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Mr. John Summerhays
U. S. Environmental Protection Agency – Region 5
77 West Jackson Boulevard
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Subject: Draft Guidance for the 1-hour Sulfur Dioxide (SO_2) Nonattainment State Plans (SIP).

Dear Mr. Summerhays:

The Wisconsin Department of Natural Resources (WDNR) is submitting comments on the U.S. Environmental Protection Agency's (EPA) draft 1-hour SO_2 NAAQS nonattainment area implementation guidance, dated October 31, 2013. As you are aware, the states are required to submit SIPs for EPA's approval by April 4, 2015. In order for states to hope to meet this deadline, EPA needs to finalize this guidance by early 2014.

In regard to EPA's draft guidance, Wisconsin offers the specific comments set forth below.

30-Day Averaging Period for Compliance: Wisconsin supports allowing the use of longer averaging periods, as proposed by EPA, in setting emission limitations. While EPA stated that longer periods can be used if supported by modeling, it did not explain how to do this. Therefore, WDNR requests that EPA provide additional information regarding criteria or methodologies to be used in determining emission limits with averaging periods that meet the 1-hour SO_2 NAAQS. For example, can states account for potential variability in source operations by demonstrating that the emission limitation has a 95% percentile probability of meeting the NAAQS?

Deadlines for Control Requirements and Clean Monitoring Data: The last paragraph on page 9 of the draft guidance reads:

> "*Air agencies should generally have all necessary controls in place so that control measures will result in the achievement of 3 years of air quality monitoring data showing attainment by the statutory 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.*"

EPA seems to be stating that it may approve attainment demonstration SIPs where states cannot measure clean data for three years prior to the attainment date. However, on page 41 of the draft guidance, EPA also states that a notice of deficiency will be issued if the state does not have three years of clean data before the attainment date. Issuing a notice of deficiency is inconsistent with EPA's approval of the attainment demonstration. Therefore, WDNR requests clarification on how EPA could approve an attainment demonstration SIP in this case. This also raises concerns that a notice of deficiency will result in triggering contingency measures even though the attainment SIP had been approved.

Instead of requiring three years of clean data prior to the attainment date, WDNR strongly encourages EPA to take the following practical approach:

- Attainment SIPs should be approvable if the necessary control requirements are in place no later than the attainment date and attainment is demonstrated by the appropriate dispersion modeling.

- The three-year monitoring period for clean data begins the calendar year after the necessary control requirements become effective as determined under the SIP.
- EPA should handle the application of contingency measures the same way it does for ozone.

Reasonably Available Control Technology (RACT) Requirement: The SO_2 guidance refers to 40 CFR part 51.100(o) which states: "RACT means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account: (1) the necessity of imposing such controls in order to attain and maintain a NAAQS; (2) The social, environmental, and economic impact of such controls; and (3) Alternative means of providing for attainment and maintenance of such standards". EPA suggests that, under this definition, RACT is the level of control necessary to reach attainment.

WDNR requests EPA to clarify that, for purposes of the SO_2 NAAQS, cost is also a consideration in determining RACT. As such, WDNR believes that an upper reasonable cost can limit RACT to a control level less than that necessary to reach attainment. For example, NO_x RACT in Wisconsin for ozone non-attainment purposes was bounded by an upper cost of $2,500 per ton of NO_x removed even if attainment is not reached. Likewise, RACT for SO_2 should not exceed upper reasonable cost bounds. In this case, reasonable available control measures (RACM) applies if attainment has not been reached through RACT.

The definition of RACT in 40 CFR part 51.100(o) also leads to a question of how to determine RACT for multiple sources in a non-attainment area. Specifically, how must a state distribute responsibility for reaching attainment? In this situation, WDNR believes that the guidance should allow states to use culpability modeling in conjunction with considerations for cost-effectiveness, at the state's discretion, in determining RACT for each source.

Continuous Emissions Monitoring Systems (CEMS) Requirement: EPA should consider other means of continuous emissions monitoring beyond the mentioned CEMS. Wisconsin believes that other alternatives such as Predictive Emission Monitoring System (PEMS) and Continuous Parametric Monitoring Systems (CPMS) provide greater implementation flexibility without compromising data integrity or incurring the cost of a CEMS.

Monitoring versus Modeled Attainment Demonstration: WDNR supports EPA's proposed flexible approach to demonstrating attainment through the use of either ambient monitoring or dispersion modeling. But, EPA must keep in mind that without the data requirements rule in place it is difficult to know how resource intensive the attainment analysis will be for either approach. Thus, states cannot make conclusions at this time as to which approach makes more sense and under what circumstances.

Unclassified Area Guidance: Finally, many elements in this draft guidance may be applicable to currently unclassified areas that may be designated as nonattainment in the future. However, the states will have to work through the classification of these unclassified areas before all factors and concerns in structuring and implementing an attainment SIP can be identified. Therefore, Wisconsin firmly believes that EPA needs to provide a separate comment process when developing guidance for those areas that may be designated as nonattainment in in the future.

Thank you for the opportunity to comment on the draft 1-hour SO_2 nonattainment area SIP implementation guidance. Please feel free to contact me if you have any questions concerning these comments.

Sincerely,

Bart Sponseller, Director
Bureau of Air Management
Wisconsin Department of Natural Resources