TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for State Implementation Plan Adoption

AGENDA REQUESTED: November 16, 2022

DATE OF REQUEST: October 28, 2022

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

CAPTION: Docket No. 2022-0356-SIP. Consideration for adoption of, and hearing on, the proposed 2015 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) Emissions Inventory (EI) State Implementation Plan (SIP) Revision for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area.

The SIP revision satisfies the federal Clean Air Act, §172(c)(3) and §182(a)(1) EI reporting requirements for El Paso County for the 2015 eight-hour ozone NAAQS. The SIP revision also includes a certification statement to confirm that the emissions statements and nonattainment new source review requirements have been met for El Paso County. (Alison Stokes, Terry Salem; Non-Rule Project No. 2022-010-SIP-NR)

Samuel Short

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:** October 28, 2022

Thru: Laurie Gharis, Chief Clerk
Toby Baker, Executive Director

From: Samuel Short, Acting Director
Office of Air

Docket No.: 2022-0356-SIP

Subject: Commission Approval for Adoption of the 2015 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) Emissions Inventory (EI) State Implementation Plan (SIP) Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area

El Paso County EI SIP Revision for the 2015 Eight-Hour Ozone NAAQS
Non-Rule Project No. 2022-010-SIP-NR

Background and reason(s) for the SIP revision:
On October 26, 2015, the United States Environmental Protection Agency (EPA) revised the primary and secondary eight-hour ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm, effective December 28, 2015 (80 *Federal Register* (FR) 65292).

The EPA originally designated El Paso County as attainment/unclassifiable for the 2015 eight-hour ozone NAAQS, effective August 3, 2018 (83 FR 25776). On November 30, 2021, the EPA published a final action to redesignate El Paso County as nonattainment for the 2015 eight-hour ozone NAAQS and as part of the existing Sunland Park, New Mexico nonattainment area, effective December 30, 2021 (86 FR 67864). The EPA named the expanded area the El Paso-Las Cruces, Texas-New Mexico nonattainment area. The EPA also assigned a marginal classification to the nonattainment area with a retroactive attainment date of August 3, 2021. The EPA assigned the same attainment date to the new El Paso-Las Cruces, Texas-New Mexico nonattainment area that had applied to the existing Sunland Park, New Mexico ozone nonattainment area. The EPA provided Texas one year from the effective date of the nonattainment designation to submit a SIP revision that meets all the marginal nonattainment area planning requirements for El Paso County.

The federal Clean Air Act (FCAA) SIP elements required for areas designated nonattainment with a marginal classification include the submission of:

- A base year EI, followed by periodic EI updates;
- A nonattainment new source review (NSR) program, with an offset ratio of 1.1:1; and
- A requirement for major sources to submit annual emission statements (major source threshold of 100 tons per year (tpy)).

This SIP revision addresses the base year EI requirements and satisfies the emissions statement and nonattainment NSR SIP element requirements for the 2015 eight-hour ozone NAAQS and is due to the EPA by December 30, 2022, for the El Paso County portion of the El Paso-Las Cruces Texas-New Mexico nonattainment area, as required by FCAA, §172 and §182.

Scope of the SIP revision:

A.) Summary of what the SIP revision will do:
This SIP revision addresses the initial base year EI submission requirement for nonattainment areas under the 2015 eight-hour ozone NAAQS by providing emissions information for ozone precursors (volatile organic compounds and nitrogen oxides) from emissions source categories using the 2017 base year for El Paso County. In addition, the SIP revision satisfies the emissions statement and nonattainment NSR SIP element requirements for El Paso County with the state's

certification that current regulations provide the means for complying with applicable nonattainment planning requirements for the 2015 eight-hour ozone NAAQS.

B.) Scope required by federal regulations or state statutes:
Within one year of the effective date of El Paso County's nonattainment designation for the 2015 eight-hour ozone NAAQS, Texas is required to submit a comprehensive, accurate, current inventory of actual emissions from all sources in the nonattainment area, as described in FCAA, §172(c)(3) and §182(a)(1). The EPA specified in its final 2015 eight-hour ozone standard SIP requirements rule that states use 2017 or, alternatively, the year of designation as a base year for the required emissions inventory submittal (83 FR 62998).

In addition to the base year inventory requirement, states are required to submit a periodic inventory of emissions sources in the nonattainment areas to meet the requirements of FCAA, §182(a)(3)(A), as specified in 40 Code of Federal Regulations Part 51, Subpart A. Each periodic inventory must be submitted no later than the end of each three-year period after the required submission of the base year inventory for the nonattainment area until the area is redesignated to attainment. As noted in the final 2015 eight-hour ozone standard SIP requirements rule, states may rely on their three-year cycle inventory submittals required by the Air Emissions Reporting Requirements Rule to meet the periodic inventory obligations.

According to the EPA's final 2015 eight-hour ozone standard SIP requirements rule, states must submit a SIP element to meet each FCAA, §182 nonattainment area planning requirement for the 2015 eight-hour ozone NAAQS. An air agency may provide a written statement certifying a determination that an existing regulation is adequate to meet the applicable nonattainment area planning requirements of FCAA, §182 for a revised ozone NAAQS in lieu of submitting new or revised regulations. This SIP revision includes a written statement certifying that existing regulations are adequate to meet applicable nonattainment area planning requirements for the 2015 eight-hour ozone NAAQS.

C.) Additional staff recommendations that are not required by federal rule or state statute:
None.

Statutory authority:
The authority to propose and adopt SIP revisions is derived from the following sections of Texas Health and Safety Code, Chapter 382, Texas Clean Air Act (TCAA), §382.002, which provides that the policy and purpose of the TCAA is to safeguard the state's air resources from pollution; TCAA, §382.011, which authorizes the commission to control the quality of the state's air; TCAA, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air, and §382.014, which authorizes the commission to develop an inventory of emissions of air contaminants in the state.

The EI SIP revision would also be adopted under the commission's general authority under Texas Water Code, §5.102, General Powers and §5.105, General Policy. The SIP revision would also be adopted under 42 United States Code, §§7420 et seq., which requires states to submit SIP revisions that specify the manner in which the NAAQS will be achieved and maintained within each air quality control region of the state.

Effect on the:

Re: Docket No. 2022-0356-SIP

A.) Regulated community:
This SIP revision impacts the regulated community by changing the SIP emissions year for emissions banking and trading credit generation for El Paso County to 2017. The TCEQ communicated this anticipated change to regulated entities on January 3, 2022.

This SIP revision does not have an effect on the regulated community regarding the EI and nonattainment NSR requirements. TCEQ rules already require regulated entities to submit emissions information used to develop the EI to the TCEQ and comply with applicable requirements of nonattainment NSR.

B.) Public:
This SIP revision would have no new effect on the public.

C.) Agency programs:
None.

Stakeholder meetings:
The proposed SIP revision went through a public review and comment period, including one public hearing.

Public comment:
The commission held a public hearing on July 18, 2022 at 6:00 p.m. in El Paso, Texas. Notice of the public hearing was published in the *Texas Register* as well as the *El Paso Times* newspaper. Notice was also published in Spanish in *El Diario* newspaper.

