

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 20, 2011

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G. Executive Director

From: Susana M. Hildebrand, P.E.
Chief Engineer

Docket No.: 2011-0159-SIP

Subject: Commission Approval for the Proposed Dallas-Fort Worth (DFW) Reasonable Further Progress (RFP) State Implementation Plan (SIP) Revision for the 1997 Eight-Hour Ozone Standard
Project No. 2010-023-SIP-NR

Background and reason(s) for the SIP revision:

The Federal Clean Air Act (FCAA) requires states to submit plans that demonstrate progress in reducing emissions for areas that are not attaining the National Ambient Air Quality Standards (NAAQS). On April 30, 2004, the nine-county DFW area, which consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, was designated a moderate nonattainment area for the 1997 eight-hour ozone standard, with a June 15, 2010, attainment deadline. The United States Environmental Protection Agency (EPA) published notice in the *Federal Register* on December 20, 2010, (75 FR 79302) that the area failed to attain the 1997 eight-hour ozone standard by the June 2010 deadline. The notice reclassified the area from a moderate nonattainment area to a serious nonattainment area with an attainment deadline of June 15, 2013. As a result of the reclassification, the commission is required to submit an RFP plan demonstrating that the DFW nonattainment area is continuing to reduce emissions of ozone precursors consistent with the requirements for areas classified as serious nonattainment.

Scope of the SIP revision:

The EPA requires a demonstration of at least 3% per year combined volatile organic compounds (VOC) and nitrogen oxides (NO_x) emissions reductions from the base year to attainment of the standard. The EPA also requires demonstration of an additional 3% reduction in ozone precursors for contingency. This SIP revision provides RFP analyses for the 2011 and 2012 milestone years as well as updated 2002 emissions inventories for point, area, non-road mobile, and on-road mobile sources and updated RFP motor vehicle emissions budgets (MVEB) for each milestone year.

This proposed SIP revision incorporates a concurrently proposed VOC storage rulemaking for the DFW area (Rule Project No. 2010-025-115-EN). The rulemaking, if adopted, would reduce VOC emissions from affected sources in the DFW area by increasing the level of control for floating roof tanks. The proposed rulemaking would

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also require 95% control of VOC emissions from crude oil and condensate storage tanks emitting 25 tons or more of VOC per year.

A.) Summary of what the SIP revision will do:

The proposed SIP revision provides an analysis of the DFW area's continued progress in reducing ozone precursor emissions (NO_x and VOC) in the DFW nonattainment area. The SIP revision also provides updated 2002 emissions inventories for point, area, non-road mobile, and on-road mobile sources and updated RFP motor vehicle emissions budgets (MVEB) for the 2011 and 2012 milestone years.

The proposed SIP revision does not demonstrate FCAA-required RFP for the 2011 milestone year at this time using the EPA's MOBILE6.2 model due to a shortfall in VOC reductions; however, this proposed SIP revision does demonstrate RFP for the 2012 milestone year as well as for the 2013 contingency year. The 2012 RFP demonstration includes reported emissions reductions from the Texas Emission Reduction Program (TERP) between 2008 and 2010 as part of this calculation.

B.) Scope required by federal regulations or state statutes:

Since the EPA reclassified the DFW area to a serious nonattainment area, thereby extending the area's attainment date by three years, the TCEQ must demonstrate RFP for a greater period of time than was previously required and set additional MVEBs for the 2011 and 2012 milestone years.

Should emissions reductions be found insufficient in demonstrating RFP, the commission may investigate possible additional control measures. The process of investigation of new measures would include public participation.

C.) Additional staff recommendations that are not required by federal rule or state statute:

Because this proposal includes on-road mobile source emissions inventories and an RFP demonstration based on the MOBILE6.2 model along with preliminary on-road mobile source emissions inventories and a preliminary RFP demonstration based on the MOVES model, staff recommends that the commission solicit comment on using on-road mobile emissions inventories based on the EPA's MOBILE6.2 model as well as the Motor Vehicle Emission Simulator (MOVES) model in the adopted version of this SIP revision. In the event that MOVES replaces MOBILE6.2 for the adopted version of this SIP revision, the final emissions figures and RFP results would be different than those presented in this proposal.

