UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
AIR AND RADIATION

SUBJECT: Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of "Letter Notices"

FROM: Janet McCabe, Deputy Assistant Administrator JGM
Office of Air & Radiation

TO: Regional Administrators, Regions I – X

The National State Implementation Plan (SIP) Reform Workgroup is a cooperative initiative between EPA, the National Association of Clean Air Agencies (NACAA), and the Environmental Council of the States (ECOS), and includes representatives from Sacramento, California; Linn County, Iowa; Kentucky; Maryland; Nevada; New York; Ohio; South Carolina, Utah and Wisconsin, as well as EPA's Office of Air and Radiation (OAR), EPA Regions I, III and VII and the ECOS and NACAA Headquarters offices. It is facilitated by Jim Blizzard of ECOS, Nancy Kruger of NACAA, and Carey Fitzmaurice of OAR. The ECOS and NACAA memberships have identified a number of SIP-related issues for improving the entire "SIP Process" from the time EPA promulgates a new or revised NAAQS through to the time of formal submittals to Regional Offices for completeness determinations and rulemakings. Given these issues identified by ECOS and NACAA, as well as our own recognition that the SIP process needs to be improved and streamlined, there are a number of ongoing initiatives related to SIP Reform. Many of the ECOS/NACAA-identified SIP reform issues involve EPA providing states and localities the opportunity to participate upfront in such things as designation procedures, implementation rules, and other forms of national SIP guidance related to modeling, weight of evidence (WOE), etc. Tackling these SIP reform issues requires action on the part of OAR, and representatives from OAQPS are actively participating on the Workgroup. However, many of the ECOS/NACAA-identified issues center around Regional consistency. The Regional Air Division Directors and Air Program Managers agree that addressing these issues is primarily the Regions' responsibility.

The purpose of this memorandum is to address the first group of issues identified by the Workgroup. These issues involve consistency between all ten Regional Offices and represent the first increment of success in this collective effort to improve the SIP process. Attachment A's focus is to standardize what every Regional Office requires from its State, Local, and Tribal agencies when those agencies formally submit a SIP revision (hereafter the term State will be used to mean all those agencies formally authorized to submit SIPs and TIPs) and to simplify

those requirements where possible. It addresses the issue raised by ECOS and NACAA urging EPA to reduce the number of hard paper copies required when submitting SIP revisions.

The other attachments to this memorandum cover issues related to the public notice and hearing requirements for SIP revisions, the differences between Clean Data Determinations and Redesignations, and the types of SIP revisions eligible for approval by "Letter Notice" versus full "notice and comment" rulemaking.

Nothing in the attachments to this memorandum is intended to require changes to the Clean Air Act (CAA), the current Code of Federal Regulations (CFR) at 40 CFR Part 51 or Appendix V to Part 51. However, with regard to Attachment A there remains the need to satisfy the requirements of 40 CFR Part 51.103(a) as to the number and types of copies of a SIP revision that must be submitted by the State to EPA. 40 CFR Part 51.103(a) says the State must provide "five hard copies or at least two hard copies with an electronic version of the hard copy (unless otherwise agreed to by the State and Regional Office) of the plan to the appropriate Regional Office with a letter giving notice of such action. If the State submits an electronic copy, it must be an exact duplicate of the hard copy." Given the flexibility afforded in Part 51.103(a), compliance with its requirements can be achieved by each Regional Office having a record of an agreement between the Region and its States that the procedures outlined in Attachment A be followed when submitting a SIP revision. The Office of General Counsel (OGC) has advised that all ten Regions could easily pursue such an agreement with a presumptive letter from each Regional Administrator (RA) to the States in his/her Region, i.e. "We are agreeing to the following procedures for SIP submittals from you, and assume that you agree to these procedures unless we hear otherwise from you by [date]." Such letters would enclose this memorandum and its attachments. A model letter has been developed for use by all ten Regions.