The comment period opened on June 17, 2022 and closed on July 21, 2022. During the comment period, the TCEQ received comments from David Baake on behalf of Earthworks, Eco El Paso, Environmental Integrity Project, Familias Unidas del Chamizal, Sierra Club, and Sunrise El Paso; Earthworks and Sunrise El Paso; Eco El Paso; Familias Unidas del Chamizal; the United States Environmental Protection Agency Region 6 (EPA); Velo Paso Bicycle-Pedestrian Coalition; the YolChikawa Inst.; and 9 individuals. Comments primarily concerned public notice, Spanish-language access to TCEQ information, health impacts of air pollution, inclusion of biogenic emissions in the base year inventory, and the adequacy of the proposed nonattainment NSR requirements in the proposed SIP revision. A summary of the comments and TCEQ responses is included as a part of this SIP revision in the Response to Comments.

Significant changes from proposal:
Section 3.4: *Nonattainment NSR Program* was amended with language clarifying that the TCEQ interprets 30 Texas Administrative Code (TAC) §116.150(e), regarding a NO_X exemption for the El Paso nonattainment area, as only applying to the 1979 one-hour ozone NAAQS; therefore, it does not impede nonattainment NSR requirements for the 2015 eight-hour ozone NAAQS in El Paso County. It is clear from the history of this rule that the intent of the TCEQ was to implement a NO_X exemption for the El Paso nonattainment area under the 1979 one-hour ozone standard, in accordance with the EPA's approval of the NO_X waiver for that area. In Appendix H: *NO_X Exemption Clarification & Comment Letter* of this SIP revision, the TCEQ includes a commitment that the Executive Director will initiate rulemaking to clarify the rule at 30 TAC §116.150(e).

Potential controversial concerns and legislative interest:
None.

Will this SIP revision affect any current policies or require development of new policies?
None.

What are the consequences if this SIP revision does not go forward? Are there alternatives to SIP revision?
The commission could choose not to comply with the requirements to develop and submit this SIP revision to the EPA. However, if this SIP revision is not submitted by the prescribed deadline, the EPA could issue a finding of failure to submit and impose sanctions on the state. The EPA would be required to promulgate a federal implementation plan (FIP) any time within two years after finding the TCEQ failed to make the required submission. Sanctions could include transportation funding restrictions, grant withholdings, and 2:1 emissions offset requirements for new construction and major modifications of stationary sources in El Paso County. The EPA could impose such sanctions and implement a FIP until the state submitted and the EPA approved a replacement SIP revision for this area.

Key points in the adoption SIP revision schedule:
Anticipated Adoption Date: November 16, 2022

Agency contacts:
Alison Stokes, SIP Project Manager, Air Quality Division, (512) 239-4902
Terry Salem, Staff Attorney, Environmental Law Division, (512) 239-0469
Betsy Peticolas, Staff Attorney, Environmental Law Division, (512) 239-6033
Tessa Gay, Staff Attorney, Environmental Law Division, (512) 239-5938
Jamie Zech, Agenda Coordinator, Air Quality Division, (512) 239-3935

cc: Chief Clerk, 2 copies
Executive Director's Office
Jim Rizk
Morgan Johnson
Krista Kyle
Office of General Counsel
Samuel Short
Donna F. Huff
Alison Stokes
Terry Salem
Betsy Peticolas
Tessa Gay
Jamie Zech
Laurie Barker

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

EMISSIONS INVENTORY FOR THE EL PASO COUNTY 2015 EIGHT-HOUR OZONE STANDARD NONATTAINMENT AREA

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

2015 EIGHT-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARD EMISSIONS INVENTORY STATE IMPLEMENTATION PLAN REVISION FOR THE EL PASO COUNTY PORTION OF THE EL PASO-LAS CRUCES, TEXAS-NEW MEXICO NONATTAINMENT AREA

2022-010-SIP-NR
SFR-122/2022-010-SIP-NR

Adoption
November 16, 2022

This page intentionally left blank

EXECUTIVE SUMMARY

The federal Clean Air Act (FCAA) requires states to submit emissions inventory (EI) information for all relevant sources in areas that are designated nonattainment for any of the National Ambient Air Quality Standards (NAAQS). On October 26, 2015, the United States Environmental Protection Agency (EPA) lowered the eight-hour ozone standard from 0.075 parts per million (ppm) to 0.070 ppm, effective December 28, 2015 (80 *Federal Register* (FR) 65292).

The EPA originally designated El Paso County as attainment/unclassifiable for the 2015 eight-hour ozone NAAQS, effective August 3, 2018 (83 FR 25776). On November 30, 2021, effective December 30, 2021 (86 FR 67864), the EPA published a final action that revised the designation for El Paso County to nonattainment and expanded the existing Sunland Park, New Mexico nonattainment area to include El Paso County. The EPA renamed the area the El Paso-Las Cruces, Texas-New Mexico nonattainment area. The EPA also assigned a marginal classification to the new El Paso-Las Cruces, Texas-New Mexico nonattainment area with the same August 3, 2021 attainment date that applied to the existing Sunland Park, New Mexico ozone nonattainment area. This attainment date is retroactive for the El Paso County portion of the nonattainment area. The EPA assigned the same attainment date to the new El Paso-Las Cruces, Texas-New Mexico nonattainment area that had applied to the existing Sunland Park, New Mexico ozone nonattainment area. The EPA provided Texas one year from the effective date of the nonattainment designation (December 30, 2022) to submit a state implementation plan (SIP) revision for El Paso County that meets all the marginal nonattainment area planning requirements.

FCAA, §182 specifies graduated planning and control requirements for ozone nonattainment areas based on classification. For nonattainment areas classified marginal for an ozone NAAQS, the FCAA-required SIP elements are: (1) a base year EI, followed by periodic EI updates, (2) major source emissions statements, and (3) a nonattainment new source review (NSR) program. This SIP revision satisfies initial FCAA requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico 2015 eight-hour ozone NAAQS nonattainment area (El Paso County 2015 eight-hour ozone NAAQS nonattainment area).

This SIP revision addresses the initial base year EI requirement for nonattainment areas under the 2015 eight-hour ozone NAAQS in Chapter 2: *Emissions Inventories (EI)*, along with Appendices A through G of this SIP revision. The periodic EI submittals required by the Air Emissions Reporting Requirements Rule, 40 Code of Federal Regulations Part 51, Subpart A, would satisfy ongoing SIP EI submission requirements until the nonattainment area is redesignated to attainment.[1]

In addition to satisfying the initial base year EI requirement, this SIP revision satisfies the major source emissions statements and nonattainment NSR program SIP element requirements for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area with the state's certification that current regulations provide the means for

[1] EPA. *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements.* 83 FR 62998. December 6, 2018.

complying with applicable nonattainment planning requirements for the 2015 eight-hour ozone NAAQS. The periodic EI, major source emissions statements, and nonattainment NSR program SIP requirements are discussed in Chapter 3: *Additional Federal Clean Air Act Requirements* of this SIP revision.

SECTION V-A: LEGAL AUTHORITY

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, 2009, 2011, 2013, 2015, 2017, and 2019. 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) was the state air pollution control agency and was 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). 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 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. In 2011, the 82nd Texas Legislature continued the existence of the TCEQ until 2023. With the creation of the TNRCC (and its successor the TCEQ), the authority over air quality is found in both the Texas Water Code and the TCAA. Specifically, the authority of the TCEQ 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 TCEQ, and the responsibilities and authority of the executive director. Chapter 5 also authorizes the TCEQ to implement action when emergency conditions arise and to conduct hearings. Chapter 7 gives the TCEQ enforcement authority.

