

REVISION TO THE STATE IMPLEMENTATION PLAN FOR
THE CONTROL OF OZONE AIR POLLUTION

DALLAS-FORT WORTH 1997 EIGHT-HOUR OZONE
STANDARD NONATTAINMENT AREA



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
AUSTIN, TEXAS 78711-3087

DALLAS-FORT WORTH ENVIRONMENTAL SPEED
LIMIT CONTROL STRATEGY CONVERSION TO A
TRANSPORTATION CONTROL MEASURE

PROJECT NO. 2009-026-SIP-NR

Adopted August 25, 2010

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EXECUTIVE SUMMARY

The North Texas Tollway Authority (NTTA), along with the North Central Texas Council of Governments (NCTCOG), requested that the Texas Commission on Environmental Quality (TCEQ) convert an environmental speed limit (ESL) control measure, incorporated into the Dallas-Fort Worth (DFW) one-hour ozone attainment demonstration, into a transportation control measure (TCM). The NCTCOG is required to implement TCMs as part of a strategy to aid the area in attaining the ozone National Ambient Air Quality Standard (NAAQS). This conversion increases flexibility by allowing local air quality planners to change ESLs in the area without the TCEQ having to revise the DFW state implementation plan (SIP). United States Environmental Protection Agency (EPA) approval of this SIP revision will allow future changes to the ESLs to be accomplished through the TCM substitution process. This conversion from a control measure to a TCM is consistent with the motor vehicle emissions budget (MVEB) submitted in the DFW 1997 Eight-Hour Ozone Standard Attainment Demonstration SIP Revision (Project No. 2006-013-SIP-NR). If conversion of the ESL to a TCM is approved by the EPA, the NCTCOG will be responsible for subsequently substituting another TCM in place of the ESL TCM.

The ESL control measure was enacted in the April 2000 DFW One-Hour Ozone Attainment Demonstration SIP Revision (Project No. 1999-055-SIP-AI) as a state control measure, which was approved by the EPA in October 2005 (70 FR 58978). The measure included adopting speed limit reductions of 5 miles per hour (mph) on all roads in the DFW nine-county area (Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, and Rockwall Counties) with posted speeds of either 70 mph or 65 mph.

As published in the June 9, 2000, issue of the *Texas Register* (25 TexReg 5686), the Texas Department of Transportation (TxDOT) revised speed limit regulations to allow speed limit changes for justified environmental reasons as requested by the TCEQ. Effective September 1, 2001, TxDOT lowered all 70 mph and 65 mph speed limits by 5 mph in the DFW nine-county area. Texas Transportation Code, §545.353 gives the Texas Transportation Commission authorization to alter speed limits on the highway system in accordance with TxDOT's *Procedures for Establishing Speed Zones*, and Texas Transportation Code, §545.354 gives regional tollway authorities that same authorization for tollways maintained by regional tollway authorities.

In 2003, the Texas Legislature, 78th Session, enacted House Bill (HB) 1365, amending Transportation Code, §545.353(j), to prohibit TxDOT from implementing speed limits for environmental purposes, effective June 22, 2003. The legislation did not remove or change any ESL already in force at the time.

In 2008, the TCEQ began discussions with the NTTA and the NCTCOG to transfer the ESL control measure to a TCM. In addition, TCEQ staff also consulted with staff at TxDOT and EPA Region 6, who were generally supportive of the flexibility the action would provide the local transportation planners. TxDOT indicated that existing ESLs may be retained on the state highway system until such time as the TCEQ advises TxDOT in writing that the speed limit is unnecessary and a speed study performed for the area finds that the existing environmental speed zone is not reflective of the 85th percentile speed.

SECTION V: LEGAL AUTHORITY

A. General

The Texas Commission on Environmental Quality (TCEQ) has the legal authority to implement, maintain, and enforce the National Ambient Air Quality Standards (NAAQS) and to control the quality of the state's air, including maintaining adequate visibility.