The attachments to this memorandum have the concurrence of all ten Regional Air Division Directors, OAR and OGC. There is consensus among all ten Regions to implement these standardized procedures as quickly as possible via the RA letter described in the preceding paragraph. The ECOS/NACAA members of the National SIP Reform Workgroup were given the opportunity to provide feedback on these procedures and have endorsed their implementation as a significant step in our SIP reform efforts.

There will be additional efforts to address the remaining and any future issues concerning Regional consistency and communications with States. For example, the Regions will work together to develop procedures to:

1. Require the same level of detail and documentation in the technical portions of SIP submittals from all States.

2. Provide early, upfront and consistent guidance to all States regarding how to interpret and meet the requirements of implementation plans and other national rules.

3. Work with Multi-jurisdictional Organizations (MJOs) and Regional Planning Organizations (RPOs) that are performing the technical work (emission inventories, modeling, etc.), developing model rules, and designing SIP templates for their member States such that when the States submit their SIPs that include these

MJO/RPO work products there are no EPA requests for additional submissions and/or revisions late in the SIP submittal process.

The Regional members of the longstanding SIP Processing Work Group (which is separate from the National SIP Reform Workgroup) are contacts to whom questions regarding this memorandum may be addressed. They are as follows:

Region 1 – Donald Cooke
Region 2 – Paul Truchan
Region 3 – Harold Frankford
Region 4 – Nacosta Ward/Sara Waterson
Region 5 – Christos Panos
Region 6 – Carl Young
Region 7 – Jan Simpson
Region 8 – Kathy Dolan
Region 9 – Cynthia Allen/Lisa Tharp
Region 10 – Donna Deneen

cc: Regional Air Division Directors
Regional Air Program Managers
Regional Counsels for Air
OAR Office Directors in OAQPS, OTAQ, and OAP
OGC Air Office
ECOS/NACAA SIP Reform Work Group Members
(for distribution to full memberships)

Attachment A – Number and Types of Copies of SIP Submittals Required to be Submitted

Identified Constraints:

Currently the Federal Courts only recognize the "paper" (hard copy) of the rulemaking docket as the official docket when a SIP approval or disapproval is subject to litigation. The same is true when a Federal enforcement action is taken against a source for a SIP violation. Therefore, at this time, each EPA Regional Office must create and maintain a paper docket, including the State submittal, as well as the E-Docket to upload in the Federal Document Management System (FDMS) for each SIP-related rulemaking. It is also, therefore, necessary for the letter submitting the SIP revision to be a signed, dated paper original letter from the State official authorized to submit SIP revisions.

EPA also needs an electronic copy of the State submittal in searchable.pdf format to load into the FDMS. The Regions are prepared to generate this form of electronic copy in those instances when a State is unable to do so.

SIP Submittals:

1. One paper copy of the SIP revision submitted to EPA by an original, dated letter signed by the State official authorized to submit SIP revisions and addressed to either the Regional Administrator (RA) or the Director of the Air Division in a given Regional Office (provided the RA has delegated the authority to receive SIP revisions to the Air Division Director). Many of the administrative requirements for complete SIP revisions found at 40 CFR Part 51, Appendix V, 2.1, may be met by statements made in the submittal letters.

2. One electronic copy of the entire SIP revision along with the paper copy, preferably on disk, or otherwise made available to the Regional Office e.g., by e-mail, from a File Transfer Protocol (FTP) site or from the State website at the same time the paper copy is submitted. It makes it much easier for EPA if the electronic copy is made available in searchable.pdf format because that is the format required to be uploaded in to the FDMS.

3. In the original, dated paper version of the letter signed by the State official authorized to submit SIP revisions, there must be statement certifying that any electronic copy provided by the State to EPA whether by disk or otherwise made available to the Regional Office is an exact duplicate of the hard copy.