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.

In addition, 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.

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, 2021
TEXAS WATER CODE	September 1, 2021

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 March 15, 2007
Subchapter A: General Provisions
Subchapter B: Electronic Reporting Requirements

Chapter 39: Public Notice
Subchapter H: Applicability and General Provisions, §§39.402(a)(1) - (6), (8), and (10) - (12), 39.405(f)(3) and (g), (h)(1)(A) - (4), (6), (8) - (11), (i) and (j), 39.407, 39.409, 39.411(a), (e)(1) - (4)(A)(i) and (iii), (4)(B), (5)(A) and (B), and (6) - (10), (11)(A)(i) and (iii) and (iv), (11)(B) - (F), (13) and (15), and (f)(1) - (8), (g) and (h), 39.418(a), (b)(2)(A), (b)(3), and (c), 39.419(e), 39.420 (c)(1)(A) - (D)(i)(I) and (II), (D)(ii), (c)(2), (d) - (e), and (h), and Subchapter K: Public Notice of Air Quality Permit Applications, §§39.601 - 39.605 September 16, 2021

Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, all of the chapter, except §55.125(a)(5) and (6) September 16, 2021

Chapter 101: General Air Quality Rules May 14, 2020

Chapter 106: Permits by Rule, Subchapter A April 17, 2014

Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter November 12, 2020

Chapter 112: Control of Air Pollution from Sulfur Compounds July 16, 1997

Chapter 114: Control of Air Pollution from Motor Vehicles June 23, 2022

Chapter 115: Control of Air Pollution from Volatile Organic Compounds July 22, 2021

Chapter 116: Control of Air Pollution by Permits for New Construction or Modification July 1, 2021

Chapter 117: Control of Air Pollution from Nitrogen Compounds March 26, 2020

Chapter 118: Control of Air Pollution Episodes March 5, 2000

Chapter 122: §122.122: Potential to Emit February 23, 2017

SECTION VI: CONTROL STRATEGY

A. Introduction (No change)
B. Ozone (Revised)
    1. Dallas-Fort Worth (No change)
    2. Houston-Galveston-Brazoria (No change)
    3. Beaumont-Port Arthur (No change)
    4. El Paso (Revised)
    5. Regional Strategies (No change)
    6. Northeast Texas (No change)
    7. Austin Area (No change)
    8. San Antonio Area (No change)
    9. Victoria Area (No change)
C. Particulate Matter (No change)
D. Carbon Monoxide (No change)
E. Lead (No change)
F. Oxides of Nitrogen (No change)
G. Sulfur Dioxide (No change)
H. Conformity with the National Ambient Air Quality Standards (No change)
I. Site Specific (No change)
J. Mobile Sources Strategies (No change)
K. Clean Air Interstate Rule (No change)
L. Transport (No change)
M. Regional Haze (No change)

TABLE OF CONTENTS

Executive Summary
Section V-A: Legal Authority
Section VI: Control Strategy
List of Acronyms
List of Appendices
Chapter 1: General
    1.1 Background
    1.2 Introduction
    1.3 Health Effects
    1.4 Public Hearing and Comment information
    1.5 Social and Economic Considerations
    1.6 Fiscal and Manpower Resources
Chapter 2: Emissions Inventories (EI)
    2.1 Introduction
    2.2 Point Sources
        2.2.1 Point Source EI Development
    2.3 Area Sources
        2.3.1 Area Source EI Development
    2.4 Non-road Mobile Sources
        2.4.1 Non-road EI Development
    2.5 On-road Mobile Sources
        2.5.1 On-road Mobile Source EI Development
        2.5.2 El Paso County On-road Mobile Source EI
    2.6 Biogenic Sources
    2.7 Emissions Summary
Chapter 3: Additional Federal Clean Air Act Requirements
    3.1 Introduction
    3.2 Periodic Emissions Inventory Updates
    3.3 Major Source Emissions Statements
    3.4 Nonattainment NSR Program

LIST OF ACRONYMS

AEO	Annual Energy Outlook
AEDT	Aviation Environmental Design Tool
AERR	Air Emissions Reporting Requirements
APU	Auxiliary Power Units
CFR	Code of Federal Regulations
CMV	commercial marine vessel
EI	emissions inventory
EIA	United States Energy Information Administration
EPA	United States Environmental Protection Agency
ERG	Eastern Research Group
FAA	Federal Aviation Administration
FCAA	federal Clean Air Act
FMVCP	Federal Motor Vehicle Control Program
FR	*Federal Register*
GSE	Ground Support Equipment
I/M	inspection and maintenance
ICI	industrial, commercial, and institutional
MOVES	Motor Vehicle Emissions Simulator
NAAQS	National Ambient Air Quality Standard
NSR	new source review
NEI	National Emissions Inventory
NO_X	nitrogen oxides
ppm	parts per million
RVP	Reid vapor pressure
SIP	state implementation plan
STARS	State of Texas Air Reporting System
TAC	Texas Administrative Code
TACB	Texas Air Control Board
TCAA	Texas Clean Air Act
TCEQ	Texas Commission on Environmental Quality (commission)
TDM	travel demand model
TexN2	Texas NONROAD version 2

TNRCC	Texas Natural Resource Conservation Commission
tpd	tons per day
tpy	tons per year
TTI	Texas A&M Transportation Institute
TxLED	Texas Low Emission Diesel
VMT	vehicle miles traveled
VOC	volatile organic compounds

LIST OF TABLES

Table 2-1: Summary of El Paso County 2017 NO_X and VOC Emissions (tons per day and tons per year)

LIST OF APPENDICES

Appendix	Appendix Name
Appendix A	El Paso County Nonattainment Area Site-Level Point Source Emissions
Appendix B	Growth Factors for Area and Point Sources
Appendix C	Industrial, Commercial, and Institutional (ICI) Fuel Use Study
Appendix D	Development of Texas Statewide 2017 AERR Inventory for Non-Road Model Category Mobile Sources
Appendix E	2020 Texas Statewide Airport Emissions Inventory and 2011 through 2050 Trend Inventories
Appendix F	2020 Texas Statewide Locomotive and Rail Yard Emissions Inventory and 2011 through 2050 Trend Inventories
Appendix G	2017 On-road Mobile Source Annual, Summer Weekday and Winter Weekday Emissions Inventories: El Paso County
Appendix H	NO_x Exemption Clarification & Commitment Letter

CHAPTER 1: GENERAL

1.1 BACKGROUND

Information on the Texas State Implementation Plan (SIP) and a list of SIP revisions and other air quality plans adopted by the commission can be found on the Texas State Implementation Plan webpage (http://www.tceq.texas.gov/airquality/sip) on the Texas Commission on Environmental Quality's (TCEQ) website (http://www.tceq.texas.gov).

1.2 INTRODUCTION

On October 26, 2015, the United States Environmental Protection Agency (EPA) lowered the eight-hour ozone standard from 0.075 parts per million (ppm) to 0.070 ppm. The 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS) became effective on December 28, 2015 (80 *Federal Register* (FR) 65292).

