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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
AIR, NOISE, AND RADIATION

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**SUBJECT:** Policy on the Use of Conditional Approvals

**FROM:** Kathleen M. Bennett, Assistant Administrator  
for Air, Noise, and Radiation (ANR-443)

**TO:** Director, Air & Hazardous Materials Divisions, Regions I-X

The conditional approval of Part D SIPs has provided the Agency with flexibility to address minor deficiencies in State plans in a reasonable manner. The success of the conditional approval approach is reflected in the general responsiveness of the States to fulfill their commitments for remedial action. Nevertheless, the usefulness of this tool is jeopardized by a tendency to overuse it. Specifically, a number of conditions routinely incorporated into SIP approvals could be handled just as effectively through administrative means rather than the rulemaking process. The purpose of this memorandum is to restate the policy of using administrative approaches to correct minor deficiencies wherever possible and to minimize the use of conditional approvals.

In reviewing all reasonably documented State submittals, there should be a presumption of acceptability. The emphasis in reviews should be focused on identifying substantive issues that either violate statutory requirements, will have a significant impact on air quality, or severely impact regional consistency. Such findings should be clearly indicated in the recommended action. Deficiencies of a less serious nature which could impact regional consistency but do not affect statutorily mandated elements and do not impact on air quality should be noted in the Federal Register and public comment specifically solicited. Any comments received must be addressed in the final action.

In general, where sanctions apply and additional rulemaking by the State is required, then conditional approval in Part 52 is the correct approach. However, before requiring a State to proceed with additional rulemaking, the Regions should ensure that the deficiency requires such action.

Alternatively, where a SIP contains minor deficiencies that merely require technical or administrative remedies, and the State indicates that it will correct these deficiencies, the SIP should be approved "with the understanding that the State will make the necessary corrections." Examples of the requirements potentially affected include submittals of additional

technical documentation or results of studies. The Region should use available means (e.g., Section 105 grants or State/EPA agreements) to schedule and track the submittal of necessary remedies.

Where an action involves Group II CTG regulations, it may not be necessary to approve conditionally a deficient submittal. A preferred approach is to approach the regulations that are judged to be adequate and/to take no action on the deficient portions. The Region should then work with the State to ensure that these deficiencies are corrected in a timely manner. Where the State has sought an extension to the 1982 attainment data, all necessary remedies should be completed prior to the July 1982 SIP submittal.

Finally, the Federal Register is not to be used as a means of communication with States. Accordingly, proposals should not routinely include a list of options from which the State is to choose. Rather, available corrective measures are to be discussed with the State prior to proposal and the Federal Register should propose the agreed upon alternative.

Through careful management of these discretionary aspects of SIP evaluations, I am confident that we can improve State and Federal relationships, reduce the number of conditions that are incorporated into SIP approvals and decrease our rulemaking workload without adversely impacting air quality.

Attachment

cc: Chief, Air Programs Branch, Regions I-X  
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