

Bryan W. Shaw, Ph.D., *Chairman*
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Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 23, 2009

Lawrence E. Starfield, Acting Regional Administrator
U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Dear Mr. Starfield:

In response to the guidance issued by the United States Environmental Protection Agency (EPA) on October 2, 2007, "Guidance on State Implementation Plan (SIP) Elements Required Under 110(a)(1) and (2) for the 1997 Eight-Hour Ozone and PM_{2.5} National Ambient Air Quality Standard," the EPA has requested that states certify that existing SIPs contain infrastructure provisions that address the requirements of the 1997 eight-hour ozone and particulate matter of the size 2.5 microns and less (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). On April 4, 2008, Texas submitted a letter and supporting documentation to address any potential infrastructure issues associated with 1997 eight-hour ozone and PM_{2.5} and fulfilled its infrastructure SIP obligations at that time. On October 26, 2008, the EPA published a completeness finding in the *Federal Register* recognizing the Texas submittal as complete for the 1997 PM_{2.5} NAAQS.¹ Texas is submitting this letter and the enclosed documentation to address any potential infrastructure issues associated with the 2006 revisions to the PM_{2.5} NAAQS and to fulfill its infrastructure SIP obligations for the 2006 24-hour PM_{2.5} NAAQS.

Texas acknowledges that since the original submittal of the infrastructure requirements, the EPA has published four proposed disapproval notices for Texas' air permitting programs.² Texas is currently working to address the deficiencies identified by the EPA in these notices.³ Texas has committed to working closely with the EPA to ensure that current rulemaking proposals in response to these notices will result in Texas rules that are approvable by the EPA.⁴

¹ Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter (PM_{2.5}) NAAQS, 73 *Fed. Reg.* 62902 (October 26, 2008).

² Approval and Promulgation of Implementation Plans; Texas; Revisions to Chapters 39, 55, and 116 Which Relate to Public Participation on Permits for New and Modified Sources, 73 *Fed. Reg.* 72001 (November 26, 2008); Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Modification of Existing Qualified Facilities Program and General Definitions, 74 *Fed. Reg.* 48450 (September 23, 2009); Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD), Nonattainment NSR (NNSR) for the 1997 8-Hour Ozone Standard, NSR Reform, and a Standard Permit, 74 *Fed. Reg.* 48467 (September 23, 2009); Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Flexible Permits, 74 *Fed. Reg.* 48480 (September 23, 2009).

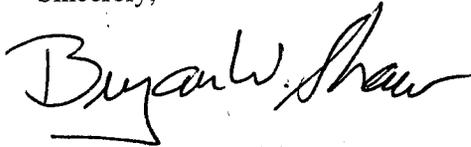
³ See TCEQ October 23, 2009, letter to EPA in response October 8, 2009 request for formal response to Carl Edlund's September 29, 2009, email.

⁴ *Id.*

Lawrence E. Starfield
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If you have any questions or would like any additional information, please contact Susana M. Hildebrand, P.E., Chief Engineer, at (512) 239-4696 or Stephanie Bergeron Perdue, Deputy Director, Office of Legal Services, at (512) 239-0615.

Sincerely,

A handwritten signature in black ink that reads "Bryan W. Shaw". The signature is written in a cursive style with a prominent initial "B".

Bryan W. Shaw, Ph.D.
Chairman

Enclosure

cc: Carl Edlund, EPA Region 6
Thomas Diggs, EPA Region 6
Guy Donaldson, EPA Region 6

State Implementation Plan (SIP) Infrastructure Requirements of Federal Clean Air Act (FCAA), §110(a)(2)

Section 110(a)(2) of the Clean Air Act provides requirements for all state implementation plans (SIP) regarding the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter. On the following pages, §110(a)(2)(A) - (M) is listed with various provisions supporting the requirements. The federally enforceable SIP for Texas is documented at 40 Code of Federal Regulations (CFR) Part 52, Subpart SS.

Texas Statutory Authority

The Texas Commission on Environmental Quality (TCEQ) has the legal authority to implement, maintain, and enforce the NAAQS. Texas' legal authority has been submitted to the United States Environmental Protection Agency (EPA) as part of various SIP revisions and approved by the EPA.