The EPA originally designated El Paso County as attainment/unclassifiable for the 2015 eight-hour ozone NAAQS, as published in the *Federal Register* on June 4, 2018, effective August 3, 2018 (83 FR 25776). The City of Sunland Park, New Mexico, and environmental petitioners challenged the EPA's attainment designation for El Paso County in the United States Court of Appeals for the District of Columbia Circuit. On July 10, 2020, the court issued its opinion to remand (without vacatur) the El Paso County attainment designation to the EPA and require the EPA to issue a revised El Paso County designation as expeditiously as practicable.

On May 25, 2021, the EPA sent a 120-day letter to Texas notifying the governor that the EPA intended to modify the designation for El Paso County to nonattainment as part of the existing Doña Ana County partial-county (Sunland Park, New Mexico) ozone nonattainment area. The EPA published notice of its intended redesignation and boundary change on June 14, 2021 (86 FR 31460). On July 26, 2021, the TCEQ submitted a response to the 120-day letter requesting that the EPA not modify El Paso County's existing attainment/unclassifiable designation.

On November 30, 2021, effective December 30, 2021 (86 FR 67864), the EPA published a final action that revised the designation for El Paso County to nonattainment and expanded the existing Sunland Park, New Mexico nonattainment area to include El Paso County. The EPA named the expanded area the El Paso-Las Cruces, Texas-New Mexico nonattainment area. The EPA assigned a marginal classification to the nonattainment area with a retroactive attainment date of August 3, 2021 for the El Paso County portion of the area. The EPA assigned the same attainment date to the new El Paso-Las Cruces, Texas-New Mexico nonattainment area that had applied to the existing Sunland Park, New Mexico ozone nonattainment area. The EPA provided Texas one year from the effective date of the nonattainment designation to submit a SIP revision for El Paso County that meets all the marginal nonattainment area planning requirements.

Federal Clean Air Act (FCAA), §182 specifies graduated planning and control requirements for ozone nonattainment areas based on classification. For ozone NAAQS nonattainment areas classified as marginal, the FCAA-required SIP elements are: (1) a base year emissions inventory (EI), followed by periodic EI updates, (2) major source emissions statements, and (3) a nonattainment new source review (NSR) program. This SIP revision would satisfy initial FCAA requirements for the El Paso County portion of

the El Paso-Las Cruces, Texas-New Mexico 2015 eight-hour ozone NAAQS marginal nonattainment area (El Paso County 2015 eight-hour ozone NAAQS nonattainment area). Additionally, on September 10, 2020 New Mexico submitted a SIP revision to the EPA addressing the 2015 eight-hour ozone NAAQS emissions inventory and emissions statement requirements for the Sunland Park portion of the El Paso-Las Cruces, Texas-New Mexico nonattainment area (86 FR 57388).

FCAA, §§172(c)(3) and 182(a)(1) require states to submit a comprehensive, accurate, current inventory of actual emissions from all relevant sources of ozone precursors in an ozone nonattainment area. Tropospheric ozone is produced when ozone precursors, nitrogen oxides (NO_X) and volatile organic compounds (VOC), undergo photochemical reactions in the presence of sunlight; therefore, states are required to compile information on the important sources of these precursor pollutants. The EIs provide data for a variety of air quality planning tasks including establishing base year emission levels, calculating federally required emission reduction targets, emission inputs into air quality simulation models, and tracking emissions over time. This SIP revision addresses the initial base year EI submission requirement for nonattainment areas for the 2015 eight-hour ozone NAAQS by providing emissions information for ozone precursors (NO_X and VOC) from point, area, on-road mobile, and non-road mobile source categories as the 2017 base year initial emissions inventories for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area. The EPA specified that states use 2017 as the base year in the final 2015 eight-hour ozone standard SIP requirements rule published on December 6, 2018 (83 FR 62998).[2] The required base year EI for El Paso County is provided in Chapter 2: *Emissions Inventories,* along with Appendices A through G of this SIP revision.

The submission of a 2017 EI is also required under the EPA's Air Emissions Reporting Requirements (AERR) Rule, 40 Code of Federal Regulations (CFR) Part 51, Subpart A. The AERR Rule requires states to submit three-year cycle EIs for inclusion in the National Emissions Inventory (NEI), a comprehensive and detailed estimate of air emissions of both criteria and hazardous air pollutants. As directed by the AERR Rule, the NEI includes statewide coverage. Annual and summer day emissions are reported on a three-year cycle for the AERR Rule. The final 2015 eight-hour ozone standard SIP requirements rule provides that states may rely on their three-year cycle inventory as described by the AERR Rule to meet the FCAA, §182(a)(3)(A) periodic inventory obligations. Periodic EI submissions for the 2015 eight-hour ozone NAAQS nonattainment areas will be due to the EPA in the same years as the AERR Rule-required submittals. The first periodic EI for the 2015 eight-hour ozone NAAQS marginal nonattainment areas in Texas was submitted to the EPA by the applicable due date (no later than May 31, 2019) and included 2020 EI information for point, area, and mobile sources for the entire state. The next periodic EI (2023) is due to the EPA by December 31, 2024.

In addition to satisfying the initial base year EI submission requirement, this SIP revision satisfies the major source emissions statements and nonattainment NSR program SIP element requirements for the El Paso County 2015 eight-hour ozone

[2] EPA. *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements, December 6, 2018,* 83 FR 62998.

NAAQS nonattainment area with the state's certification that current regulations provide the means for complying with applicable nonattainment planning requirements for the 2015 eight-hour ozone NAAQS. The periodic EI, major source emissions statements, and nonattainment NSR program SIP requirements are discussed in Chapter 3: *Additional Federal Clean Air Act Requirements* of this SIP revision.

1.3 HEALTH EFFECTS

In 2015, the EPA revised the primary ozone standard to 0.070 ppm. To support the 2015 eight-hour primary ozone standard, the EPA provided information that suggested that health effects may potentially occur at levels lower than the previous 0.075 ppm standard. Breathing relatively high levels of ground-level ozone can cause acute respiratory problems like cough and respiratory irritation and can aggravate the symptoms of asthma. Repeated exposures to high levels of 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 higher risk from exposure to ozone when compared to adults because 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 through October) when high ozone levels are typically recorded. Adults most at risk from exposures to elevated ozone levels are people working or exercising outdoors and individuals with respiratory diseases.

1.4 PUBLIC HEARING AND COMMENT INFORMATION

The public comment period opened on June 17, 2022 and closed on July 21, 2022. The commission held a public hearing for this SIP revision on July 18, 2022 at 6:00 p.m. in El Paso, Texas. Notice of the public hearing was published in the *Texas Register*. Notice was also published in the *El Paso Times* in English and in *El Diario* newspaper in Spanish.

Written comments were accepted via mail, fax, or through the eComments system (https://www6.tceq.texas.gov/rules/ecomments/). During the comment period, TCEQ staff received comments from David Baake on behalf of Earthworks, Eco El Paso, Environmental Integrity Project, Familias Unidas del Chamizal, Sierra Club, and Sunrise El Paso; Earthworks and Sunrise El Paso; Eco El Paso; EPA Region 6; Familias Unidas del Chamizal; Velo Paso Bicycle-Pedestrian Coalition; YolChikawa Inst.; and 9 individuals. The comments received are summarized and addressed in the Response to Comments for this SIP revision.

1.5 SOCIAL AND ECONOMIC CONSIDERATIONS

While this SIP revision does not create new regulations, nonattainment NSR requirements have an economic impact on local industry as well as potential social benefits from the emission offset requirement.