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 TNRCC is found in 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 TNRCC, and the responsibilities and authority of the executive director. This chapter also authorizes the TNRCC to implement action when emergency conditions arise and to conduct hearings. Chapter 7 gives the TNRCC enforcement authority. In 2001, the 77th Texas Legislature continued the existence of the TNRCC 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 section 5.014 of the Texas Water Code, 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; to conduct research and investigations; to enter property and examine records; to prescribe monitoring requirements; to institute enforcement proceedings; to enter into contracts and execute instruments; to formulate rules; to issue orders taking into consideration factors bearing upon health, welfare, social and economic factors, and practicability and reasonableness; to conduct hearings; to establish air quality control regions; to encourage cooperation with citizens' groups and other agencies and political subdivisions of the state as well as with industries and the federal government; and to 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. They also may 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 and 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; coordinate with federal, state, and local transportation planning agencies

to develop and implement transportation programs and measures necessary to attain and maintain the NAAQS; establish gasoline volatility and low emission diesel standards; and fund and authorize participating counties to implement vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.

B. Applicable Law

The following statutes and rules provide necessary authority to adopt and implement the state implementation plan (SIP). The rules listed below have previously been submitted as part of the SIP.

Statutes

All sections of each subchapter are included, unless otherwise noted.

TEXAS HEALTH & SAFETY CODE, Chapter 382

September 1, 2009

TEXAS WATER CODE

September 1, 2009

Chapter 5: Texas Natural Resource Conservation Commission

Subchapter A: General Provisions

Subchapter B: Organization of the Texas Natural Resource Conservation Commission

Subchapter C: Texas Natural Resource Conservation Commission

Subchapter D: General Powers and Duties of the Commission

Subchapter E: Administrative Provisions for Commission

Subchapter F: Executive Director (except §§5.225, 5.226, 5.227, 5.2275, 5.231, 5.232, and 5.236)

Subchapter H: Delegation of Hearings

Subchapter I: Judicial Review

Subchapter J: Consolidated Permit Processing

Subchapter L: Emergency and Temporary Orders (§§5.514, 5.5145, and 5.515 only)

Subchapter M: Environmental Permitting Procedures (§5.558 only)

Chapter 7: Enforcement

Subchapter A: General Provisions (§§7.001, 7.002, 7.0025, 7.004, and 7.005 only)

Subchapter B: Corrective Action and Injunctive Relief (§7.032 only)

Subchapter C: Administrative Penalties

Subchapter D: Civil Penalties (except §7.109)

Subchapter E: Criminal Offenses and Penalties: §§7.177, 7.179-7.183

Rules

All of the following rules are found in 30, Texas Administrative Code, as of the following latest effective dates:

Chapter 7: Memoranda of Understanding, §§7.110 and 7.119

December 13, 1996 and May 2, 2002

Chapter 19: Electronic Reporting

July 10, 2008

Chapter 35: Subchapters A-C, K: Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions

July 20, 2006

Chapter 39: Public Notice, §§39.201; 39.401; 39.403(a) and (b)(8)-(10); 39.405(f)(1) and (g); 39.409; 39.411 (a), (b)(1)-(6), and (8)-(10) and (c)(1)-(6) and (d); 39.413(9), (11), (12), and (14); 39.418(a) and (b)(3) and (4);

39.419(a), (b), (d), and (e); 39.420(a), (b) and (c)(3) and (4); 39.423 (a) and (b); 39.601-39.605
September 23, 1999 and June 24, 2010

Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, §§55.1; 55.21(a) - (d), (e)(2), (3), and (12), (f) and (g); 55.101(a), (b), and (c)(6) - (8); 55.103; 55.150; 55.152(a)(1), (2), and (6) and (b); 55.154; 55.156; 55.200; 55.201(a) - (h); 55.203; 55.205; 55.209, and 55.211

