

Proposed Limited Approval and Limited Disapproval for the Texas Attainment Plan for the Rusk and Panola Counties Sulfur Dioxide Nonattainment Area

FACT SHEET

What is EPA proposing here?

Each state must submit plans to the Environmental Protection Agency (EPA) that show how they will control certain types of air pollution to comply with federal regulations under the Clean Air Act (CAA). These plans are known as State Implementation Plans or “SIPs”. EPA must review these plans and approve those plans that meet the CAA requirements. In February 2022, Texas submitted a SIP revision related to reducing sulfur dioxide (SO₂) emissions in the Rusk-Panola Counties Nonattainment area in order to meet the 2010 1-hr SO₂ National Ambient Air Quality Standard (NAAQS). Texas adopted limits at the Martin Lake Steam Electric Station, the principal SO₂ emission source contributing to nonattainment of the SO₂ NAAQS, aimed at bringing the Rusk and Panola counties SO₂ nonattainment area (Rusk-Panola area) into attainment and incorporated these limits into their SIP revision for EPA approval.

The EPA is proposing a limited approval and limited disapproval of the Texas February 28, 2022 SIP revision. In this action, EPA is proposing to find that Texas’ SIP submission would bring the Rusk-Panola area into attainment and otherwise meet the requirements of an attainment plan SIP submission but for an untimely compliance date for the emissions limitations after the area’s attainment date and the inclusion of a force majeure provision. The force majeure clause, if triggered, causes the emissions limitations to not be continuously applicable or enforceable.

To learn more about this proposed action, visit <https://www.epa.gov/tx/rusk-panola-so2-nonattainment-area>.

What is Sulfur Dioxide?

EPA’s NAAQS for SO₂ is designed to protect against exposure to the entire group of sulfur oxides (SO_x). SO₂ is the component of greatest concern and is used as the indicator for the larger group of gaseous sulfur oxides. Other gaseous SO_x (such as SO₃) are found in the atmosphere at concentrations much lower than SO₂. The largest source of SO₂ in the atmosphere is the burning of fossil fuels by power plants and other industrial facilities. Smaller sources of SO₂ emissions include industrial processes such as extracting metal from ore; natural sources such as volcanoes; and locomotives, ships and other vehicles and heavy equipment that burn fuel with a high sulfur content.

What is the background for this proposal?

On December 12, 2016, EPA designated portions of Rusk and Panola Counties surrounding the Martin Lake facility in Texas nonattainment for the 2010 1-Hour SO₂ NAAQS, effective January 12, 2017. Texas was responsible for submitting a nonattainment plan by July 12, 2018 to demonstrate that the respective area will attain by its attainment date of January 12, 2022. On August 10, 2020, effective September 9, 2020, the EPA made a finding that Texas failed to submit the required nonattainment SIP for the Rusk-Panola area by the July 12, 2018 deadline.

This finding triggered 18-month and 24-month deadlines (July 9, 2022 and September 9, 2022) for the imposition of mandatory emission offsets and highway funding sanctions, respectively, and additionally triggered the requirement for EPA to promulgate a Federal Implementation Plan (FIP) within two years (September 9, 2022) unless the state submits and obtains EPA approval of a SIP revision.

On February 28, 2022, Texas submitted its Rusk-Panola nonattainment SIP revision. Subsequently, on August 24, 2022, EPA determined that the SIP was complete under 40 CFR part 51, App. V, which stopped the mandatory emissions offsets sanctions in effect and the 24-month clock for the imposition of highway funding sanctions. However, this did not stop the FIP clock. EPA failed to promulgate a FIP by the September 9, 2022 deadline, and as a result of litigation, the EPA is under a consent decree deadline to approve a complete SIP or promulgate a FIP by December 13, 2024.

What is the impact of this action?

In this proposed rule (if finalized) under the limited approval action all provisions will be fully incorporated into the SIP. The limits submitted by Texas will become enforceable by EPA and improve air quality in the area. The limited disapproval will start sanctions clocks until the deficiency is corrected by the State and approved by EPA.

In a separate action, the EPA is proposing a FIP for the Rusk-Panola Area. The FIP will address the deficiencies found in EPA's proposed Limited Approval and Limited Disapproval of Texas' 2022 Rusk-Panola Area SIP revision. The FIP includes emission limits and associated requirements consistent with those adopted by Texas but does not include a force majeure provision. We anticipate the FIP will be proposed before the end of August.

Where can I find information on how to submit comments on EPA's proposal?

On August 2, 2024, EPA will publish a Federal Register notice with instructions on how to submit comments. See Docket No. EPA-R06-OAR-2022-0311 at <https://www.regulations.gov>. Additionally, we will post the information for instructions to submit comments at <https://www.epa.gov/tx/texas-regionalhaze-best-available-retrofit-technology-federal-implementation-plan-and-cross>.

How many days do I have to comment on EPA's proposal?

This proposed action was published on August 2, 2024. The public comment period will be open for 30 days and end on September 3, 2024.

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