4. If the State is unable to provide an electronic copy in searchable.pdf format, the Regional Office can accept an electronic copy in image.pdf format, Microsoft Word, or Microsoft Excel and convert it to searchable.pdf format to load into the FDMS. Likewise, if a State only submits a paper copy and has no means of making an electronic copy available to EPA, the EPA Regional Office will scan the paper copy and create an electronic copy in searchable.pdf format to load into the FDMS.

5. Even for the single official paper copy identified under number 1. above, States do not have to submit paper copies of large data files such as ambient air quality data, emissions inventories, model input files, etc. if the State puts such supporting data files on a disk (or disks) and submits the disk along with the paper copy. Such disks should be submitted with the official paper copy in order for the official SIP submittal to be complete. EPA cannot "complete" the official submittal for the State by accessing such data files from an e-mail, FTP or website.

6. "Model" SIP submittal letters are available from the Regional Offices.

Caveats:

1. EPA is able to "retrieve" the "unofficial" electronic copy via e-mail, from an FTP or a state website only because the State submitted the official paper copy. Whatever material EPA receives via e-mail or accesses from an FTP or website is not the official submittal.

2. The State should identify any copyrighted material in its submittal as EPA does not place such material on the web when creating the E-Docket for loading into FDMS.

3. States are urged not to include any material considered Confidential Business Information (CBI) in their SIP submittals. In rare instances where such information is necessary to justify the control requirements and emission limitations established by the SIP revision (e.g., for a source-specific SIP revision), States should confer with their Regional Offices prior to submittal and must clearly identify such material as CBI in the submittal itself. EPA does not place such material in either the paper docket or the web when creating the E-Docket for loading into FDMS. However, where any such material is considered emissions data within the meaning of Section 114 of the CAA, it cannot be withheld as CBI and must be made publically available.

Notes: The use of STAG (105) funds by States to purchase the software/equipment needed to create electronic copies in searchable.pdf format is an acceptable expense, and many States have opted to do so. A State may indicate such purchases in the appropriate portion of its 105 grant application.

Future Activities: EPA is committed to work with the Department of Justice to continue to pursue options for reducing and eventually eliminating the paper (hardcopy) submittals of SIP revisions in favor of electronic submittals.

Attachment B – Public Notices/Hearings Required by Sec. 110 of the CAA

Identified Constraints:

As explained below, EPA has made significant reforms in the SIP process regarding public notices and public hearings. However, States may implement these reform opportunities only to the extent allowed by State law because a basic requirement for an approvable SIP revision is that it was developed and adopted by the State agency in accordance with such law and its legal authority.

Public/Notice Hearing:

1. The public notice and public hearing requirements for SIP revisions are found at 40 CFR Part 51.102. These Federal regulations indicate that the State must afford the opportunity to submit written comments and allow the public to request a public hearing either by announcing a hearing in the notice for comments or by providing the opportunity to request a hearing in that notice. Each State must have legal authority setting out its public notice procedures and EPA has already approved these procedures as meeting the minimum requirements of the CAA.

2. EPA has determined that the term "prominent advertisement" as used in 40 CFR Part 51 when referring to the public notice required by Section 110 of the CAA for SIP revisions is media neutral. The State may continue the use of newspapers to publish these notices or may opt to publish such notices elsewhere so long as the State has determined that the public would have routine and ready access to such alternative publishing venues. States may also choose a combination approach whereby a short (and presumably less expensive) notice is published in a newspaper that informs the public where to access the complete public notice that satisfies all of 40 CFR Part 51 requirements.

3. EPA recognizes that many States use a single public notice and hearing to satisfy their own State adoption process requirements, Section 110 of the CAA and 40 CFR Part 51. This has long been and continues to be an acceptable practice. However, in order to satisfy the CAA and 40 CFR Part 51, the notice must clearly state that the regulations and/or documents that are the subject of the public notice will be submitted to the United States Environmental Protection Agency to be included in or to revise the State Implementation Plan required by the Clean Air Act and should identify the CAA requirements the revisions are intended to meet. Unless the public notice includes this statement, Section 110 of the CAA has not been satisfied.

