

Air Quality Management Subcommittee

Air Quality Management Plan Review

August 1, 2006

The Assignment

- Review recommendations to-date and lead further development
- Evaluate previous recommendations that have not been accepted
 - Are there opportunities to explore these recommendations further?
 - Should a recommendation be retained for future consideration?
 - Should a recommendation receive no further consideration?
- Are there any opportunities that have not been explored to-date?

One Approach to Phase II

- Recommendations for which substantial agreement exists
- Issues worthy of further discussion
 - Reach agreement
 - Drop from further discussion
 - Determine worthy of further discussion and develop schedule and approach

Outline

- CAA statutory considerations
- Air Quality Management Plan including federal/state/local/tribal interfaces, authorities, and roles
- Setting standards
- Air Quality Assessment
 - Monitoring
 - Determinations
- Continuous improvement

Fundamental Consideration

- Clean Air Act
 - Is it advisable not to proceed with recommendations that would require CAA amendments?
 - Which benefits might justify pushing a recommendation forward even though CAA changes might be required?
 - Substantially cleaner air?
 - Substantially quicker implementation of programs that would improve air quality?
 - Substantially less resource-intensive programs?
 - Combinations of the benefits above?

Fundamental Consideration

- Components of Air Quality Management Plan
 - Administrative procedures?
 - Is there anything important that was not addressed in Phase I and that should be included in the Phase II report?
 - Technical procedures and programs?
 - Setting standards*
 - Assessment – monitoring and compliance determinations*
 - Prioritization
 - Implementation
 - Federal/state/local/tribal interactions and authorities*
 - Additional emission reductions
 - Mandatory versus voluntary programs
 - Continuous improvement?*

The Questions

- 7. Federal/state/local/tribal interfaces – (1) How can enforceable federal mandates be designed for use by S/L/Ts more efficiently? (2) Could more federal programs be set up like Title IV that required less S/L/T action?
(3) What about SIP approvals and federal enforceability? Can federal enforceability be achieved in a more simplified manner? (4) Can the administrative requirements for SIP approval be streamlined (beyond what was discussed in the Phase I process) or even eliminated? (5) Shouldn't we explore every alternative to determine feasibility for simplifying the federal enforceability/SIP adoption process?

(1) How can enforceable federal mandates be designed for use by S/L/Ts more efficiently?

- Can State SIPs be written in way to provide for a procedural update the adopts the federal requirement? Can EPA promulgate federal rules that provide for such an adoption into the SIP?

(2) Could more federal programs be set up like Title IV that required less S/L/T action?

- If the answer to question 1 is yes, I assume this could be done.
- Does the question mean that the States, Local programs and Tribes want EPA to maintain and run more data bases like the SO₂ or NO_x data bases.
- Resources, Resources

(3a) What about SIP approvals and federal enforceability?

(3b) Can federal enforceability be achieved in a more simplified manner?

(5) Shouldn't we explore every alternative to determine feasibility for simplifying the federal enforceability/SIP adoption process?

- (3b) Refer to question 1. If rule can be adopted as written. no issue.
- (3a) Is Federal Enforceability required in all cases?
 - Yes, for all traditional major source SIP rules or those sources subject to federal rules
 - Maybe not (policy issue), for those sources that may be best regulated by voluntary or innovative measures that address those emission sectors that have been too difficult for traditional regulation or that can not be regulated (area sources, existing fleets, boats, trains, aircraft)
 - EPA guidance should be drafted to remove the cap on these types of programs and require a provision for updating the SIP if they are found not to effective. Enforcement of the SIP reductions required rather than these measures.

(4) Can the administrative requirements for SIP approval be streamlined (beyond what was discussed in the Phase I process) or even eliminated?

- Can the AQM plan be adopted and the control requirements be adopted based on assigned responsibilities. Plan would be approved and rules adopted administratively per previous discussion?
Legal ?????

Issue Drill-Down

- Setting standards
 - 5 year cycle versus other options
 - Interface between standard-setting and implementation
 - How to avoid overlapping versions of standards for a single pollutant
 - How to address toxic air pollutants

NAAQS Process

- NAAQS Outcomes

- Have the level of the standards been protective of public health ?

