

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** September 27, 2007

Thru: LaDonna Castenuela, Chief Clerk
Glenn Shankle, Executive Director

From: David C. Schanbacher, P.E., Chief Engineer

Docket No. 2007-1244-SIP

Subject: Commission Approval for Proposal of the Eight-Hour Ozone and Fine Particulate Matter (PM_{2.5}) Transport State Implementation Plan (SIP) Revision
Project No. 2007-057-SIP-NR

Reasons for the SIP Revision:

On July 18, 1997, the United States Environmental Protection Agency (EPA) promulgated new National Ambient Air Quality Standards (NAAQS) for ozone (eight-hour ozone) and for fine particulate matter (PM_{2.5}). Section 110(a)(1) of the Clean Air Act requires states to submit new SIPs to provide for the implementation, maintenance, and enforcement of new or revised NAAQS. Section 110(a)(2) lists the elements that the new SIP submissions must contain. Among other things, SIPs for a new or revised NAAQS must contain adequate provisions to address interstate transport of air pollution, pursuant to section 110(a)(2)(D)(i). On April 25, 2005, the EPA published a finding of failure to submit in the *Federal Register* (Volume 70, Number 78) that required SIPs relating to interstate transport of eight-hour ozone and PM_{2.5}, which started a two-year clock for the promulgation of a Federal Implementation Plan (FIP). The finding of failure to submit identified Texas as a state that had not properly addressed interstate transport pollution in its SIP. Several areas in Texas are nonattainment for the eight-hour ozone NAAQS (Houston-Galveston-Brazoria, Dallas-Fort Worth, Beaumont-Port Arthur, and San Antonio – deferred), but the entire state is currently designated attainment for the 1997 24-hour and annual standards for PM_{2.5} NAAQS. This revision to Texas' State Implementation Plan (SIP) for ozone (O₃) and fine particulate matter (PM_{2.5}) transport sets forth how the Texas Commission on Environmental Quality (TCEQ) will meet the Federal Clean Air Act (FCAA), section 110(a)(1), § 110(a)(2), including § 110(a)(2)(D)(i), relating to interstate transport of pollution of O₃ and PM_{2.5}. The purpose of this SIP revision is to document that any emissions from Texas' sources that may have contributed to nonattainment in another state have been mitigated through existing control strategies.

What the SIP Revision will do:

The EPA's "*SIP Guidance on Section 110(a)(2)(D)(i) Findings of Failure to Submit*" dated August 11, 2006, notes that states participating in the Clean Air Interstate Rule (CAIR) will satisfy the transport SIP requirements for ozone and PM_{2.5} by submitting a CAIR SIP or by relying on the CAIR Federal Implementation Plan (FIP) to demonstrate that emissions from Texas do not interfere with attainment in another state. Based on EPA's guidance, since Texas is participating in the federal CAIR program for PM_{2.5}, Texas has addressed annual sulfur dioxide (SO₂) and nitrogen oxides (NO_x) transport for PM_{2.5}. Therefore, Texas' PM_{2.5} transport SIP obligation has been partially fulfilled by the submission of the CAIR SIP to the EPA on August 3, 2006. This SIP revision includes verification that the Prevention of Significant Deterioration and Nonattainment New Source Review permitting programs and the Protection of Visibility requirements are being implemented in Texas.

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Texas is not regulated under the CAIR program for eight-hour ozone contribution. However, in addition to the annual NO_x reductions required because of the PM_{2.5} contribution under the CAIR program, Texas has a strategy in place for the eastern part of the state to reduce NO_x emissions from electric utilities. This strategy, along with other NO_x reducing programs in the existing SIP, Early Action Compact SIP, and Eight-Hour Ozone Flex Programs, is the basis of Texas' Eight-Hour Ozone and Fine Particulate Matter (PM_{2.5}) Transport SIP submittal.

The control strategies defined in this SIP submittal are comparable to the CAIR program include: Utility Electric Generation in Ozone Nonattainment Areas Emission Specifications for Attainment Demonstrations; Utility Electric Generation in East and Central Texas Emission Specifications; Texas-specific legislation from the 2001 76th session in Senate Bill 7 (SB 7) that requires a regional NO_x cap and trade program; and a Mass Emissions Cap and Trade program in the Houston-Galveston-Brazoria nonattainment area. Information regarding additional control strategies in the eight-hour ozone SIP revision, Early Action Compact SIP, an Eight-Hour Ozone Flex Program, and one-hour ozone SIP revision have also been incorporated into this SIP revision.

This SIP revision documents the appropriate supporting information that includes, but is not limited to: background information, significant contribution elements, noninterference with maintenance elements, prevention of significant deterioration elements, and a visibility protection element.

Based on the EPA document, "*Technical Support Document for the Final Clean Air Interstate Rule – Air Quality Modeling, March 2005*," all of the nearest states' (Colorado, Arkansas, Tennessee, Missouri, and Louisiana) nonattainment areas (Denver, Memphis-West Memphis, St. Louis, and Baton Rouge) will be attaining the eight-hour ozone and PM_{2.5} standards. Therefore, Texas has adequately addressed any potential transport issues associated with eight-hour ozone and PM_{2.5} and fulfilled its eight-hour ozone and PM_{2.5} transport SIP obligations through its participation in CAIR and the implementation of ozone strategies for the one- and eight-hour standards.

Statutory authority:

The authority to propose and adopt the SIP is derived from Texas Health and Safety Code, Texas Clean Air Act (TCAA), § 382.002, which provides that the policy and purpose of the TCAA is to safeguard the state's air resources from pollution; TCAA, § 382.011, which authorizes the commission to control the quality of the state's air; and § 382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air.

Effect on the:

- Regulated community: None
 - Public: None
- Agency programs: The Eight-Hour Ozone and Fine Particulate Matter (PM_{2.5}) Transport State Implementation Plan (SIP) will affect the Chief Engineer's Office and the Office of Legal Services as resources will be used to develop the SIP revision.

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Controversial Issues:

None. There are no additional control strategies or rules as part of this SIP revision. This SIP revision only contains a summary of previous strategies and how they protect other states from the interstate transport of ozone and PM_{2.5}.

Legislative interest:

Legislative interest will likely be negligible because there are no associated new rule makings with this SIP revision.

Stakeholder involvement:

None

Proposed schedule:

Anticipated proposal date: November 7, 2006
Public hearing dates: In Austin, December 11, 2007, 10:00 a.m.
Public comment period: November 23, 2007, to January 7, 2008
Anticipated adoption date: April 2008
SIP Revision due to EPA: As soon as practicable.

Agency contacts:

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Attachments (SIP narrative)

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