1.6 FISCAL AND MANPOWER RESOURCES

The TCEQ has determined that its fiscal and manpower resources are adequate and will not be adversely affected by implementing this plan.

CHAPTER 2: EMISSIONS INVENTORIES (EI)

2.1 INTRODUCTION

The federal Clean Air Act (FCAA) requires that base year EIs be prepared for ozone nonattainment areas. Ground-level (tropospheric) ozone is produced when ozone precursors, nitrogen oxides (NO_X) and volatile organic compounds (VOC), undergo photochemical reactions in the presence of sunlight.

The Texas Commission on Environmental Quality (TCEQ) maintains an inventory of current information for sources of NO_X and VOC that identifies the types of emissions sources present in an area, the amount of each pollutant emitted, and the types of processes and control devices employed at each plant or source category. The total inventory of NO_X and VOC emissions for an area is derived from estimates developed for multiple categories of emissions sources, including point, area, non-road mobile, and on-road mobile. The EI provides data for a variety of air quality planning tasks, including establishing base year emissions levels, calculating federally required emission reduction targets, developing emissions inputs for air quality models, and tracking actual emissions reductions against established emissions growth and control budgets.

The federal Air Emissions Reporting Requirements (AERR) Rule (40 Code of Federal Regulations (CFR) Part 51 Subpart A) requires states to develop and submit periodic EIs to the United States Environmental Protection Agency (EPA) every three years. As required by the AERR Rule, the 2017 periodic EI was reported to the EPA's National Emissions Inventory (NEI) as a comprehensive and detailed estimate of air emissions, including ozone precursors (NO_X and VOC). As directed by the AERR Rule, the Texas periodic EI includes annual emissions for the entire state and ozone season daily emissions for the 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment areas in Texas.

2.2 POINT SOURCES

2.2.1 Point Source EI Development

Stationary point source emissions data are collected annually from sites that meet the reporting requirements of 30 Texas Administrative Code (TAC) §101.10. This rule, referred to as the TCEQ EI reporting rule, establishes point source EI reporting thresholds in ozone nonattainment areas that are currently at or less than major source thresholds. Therefore, some minor sources in the ozone nonattainment areas report to the point source EI.

To collect the data, the TCEQ sends notices to all sites identified as potentially meeting the reporting requirements. Companies are required to report emissions data and to provide sample calculations used to determine the emissions. Information characterizing the process equipment, the abatement units, and the emission points is also required. FCAA, §182(a)(3)(B) and 30 TAC §101.10(d)(1) require company representatives to certify that reported emissions are true, accurate, and fully represent emissions that occurred during the calendar year, to the best of the representatives' knowledge.

All data submitted are reviewed for quality-assurance purposes and then stored in the State of Texas Air Reporting System (STARS) database. EI guidance documents and historical point source emissions of criteria pollutants are available on the TCEQ's Point Source Emissions Inventory webpage (https://www.tceq.texas.gov/airquality/point-source-ei/psei.html). Additional information is available upon request from the TCEQ's Air Quality Division.

The 2017 point source EI data were extracted from STARS on March 10, 2022. The extracted data include reported ozone season daily and annual emissions of NO_x and VOC from each site in the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico 2015 eight-hour ozone NAAQS nonattainment area (El Paso County 2015 eight-hour ozone NAAQS nonattainment area) that submitted a 2017 EI. The data reflect revisions to the 2017 EI that were reviewed, approved, and entered in STARS on or before the extract date. Site-level 2017 NO_x and VOC emissions data are summarized and provided in Appendix A: *El Paso County Nonattainment Area Site-Level Point Source Emissions*.

Summaries of 2017 point source EI data for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area are presented in Table 2-1: *Summary of El Paso County 2017 NO_x and VOC Emissions (tons per day and tons per year).* Further information, including 2017 unit-level NO_x and VOC emissions data, is available upon request.

2.3 AREA SOURCES

Stationary emissions sources that do not meet the reporting requirements for point sources are classified as area sources. Area sources are small-scale stationary industrial, commercial, and residential sources that use materials or perform processes that generate emissions. Examples of typical VOC emissions sources include personal care products, printing operations, industrial coatings, degreasing solvents, house paints, gasoline service station underground tank filling, and vehicle refueling operations. Examples of typical fuel combustion sources that emit NO_x include stationary source fossil fuel combustion at residences and businesses, outdoor refuse burning, and structure fires.

EPA rules and guidance require area source emissions to be calculated as county-wide totals rather than as individual sources. Area source emissions are typically calculated by multiplying an established emissions factor (emissions per unit of activity) by the appropriate activity or activity surrogate responsible for generating emissions. Population is one of the more commonly used activity surrogates for area source calculations. Other activity data commonly used include the amount of gasoline sold in an area, employment by industry type, and crude oil and natural gas production, depending on the appropriate activity and area source category.

2.3.1 Area Source EI Development

The 2017 EI was developed using Texas-specific data from the EPA's NEI database; TCEQ-contracted projects to develop EIs; TCEQ staff projects to develop EIs; and projections using 2014 EIs by applying growth factors derived from Eastern Research Group (ERG) study data, the Economy and Consumer Credit Analytics website (http://www.economy.com/default.asp), and the United States Energy Information Administration's (EIA) *Annual Energy Outlook (AEO)* publication. The documentation

for the development of the ERG study growth factors is provided in Appendix B: *Growth Factors for Area and Point Sources.*

The EPA developed EIs and related data for states to use for many area source categories as part of the NEI. States access the area source-related data through the EPA's NEI website (https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-plan). These source categories include, but are not limited to, industrial coatings; degreasing; residential fuel use; commercial cooking; aviation fuel use; and consumer products.

For many source categories, the TCEQ developed state-specific emissions estimates by acquiring applicable state-specific activity data and applying appropriate emissions factors. These source categories include, but are not limited to, gasoline storage tanks, structure fires, dry cleaners, automobile fires, and asphalt plants.

A significant improvement made for the 2017 EI was the development of a Texas-specific industrial, commercial, and institutional (ICI) combustion emissions calculator. This improved upon the default calculations and parameters provided by the EPA for these fuel combustion sources. The documentation for the development of the ICI combustion emissions calculator is provided in Appendix C: *Industrial, Commercial, and Institutional (ICI) Fuel Use Study*.

Summaries of 2017 area source EI data for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area are presented in Table 2-1.

2.4 NON-ROAD MOBILE SOURCES

Non-road vehicles do not normally operate on roads or highways and are often referred to as off-road or off-highway vehicles. Non-road emissions sources include agricultural equipment, commercial and industrial equipment, construction and mining equipment, lawn and garden equipment, aircraft and airport equipment, locomotives, drilling rigs, and commercial marine vessels (CMV).

For this SIP revision, 2017 EIs for non-road sources were developed for the following subcategories: non-road sources as specified in the paragraph above, airports, and locomotives. The airport subcategory includes estimates for emissions from aircraft, auxiliary power units (APU), and ground support equipment (GSE) subcategories added together and presented as a total. The EI does not include non-road mobile sources that are not present in El Paso County, such as CMVs and drilling rigs used in upstream oil and gas exploration activities.