October 20, 1999, December 27, 2001, August 29, 2002, July 5, 2006, July 10, 2008, and March 12, 2009

Chapter 101: General Air Quality Rules
June 24, 2010

Chapter 106: Permits by Rule, Subchapter A
September 3, 2009

Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter
July 19, 2006

Chapter 112: Control of Air Pollution from Sulfur Compounds
July 12, 2001

Chapter 113: Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants
May 14, 2009

Chapter 114: Control of Air Pollution from Motor Vehicles
March 21, 2010

Chapter 115: Control of Air Pollution from Volatile Organic Compounds
June 24, 2010

Chapter 116: Permits for New Construction or Modification
June 24, 2010

Chapter 117: Control of Air Pollution by Control of Air Pollution from Nitrogen Compounds
February 4, 2010

Chapter 118: Control of Air Pollution Episodes
May 14, 2004

Chapter 122: §122.122: Potential to Emit
December 11, 2002

Chapter 122: §122.215: Minor Permit Revisions
June 3, 2001

Chapter 122: §122.216: Applications for Minor Permit Revisions
June 3, 2001

Chapter 122: §122.217: Procedures for Minor Permit Revisions
December 11, 2002

Chapter 122: §122.218 Minor Permit Revision Procedures for Permit Revisions Involving the Use of Economic Incentives, Marketable Permits, and Emissions Trading
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 - Chapter 3: Corroborative Analysis (No revision)
 - Chapter 4: Required Control Strategy Elements (Revised)
 - 2. Houston-Galveston-Brazoria (No revision)
 - 3. Beaumont-Port Arthur (No revision)
 - 4. El Paso (No revision)
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LIST OF ACRONYMS

DFW	Dallas-Fort Worth
EPA	United States Environmental Protection Agency
ESL	Environmental Speed Limit
HB	House Bill
mph	miles per hour
MVEB	Motor Vehicle Emissions Budget
NCTCOG	North Central Texas Council of Governments
NO _x	Nitrogen Oxides
NTTA	North Texas Tollway Authority
RACT	Reasonably Available Control Technology
RACM	Reasonably Available Control Measure
SIP	State Implementation Plan
TAC	Texas Administrative Code
TACB	Texas Air Control Board
TCAA	Texas Clean Air Act
TCEQ	Texas Commission on Environmental Quality (commission)
TCM	Transportation Control Measure
TNRCC	Texas Natural Resource Conservation Commission
TxDOT	Texas Department of Transportation
USC	United States Code
VOC	Volatile Organic Compounds

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CHAPTER 1: BACKGROUND AND INTRODUCTION

1.1 GENERAL

“The History of the Texas State Implementation Plan (SIP),” a comprehensive overview of the SIP revisions submitted to the United States Environmental Protection Agency (EPA) by the State of Texas may be viewed on the Texas Commission on Environmental Quality’s (TCEQ) Web site, at: <http://www.tceq.state.tx.us/implementation/air/sip/sipintro.html#History>.

1.1.1 Background

As part of the development of the April 2000 Dallas-Fort Worth (DFW) One-Hour Ozone Standard Attainment Demonstration SIP Revision (Project No. 1999-055-SIP-AI), the TCEQ consulted with the Texas Department of Transportation (TxDOT) in developing an environmental speed limit (ESL) control strategy for the DFW area. The one-hour attainment demonstration SIP revision included a control measure to reduce some roadway speed limits in the area.

As part of the SIP development process, TxDOT revised regulations relating to speed limits to allow the TCEQ to submit a request to change speed limits for environmental reasons when justified. As published in a June 9, 2000, issue of the *Texas Register* (25 TexReg 5686), TxDOT revised speed limit regulations to allow speed limit changes for justified environmental reasons as requested by the TCEQ. Consequently, TxDOT lowered all 70 mile per hour (mph) speed limits to 65 mph, and all 65 mph speed limits to 60 mph in the DFW nine-county area (Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, and Rockwall Counties). The slower speed limits were implemented on September 1, 2001.

