

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

AGENDA REQUESTED: July 23, 2025

DATE OF REQUEST: July 3, 2025

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

CAPTION: Docket No. 2022-0356-SIP. Consideration to withdraw from U.S. Environmental Protection Agency (EPA) review, the El Paso Emissions Inventory State Implementation Plan (SIP) Revision (Non-Rule Project No. 2022-010-SIP-NR), adopted by the commission on November 16, 2022.

The SIP revision under consideration for withdrawal is no longer a required SIP element for El Paso County due to the vacatur of the area's nonattainment designation for the 2015 eight-hour ozone National Ambient Air Quality Standard. (Alison Stokes, Terry Salem, John Minter; Non-Rule Project No. 2025-023-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:** July 3, 2025

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

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

Docket No.: 2022-0356-SIP

Subject: Commission Withdrawal of the El Paso County 2015 Ozone Emissions Inventory (EI) State Implementation Plan (SIP) Revision Submittal from U.S. Environmental Protection Agency (EPA) Consideration

El Paso EI SIP Revision Withdrawal
Non-Rule Project No. 2025-023-OTH-NR

Background and reason(s) for the SIP withdrawal:

After originally publishing a final designation of attainment for El Paso County on June 4, 2018 (83 *Federal Register* (FR) 25776), on November 30, 2021, EPA published a final redesignation to nonattainment for El Paso County for the 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS), effective December 30, 2021 (86 FR 67864). EPA expanded the Sunland Park, New Mexico, marginal nonattainment area to include El Paso County. As a result of the redesignation, El Paso County was retroactively tied to Sunland Park's August 31, 2021, marginal attainment date and was required to fulfill marginal nonattainment area SIP requirements. On November 16, 2022, the commission adopted the El Paso County EI SIP Revision for the 2015 Eight-Hour Ozone NAAQS (Non-Rule Project No. 2022-010-SIP-NR). The SIP revision satisfied federal Clean Air Act (FCAA), §172(c)(3) and §182(a)(1) EI reporting requirements for El Paso County for the 2015 eight-hour ozone NAAQS. The SIP revision was submitted to EPA on December 8, 2022.

On June 30, 2023, the U.S. Court of Appeals for the District of Columbia (D.C. Circuit Court of Appeals) reversed the nonattainment designation for El Paso County, finding that EPA's action was impermissibly retroactive. EPA had not acted on the El Paso EI SIP Revision prior to the court's decision and the SIP revision remains pending. Therefore, staff recommends withdrawing the El Paso EI SIP revision from EPA's consideration.

Scope of the request:

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

If approved by the commission, the El Paso County EI SIP Revision for the 2015 Eight-Hour Ozone NAAQS (Non-Rule Project No. 2022-010-SIP-NR) would be withdrawn from EPA's consideration for inclusion in the SIP.

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

There are no required federal regulations or state statutes associated with this SIP withdrawal. Because the SIP revision is no longer required and has not been approved by EPA, 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 the El Paso EI SIP revision is made under the commission's authority in Texas Water Code, (TWC) §5.102, General Powers; TWC, §5.103, Rules; TWC, §5.105, General Policy; TWC, §5.013, General Jurisdiction of Commission. The withdrawal request is also made under

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Texas Health & Safety Code, (THSC), §382.002, Policy and Purpose; THSC, §382.011, General Powers and Duties; THSC, §382.012, State Air Control Plan; and THSC, §382.017, Rules.

Effect on the:

A.) Regulated community:

None.

B.) Public:

None.

C.) Agency programs:

None.

Stakeholder meetings:

None were held.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

Potential controversial concerns and legislative interest:

None expected.

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 El Paso EI SIP revision. EPA has not yet acted on this SIP revision. However, if it is not withdrawn, EPA's future action on the submittal would be complicated by the fact that the area's nonattainment designation was reversed by the D.C. Circuit Court of Appeals and is no longer required.

Key points in the withdrawal schedule:

Anticipated adoption date: July 23, 2025

Agency contacts:

Alison Stokes, SIP Project Manager, Air Quality Division, (512) 239-4902

Terry Salem, Staff Attorney, Environmental Law Division, (512) 239-0663

John Minter, Staff Attorney, Environmental Law Division, (512) 239-0469

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cc: Chief Clerk, 2 copies
Executive Director's Office
Jessie Powell
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