

## **Concept Paper**

### **Reforming the State Implementation Plan (SIP) Process**

#### **Background**

The SIP process had its beginning with the advent of the 1979 Clean Air Act amendments. Its technical foundation is built upon the “air quality management concept” (See Figure 1)--- relating ambient air quality to pollutant emissions. The process’s premise is that EPA sets National Ambient Air Quality Standards NAAQS and then States develop plans (SIPs ... Figure 2) to achieve these standards within CAA specified time frames. These SIPs provide for the controls and regulations that bring about clean air. SIP rules and regulations are made Federally enforceable through formal EPA rulemaking causing State and EPA requirements for clean air plans to be essentially the same. EPA serves as an enforcement backstop to the State to insure that measures are fully implemented.

Over the past 25 years there have been numerous complaints raised over the timeliness (or lack of it) for EPA to approve SIP revisions. Others voiced concerns over what they characterize as bureaucratic actions needed to prepare and submit revisions, and of EPA’s perceived “second guessing” of State actions. To address some of the concerns, EPA previously experimented with several projects to expedite review and approval of SIPs. Approaches such as (1) direct final approvals, (2) parallel processing of actions, and (3) conditional approvals of "almost good" plan revisions were implemented into the Agency’s SIP approval protocol.

This paper posed several additional approaches aimed at speeding up approval/disapproval actions and reducing process delays. These, at best, skirt the edges of legality, and warrant pilot studies before any attempt to fully implement them across all ten EPA Regions.

#### **Overview of possible pilot efforts**

Three pilots come to mind:

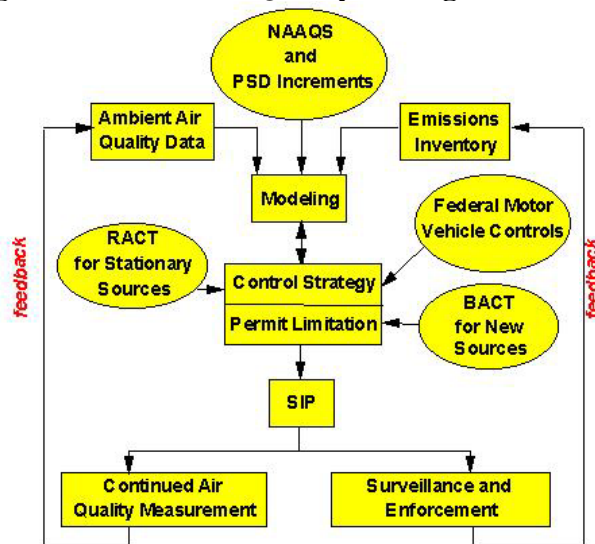
1. **Stop sending disapprovals to OMB.** EPA Headquarters doesn’t routinely look at them, why should they. This would make it possible for faster disapprovals of interior products and send a message to the SIP community that EPA has a high standard for quality. It would also greatly reduce some of the action delays in the SIP review process and provide certainty with respect to each SIP action. It would eliminate the “pocket vetoes” that must often be used for bad SIPs that we can’t get clear okays to disapprove.
2. **Establish a de minimis level for SIP revisions.** Require only an opportunity for STATE public hearing such revisions. This would reduce State’s perceived “bureaucratic red tape” for very minor revisions ... and thus make life easier for them.

3. **Streamline the processing of de minimis SIP revisions by issuing "letter approvals" for them signed by the RAs.** Bundle and notice these in the Federal Register once or twice a year. This would significantly speed up the SIP processing effort of each Region. The those not found to be de minimis would be processed in the usual way.

To accomplish pilot reforms #2 and #3, EPA must first develop a differentiation among SIP revisions ... those that are very limited in nature and thus de minimis, and the more comprehensive actions such as model attainment demonstrations, regional power plant rules, and statewide VOC emission limiting requirements. This split would have to be formulated by a working group, perhaps consisting of EPA Headquarters, States and EPA Regional offices representatives. The work must be founded upon solid, current SIP processing data.

The first step in the definition of de minimis is for the group to complete an extensive and pointed survey of all 10 Regional offices to determine the extent and nature of actions comprising the "SIP backlog." Then States with the most revisions should be audited to find out the reasons for SIP revisions. Data documenting the nature of all revisions (emission limiting regulation change, mandated revision or discretionary action, testing method, etc.) should be compiled. Also determine the processing time for revisions by type and record the causes of delay. This action would help to define the most effective categorization of de minimis SIPs and revisions.

**Figure 1 ... The Air Quality Management Process**



**Figure 2 ... Elements of the State Implementation Process**



These constitute the "infrastructure" part of the SIP required Statewide