

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Withdrawal from the State Implementation Plan

AGENDA REQUESTED: May 13, 2026

DATE OF REQUEST: April 24, 2026

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Jamie Zech, Agenda Coordinator, (512) 239-3935

CAPTION: Docket No. 2021-0510-SIP. Consideration to withdraw from U.S. Environmental Protection Agency (EPA) review a previously submitted revision to the State Implementation Plan (SIP) that was adopted by the commission on February 9, 2022, to meet nonattainment area requirements for portions of Rusk and Panola Counties under the 2010 primary one-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) (Non-Rule Project No. 2020-057-SIP-NR).

The SIP revision under consideration for withdrawal is no longer needed to meet the 2010 SO₂ NAAQS due to the remand of the Rusk-Panola area's nonattainment designation by the U.S. Court of Appeals for the Fifth Circuit on May 16, 2025, and subsequent acknowledgement from EPA that the nonattainment designation was vacated. (Alison Stokes, Terry Salem; Non-Rule Project No. 2026-014-OTH-NR)

Richard C. Chism
Director

Donna F. Huff
Division Deputy Director

Jamie Zech
Agenda Coordinator

Copy to CCC Secretary? NO YES

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 24, 2026

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Richard C. Chism, Director *RCC*
Office of Air

Docket No.: 2021-0510-SIP

Subject: Commission Withdrawal of the Rusk-Panola Attainment Demonstration (AD) from U.S. Environmental Protection Agency (EPA) Consideration as a revision to the State Implementation Plan (SIP) for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS)

Withdrawal of the Rusk-Panola SO₂ AD from EPA Consideration for Approval
Non-Rule Project No. 2026-014-OTH-NR

Background and reason(s) for the SIP revision withdrawal:

On June 22, 2010, EPA published a final rule revising the SO₂ NAAQS to add a 75 parts per billion one-hour primary standard, effective August 23, 2010 (75 *Federal Register* (FR) 35520). On December 13, 2016, EPA published a nonattainment designation for portions of Rusk and Panola Counties (Rusk-Panola), effective January 12, 2017 (81 FR 89870). A SIP revision demonstrating attainment for the Rusk-Panola nonattainment area was due to EPA by July 13, 2018. However, the Texas Commission on Environmental Quality (TCEQ or the commission) did not submit the SIP revision at that time due to ongoing litigation. On August 10, 2020, EPA published a final notice of Texas' failure to submit required nonattainment SIP elements for the Rusk-Panola area under the 2010 SO₂ NAAQS (85 FR 48111).

On February 9, 2022, TCEQ adopted the Rusk-Panola AD SIP Revision for the 2010 SO₂ NAAQS (Non-Rule Project No. 2020-057-SIP-NR), which contained all required SIP elements for nonattainment areas under the 2010 SO₂ NAAQS. The Martin Lake Steam Electric Station (Martin Lake), owned and operated by Luminant Generation Company, LLC (Luminant or the company) is the only major SO₂ emissions source in the Rusk-Panola area. TCEQ and Luminant entered into an agreed order that documents the commission's order, and the company's agreement, to comply with the identified emission reduction requirements and provide an enforceable control strategy for Martin Lake (Agreed Order Docket No. 2021-0508-MIS, Non-Rule Project No. 2021-013-OTH-NR). The agreed order was also adopted and incorporated into the SIP by the commission on February 9, 2022. The SIP revision and associated agreed order were submitted to EPA on February 28, 2022. On December 17, 2024, EPA published a final notice of its finding of failure to attain by the area's attainment date of January 12, 2022 (89 FR 101894).

On May 16, 2025, the U.S. Court of Appeals for the Fifth Circuit (court) remanded EPA's designation of the Rusk-Panola area as nonattainment for reconsideration of the appropriate designation considering available monitoring data, *Texas v. EPA*, 137 F. 4th 353 (5th Cir. 2024). On September 5, 2025, EPA published a direct final rule withdrawing its finding of failure to submit required SIP elements and finding of failure to attain for the Rusk-Panola area resulting from the nonattainment designation, citing the court's decision and acknowledging vacatur of the nonattainment area designation (90 FR 42831). Due to the vacatur of the area's nonattainment designation, nonattainment SIP elements are no longer required for the Rusk-Panola area. Staff recommend the commission withdraw the AD SIP revision from EPA's consideration.

Re: Docket No. 2021-0510-SIP

Scope of the request:

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

If approved by the commission, TCEQ would withdraw the previously submitted Rusk-Panola AD SIP Revision for the 2010 SO₂ NAAQS (Non-Rule Project No. 2020-057-SIP-NR), as adopted February 9, 2022, from EPA's consideration for approval. The associated agreed order would also be concurrently voided and withdrawn (2026-015-OTH-NR).

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

There are no required federal regulations or state statutes associated with this SIP withdrawal. Because this SIP revision is no longer required, no public hearing is necessary for the commission to withdraw the submittal from EPA consideration.

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

None.

Statutory authority:

The request to withdraw these SIP elements is made under the commission's authority in:

- Texas Water Code, (TWC) §5.102, General Powers;
- TWC, §5.105, General Policy;
- TWC, §5.013, General Jurisdiction of Commission. Texas Health & Safety Code, (THSC), §382.002, Policy and Purpose;
- THSC, §382.011, General Powers and Duties;
- THSC, §382.012, State Air Control Plan;
- THSC, §382.023, Orders; and
- THSC, §382.024, Factors in Issuing Orders and Determinations; and
- THSC, §382.025, Orders Relating to Controlling Air Pollution.

Effect on the:

A.) Regulated community:

As a result of the SIP withdrawal, Luminant would no longer be required to adhere to the requirements of the SIP revision.

B.) Public:

None.

C.) Agency programs:

None.

Stakeholder meetings:

TCEQ staff met with Luminant, as the signatory of the agreed order, to discuss the reasoning and impact of the potential withdrawal.

Public Involvement Plan

No.

Alternative Language Requirements

None.

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Potential controversial concerns and legislative interest:

There are no known controversial concerns or legislative interests.

Would this withdrawal affect any current policies or require development of new policies?

No.

What are the consequences if this withdrawal does not go forward? Are there alternatives to withdrawing?

The commission could choose not to withdraw the SIP submittal from EPA consideration for approval. However, if the submittal is not withdrawn, it would remain pending for EPA consideration for approval even though the area's nonattainment designation is no longer effective.

Key points in the withdrawal schedule:

Anticipated adoption date: May 13, 2026

Agency contacts:

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cc: Chief Clerk, 2 copies
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