

dependent on the deadline by which BACM must be implemented.⁷

We also considered a BACM-level control as going beyond existing RACM-level controls, such as expanding use of RACM (e.g., paving more miles of unpaved roads). Addendum at 42013. The word “best” implies that there should be a greater emphasis on the merits of the measure or technology alone and less flexibility in considering other factors. Additionally, we believe that BACM should emphasize prevention rather than remediation (e.g., preventing track out at construction sites rather than simply requiring clean up of tracked-out dirt). Addendum at 42013.

The stringency of a control measure is a function of both the measure’s applicability and its control requirement (i.e., what sources in the category are subject to the measure and what does the measure require the sources to do to reduce emissions).⁸ Both these elements must be specified before the measure’s level of control can be determined. Thus in setting a BACM, a state must specify both the measure’s control requirement and its applicability. The control requirement alone is not sufficient.

BACM must be applied to each significant (i.e., non-de minimis) source category. Addendum at 42011. In guidance, we have established a presumption that a “significant” source category is one that contributes 5 µg/m³ or more of PM–10 to a location of 24-hour violation and 1 µg/m³ or more for the annual standard. Addendum at 42011. However, whether the threshold should be lower than this in any particular area depends upon the specific facts of that area’s nonattainment problem. Specifically, it depends on whether requiring the application of BACM on source categories below a proposed de minimis level would meaningfully expedite attainment.

We have outlined in our guidance a multi-step process for identifying

BACM. Addendum at 42010–42014. The steps are:

1. develop a detailed emissions inventory of PM–10 sources and source categories,
2. model to evaluate the impact on PM–10 concentrations over the standards of the various sources and source categories to determine which are significant,
3. identify potential BACM for significant source categories and evaluate their reasonableness, considering technological feasibility, costs, and energy and environmental impacts and
4. provide for the implementation of the BACM or provide a reasoned justification for rejecting any potential BACM.

When the process is complete, the individual measures⁹ should then be converted into a legally enforceable vehicle (e.g., a regulation or permit process). CAA sections 172(6) and 110(a)(2)(A). Also, the regulations or other measures should meet EPA’s criteria regarding the enforceability of SIPs and SIP revisions. General Preamble at 13541.

RACM Requirement

When a moderate area is reclassified to serious, the requirement to implement RACM in section 189(a)(1)(C) remains. Thus, a serious area PM–10 plan must also provide for the implementation of RACM as expeditiously as practicable to the extent that the RACM requirement has not been satisfied in the area’s moderate area plan.

However, we do not normally conduct a separate evaluation to determine if a serious area plan’s measures also meet the RACM requirements as interpreted by us in the General Preamble at 13540. This is because in our serious area guidance (Addendum at 42010), we interpret the BACM requirement, as generally subsuming the RACM requirement. Therefore, a separate analysis to determine if the measures represent a RACM level of control is generally not necessary. Our proposed approval of the Clark County Plan’s provisions relating to the implementation of BACM is also a finding that the plan provides for the implementation of RACM.

The Clean Air Act Requirements for Attainment Date Extensions

Section 188(e) of the Act allows us to extend the attainment date for a serious

area for up to five years beyond 2001 if attainment by 2001 is impracticable. However, before we may grant an extension of the attainment date, the State must first:

1. Apply to us for an extension of the PM–10 attainment date beyond 2001,
2. Demonstrate that attainment by 2001 is impracticable,
3. Have complied with all requirements and commitments applying to the area in its implementation plan,
4. Demonstrate to our satisfaction that its serious area plan includes the most stringent measures that are included in the implementation plan of any state and/or are achieved in practice in any state and are feasible for the area, and
5. Submit a demonstration of attainment by the most expeditious alternative date practicable.

In determining whether to grant an extension and the appropriate length of the attainment date extension, we may consider:

1. The nature and extent of the nonattainment problem,
2. The types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and international transport),
3. The population exposed to concentrations in excess of the standard,
4. The presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and
5. The technological and economic feasibility of various control measures.

Under the Act, we may grant only one extension for an area and the extension cannot be for more than 5 years after 2001; that is, the extended attainment date can be no later than December 31, 2006.

IV. The Clark County Plan’s Compliance With the CAA’s Requirements for Serious PM–10 Nonattainment Areas

The following sections present a condensed discussion of our evaluation of the Clark County Plan’s compliance with the applicable CAA requirements for attaining the annual and 24-hour PM–10 standards. Our complete evaluation is found in the TSD for this proposal. A copy of the TSD can be downloaded from our website or obtained by calling or writing the contact person listed above.

A. Completeness of the SIP Submittal

CAA section 110(k)(1)(B) requires us to determine if a SIP submittal is complete within 60 days of its receipt. This completeness review allows us to quickly determine if the submittal

⁷ We have long held that an otherwise available measure is not reasonable if it cannot be implemented on a schedule that will advance the attainment date. See, e.g., 57 FR 13498, 15560 (April 16, 1992). See also *Delaney v. EPA*, 898 F.2d 695 (9th Cir. 1990) which required the adoption of “all available control measures” to attain “as soon as possible” and not simply all available control measures. The most clear example of this is a measure that cannot be implemented until after the applicable attainment date.

⁸ An example: A measure requires all unpaved roads with average daily trips (ADT) over 150 be stabilized by either paving, graveling, or treating with chemical stabilizers. The control requirement here is “stabilize using one of these three methods: paving, graveling, or chemical stabilization” and the applicability is “all unpaved roads with ADT over 150.”

⁹ Here our guidance refers to RACM, however, since BACM builds upon RACM, the same principles apply.