

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: July 29, 2011

Thru: Melissa Chao, Acting Chief Clerk
Mark R. Vickery, P.G., Executive Director

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

Docket No.: 2011-0065-SIP

Subject: Commission Approval for Lead Transport State Implementation Plan (SIP) Revision for the 2008 Lead National Ambient Air Quality Standard (NAAQS) Adoption
Non-Rule Project No. 2011-005-SIP-NR

Background and reason(s) for the SIP revision:

On October 15, 2008, the United States Environmental Protection Agency (EPA) substantially strengthened the lead NAAQS. The new standard, set at 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) measured as a rolling three-month average, is 10 times more stringent than the previous standard of 1.5 $\mu\text{g}/\text{m}^3$ measured as a quarterly average.

Section 110(a)(1) of the Federal Clean Air Act (FCAA) requires states to submit a SIP revision to provide for the implementation, maintenance, and enforcement of the NAAQS. States must adopt and submit new SIP revisions within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) lists the elements that the new SIP revisions must contain. Among other things, each state's SIP must contain provisions adequate to prevent emissions that significantly contribute to violations of the NAAQS in any other state, interfere with maintenance in any other state, interfere with any other state's required measures to prevent significant deterioration of its air quality, or interfere with any other state's required measures to protect visibility.

On August 15, 2006, the EPA issued its "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $\text{PM}_{2.5}$ National Ambient Air Quality Standards" for states to use to address the §110(a)(2)(D)(i) interstate transport requirements. The EPA Region 6 communicated to the Texas Commission on Environmental Quality (TCEQ) on May 17, 2007, that the §110(a)(2)(D)(i) submittal for 1997 eight-hour ozone and 1997 fine particulate matter ($\text{PM}_{2.5}$) should be submitted as a SIP revision, and required notice, comment, and public hearing by the state. Based on this previous EPA guidance, the 2008 Lead NAAQS is also likely to require a SIP revision that has been opened to public notice and comment. The EPA has not yet issued additional guidance to address §110(a)(1) and (2) requirements for the 2008 lead NAAQS.

Re: Docket No. 2011-0065-SIP

Scope of the SIP revision:

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

The adopted SIP revision would meet the requirements of the FCAA, §110(a)(2)(D)(i), relating to the interstate transport of lead under the 2008 lead NAAQS. The SIP revision will reference existing control strategies to reduce the concentration of lead in Collin County, as well as dispersion modeling of major lead sources in Texas. Additionally, the revision verifies that the Prevention of Significant Deterioration and Nonattainment New Source Review permitting programs are being implemented in Texas and that lead is not considered a visibility-impairing pollutant.

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

Pursuant to FCAA, §110(a)(2)(D)(i), this SIP revision must contain several elements that provide supporting information demonstrating that Texas is:

- not contributing significantly to nonattainment of the lead NAAQS for areas in other states;
- not interfering with the maintenance of the lead NAAQS in any other state;
- not interfering with measures required to meet an implementation plan for any other state related to prevention of significant deterioration; and
- not interfering with measures required to meet the implementation plan for any other state related to regional haze and visibility.

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

None

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; TCAA, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; and Texas Water Code, §5.02, General Powers, and §5.013, General Jurisdiction of the Commission.

The FCAA, 42 USC §§7401, *et seq.*, requires states to submit SIP revisions that specify the manner in which the NAAQS will be achieved and maintained within each air quality control region of the state. Additionally, the specific requirements for the 2008 Lead

Commissioners

Page 3

July 29, 2011

Re: Docket No. 2011-0065-SIP

NAAQS were published in the November 12, 2008, issue of the *Federal Register* (73 FR 66963).

Effect on the:

A.) Regulated community:

This SIP revision contains no new control measures and will not affect the regulated community.

B.) Public:

None

C.) Agency programs:

This SIP revision will have no new effect on agency programs.

Stakeholder meetings:

Because there are no new rules associated with this SIP revision, no stakeholder meetings were held.

Public comment:

The commission offered a public hearing for the proposed SIP revision on May 17, 2011, at 10:00 a.m. at the TCEQ Headquarters in Austin. A question and answer session was held 30 minutes prior to the meeting. The hearing was not officially opened because no party indicated a desire to give comment.

The public comment period opened April 22, 2011, and closed May 23, 2011. One comment was received, but it was outside the scope of the SIP revision.

Significant changes from proposal:

After proposal, the TCEQ completed modeling for the two facilities that emit between 0.5 tons per year (tpy) and 1.0 tpy of lead: the International Power Coletto Creek Power Station near Fannin and San Miguel Electric Cooperative, Incorporated in Christine. Modeling for these two facilities was conducted after proposal to determine the need for monitoring. Modeled lead emissions from Coletto Creek and San Miguel each result in ambient concentrations of less than 1% of the level of the 2008 lead NAAQS and indicate that there will be no impact on surrounding areas or states.

Potential controversial concerns and legislative interest:

Based on the TCEQ's analysis of Texas' lead nonattainment area and the radius of impact of the major lead sources in the state, it has been concluded that Texas sources do not impact other states' attainment or maintenance of the lead NAAQS. However, the EPA has not yet issued guidance to address §110(a)(1) and (2) requirements for the 2008 lead NAAQS and may require additional analysis to approve this SIP revision.

Commissioners

Page 4

July 29, 2011

Re: Docket No. 2011-0065-SIP

Does 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 this SIP revision?

The lead transport SIP is required by FCAA, §110(a). If a SIP revision is not submitted, the EPA will have an obligation to promulgate a Federal Implementation Plan (FIP) for Texas and possibly to begin a sanctions clock pursuant to FCAA, §179.

Agency contacts:

Shelley Naik, SIP Project Manager, 239-1536, Air Quality Division

Amy Browning, Staff Attorney, 239-0891, Environmental Law Division

cc: Chief Clerk, 2 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Anne Idsal
Curtis Seaton
Ashley Morgan
Office of General Counsel
Shelley Naik
Joyce Spencer