Statutory authority:

The authority to propose and adopt SIP revisions is derived from the following sections of the Texas Health and Safety Code, Chapter 382, Texas Clean Air Act (TCAA), §382.002, which provides that the policy and purpose of the TCAA is to safeguard the

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state's air resources from pollution; §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. This SIP revision is required by FCAA, §110(a)(1) and implementing rules in 40 Code of Federal Regulations Part 51.

Under the 1997 eight-hour ozone standard, the DFW area is required to meet the mandates of the FCAA, §172(c)(2) and §182(c)(2)(B) and RFP requirements established under Phase II of the EPA's implementation rule for the 1997 eight-hour ozone NAAQS (70 FR 71615).

Effect on the:

A.) Regulated community:

The affected regulated community would be those sources associated with the proposed rulemaking that would be incorporated in this SIP revision (Rule Project No. 2010-025-115-EN). Affected sources, such as upstream oil and gas storage tank owners, may be required to install control technologies to meet the emissions specifications, implement new work practices, or comply with additional monitoring and recordkeeping requirements. This SIP revision would set new MVEBs for 2011 and 2012 milestone years, which would affect DFW area transportation planning.

B.) Public:

The general public in the DFW and surrounding areas would benefit from reductions in volatile organic compounds as a result of the associated rule revision.

C.) Agency programs:

This SIP revision would have no new impact on agency programs.

Stakeholder meetings:

A stakeholder meeting for this SIP revision and the DFW Attainment Demonstration SIP Revision for the 1997 Eight-Hour Ozone Nonattainment Area (Project Number 2010-022-SIP-NR) was held on June 24, 2010, from 7:00 to 9:00 p.m. at City of Arlington Municipal Building. Stakeholders expressed their concerns about area air quality as it relates to human and environmental health, industrial emissions, and proposed control strategies. Stakeholders did not discuss specific methods used in this RFP SIP revision.

Potential controversial concerns and legislative interest:

This proposed SIP revision would transfer excess NO_x reduction amounts to VOC reductions in order to address some of the VOC shortfall in the 2011 and 2012 milestone years VOC emissions target levels. Though NO_x substitution is allowed under the EPA's current NO_x substitution guidance, this SIP revision would use a more expanded

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approach for NO_x substitution than was used for previous SIP revisions. While this approach would close the gap between milestone years VOC targets and forecast reductions, this proposed SIP revision would still fail to meet 2011 and 2012 milestone years VOC emissions reductions targets without utilizing TERP or other emissions reduction.

This proposed RFP SIP revision was developed using the EPA's MOBILE6.2 model to develop on-road mobile emissions inventories for milestone years RFP demonstrations. Subsequent to initial planning and development of this proposal, the EPA released the MOVES model to replace the MOBILE6.2 model. The timing of the release of the MOVES model did not allow for its inclusion with this proposal; however, preliminary MOVES-based on-road mobile emissions inventories and a preliminary MOVES-based RFP demonstration are included in this proposal along with the original MOBILE6.2-based analysis. The TCEQ is taking comment on using on-road mobile emissions inventories based on MOBILE6.2 and MOVES in the adopted version of this SIP revision.

This proposed RFP SIP revision would utilize reported TERP emissions reductions to demonstrate RFP for the 2012 milestone year. Rather than relying on projected emissions reductions, this RFP SIP revision will use actual reported TERP emissions reductions from projects reporting from 2008 through 2010.

Will this SIP revision affect any current policies or require development of new policies?

No

What are the consequences if this SIP revision does not go forward? Are there alternatives to a SIP revision?

The commission could choose to not comply with requirements to develop and submit this RFP SIP revision to the EPA. If the RFP SIP revision is not submitted by January 19, 2012, the EPA could issue a finding of failure to submit, requiring that the commission submit the required SIP revision within a specified time period, and imposing sanctions on the state. The EPA would be required to promulgate a Federal Implementation Plan (FIP) if the commission failed to make the submission within two years. Sanctions could include transportation funding restrictions, grant withholdings, and 200% emissions offsets requirements for new construction and major modifications of stationary sources in the DFW area. The EPA would be required to impose such sanctions and implement a FIP until it approved a replacement SIP for the area.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: June 8, 2011

Public hearing dates: July 14, 2011 (Arlington); July 22, 2011 (Austin)

Public comment period: June 24, 2011 – July 25, 2011

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Anticipated adoption date: November 2011

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