2.4.1 Non-road EI Development

To provide more specific emission estimates, a Texas-specific non-road model called Texas NONROAD version 2 (TexN2) was used in conjunction with the EPA's Motor Vehicle Emissions Simulator (MOVES) model to calculate 2017 emissions from all non-road mobile source equipment and recreational vehicles, with the exception of airports and locomotives. The TexN2 non-road model allows TCEQ staff to replace the EPA MOVES model's default non-road data with more specific local survey data. Several equipment surveys have been conducted that focused on various equipment categories operating in different areas in Texas. The resulting survey data were used as inputs to the TexN2 non-road model to estimate emissions more accurately. Procedures used to

develop the non-road model category EI are documented in Appendix D: *Development of Texas Statewide 2017 AERR Inventory for Non-road Model Category Mobile Sources.*

The 2017 NO_X and VOC emissions for airport sources used for this SIP revision were taken from the 2017 airport trend EI developed as part of a TCEQ-commissioned study using the Federal Aviation Administration's (FAA) Aviation Environmental Design Tool (AEDT). AEDT is the most recent FAA model for estimating airport emissions and has replaced the FAA's Emissions and Dispersion Modeling System. The airport emissions categories used for this SIP revision include aircraft (commercial air carriers, air taxis, general aviation, and military), APU, and GSE operations. The method and procedures used to develop the airport EI are documented in the report in *Appendix E: 2020 Texas Statewide Airport Emissions Inventory and 2011 through 2050 Trend Inventories.*

The 2017 NO_X and VOC emissions for locomotive sources used for this SIP revision were taken from the 2017 locomotive trend EI developed as part of a TCEQ-commissioned study using EPA-accepted EI development methods. The locomotive EI includes line haul and yard emissions activity data from all Class I and III locomotive activity and emissions by rail segment (currently, there are no Class II operators in Texas). The method and procedures used to develop the locomotive EI are documented in the report in Appendix F: *2020 Texas Statewide Locomotive and Rail Yard Emissions Inventory and 2011 through 2050 Trend Inventories.*

Summaries of 2017 non-road mobile EI data for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area are presented in Table 2-1.

2.5 ON-ROAD MOBILE SOURCES

On-road mobile emissions sources consist of automobiles, trucks, motorcycles, and other motor vehicles traveling on public roadways. On-road mobile source ozone precursor emissions are usually categorized as combustion-related emissions or evaporative hydrocarbon emissions. Combustion-related emissions are estimated for vehicle engine exhaust. Evaporative hydrocarbon emissions are estimated for the fuel tank and other evaporative leak sources on the vehicle. To calculate emissions, both the rate of emissions per unit of activity (emissions factors) and the number of units of activity must be determined.

2.5.1 On-road Mobile Source EI Development

The 2017 on-road mobile source EIs for this SIP revision were developed under contract by the Texas A&M Transportation Institute (TTI) for the 2017 AERR. As required by the AERR implementation rules, the on-road inventories are based on vehicle miles traveled (VMT) estimates and emission rates for an average summer work weekday. The EPA's mobile source emission model, the MOVES model, MOVES2014a, was used to estimate the summer weekday emission rates for NO_X and VOC.[3] The roadway link-level VMT estimates were obtained from travel demand modeling for the

[3] At the time the 2017 AERR was developed, MOVES2014a was the most recent on-road release. The more recent MOVES2014b update only impacted non-road model components and does not change the on-road portion of the model.

El Paso County 2015 eight-hour ozone NAAQS nonattainment area conducted by the El Paso Metropolitan Planning Organization.

The MOVES3 model was not used to develop a 2017 mobile source EI since the TCEQ had already invested significant resources to develop an on-road mobile source EI using MOVES2014a. As EPA stated in the January 7, 2021 version of the *Federal Register* (FR), "[…] state and local agencies that have already completed significant work on a SIP with a version of MOVES2014 […] may continue to rely on the earlier version of MOVES" (86 FR 1108). Additionally, the use of MOVES2014a ensures planning assumptions are consistent between Sunland Park, New Mexico, and El Paso County in the El Paso-Las Cruces, Texas-New Mexico 2015 nonattainment area. The EPA approval of the Sunland Park, New Mexico 2015 eight-hour ozone NAAQS marginal SIP submission on October 15, 2021 (86 FR 57388). This New Mexico SIP revision uses on-road mobile source EIs developed using MOVES2014a.

Emissions factors for this SIP revision were developed using the EPA's mobile emissions factor model, MOVES2014a. The MOVES2014a model may be run using national default information, or the default information may be modified to simulate data specific to an area such as the control programs, driving behavior, meteorological conditions, and vehicle characteristics. Modifications to the national default values influence emissions factors calculated by the MOVES2014a model, therefore the parameters used reflect local conditions to the extent that local values were available. The localized inputs used to develop the on-road mobile source EI include vehicle speeds for each roadway link, vehicle populations, vehicle hours idling, temperature, humidity, vehicle age distributions for each vehicle type, percentage of miles traveled for each vehicle type, type of applicable inspection and maintenance (I/M) program, fuel properties, and applicable fuel control programs.

To estimate on-road mobile source emissions, emissions factors calculated by the MOVES2014a model must be multiplied by the level of vehicle activity. On-road mobile source emissions factors are expressed in units of grams per mile, grams per vehicle (evaporative), and grams per hour (extended idle); therefore, the activity data required to complete the inventory calculation are VMT in units of miles per day, vehicle populations, truck hoteling activity, and source hours idling. The level of vehicle travel activity is developed using travel demand models (TDM) run by the Texas Department of Transportation or by the local metropolitan planning organizations. The TDMs are validated against many ground counts, i.e., traffic passing over counters placed in various locations throughout a county or area. For SIP emissions inventories, VMT estimates are calibrated against outputs from the federal Highway Performance Monitoring System, a model built from a different set of traffic counters. Vehicle populations by source type are derived from the Texas Department of Motor Vehicles' registration database and, as needed, national estimates for vehicle source type population.

In addition to the number of miles traveled on each roadway link, the speed on each roadway type or segment is also needed to complete an on-road mobile source EI. Roadway speeds, required inputs for the MOVES2014a model, are calculated by using the activity volumes from the El Paso TDM and a post-processor speed model.

2.5.2 El Paso County On-road Mobile Source EI

The 2017 on-road mobile source EI for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area was developed using emissions factors calculated using the MOVES2014a version of the MOVES model. All control strategies implemented by 2017 were included in the input to the EI development for the 2017 on-road mobile source base year EI. Those controls include the effects of the federal motor vehicle control program (FMVCP), federal limits for gasoline RVP and sulfur content, the El Paso County vehicle I/M program, federal ultra-low sulfur diesel, and the Texas Low Emission Diesel (TxLED) Program.

The VMT was developed using the latest activity estimates from the El Paso Metropolitan Planning Organization's TDM 2017 network. The activity levels used to calculate the EI reflect the 2017 roadway network with 2017 VMT and speeds.

A summary of the 2017 on-road mobile EI for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area is presented in Table 2-1.

For complete documentation of the development of the 2017 El Paso County on-road emissions inventories, and details on MOVES2014a model inputs, refer to Appendix G: *2017 On-road Mobile Source Annual, Summer Weekday and Winter Weekday Emissions Inventories: El Paso County*.