In 2003, the Texas Legislature, 78th Session, enacted House Bill (HB) 1365, amending Transportation Code, §545.353(j), and prohibiting TxDOT from implementing speed limits for environmental purposes, effective June 22, 2003. The legislation did not remove or change any ESL already in force at the time.

Discussions began in 2008 with the North Central Texas Council of Governments (NCTCOG) and the North Texas Tollway Authority (NTTA) to transfer the ESL control strategy to a transportation control measure (TCM). In addition, TCEQ staff also discussed the issue with staff at TxDOT and EPA Region 6, who were generally supportive of the flexibility the action would provide the local transportation planners. TxDOT indicated that existing ESLs may be retained on the state highway system until such time as the TCEQ advises TxDOT in writing that the speed limit is unnecessary and a speed study performed for the area finds that the existing environmental speed zone is not reflective of the 85th percentile speed.

1.1.2 Current SIP Revision

The NTTA, along with the NCTCOG, requested that the TCEQ convert an ESL control measure incorporated into the DFW one-hour ozone attainment demonstration SIP revision into a TCM. The NCTCOG is required to implement TCMs as part of a strategy to aid the area in attaining the ozone National Ambient Air Quality Standard (NAAQS). This conversion allows increased flexibility for local air quality planners to change ESLs in the area without the TCEQ having to revise the DFW SIP. This SIP revision allows future changes to ESLs to be accomplished through a less burdensome TCM substitution process. This conversion of ESLs to a TCM is consistent with the motor vehicle emissions budget (MVEB) submitted in the DFW 1997 Eight-Hour Ozone Standard Attainment Demonstration SIP Revision (Project No. 2006-013-SIP-NR). Conversion of the ESL to a TCM places responsibility for subsequently substituting another reduction measure in place of the ESL TCM on the NCTCOG.

1.2 HEALTH EFFECTS

In 1997, the EPA revised the NAAQS for ozone from a one-hour to an eight-hour standard. To support the 1997 eight-hour ozone standard, the EPA provided information indicating that health effects can occur at levels lower than the previous standard and at exposure times longer than one hour. High concentrations of one-hour ozone were not shown to correlate well with mortality. Exposure to ambient ozone can aggravate asthma in some people. Repeated exposures to ozone can make people more susceptible to respiratory infection and lung inflammation and can aggravate preexisting respiratory diseases, such as bronchitis and emphysema.

Children are at a relatively higher risk from exposure to ozone when compared to adults, since they breathe more air per pound of body weight than adults and because children's respiratory systems are still developing. Children also spend a considerable amount of time outdoors during summer and during the start of the school year (August - October) when high ozone levels are typically recorded. Adults most at risk to ozone exposure are people working or exercising outdoors and individuals with preexisting respiratory diseases.

1.3 PUBLIC COMMENT

The commission offered a public hearing for the proposed SIP revision on May 24, 2010, at 10:00 a.m. at the TCEQ Region 4 Office, located at 2309 Gravel Dr., Fort Worth, Texas. A question and answer session was held 30 minutes prior to the hearing. The hearing was not officially opened because no party indicated a desire to give comment.

The public comment period opened April 30, 2010, and closed on June 1, 2010. Written comments were accepted via mail, fax, and through the eComments system. One comment was received from the EPA in support of the revision.

An electronic version of this SIP revision can be found on the TCEQ Web site at <http://www.tceq.state.tx.us/implementation/air/sip/vic.html>.

1.4 SOCIAL AND ECONOMIC CONSIDERATIONS

There were no social or economic issues of concern attributable to this Dallas-Fort Worth Environmental Speed Limit Control Strategy Conversion to a Transportation Control Measure SIP Revision.

1.5 FISCAL AND MANPOWER RESOURCES

The state determined that its fiscal and manpower resources were adequate and would not be adversely affected through the implementation of this plan.