4. The regulations provide that any public hearing must be announced in a public notice at least 30 days prior to the hearing, and that notice must include the date, place, and time of the public hearing. If the State receives a request for a public hearing, it must hold the already scheduled hearing as described in the original public notice or schedule a public hearing through a separate notice. To avoid having to re-publish a second notice to provide 30 days advance notice of a public hearing, States are strongly encouraged to schedule a public hearing in the original public notice. Under 40 CFR part 51.102(a), the

State may cancel the public hearing if no request for a public hearing is received during the 30-day notification period, so long as the original public notice announcing the 30-day notification period clearly states: *If no request for a public hearing is received, the hearing will be cancelled; identifies the method and time for announcing that the hearing has been cancelled; and provides a contact phone number for the public to call to find out if the hearing has been cancelled.*

5. Pursuant to the regulations, the entire SIP revision must be made available for public review and comment including supporting technical materials and other information the State has relied upon or intends to rely upon to justify the approvability of the SIP revision.

Caveats:

As noted above, States often publish a single public notice and hold a single public hearing to satisfy State requirements for adoption of State rules/regulations as well as Section 110 of the CAA and 40 CFR Part 51 requirements. This usually means that the public notice and hearing are held on a proposed state rule/regulation. Two important points:

1. There is no independent Federal requirement that the public notice and hearing required by Section 110 of the CAA or 40 CFR Part 51 be held on proposed State regulations. However, 40 CFR Part 51, Appendix V, 2.1 (e) requires that the State must have followed all of the procedural requirements of the State's law and constitution in conducting and completing adoption/issuance of the SIP revision. So if State law requires public notice and hearing at the proposed stage of regulation adoption, then public notice must be given and hearing must be held on proposed regulations to satisfy 40 CFR Part 51.

   EPA is aware that under State law certain types of SIP regulations are not required to undergo public notice and hearing procedures as part of the State adoption process. In such instances, the public notice and hearing requirements of 40 CFR Part 51.102 may be held on fully adopted State regulations. The Federal requirement for public notice and hearing is to inform the public that the SIP is being revised and allow for comment as to whether the State regulations satisfy a specific obligation under the CAA.

2. The Federal requirement for public notice and hearing is to inform the public that the State intends certain regulations and other actions to fulfill specific CAA requirements and thus to revise the SIP. So if a regulation is significantly changed by the State between the time of proposal and final adoption, it may be necessary for the State to conduct the public participation procedures required by 40 CFR Part 51.102 on the final regulations being submitted as a SIP revision.

Notes: EPA Regional Offices will provide "model" public notices for States to use satisfy Section 110, and 40 CFR Part 51.102 upon request.

Attachment C – Determinations of Attainment by an Area's Attainment Date v. Clean Data Determinations & Redesignation Requests and Maintenance Plans

Introduction: The issue of Redesignations v. Clean Data Determinations and what a State must provide to an EPA Regional Office for each type of submittal has been raised by the States to EPA for both clarification and Regional consistency. These are very different types of actions and achieve different results as explained in this Attachment.

There is also a distinction between a Determination of Attainment by an area's attainment date and a Clean Data Determination which is explained below.

The Distinction between a Determination of Attainment by an Area's Attainment Date and a Clean Data Determination

It is important to distinguish between two different types of attainment determinations that EPA makes for areas that are designated nonattainment. Both types require notice-and-comment rulemaking.

(1) Determinations of Attainment by an area's attainment date, and
(2) Determinations of Attainment for purposes of suspending the State's obligation to submit certain planning SIPs linked to attainment (so-called Clean Data Determinations).

