Key SIP Planning Tasks: Public Input

Presented by Thomas Ballou, VADEQ

Key SIP Planning Tasks: Public Input

- For purposes of satisfying section 110 of the CAA, **the purpose** of the public notice and hearing is to inform the public that the state is requesting that the SIP be revised.

- Must allow the public to view and comment upon everything the state will submit to EPA as part of the SIP revision, including all data and technical information in support of the revision.

- A public notice that fails to inform the public that the SIP is being revised fails to satisfy section 110.

40 CFR 51.102 Public Hearings (1)

- http://www.ecfr.gov/cgi-bin/text-idx?SID=38ac3fd64777deae225c5a77ef0bbee1&mc=true&node=se40.2.51_1102&rgn=div8

- § 51.102(a) … States must provide notice, provide the opportunity to submit written comments and allow the public the opportunity to request a public hearing. The State must hold a public hearing or provide the public the opportunity to request a public hearing. The notice announcing the **30 day notification period** must include the date, place and time of the public hearing. If the State provides the public the opportunity to request a public hearing and a request is received the State must hold the scheduled hearing or schedule a public hearing (as required by paragraph (d) of this section). The State may cancel the public hearing through a method it identifies if no request for a public hearing is received during the 30 day notification period and the original 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.*

40 CFR 51.102 Public Hearings

- http://www.ecfr.gov/cgi-bin/text-idx?SID=38ac3fd64777deae225c5a77ef0bbee1&mc=true&node=se40.2.51_1102&rgn=div8

- § 51.102(e) The State must prepare and retain, for inspection by the Administrator upon request, a record of each hearing. The record must contain, as a minimum, a list of witnesses together with the text of each presentation.

- § 51.102(f) The State must submit with the plan, revision, or schedule, a certification that the requirements in paragraph (a) and (d) of this section were met. Such certification will include the date and place of any public hearing(s) held or that no public hearing was requested during the 30 day notification period.

Appendix V to Part 51, "Criteria for Determining the Completeness of Plan Submissions"

- http://www.ecfr.gov/cgi-bin/text-idx?SID=38ac3fd64777deae225c5a77ef0bbee1&mc=true&node=ap40.2.51_11205.v&rgn=div9

- The following shall be included in plan submissions for review by EPA:
  - (f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.
  - (g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.
  - (h) Compilation of public comments and the State's response thereto.

Public Review and Comment Process
Use of Online Technologies

April 6, 2011 EPA (McCabe) Memo

- "Regional Consistency for the Administrative Requirements of [SIP] Submittals and the Use of "Letter Notices"—allowed for reforms (to the extent allowed by state law) regarding 51.102 requirements for public notices & hearings

  - Attachment B: Covers issues related to the public notice/hearing requirements for SIP revisions. Puts in writing that "prominent advertisement" is media neutral and that if no one requests a hearing, no hearing must be held.

November 11, 2011
EPA (McCabe) Memo (1)

- "Guidelines for Preparing Letters Submitting State Implementation Plans (SIPs) to EPA and for Preparing Public Notices for SIPs"
  - Attachment A: Guidelines to State Agencies for Preparing Letters to Submit State Implementation Plan (SIP) Revisions to EPA Regional Offices
  - Attachment B: Guidelines to State Agencies for Preparing the Public Notices for State Implementation Plan (SIP) Revisions

November 11, 2011
EPA (McCabe) Memo (2)

- Attachment B: Guidelines to State Agencies for Preparing the Public Notices for State Implementation Plan (SIP) Revisions

  - Notice must include statement that subject items will be submitted to EPA
  - If "piggy-backing" to satisfy state requirements for PN for additional regulations, it is extremely important to be clear what is being submitted to EPA and what is not
  - PN for entire regulation but only partial SIP incorporation
  - PN must announce any public hearing at 30 days prior to the hearing, and the notice must include the date, place and time of the public hearing
  - PN must include the means by which interested persons may submit comments, to whom and the deadline for doing so

November 11, 2011
EPA (McCabe) Memo (3)

- Attachment A: Guidelines to State Agencies for Preparing Letters to Submit State Implementation Plan (SIP) Revisions to EPA Regional Offices
  - State may use the SIP submittal letter to summarize the "evidence" included in the submittal of certain administrative authorities required for a SIP revision to be determined complete. For example, the SIP submittal letter may include statements and applicable citations that:
    - the State provided public notice in accordance with EPA procedures
    - A statement that the SIP submission includes certification that the public hearing was held in accordance with the public notice
    - The SIP revision includes a compilation of the public comments

Public Input: Other Considerations

- Response to comments can be an extensive effort
- Public interest can vary dramatically
- Sometime once is not enough—“significant changes” can trigger another round of input
- EPA has its own public input process for SIPs
- Informal public input opportunities are on the rise—Clean Power Plan, Volkswagen Settlement

Any questions or comments?