- Yes ! Although much debate has occurred on both side of this

issue,

upheld EPA

CAA

courts have generally

actions under the

NAAQS Process (Continued)

■ NAAQS CAA Timelines

- Has EPA complied with the timelines established in the CAA?

- As a general rule, No

 - EPA has been subject to litigation from public interest groups for failure to meet the timelines and subject to court order schedules

 - EPA has also been subject to litigation on the final standards from the industry and public interest groups

 - The end result is that the schedules in the act have not been met because of the actions of all parties.

NAAQS Process (Continued)

- The AQM Committee Should Consider
 - EPA's Review of NAAQS process
 - EPA issued a report on the NAAQS process on April 3rd of 2006
 - EPA held public workshop on the report on June 27th of 2006
 - EPA is expected to issue a final report on ???
 - Should the committee consider the report before making recommendations ?

NAAQS Process (continued)

■ The Science Review

- Is the current time frame adequate for the identification of proper studies?
- If the studies are completed, is there adequate time for review and discussion of the studies in a forum such as CAASAC?
- If there were more time for this process, would there be less litigation and policy debates over the science?
- Many argue the EPA resources are not adequate to prepare the criteria document and administer the science review process, would more resources really fix the issues discussed above?

NAAQS Process (continued)

■ The Staff Paper

- Is there adequate time for the EPA staff to review the the CAASAC documents and make recommendations on the level and form of the standard?
- Funding, Funding, Funding- Is it likely that EPA will receive the funding required to complete this task in a timely and complete manner?
- Should there be more extensive public discussion of the staff paper or Agency thinking prior to the proposal?
- Could a more public discussion of the EPA thinking reduce the possible litigation or the length of the litigation?

NAAQS Process (continued)

- Control Options Discussion (New)
 - Prior to final the final standard, could EPA working with States, Local programs, tribes and industry develop a paper or document that sets forth the various sectors or emissions categories that should be addressed during the development of control strategies?
 - The document would identify source categories and make initial assignments of responsibility (Federal, State or voluntary programs)
 - Funding may be a major issue

NAAQS Process

■ Discussion Questions

- Have the level of the standards been protective of public health ?
- Has EPA met the requirements of the CAA?
- Should the committee consider the report before making recommendations ?
- Science & Staff Paper – study generation time frame, review of science time frame, less litigation possible, more resources fix the problem?
- Control Option Paper?

Seitz Conclusions

- Committee should allow EPA to finish its review prior to make final recommendations.
- Committee should develop 2 to 3 major themes or issues that should be addressed in the NAAQS review process (I do not think resources should be one)
- The Office of Air should be encouraged to present their findings the CAAAC for discussion
- If the CAAAC feels that more discussion or expansion of the recommendations is order, further discussion should referred to the proper sub committee where a full discussion of the issues would take place.

AQMS Process Goals

- Create an effective air quality management system
- Create a timely AQMS
- Create an efficient, simple AQMS
- Sustain partnerships to strengthen the AQMS
- Provide adequate tools to create and maintain the AQMS

Issue Drill-Down

- Air Quality Assessment
 - Monitoring
 - Are there any improvements needed beyond what was recommended in Phase I?
 - Will addressing attainment determinations remove deterrents to better monitoring?
 - Modeling
 - Are there any remaining issues not addressed in Phase I?
 - Attainment determinations
 - Area of violation/Area of influence details

Issue Drill-Down

- Continuous Improvement (1)
 - Is it a program describing techniques or menu of options?
 - Is it incentive-based, command-and-control, or a hybrid, perhaps with a “soft” driver?
 - Is a catalog of programs and guidance adequate to achieve the goal?
 - Should such a program be economy-wide, or sector-based?
 - Are certain options more reasonable than others?

Issue Drill-Down

- Continuous Improvement (2)
 - Are there concerns other than providing a “period of repose” and credit for recent actions/investments?
 - Could there be a pre-dated base line that would acknowledge recent-past
 - How might a fee-based incentive be designed?
 - Assess on emitters who achieve less than the goal or nothing at all
 - Up-front or after-the-fact

Issue Drill-Down

- Continuous Improvement (3)
 - Texas energy efficiency example
 - Could this be a workable template for our consideration?