With respect to Type 1, the Clean Air Act requires EPA to determine whether a nonattainment area has attained the standard as of its applicable attainment date. These Determinations of Attainment provide a historical snapshot -- they evaluate attainment only as of an area's attainment deadline, and are issued to comply with Section 181(b)(2) for ozone and Sections 172 and 179 for $PM_{2.5}$. Determinations of Attainment by an attainment deadline are separate and independent of the second type of attainment determinations, Clean Data Determinations, which are not compelled by the CAA.

With respect to Type 2, Clean Data Determinations originated in EPA's Clean Data Policy, but are now linked to EPA regulations. These determinations invoke either 40 CFR Part 51.918 for ozone or 51.1004(c) for $PM_{2.5}$. Unlike determinations by an attainment deadline, Clean Data Determinations are subject to revision based on changes in air quality, and must be sustained by continuing attainment. They function to suspend a State's obligation to submit certain attainment-related planning SIP obligations for a designated nonattainment area. The suspension continues until EPA determines that a violation has occurred, or EPA redesignates the area from nonattainment to attainment.

These two types of determinations are conceptually and legally distinct. They arise from different authorities and result in different consequences. However, they both address air quality and can be based on the same or overlapping years of air quality data.

Clean Data Determinations - See 40 CFR Part 51.918 for ozone and 51.1004(c) for PM2.5.

Criteria: Either the State may request or EPA may, on its own, initiate the rulemaking to make a Clean Data Determination. A Clean Data Determination requires a demonstration that what is needed is for the most recent 3 years of complete air quality data have been entered into AIRS-AQS, have been quality assured, and indicate attainment. In addition, the air quality data available to date (meaning as of the date of the final rulemaking action), even if not complete. should be consistent with continued attainment. As the determination of what is complete and incomplete data as of the time of final rulemaking differs from criteria pollutant to criteria pollutant depending upon the form of the standard, the Regional Office will work closely with the State to ensure that the available data at the time of final rulemaking is considered consistent with continued attainment.

The EPA Regional Office will conduct the notice and comment rulemaking to make the Clean Data Determination. The key issues in the rulemaking action are the validity of the ambient air quality data themselves and the location and operation of the monitor(s) from which those data have been collected in order to ensure that the data are complete, quality assured and representative of the designated nonattainment area.

Results: Upon EPA's promulgation of a final Clean Data Determination for a nonattainment area, the obligation for the State to submit for such an area the attainment demonstration, associated reasonably available control measures, reasonable further progress plan, contingency measures, and other attainment-related planning requirements is suspended until such time as the area is redesignated to attainment, at which time the requirements no longer apply; or until EPA determines that the area has violated the NAAQS, at which time the obligations would again apply.

The suspension of the planning requirements saves the State and EPA the resources involved in developing, adopting, submitting, evaluating, and performing rulemaking for unneeded planning requirements as SIP revisions.

The Clean Data Determination serves as notice to the public that the nonattainment area's air quality meets the NAAQS.

Caveats: A Clean Data Determination does not have the effect of a redesignation to attainment. The area remains designated nonattainment and nonattainment area requirements such as New Source Review (NSR) and conformity continue to apply until the State submits a request for redesignation including the CAA-required maintenance plan and EPA approves them.

If a State has an area for which a Clean Data Determination has been made and the State has submitted or submits SIP revisions for the suspended planning requirements, it may inform EPA that it wants these SIPs approved (for example, to enable the State to submit a redesignation request). Otherwise the State may opt to withdraw the SIPs submitted for the suspended requirements. Prior to requesting withdrawal, the State should consider the fact that it may want the mobile budgets in an attainment demonstration or RFP plan approved. Where the State does not withdraw any such SIP submissions, EPA remains obligated to act on them.