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(No revision)

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4.2.4 – 4.4 (No revision)

4.5 MOTOR VEHICLE EMISSIONS BUDGET (MVEB) (REVISED)

The MVEB refers to the maximum allowable emissions from on-road mobile sources for each applicable criteria pollutant or precursor as defined in the SIP. The budget must be used in transportation conformity analyses. Areas must demonstrate that the estimated emissions from transportation plans, programs, and projects do not exceed the MVEB. The attainment budget represents the on-road mobile source emissions that have been modeled for the attainment demonstration. The budget reflects all of the on-road control measures reflected in that demonstration. This conversion from a local measure to a TCM is consistent with the MVEB submitted for the DFW 1997 Eight-Hour Ozone Standard Attainment Demonstration SIP Revision (Project No. 2006-013-SIP-NR).

4.6 (NO REVISION)

4.7 ENVIRONMENTAL SPEED LIMIT (ESL) CONTROL MEASURE CONVERSION TO A TRANSPORTATION CONTROL MEASURE (TCM)

Conversion of the ESL control measure to a TCM transfers the responsibility of maintaining emissions reductions currently associated with the DFW area ESL control measure to the NCTCOG. This SIP revision makes no change to the ESL control measure in the DFW SIP. This SIP revision, if approved by the EPA, will only convert the ESL control measure to a TCM, thereby transferring responsibility to the NCTCOG. Emissions reductions currently associated with the ESL control measure for the DFW area will be maintained as TCMs enacted by the NCTCOG. The NCTCOG is responsible for ensuring that alternative emission reduction measures are in place should changes to an ESL TCM be necessary.

Conversion of the DFW area ESL control measure to a TCM allows increased flexibility for local air quality planners to change individual ESLs in the area without the TCEQ having to revise the DFW SIP. This SIP revision allows future changes to individual ESLs to be accomplished through a less burdensome TCM substitution process.

RESPONSE TO COMMENTS RECEIVED REGARDING
THE DALLAS-FORT WORTH (DFW) 1997 EIGHT-HOUR
OZONE ENVIRONMENTAL SPEED LIMIT (ESL)
CONTROL STRATEGY CONVERSION TO A
TRANSPORTATION CONTROL MEASURE (TCM) STATE
IMPLEMENTATION PLAN (SIP) REVISION

A public hearing for this proposed ESL to TCM SIP revision was held on May 24, 2010, at 10:00 a.m., at the Texas Commission on Environmental Quality (TCEQ) Region 4 Offices in Fort Worth. A question and answer session was held 30 minutes prior to the hearing. The hearing was not officially opened because no party indicated a desire to provide comment.

The public comment period opened April 30, 2010, and closed June 1, 2010. The commission received one comment from the United States Environmental Protection Agency (EPA) in support of the revision.

The EPA expressed support for the proposed SIP revision converting the ESL control strategy for the DFW 1997 eight-hour ozone standard nonattainment area to a TCM. The EPA acknowledged that approval of this SIP revision would result in the transfer of responsibility from the TCEQ to the North Central Texas Council of Governments (NCTCOG) for emission reductions currently associated with the ESL control measure which would be maintained as a TCM. Substitution for an alternative TCM would be accomplished through the TCM substitution process outlined in Section 176(c)(8) of the Federal Clean Air Act, and the EPA's guidance document: *Guidance for Implementing the Clean Air Act Section 176(c)(8) Transportation Control Measure Substitution and Addition Provision*.

The EPA acknowledged and supported the collaboration that occurred among the NCTCOG, the Texas Department of Transportation (TxDOT), and the TCEQ to successfully complete this SIP revision.

The TCEQ appreciates the EPA's support of this SIP revision and the EPA's acknowledgement concerning how the ESL to TCM conversion would be implemented by the NCTCOG. The TCEQ also appreciates the EPA's support of the collaborative efforts involved in completing this SIP revision.