2.6 BIOGENIC SOURCES

Biogenic sources include VOC emissions from crops, lawn grass, and trees as well as NO_X from soils and other sources. Earlier emissions reporting rules required biogenic sources to be reported along with point, area, on-road mobile, and non-road mobile sources. Beginning with the AERR Rule, the EPA no longer required states to report emissions from biogenic sources. Therefore, as of the 2011 reporting year, the TCEQ's comprehensive triennial EI no longer includes emissions from biogenic sources. Biogenic inventories may still be developed for air quality modeling purposes, as necessary. The 2017 EIs in this SIP revision represent anthropogenic sources only.

2.7 EMISSIONS SUMMARY

Summaries of 2017 NO_X and VOC emissions for the El Paso County 2015 eight-hour ozone NAAQS nonattainment area for each source category are presented in Table 2-1.

Table 2-1: Summary of El Paso County 2017 NO_x and VOC Emissions (tons per day and tons per year)

Emissions Inventory Source	Ozone Season Weekday NO_x (tpd)	Annual NO_x (tpy)	Ozone Season Weekday VOC (tpd)	Annual VOC (tpy)
Point Sources	9.84	3,148.83	2.86	931.53
Area Sources	3.61	1,486.23	24.35	7,716.39
Non-Road Mobile Sources	9.13	2,851.32	2.58	835.73
On-Road Mobile Sources	21.08	8,063.25	9.51	3,271.31
Total of All Sources	43.66	15,549.63	39.30	12,754.6

CHAPTER 3: ADDITIONAL FEDERAL CLEAN AIR ACT REQUIREMENTS

3.1 INTRODUCTION

Federal Clean Air Act (FCAA), §182 sets out a graduated control program for ozone nonattainment areas. For ozone National Ambient Air Quality Standard (NAAQS) nonattainment areas classified as marginal, the FCAA-required state implementation plan (SIP) elements are: (1) a base year emissions inventory (EI), followed by periodic EI updates, (2) major source emissions statements, and (3) a nonattainment new source review (NSR) program.

According to the United States Environmental Protection Agency's (EPA) final 2015 eight-hour ozone standard SIP requirements rule, states must submit a SIP element to meet each FCAA, §182 nonattainment area planning requirement for the 2015 eight-hour ozone NAAQS (83 *Federal Register* (FR) 62998). Where an air agency determines that an existing regulation is adequate to meet the applicable nonattainment area planning requirements of FCAA, §182 for a revised ozone NAAQS, that air agency's SIP revision may provide a written statement certifying that determination in lieu of submitting new revised regulations. This chapter certifies that Texas meets all additional FCAA nonattainment area requirements applicable to the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico 2015 eight-hour ozone NAAQS marginal nonattainment area, including periodic EIs, major source emissions statements, and nonattainment NSR program requirements.

3.2 PERIODIC EMISSIONS INVENTORY UPDATES

States must submit inventories for nonattainment areas every three years, starting the third year after submission of base year inventories, until the area is redesignated to attainment. These periodic EIs must meet the same requirements as the base year inventories and shall likewise cover actual, peak season emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC).

In accordance with FCAA, §182(a)(1), the Texas Commission on Environmental Quality (TCEQ) submits periodic emissions inventories to the EPA every three years and will continue to do so. The first periodic EI for the 2015 eight-hour ozone NAAQS marginal nonattainment areas in Texas was submitted to the EPA by the applicable due date (no later than May 31, 2019) and included the 2020 EI information for point, area, and mobile sources, which included statewide information, including information for El Paso County. The next periodic EI (2023) is due to the EPA by December 31, 2024.

3.3 MAJOR SOURCE EMISSIONS STATEMENTS

SIP planning requirements for marginal ozone nonattainment areas mandate the submission of annual reports (statements) of actual NO_x and VOC emissions from owners and operators of stationary sources. The emissions threshold for a major source in a marginal ozone NAAQS nonattainment area is 100 tons per year (tpy) of either NO_x or VOC emissions.

On August 26, 1994, the EPA approved a revision to the Texas SIP that included revisions to 30 Texas Administrative Code (TAC) §101.10: Emissions Inventory Requirements of the General Air Quality Rules (https://www.epa.gov/sips-tx/texas-sip-30-tac-10110-emissions-inventory-requirements-general-air-quality-rules). The purpose

of this revision was to implement an emissions statement program for stationary sources within Texas ozone NAAQS nonattainment areas (59 FR 44036).

The TCEQ has determined that 30 TAC §101.10 of the Texas SIP, as revised and adopted, which requires that stationary sources report NO_x and VOC emissions, continues to address the emissions statements requirement in FCAA, §182(a)(3)(B) for the 2015 eight-hour ozone NAAQS.

3.4 NONATTAINMENT NSR PROGRAM

Marginal ozone nonattainment area SIP revisions must include provisions to require permits for the construction and operation of new or modified major stationary sources. Major stationary sources in marginal and moderate ozone nonattainment areas are those sources emitting at least 100 tpy of a regulated pollutant. Minor stationary sources are all sources that are not major stationary sources.

An NSR permitting program for nonattainment areas is required by FCAA, §182(a)(2)(C) and further defined in 40 Code of Federal Regulations (CFR) Part 51, Subpart I (Review of New Sources and Modifications). Under these requirements, new major sources or major modifications at existing sources in an ozone nonattainment area must comply with the lowest achievable emissions rate and obtain sufficient emissions offsets.

Nonattainment NSR permits for ozone authorize construction of new major sources or major modifications of existing sources of NO_x or VOC in an area that is designated nonattainment for the ozone NAAQS. Emissions thresholds and pollutant offset requirements under the nonattainment NSR program are based on the nonattainment area's classification. The NSR offset ratio for marginal ozone nonattainment areas is 1.10:1.

The EPA initially approved Texas' nonattainment NSR regulation for ozone on November 27, 1995 (60 FR 49781). The TCEQ has determined that because the Texas SIP already includes 30 TAC §116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC §116.150 (New Major Source or Major Modification in Ozone Nonattainment Area), the nonattainment NSR SIP requirements are met for Texas for the 2015 eight-hour ozone NAAQS for El Paso County. Currently, 30 TAC §116.150(e) states that "for sources located in the El Paso ozone nonattainment area as defined in 40 CFR, Part 81, the requirements of this section do not apply to NO_x exemptions." This subsection was initially adopted in 1995 by the TCEQ's predecessor, the Texas Natural Resource Conservation Commission, in response to the EPA's approval of a NO_x waiver for the 1979 one-hour ozone standard El Paso nonattainment area (59 FR 60709). It is clear from the history of 30 TAC §116.150(e) that the intent of the commission was to implement a NO_x exemption exclusively for the El Paso nonattainment area under the 1979 one-hour ozone standard in accordance with the EPA's approval of the NO_x waiver for the area. The TCEQ interprets 30 TAC §116.150(e) to apply only to the 1979 one-hour ozone NAAQS. As such, it does not apply to nonattainment NSR requirements for the 2015 eight-hour ozone standard in the El Paso area. Further, on September 9, 2019, the EPA published final approval of the 2015 Ozone NAAQS Infrastructure SIP Revision, certifying that Texas has EPA-approved rules that cover nonattainment NSR requirements (84 FR 49663). In Appendix H: *NO_x Exemption Clarification & Commitment Letter* of this SIP

revision, the TCEQ includes a commitment that the Executive Director will initiate rulemaking to clarify the rule at 30 TAC §116.150(e).