Requests for Redesignations and Maintenance Plans – See Section 107(d)(3)(E)

Introduction: To redesignate an area from nonattainment to attainment is an important action that demonstrates success in the air quality planning process. Redesignation acknowledges not only that an area has met the relevant air quality standard, but also that the State has satisfied relevant requirements and shown that the area can continue to meet the standard for the decade following redesignation. EPA recognizes that the nonattainment designation of an area can affect its ability to attract economic development. Once an area is redesignated from nonattainment to attainment, it is likely better positioned to attract new and expanding businesses and industry. When an urban area is redesignated from nonattainment to attainment, the city may move up in the ranking of "Most Livable Cities" which may help it attract new residents and retain its existing population. Given these considerations, EPA is committed to work closely with States in the preparation and submittal of redesignation requests and maintenance plans and to make this work a priority so that submittals can be evaluated quickly and effectively. That said, individual Regions and States are encouraged to confer and determine which SIP revisions are the highest priorities as certain SIP revisions may be needed to avoid findings, halt sanctions/FIP clocks, respond to SIP calls, and/or be necessary to be approved in order for an area to be eligible for redesignation from nonattainment to attainment.

Criteria: Requests to redesignate an area from nonattainment to attainment and the submittal of the CAA-required maintenance plans as SIP revisions are State-initiated actions. EPA approves the redesignations in 40 CFR Part 81 and the maintenance plans as SIP revisions in 40 CFR Part 52. There are five statutory requirements that must be met for EPA to approve the redesignation of an area from nonattainment to attainment:

1. EPA determines that area has attained the NAAQS (three years of complete quality assured data in AIRS-AQS that show attainment);
2. EPA has fully approved the area's applicable implementation plan (i.e., the plan developed for the particular nonattainment pollutant) under section 110(k) of the CAA;
3. EPA determines the improvement in the area's air quality is due to enforceable reductions in emissions resulting from implementation of the applicable implementation plan, applicable Federal air pollution control regulations, and other permanent enforceable reductions;
4. The area has a fully approved maintenance plan meeting section 175A of the CAA; and
5. The State has met all of the requirements applicable (for purposes of redesignation) to the area under Section 110 (the applicable infrastructure SIP requirements) and Part D (the applicable nonattainment area SIP elements).

SIP Submittals: A Section 175A maintenance plan is a SIP revision and must meet all of the administrative requirements of Part 51 and Part 51 Appendix V for a complete submittal.

Under the CAA, a Section 175A maintenance plan must provide for the maintenance of the NAAQS in the area for at least 10 years after the redesignation; this means for at least 10 years from EPA's final rule approving the redesignation. As the CAA provides up to 18 months for EPA to complete rulemaking on a redesignation request, the maintenance plan at the time of submittal should provide for attainment for at least 11 years and six months. EPA recommends to States that it provide for attainment for 12 years from the time of formal submittal to allow for completing the redesignation rulemaking processes.

When submitting a request for redesignation, the State does not have to re-submit SIP revisions it has already submitted to EPA to satisfy section 110 and Part D of the CAA. In its submittal of the redesignation request it may cite to the submittal dates of those SIP revisions. For any SIP revisions that have been already been approved, it may provide the dates and Federal Register citations of the EPA approvals.

When evaluating a redesignation request and maintenance plan to determine whether or not all Section 110 and Part D SIP requirements have been met, EPA does not require that the area have a fully approved nonattainment pre-construction NSR permitting program for new major sources and major modifications, if the State demonstrates that the area can continue to maintain the standard with the Prevention of Significant Deterioration (PSD) program. Once an area is redesignated from nonattainment to attainment the Part C requirements for Prevention of Significant Deterioration apply for the pre-construction permitting of new major sources and modifications.

The contingency measures of a Section 175A maintenance plan, unlike the contingency measures of an attainment demonstration plan or reasonable further progress (RFP) plan, may not be implemented "early" by the State. These are the contingency measures that the State will implement if the maintenance plan's triggers for such measures occur (e.g., emissions projections exceed the levels projected in the plan or the area violates the NAAQS). These contingency measures and their schedule for implementation need to be clearly identified in the maintenance plan.

