REGION 6 EXECUTIVE SUMMARY

TOPIC: Texas Petition for Reconsideration/Redesignation

DATE: 2/14/18 CONTACT: Ruben Casso 5-6763

PURPOSE/ACTION NEEDED: For Information

BACKGROUND:

- 2010 1-hr SO2 NAAQS Nonattainment designations (Round 2) for areas in Texas were based on air quality modeling performed by Sierra Club, which generally followed EPA guidance. Although Luminant also submitted modeling, the analysis was rejected because it relied on non-EPA approved and technically unreliable algorithms in AERMOD. Designations were effective January 12, 2017. Texas SIP attainment plan is due July 12, 2018.
- Texas did not submit any modeling; instead arguing that modeling should not be used for designations and that the areas should be designated U/A because current monitoring data show no violations.
- Luminant requested reconsideration on the basis of: (a) necessity of monitoring data, proposed new monitoring, and recent emission declines, and (b) failure to provide notice and comment on modeling used as basis for designation.
- In response, on September 21, 2017, we sent a letter stating our intent to "revisit" designations. The letter states: "[W]e intend to undertake administrative action with notice and comment revisit the nonattainment designation for the portions of Freestone and Anderson Counties, Rusk and Panola Counties and Titus County." The letter goes on to say: "While the designations for these areas remain effective, the EPA is considering a variety of administrative options for revisiting them, some of which may alleviate associated and pending planning obligations. It is our intent to provide clarity regarding any potential changes before the state or regulated entity expend resources investing in regulatory obligations that are currently required."
- On December 11, 2017, the Texas Commission on Environmental Quality (TCEQ) submitted a petition for reconsideration regarding SO_2 designations for four areas in Texas where Luminant power plants were the sources which triggered the designations. The petition noted new information regarding shutdowns of three of the four sources.
- EPA's nonattainment SO_2 designations are currently being challenged in the 5th Circuit Court of Appeals and is currently in abeyance pending administrative action by EPA (while challenges to other areas move forward in the D.C. Circuit). Status reports are due every 90 days (next due March 12, 2018).

CURRENT STATUS:

- The following table summarizes the relevant facilities, their operating status and the SO_2 designations:

Area	SO_2 Designation	Relevant Facility	Operating Status	Air Monitor
Titus County (p)	Nonattainment	Monticello	Shut Down 1/4/18	No monitor
Milam County	Unclassifiable	Sandow	Shut down 1/11/18	DRR monitor Activation date 11/19/2016
Freestone (p) and Anderson (p) Counties	Nonattainment	Big Brown	Shut down 2/12/18	SPM monitor Activation date 10/30/2017
Rusk (p) and Panola (p) Counties	Nonattainment	Martin Lake	Expected to continue operation	SPM Monitor Activation date 11/1/2017

(p) only part of the county is included in designated area

LATEST PETITION FOR RECONSIDERATION:

- TCEQ's petition provided *new* information for the areas around Big Brown and Monticello that were designated as nonattainment by EPA effective January 12, 2017. TCEQ described the shutdowns, the resources that would be needed to prepare an attainment SIP, publish it for notice and hearing, and adopt it and submit by July 12, 2018. TCEQ also described the lesser resources but characterized as still burdensome, to go through the rulemaking process for a redesignation request and maintenance SIP.
- TCEQ asks EPA to designate these two areas now to attainment or unclassifiable/attainment.
- TCEQ stated that SO_2 monitors have been deployed at Big Brown and Martin Lake.
- TCEQ reiterated its position opposing our choice of modeling vs. monitoring for SO_2 designations, and our reliance on Sierra Club modeling.
- The petition did not ask for any specific relief on Milam County where Sandow is located probably because the area is designated unclassifiable,

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