Background

The first air pollution control act, known as the Clean Air Act of Texas, was passed by the Texas Legislature in 1965. In 1967, the Clean Air Act of Texas was superseded by a more comprehensive statute, the Texas Clean Air Act (TCAA), found in Article 4477-5, Vernon's Texas Civil Statutes. The Legislature amended the TCAA in 1969, 1971, 1973, 1979, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, and 2009. In 1989, the TCAA was codified as Chapter 382 of the Texas Health and Safety Code.

Originally, the TCAA stated that the Texas Air Control Board (TACB) is the state air pollution control agency and is the principal authority in the state on matters relating to the quality of air resources. In 1991, the Legislature abolished the TACB effective September 1, 1993, and its powers, duties, responsibilities, and functions were transferred to the Texas Natural Resource Conservation Commission (TNRCC). With the creation of the TNRCC, the authority over air quality is found in both the Texas Water Code and the TCAA. Specifically, the authority of the commission is found in Texas Water Code, Chapters 5 and 7. Chapter 5, Subchapters A - F, H - J, and L, include the general provisions, organization, and general powers and duties of the commission, and the responsibilities and authority of the Executive Director. This Chapter also authorizes the commission to implement action when emergency conditions arise and to conduct hearings. Chapter 7 gives the commission enforcement authority. In 2001, the 77th Texas Legislature continued the existence of the commission until September 1, 2013, and changed the name of the TNRCC to the Texas Commission on Environmental Quality (TCEQ). In 2009, the 81st Texas Legislature, during a special session, amended the Texas Water Code, §5.014, changing the expiration date of the TCEQ to September 1, 2011, unless continued in existence by the Texas Sunset Act.

The TCAA specifically authorizes the TCEQ to establish the level of quality to be maintained in the state's air and to control the quality of the state's air by preparing and developing a general, comprehensive plan. The TCAA, Subchapters A - D, also authorize the TCEQ to collect information to enable the commission to develop an inventory of emissions; conduct research and investigations; enter property and examine records; prescribe monitoring requirements; institute enforcement proceedings; enter into contracts and execute instruments; formulate rules; issue orders taking into consideration factors bearing upon health, welfare, social and economic factors, and practicability and reasonableness; conduct hearings; establish air quality control regions; encourage cooperation with citizens' groups and other agencies and political subdivisions of the

state as well as with industries and the federal government; and establish and operate a system of permits for construction or modification of facilities.

Local government authority is found in Subchapter E of the TCAA. Local governments have the same power as the TCEQ to enter property and make inspections. Local governments may also make recommendations to the commission concerning any action of the TCEQ that affects their territorial jurisdiction, may bring enforcement actions, and may execute cooperative agreements with the TCEQ or other local governments. In addition, a city or town may enact and enforce ordinances for the control and abatement of air pollution not inconsistent with the provisions of the TCAA or the rules or orders of the commission.

Subchapters G and H of the TCAA authorize the TCEQ to establish vehicle inspection and maintenance programs in certain areas of the state, consistent with the requirements of the Federal Clean Air Act (FCAA); coordinate with federal, state, and local transportation planning agencies to develop and implement transportation programs and measures necessary to attain and maintain the NAAQS; and fund and authorize participating counties to implement vehicle repair assistance, retrofit and accelerated vehicle retirement programs.

STATUTORY AUTHORITY

The following statutory authority allows for the establishment and operation of the TCEQ and the adoption and implementation of all §110(a)(2) requirements.

Texas Clean Air Act, Tex. Health and Safety Code, Chapter 382, except Subchapter I.

