in terms of SIP approval. For example, would a regulation requiring contributing sources to reduce SO₂ emissions by October 1, 2018, be acceptable since the controls would occur before the attainment deadline? Or is there some earlier date by which EPA will require source compliance and some minimum timeframe required to obtain a certain amount of clean data?

2) *Control Strategy – Accounting for National/Regional Measures*

EPA states in the draft guidance (pp. 11-12) that “[t]he NAA SIP should provide for attainment of the standard based on SO₂ emissions reductions from control measures that are permanent and enforceable. Air agencies should consider all RACM/RACT that can be implemented in light of the attainment needs for the affected areas.” The Clean Air Act defines Reasonably Available Control Technology (RACT) as having two minimum criteria – what is needed to reach attainment and what is technologically feasible in light of the more typical application of RACT to a group of similar sources in a given area. In the draft guidance, however, EPA focuses only on RACT as it relates to attainment needs. NACAA seeks clarification on the magnitude of RACT/RACM analysis EPA believes is required by the Clean Air Act, particularly in nonattainment areas with more than one major contributing source. We note also that if a single source is responsible for an area’s nonattainment the overriding requirement should be that the plan will achieve attainment rather than that a RACT/RACM evaluation be conducted for the single-source area.

3) *Control Strategy – National Measures*

As states and localities work to fulfill their obligations to attain and maintain the health-based SO₂ NAAQS, we urge EPA to fulfill its obligation to review, on the statutory eight-year schedule, New Source Performance Standard (NSPS) emissions limits, including averaging times, to ensure that the NSPS will provide the full measure of benefits expected of them and on which states and localities rely in their efforts to secure the emission reductions necessary to comply with the SO₂ standard.

4) *Control Strategy – Policy Regarding Averaging Times for 1-Hour Limits*

As part of its discussion of averaging times for 1-hour emissions limits EPA, on pp. 25-29, provides example calculations “for determining an appropriately adjusted allowable 30-day average of hourly mass emissions, calculated on a rolling average basis.” While examples are always appreciated, we believe this one should be clarified to include clear criteria on how to go from the 1-hour level to a longer-term averaging time and what, in EPA’s estimation, would constitute a sufficient environmental profile.

5) *Reasonable Further Progress*

In its discussion of Reasonable Further Progress (RFP) on p. 33 EPA appears to downplay the implications of RFP for multi-source areas. We encourage EPA to revise this discussion to appropriately acknowledge the significance of RFP for multi-source areas.

6) *General Conformity*

EPA explains on pp. 37-38 that the agency’s General Conformity Rule applies to areas designated nonattainment or maintenance for the 2010 SO₂ NAAQS and that federal actions of a certain magnitude that take place in a nonattainment or maintenance area (other than certain highway and transportation projects) must undergo a general conformity analysis. We note, however, that the threshold for applying general conformity to a federal project is 100 tons per year or more of emissions. This threshold, based on annual emissions, is not compatible with a 1-hour SO₂ standard. Therefore, we encourage EPA to acknowledge this incongruity.

7) *Information Necessary for Determining Attainment*

In the section detailing “Information Necessary to Determine Attainment for SO₂ Nonattainment Areas” (p. 42), EPA discusses the possibility of using data from a monitor located in an area of maximum concentration to make a determination of attainment without the use of air quality modeling data. If a state wants to avail itself of this approach but such a monitor is not already sited, then locating a monitor in the area of maximum concentration requires first, that modeling be conducted to identify the area of maximum concentration, and second, that a monitor be located there. We note, however, there is not adequate time to take these steps.

Also related to section B on p. 42 we ask that EPA clarify the first sentence of the first paragraph and, in particular, the use of “and/or” in the third line. As written, it is unclear which of the factors listed must be satisfied in order for EPA to determine whether or not an area has attained the NAAQS.

8) *Attainment Plans – Actual Emissions versus Maximum Allowable Emissions*

In section VIII, on “Redesignation to Attainment of SO₂ Nonattainment Areas” (pp. 52-60), EPA’s draft language concerning when to use “actual emissions” versus “maximum allowable emissions” relative to modeling assessments is somewhat confusing. There is also confusion as to when the modeling Technical Assistance Document (TAD) should be used versus the modeling guidance provided in Appendix A to this draft *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions*. Also unclear is whether EPA intends to finalize the TADs. We request that EPA clarify these issues in the final guidance. In addition, we believe an introductory “roadmap” or flowchart of what approaches are allowed in each step of the SO₂ SIP process would be helpful.

9) *Maintenance Plan – Monitoring Network*

In its discussion of the monitoring network on p. 59, EPA states that areas that have been redesignated to attainment should continue to operate the existing air quality monitoring network. NACAA urges that EPA include in the guidance criteria for an “off ramp” for decommissioning monitors in areas that have been redesignated to attainment. In our association’s July 22, 2013, comments to EPA on the *Draft SO₂ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document* we raised the issue of the lack of monitor shutdown criteria as well (p. 5) and offer here the comments we provided at that time: “The draft TAD does not discuss circumstances under which air pollution control agencies may shut down SO₂ monitors that were established for the purpose of SO₂ area designations. Agencies should have the ability to efficiently shut down monitors that are no longer necessary. Because SO₂ designation monitoring is source-oriented, any change in the source, such as a fuel change or reduced hours of operation, should trigger a process for consideration of whether the monitor may be removed from a state’s network plan. NACAA recommends that EPA develop detailed criteria in this regard and incorporate them in the TAD. EPA should also recommend a monitored SO₂ emissions level, measured over a specified period of time, below which a monitor may be shut down.”

On behalf of NACAA, we thank you for this opportunity to comment on the draft *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions*. If you have any questions, please do not hesitate to contact either of us or Nancy Kruger, Deputy Director of NACAA. We look forward to working with EPA on all aspects of implementation of the 2010 SO₂ NAAQS.

Sincerely,



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