How much documentation is necessary for the maintenance plan's "maintenance demonstration" of maintenance for 10 years after the EPA's final approval of the redesignation is dependent upon the form of the "maintenance demonstration." For example, if growth projections are used to "grow" a recently already approved SIP emission inventory (or inventories where multiple precursors are involved) for the area, it may not be necessary to resubmit all of the documentation for that emission inventory as part of the maintenance plan. In such cases the State may be able to cite to the submittal and/or approval of that emissions inventory to EPA. However, the State will still need to explain and justify their growth projections and any other factors applied to that inventory.

The maintenance plan for areas where RFP plans and attainment demonstrations have been approved will also have to identify mobile budgets. For other areas, the maintenance plan will still need to include provisions for how conformity will be done after the area is redesignated.

Effects of a Redesignation: Once redesignated to attainment, the area's applicable SIP's NSR provisions for minor sources apply and the requirements of the Prevention of Significant Deterioration (PSD) program apply for the pre-construction permitting of new major sources and major modifications. The conformity requirements applicable in the attainment area will then apply as outlined in the approved maintenance plan including any applicable mobile budgets.

In the event the area violates the NAAQS after redesignation, the area is not immediately subject to redesignation back to nonattainment. Rather the maintenance plan's contingency measures are to be implemented and other actions taken by the State to promptly correct the violation (e.g. non-compliance of a source or sources) and address the situation.

Attachment D – The Use of Letter Notices

Constraints: Because the use of Letter Notices by EPA to approve SIP revisions does not provide for public comment, the use of such letters is limited to those types of SIP revisions where "common sense" would indicate that the public and regulated sector would have no interest in commenting on EPA's approval.

EPA's rulemaking procedures for SIP revisions are governed by the Federal Administrative Procedures Act (APA). While that statute does not include provisions for Letter Notices to do SIP approvals, EPA has been using Letter Notices to approve a very narrow range of SIP revisions because such actions fit under the good cause exemption of the APA's notice and comment requirements.

Even purely administrative SIP revision approvals that do not make any substantive changes to SIP requirements do amend the CFR, namely the State's Subpart of 40 CFR Part 52. Accordingly, the Office of the Federal Register would have to be consulted before additional types of SIP revisions would become candidates for approval by Letter Notices.

Types of SIP Revisions for Which Letter Notices May be Used by EPA:

As first described in the 1989 SIP Processing Reform notice (54 FR 2218), under the Letter Notice procedure, EPA sends a letter to the affected states and parties rather than undertaking a notice-and-comment rulemaking. Use of Letter Notice is limited to truly insignificant SIP actions. No notice will be published in the Federal Register prior to sending final letter notice approvals to the State and affected parties. The letter to the State will be EPA's only and final action approving such minor SIP revisions.

The Agency periodically publishes a summary list of all Letter Notice actions in the Federal Register to keep the general public informed of SIP matters. The effective date of the Letter Notice approvals is the date of the letter sent to the State, not the date of the subsequent summary Federal Register notice. Letter Notice approvals do, however, remain subject to judicial review until sixty days after the date of the summary Federal Register notice is published.

Categories of SIP actions appropriate for letter notice include:

1. Re-codification involving no substantive changes;
2. Minor technical amendments or error corrections;
3. Typographical corrections;
4. Address changes; and
5. Similar non-substantive matters

Caveats: The SIP revisions submitted by states that are eligible for approval by EPA by Letter Notice must still meet the administrative requirements for SIP submittal of 40 CFR Part 51.102 and Appendix V

Future Activities: The members of the SIP Reform Workgroup will continue to pursue whether additional types of non-substantive SIP revisions may be added to the list of actions appropriate for Letter Notice. The Workgroup will also explore whether to modify 40 CFR Part 51.102 to provide less to provide less rigorous notice and comment requirements for such non-substantive SIP revisions.