Texas Water Code:

§5.013(a)(11) & (13)	GENERAL JURISDICTION OF COMMISSION
§5.051.	COMMISSION
§5.052.	MEMBERS OF THE COMMISSION; APPOINTMENT
§5.053.	ELIGIBILITY FOR MEMBERSHIP
§5.054.	REMOVAL OF COMMISSION MEMBERS
§5.059.	CONFLICT OF INTEREST
§5.060.	LOBBYIST PROHIBITION
§5.101.	SCOPE OF SUBCHAPTER
§5.102.	GENERAL POWERS
§5.103.	RULES
§5.104.	MEMORANDA OF UNDERSTANDING
§5.105.	GENERAL POLICY
§5.106.	BUDGET APPROVAL
§5.107.	ADVISORY COMMITTEES, WORK GROUPS, AND TASK FORCES
§5.115.	PERSONS AFFECTED IN COMMISSION HEARINGS; NOTICE OF APPLICATION
§5.117.	MANDATORY ENFORCEMENT HEARING
§5.120.	CONSERVATION AND QUALITY OF ENVIRONMENT
§5.133.	ACTIONS IN MEXICO
§5.1733.	ELECTRONIC POSTING OF INFORMATION
§5.223.	ADMINISTRATIVE ORGANIZATION OF COMMISSION
§5.230.	ENFORCEMENT
§5.233.	GIFTS AND GRANTS
§5.234.	APPLICATIONS AND OTHER DOCUMENTS

§5.237.	OPERATING FUND
§5.501.	EMERGENCY AND TEMPORARY ORDER OR PERMIT; TEMPORARY SUSPENSION OR AMENDMENT OF PERMIT CONDITION
§5.502.	APPLICATION FOR EMERGENCY OR TEMPORARY ORDER
§5.514.	ORDER ISSUED UNDER AIR EMERGENCY
§5.515.	EMERGENCY ORDER BECAUSE OF CATASTROPHE
§5.701(a)	FEES
§5.702.	PAYMENT OF FEES REQUIRED WHEN DUE
§5.703.	FEE ADJUSTMENTS
§5.704.	NOTICE OF CHANGE IN PAYMENT PROCEDURE
§5.705.	NOTICE OF VIOLATION
§7.002.	ENFORCEMENT AUTHORITY
§7.032.	INJUNCTIVE RELIEF
§7.051.	ADMINISTRATIVE PENALTY
§7.052.	MAXIMUM PENALTY
§7.053.	FACTORS TO BE CONSIDERED IN DETERMINATION OF PENALTY AMOUNT
§7.061.	PAYMENT OF PENALTY; PETITION FOR REVIEW
§7.066.	REFERRAL TO ATTORNEY GENERAL
§7.067.	SUPPLEMENTAL ENVIRONMENTAL PROJECTS
§7.072.	RECOVERY OF PENALTY
§7.073.	CORRECTIVE ACTION
§7.101.	VIOLATION
§7.102.	MAXIMUM PENALTY
§7.103.	CONTINUING VIOLATIONS
§7.105.	CIVIL SUIT
§7.106.	RESOLUTION THROUGH ADMINISTRATIVE ORDER
§7.177.	VIOLATIONS OF CLEAN AIR ACT
§7.178.	FAILURE TO PAY FEES UNDER CLEAN AIR ACT
§7.179.	FALSE REPRESENTATIONS UNDER CLEAN AIR ACT
§7.180.	FAILURE TO NOTIFY UNDER CLEAN AIR ACT
§7.181.	IMPROPER USE OF MONITORING DEVICE
§7.182.	RECKLESS EMISSION OF AIR CONTAMINANT AND ENDANGERMENT
§7.183.	INTENTIONAL OR KNOWING EMISSION OF AIR CONTAMINANT AND KNOWING ENDANGERMENT
§7.186.	SEPARATE OFFENSES
§7.187.	PENALTIES
§7.302.	GROUND FOR REVOCATION OR SUSPENSION OF PERMIT

REGULATORY AUTHORITY

The TCEQ has promulgated rules implementing statutory authority to meet the requirements of both the FCAA and the TCAA. These rules were submitted to the EPA in various SIP revisions and have been approved in the *Federal Register* or are pending EPA review. Rules that are relevant for each §110(a)(2) requirement are noted below.

§110(a)(2)(A)

EPA requirement:

Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance.

