

# **Federal - State Partnership in Implementing Air Quality Standards under the U. S. Clean Air Act**

## **Lessons Learned**

Sara Schneeberg  
Assistant General Counsel  
U. S. EPA Office of General Counsel

# Summary of Air Quality Planning

---

- National Ambient Air Quality Standards (NAAQS)
  - EPA sets ambient standards to protect public health and welfare
- Area Designations
  - EPA designates areas as attaining or not attaining the standards

# Summary of Air Quality Planning (continued)

---

- State Implementation Plans (SIP)
  - States prepare plans to quickly attain the standards, and to maintain attainment
  - EPA reviews and approves the SIPs

# NAAQS

---

- EPA sets national standards for pollutants without considering cost
  - Primary standards must protect public health with adequate margin of safety
  - Secondary standards protect environmental welfare

# NAAQS (continued)

---

- EPA must review each standard every 5 years and revise if appropriate
- U.S. EPA has established NAAQS for six pollutants:
  - ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, and particulate matter (PM)

# Designation Requirements

---

- EPA designates areas throughout the country based on monitored ambient air quality as:
  - (i) nonattainment...not meeting standards, or contributing to non-attaining area
  - (ii) attainment...meeting standards
  - (iii) unclassifiable...insufficient data to determine appropriate status
- Designations established through cooperative process with states, beginning with state recommendations

# State Implementation Plans

---

- States must develop plans designed to attain the NAAQS by established deadlines
- More stringent requirements in nonattainment areas
  - For certain pollutants the Act classifies areas based on degree of nonattainment problem, and imposes progressively more stringent controls
  - For instance, in ozone nonattainment areas basic vehicle inspection required in moderate areas, while enhanced inspection required in serious areas

# State Implementation Plans (cont.)

---

- States have discretion to select measures that are designed to lead to attainment
- Emissions inventories establish baseline
- Control measures as needed to demonstrate attainment and provide reasonable progress towards attainment, including certain mandated measures in various areas

# Monitoring / Enforcement

---

- Monitoring system required to assess effectiveness of SIP measures and measure resulting ambient air quality
- Enforcement measures required to insure reductions will be achieved
- Contingency measures to apply if planning does not produce anticipated reductions

# Regional Planning

---

- The Act also requires SIPs to prevent significant contribution to nonattainment in other downwind states
  
- EPA has used this authority to develop regional trading programs for large electric utilities

# EPA review and approval

---

- EPA works with states to develop plans
- Plans must be submitted by established deadlines
- EPA must approve plan and make it federally enforceable
- If states fail to submit timely SIPs or EPA disapproves plan various sanctions apply

# Sanctions

---

- Sanctions apply for planning and implementation failures, not failure to actually attain
- If EPA finds that States have not timely submitted plans or implemented plans, or if EPA disapproves plans, two potential sanctions apply:
  - the offset requirements for new source permits become more stringent
  - Federal funding of major highway construction is terminated
- Sanctions apply on fixed schedules or EPA can apply them sooner

# Federal Planning

---

- Also where states do not submit timely plans, or EPA disapproves plans, EPA is required to develop and implement a plan for the state within 2 years unless the state cures the deficiency and EPA approves the plan
- EPA has used this authority in individual cases or to support regional programs

# Iterative Planning

---

- Where states fail to attain standards new planning efforts are required
- New SIPs are required including all of the initial plan requirements to meet a revised attainment date
- EPA can require additional measures as needed in new plans
- For certain pollutants the Act requires significant new measures in new plans

# Enforcement of Plan Requirements

---

- EPA can sue facilities directly for failure to comply with provisions of approved SIP
- EPA can sue states for failure to implement state provisions or commitments in SIPs
- Private citizens can sue facilities and states for failure to comply with SIPs
- EPA can take over state implementation of SIPs where state does not enforce SIP

# Implementation in Practice

---

- EPA regional offices work closely with states through collaborative process in SIP preparation and approval
- EPA provides states with national guidance on proper interpretation of Act
- EPA headquarters works with EPA regions to insure consistent action on state plans
- EPA reviews and approves SIPs through public rulemaking process
  - Public comments on proposed SIP approval

# Public Accountability

---

- Public participates in state development of SIPs and EPA approval of SIPs
- Public can challenge EPA action in court
  - Public can challenge EPA approval or disapproval as not complying with the Act
  - Public can ask court to order EPA to take action on SIP if EPA action is not completed by required deadline

# Planning Successes

---

- States and EPA have developed SIPs across the country that have succeeded in lowering ambient air quality levels and enabled many areas to attain various air quality standards
- National guidance helps assure consistency among state plans
- Threat of sanctions, federal plans and lawsuits encourages timely action
  - Sanctions are seldom imposed as threat sufficient to ultimately produce results

# Planning Obstacles

---

- Political pressure from local agencies and congressional representatives frustrates attempts to promptly develop and implement SIPs
- Separate schedules for SIP development and implementation for various NAAQS developed or revised at different times frustrates coordination of planning and implementation for multiple NAAQS

# Planning Obstacles (continued)

---

- Meeting numerous schedules and requirements requires large commitment of staff and resources
- Balancing competing federal and multiple state authorities is time consuming and can detract from firm and consistent compliance
- Court decisions, especially those on national programs, can severely disrupt established planning

# Recommendations for China

---

- China should coordinate planning for multiple pollutants to facilitate implementation of cost effective controls and expeditious compliance
- China should establish clear guidance for provincial governments on planning, implementation and enforcement, and should adhere to them consistently
- Sanctions for planning failures should be clearly stated and implemented consistently
- Focus on periodic monitoring, assessment and revision as necessary