Texas requirement:

The TCEQ has promulgated rules to implement and enforce the NAAQS and other air quality standards. These rules include programs for banking and trading of emissions, as well as permits and fees. Periodic revisions to the SIP establish timetables and schedules for improving the air quality in the nonattainment areas, and areas that may become nonattainment for ozone.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

- Chap. 7 Memoranda of Understanding
- Chap. 101 General Air Quality Rules
- Chap. 106 Permits by Rule, Subchapter A, General Requirements
- Chap. 111 Control of Air Pollution from Visible Emissions and Particulate Matter
- Chap. 112 Control of Air Pollution from Sulfur Compounds
- Chap. 113 Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants
- Chap. 114 Control of Air Pollution from Motor Vehicles
- Chap. 115 Control of Air Pollution from Volatile Organic Compounds
- Chap. 116 Control of Air Pollution by Permits for New Construction or Modification
- Chap. 117 Control of Air Pollution from Nitrogen Compounds
- Chap. 118 Control of Air Pollution Episodes

§110(a)(2)(B)

EPA requirement:

Provide for establishment and operation of devices, methods, systems, and procedures to: (i) monitor, compile, and analyze data on ambient air quality, and (ii) make such data available to EPA.

Texas requirement:

The TCEQ maintains a network of air quality monitors to collect air emissions data that is reported to the EPA on a regular basis.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

- Chap. 101 General Air Quality Rules
- Chap. 106 Permits by Rule, Subchapter A, General Requirements
- Chap. 111 Control of Air Pollution from Visible Emissions and Particulate Matter
- Chap. 112 Control of Air Pollution from Sulfur Compounds
- Chap. 115 Control of Air Pollution from Volatile Organic Compounds
- Chap. 116 Control of Air Pollution by Permits for New Construction or Modification
- Chap. 117 Control of Air Pollution from Nitrogen Compounds

§110(a)(2)(C)

EPA requirement:

Include a program to provide for enforcement of measures in § 110(a)(2)(A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D.

Texas requirement:

The TCEQ has established rules governing the enforcement of control measures, including attainment plans and permitting programs that regulate construction and modification of stationary sources.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 35	Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions; Subchapters A, B, C, K
Chap. 101	General Air Quality Rules
Chap. 106	Permits by Rule, Subchapter A, General Requirements
Chap. 112	Control of Air Pollution from Sulfur Compounds
Chap. 115	Control of Air Pollution from Volatile Organic Compounds
Chap. 116	Control of Air Pollution by Permits for New Construction or Modification
Chap. 117	Control of Air Pollution from Nitrogen Compounds

§110(a)(2)(D)

EPA requirement:

(i) Contain adequate provisions prohibiting any source or other type of emissions activity from emitting any air pollutant in amounts which will:

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard.

(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.

(ii) Insure compliance with the applicable requirements of §§126¹ and 115² (interstate and international pollution abatement).

¹§126(a) Each plan shall (1) require each major proposed new or modified source (A) subject to Part C or (D) which may significantly contribute to pollution in excess of the NAAQS in any air quality control region outside the State in which such source intends to locate or modify, to provide written notice to all nearby states the pollution levels of which may be affected by such source 60 days prior to the date on which commencement of construction is to be permitted by the state, and (2) identify all major existing stationary sources which may have the impact described in (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources. (b) Any state may petition the EPA for a finding that any major source or group of stationary sources emits or would emit any pollutant in violation of the prohibition of §110(a)(2)(D)(ii) or this section. (c) Notwithstanding any permit which may have been granted by the State, it shall be a violation of this section and the plan - (1) for any major proposed new or modified source with respect to which a finding has been made under subsection (b) to be constructed or to

Texas requirement:

Texas is included in the Clean Air Interstate Rule (CAIR) for particulate matter of the size 2.5 microns and less (PM_{2.5}), but not for ozone, and has submitted to the EPA a SIP revision to implement CAIR. The TCEQ is currently in the process of revising the CAIR SIP and rule to account for federal rule revisions and state legislative changes. Additionally, since Texas was not included in the CAIR for ozone, the TCEQ submitted a SIP revision relating to transport in compliance with EPA's finding of failure to submit.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 101	General Air Quality Rules
Chap. 122	Subchapter E, Division 2, Clean Air Interstate Rule

§110(a)(2)(E)

EPA Requirement:

Provide:

- (i) Necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such plan).
- (ii) Requirements that the State comply with the requirements respecting State boards under §128.³

operate in violation of this section and the prohibition of §110(a)(2)(D)(ii) or this section, or (2) for any major existing source to operate more than 3 months after such finding has been made. The EPA may permit the continued operation of a source beyond the expiration of the three-month period if the source complies with the emission limitations and compliance schedules as may be provided by EPA to bring about compliance with the requirements of §110(a)(2)(D)(ii). Nothing shall be construed to preclude any such source from being eligible for an enforcement order under §113(d) after the expiration of such period during which EPA has permitted continuous operation.

²§115(a) Whenever EPA, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any pollutants emitted in the United States cause or contribute to pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests it to do so, the EPA shall give formal notification to the governor of the state in which such emissions originate. (b) The EPA notice shall be deemed to be a finding under §110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable plan as is inadequate to prevent or eliminate the endangerment. Any foreign country so affected by such emission of pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable plan. (c) This section shall apply only to a foreign country which the EPA determines has given the United States the same rights with respect to the prevention or control of air pollution occurring in that country. (d) Recommendations issued following any abatement conference conducted prior to FCAA Amendments of 1977 shall remain in effect with respect to any pollutant for which no NAAQS has been established under §109 unless EPA, after consultation with all agencies, which were party to the conference, rescinds any such recommendation.

³§128(a) each plan shall contain requirements that - (1) any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be disclosed. A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of (1) and (2).

(iii) Necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.

Texas requirement:

The TCEQ has consistently included assurances in SIP revisions that the State has adequate personnel, funding, and authority under State law to carry out the SIP. The TCEQ has various Memoranda of Understanding with other state and local agencies. Local governments have their own responsibilities and privileges regarding the protection of air quality as established by the Texas legislature.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 7	Memoranda of Understanding
Chap. 101	General Air Quality Rules
Chap. 106	Permits by Rule, Subchapter A, General Requirements
Chap. 116	Control of Air Pollution by Permits for New Construction or Modification

§110(a)(2)(F)

EPA requirement:

Require, as may be prescribed by the EPA:

- (i) installation, maintenance, and replacement of equipment, and implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions.
- (ii) Periodic reports on the nature and amounts of emissions and emissions-related data.
- (iii) Correlation of such reports by the State agency with any emission limitations or standards established pursuant to CAA, which reports shall be available at reasonable times for public inspection.

Texas requirement:

The TCEQ requires monitoring for air pollutants as part of its new source review permit program. Certain emission sources are required to submit annual emission inventories, and periodic reporting of emissions, which provides data that is used in air quality modeling to help Texas prepare attainment demonstration plans. Emission data is available at reasonable times for public inspection, with some information also available on the agency Web site.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 101	General Air Quality Rules
Chap. 106	Permits by Rule, Subchapter A, General Requirements
Chap. 111	Control of Air Pollution from Visible Emissions and Particulate Matter
Chap. 112	Control of Air Pollution from Sulfur Compounds
Chap. 115	Control of Air Pollution from Volatile Organic Compounds
Chap. 116	Control of Air Pollution by Permits for New Construction or Modification
Chap. 117	Control of Air Pollution from Nitrogen Compounds

§110(a)(2)(G)

EPA requirement:

Provide for authority comparable to that in § 303⁴ and adequate contingency plans to implement such authority.

Texas requirement:

The TCEQ may issue emergency orders, or issue or suspend air permits as required by an air pollution emergency. In addition, the TCEQ also maintains air pollution information in a form readily available to the public on the commission's internet Web site at http://www.tceq.state.tx.us/compliance/monitoring/air/monops/forecast_today.html. Local weather forecasts regularly warn the public about poor air quality days, including ozone alerts in all major metropolitan areas.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

- Chap. 35 Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions; Subchapters A, B, C, K
- Chap. 118 Control of Air Pollution Episodes

§110(a)(2)(H)

EPA Requirement:

Provide for revision of such plan:

- (i) from time to time as necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard.
- (ii) except as provided in (3)(C), whenever EPA finds on the basis of information available to EPA that the plan is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional FCAA requirements.

Texas requirement:

The TCEQ regularly revises the Texas SIP in response to revisions in the NAAQS and EPA rules. See §110(a)(2)(A), above.

⁴ §303. Notwithstanding any other FCAA provisions, the EPA upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to public health or welfare, or the environment, may bring suit on behalf of the United States in district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of pollutants causing or contributing to such pollution or to take such other action as may be necessary. If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the EPA may issue such orders as may be necessary to protect public health or welfare or the environment. Prior to taking any action, the EPA shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the proposed action is based. Any order issued by the EPA shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless the EPA brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the EPA brings such an action within the 60-day period, such order shall remain in effect for an additional 14 days or longer as authorized by the court.

§110(a)(2)(J)

EPA requirement:

- Meet applicable requirements of §121⁵ (consultation);
- Meet applicable requirements of §127⁶ (public notification);
- Meet applicable requirements of Part C (prevention of significant deterioration and visibility protection).

Texas requirement:

The TCEQ has an established public participation process for all SIP revisions and permitting programs. The TCEQ consults with other state agencies, local agencies, and non-governmental organizations, as well as with the environmental agencies of other states regarding air quality concerns. All major sources in Texas are subject to Texas' SIP-approved PSD program. Texas submitted a SIP revision to address Regional Haze, including a long-term strategy to address visibility impairment for each Class I area that may be impacted by emissions from Texas facilities.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 7	Memoranda of Understanding
Chap. 35	Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions; Subchapters H & K
Chap. 101	General Air Quality Rules
Chap. 116	Control of Air Pollution for New Construction or Modification

§110(a)(2)(K)

EPA requirement:

- (i) Provide for performance of air quality modeling as the EPA may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS.
- (ii) Provide for the submission, upon request, of data related to such air quality modeling to EPA.

⁵ §121. In carrying out requirements for plans to contain - (1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of pollution, or (2) any measure referred to - (A) in part D), or (B) in part C, and in carrying out the requirements of §113(d), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies. Such process shall be in accordance with regulations promulgated by EPA. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of EPA approving any portion of a plan may petition for judicial review.

⁶ §127. (a) Each plan shall contain measures to regularly notify the public of when any NAAQS is exceeded or was exceeded during the preceding year, to advise the public of health hazards associated with such pollution, and to enhance awareness of measures which can be taken to prevent the standards from being exceeded and ways in which the public can participate in regulatory and other efforts to improve air quality.

Texas requirement:

Air quality modeling is conducted during development of revisions to the Texas SIP, as appropriate for the state to demonstrate attainment with required air quality standards. Modeling is also a part of the new source review permitting program.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 116 Control of Air Pollution for New Construction or Modification

§110(a)(2)(L)

EPA requirement:

Require owner of a major stationary source to pay, as a condition of any permit required under CAA, a fee sufficient to cover: (i) reasonable cost of reviewing and acting upon any permit application, and (ii) if the owner receives a permit, the reasonable costs of implementing and enforcing the terms and conditions of the permit (not including court costs or costs associated with enforcement), until fee requirement is superseded by EPA approval of a Title V fee program.

Texas requirement:

The TCEQ assesses fees for reviewing permit applications and for enforcing the terms and conditions of permits.

The following chapters of Title 30, Texas Administrative Code (TAC), contain rules relevant for this federal requirement:

Chap. 12 Payment of Fees

Chap. 101 General Air Quality Rules

Chap. 106 Permits by Rule, Subchapter A, General Requirements

Chap. 116 Control of Air Pollution by Permits for New Construction or Modification

§110(a)(2)(M)

EPA requirement:

Provide for consultation and participation by local political subdivisions affected by the plan.

Texas requirement:

The TCEQ has several cooperative agreements and Memoranda of Understanding with various other state and local agencies and organizations. Consultation with a variety of different organizations is a regular part of TCEQ's process of developing SIP revisions.