Appendices Available Upon Request

Alison Stokes
SIP Project Manager
alison.stokes@tceq.texas.gov
512.239.4902

RESPONSE TO COMMENTS RECEIVED CONCERNING THE 2015 EIGHT-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS) EMISSIONS INVENTORY (EI) STATE IMPLEMENTATION PLAN (SIP) REVISION FOR THE EL PASO COUNTY PORTION OF THE EL PASO-LAS CRUCES, TEXAS-NEW MEXICO NONATTAINMENT AREA

The Texas Commission on Environmental Quality (TCEQ or commission) conducted a public hearing on July 18, 2022 at 6:00 p.m. in El Paso, Texas. During the comment period, which closed on July 21, 2022, the commission received comments from David Baake on behalf of Earthworks, Eco El Paso, Environmental Integrity Project, Familias Unidas del Chamizal, Sierra Club, and Sunrise El Paso (Environmental and Community Groups); EarthWorks and Sunrise El Paso (Earthworks); Eco El Paso; Familias Unidas del Chamizal; the United States Environmental Protection Agency Region 6 (EPA); Velo Paso Bicycle-Pedestrian Coalition; the YolChikawa Inst.; and 9 individuals.

TABLE OF CONTENTS

General Comments
Emissions Inventory
On-Road Sources

GENERAL COMMENTS

The EPA recommended revising the title of the SIP revision to more accurately reflect that the SIP revision is not limited to an emissions inventory but addresses all marginal nonattainment area requirements, including nonattainment new source review (NSR) requirements that are in place in El Paso County.

The title for this SIP revision is consistent with previously adopted required marginal area SIP revisions for both the 2015 and the 2008 eight-hour ozone standards. The EPA approved the 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the Houston-Galveston-Brazoria (HGB), Dallas-Fort Worth (DFW), and Bexar County Nonattainment Areas (Non-Rule Project No. 2019-111-SIP-NR) and the EI SIP Revision for the 2008 Eight-Hour Ozone Standard for the HGB and DFW Areas (Non-Rule Project No. 2013-016-SIP-NR) (86 *Federal Register* (FR) 34139; 80 FR 9204), which also addressed all marginal nonattainment area requirements.

No change was made in response to this comment.

Two individuals expressed appreciation that the TCEQ held a public hearing to receive input from the local community on air quality.

The TCEQ appreciates the support and values public engagement.

Two individuals commented that information regarding the time and location of the public hearing was not available on the TCEQ's website and that they became aware of the public hearing on the day that it was held.

Notice of the public hearing for this SIP revision was provided in accordance with requirements of both state and federal law. Notice of the public hearing was published on June 17, 2022 in English in the *El Paso Times* and in Spanish in *El Diario* newspaper. Notice of the hearing was also published in the Texas *Register* on July 1, 2022 (47 *TexReg* 3835). Details about the date, time, and location of the public hearing were posted on the TCEQ's SIP Hot Topics webpage (https://www.tceq.texas.gov/airquality/sip/Hottop.html) on June 15, 2022 in both English and Spanish. Copies of the public hearing notice were also posted on the TCEQ's Texas SIP Revisions webpage (https://www.tceq.texas.gov/airquality/sip/sipplans.html#prosips) on June 15, 2022 in both English and Spanish. The proposed SIP revision and appendices were made available to the public on the SIP Hot Topics web page as well as the Air Pollution from Ozone (https://www.tceq.texas.gov/airquality/sip/criteria-pollutants/sip-ozone) webpage on May 27, 2022.

No changes were made in response to this comment.

Environmental and Community Groups, Earthworks, Eco El Paso, the Velo Paso Bicycle-Pedestrian Coalition, and one individual commented that the TCEQ needed to comply with the public notice and information requirements of the federal Clean Air Act (FCAA). The Environmental and Community Groups specifically stated that the proposed SIP revision failed to comply with FCAA, §127, which requires that each state implementation plan include measures to notify the public of NAAQS exceedances, advise the public of health hazards related to air pollution, and enhance public awareness of measures that individuals can take to mitigate their contribution to air pollution and participate in efforts to improve air quality. The Environmental and Community Groups stated that the TCEQ should be guided by the principles of its own Environmental Justice Initiative when engaging with the public. Two individuals stated that the TCEQ does not adequately inform the public of hazards associated with elevated ozone pollution.

The commission disagrees that the public participation process for this EI SIP revision was inadequate and further disagrees that the Texas SIP fails to comply with the requirements of FCAA, §127. The TCEQ complied with the relevant requirements for public hearing and notification under 40 Code of Federal Regulations (CFR) §51.102, Texas Government Code, Subchapter B, Chapter 2001, and under the Texas Clean Air Act, Texas Health and Safety Code (THSC), §382.017 and Texas Water Code, §5.103, in addition to the requirements in 30 Texas Administrative Code (TAC) Chapter 20 relating to rulemaking. The commission notes that the EPA published approval of the TCEQ's 2015 Eight-Hour Ozone NAAQS Infrastructure SIP Revision (Non-Rule Project No. 2017-040-SIP-NR) submittal on September 23, 2019 (84 FR 49663). That SIP revision specifically addressed how the TCEQ meets the requirements of FCAA, §127, in addition to other requirements.

The TCEQ has multiple methods of informing the public of possible air quality concerns within the state. The TCEQ publishes a daily Air Quality Forecast for ozone and particulate matter (PM), based on the EPA's Air Quality Index which rates pollution levels relative to their health impact. The TCEQ also publishes a daily Air

Quality Index (AQI) Report, Latest Texas Ozone Levels report, and Latest Texas $PM_{2.5}$ Levels report. The TCEQ encourages members of the public to sign up to receive notifications about Today's Texas Air Quality Forecast and Ozone Action Day forecasts so that they can stay informed about possible high ozone days. The TCEQ provides public access to its monitoring data and evaluations on its Air Quality Data and Evaluations webpage (https://www.tceq.texas.gov/agency/data/lookup-data/aq-data.html) and provides an ozone alert system to make the public aware of elevated ozone concentrations.

No changes were made in response to this comment.

The Environmental and Community Groups, the YolChikawa Inst. and five individuals commented that the TCEQ should improve outreach to non-English speaking and marginalized communities. One individual commented that the content on the TCEQ's website is difficult to understand and that the commission should increase the accessibility of information across language barriers. One individual said that members of the Chamizal community reported difficulty finding information about ozone exceedances in Spanish. An individual commented that state representatives all were white, addressing a predominantly Hispanic community, and could not possibly understand the community concerns.

The commission is committed to improving outreach to all communities in the state of Texas. In 2021, the TCEQ implemented the TCEQ Language Access Plan (LAP), which seeks to better ensure that individuals with limited English proficiency may meaningfully access TCEQ programs, activities and services in a timely and effective manner. The LAP was developed to be consistent with the commission's commitment to provide meaningful access to all individuals, the mission to protect the state's public health and natural resources consistent with sustainable economic development, Title VI of the Civil Rights Act of 1964, and Title VI implementing regulations and guidance documents. The TCEQ appreciates public input on the implementation of the LAP with regards to this SIP revision and other air quality outreach efforts.

To meet the goals of the LAP, the TCEQ determined that vital information and outreach should be provided for this SIP revision in Spanish as well as English. Therefore, a public hearing notice, which included information about the purpose of the proposed SIP revision as well as the date, time, and location of the public hearing, was drafted in both languages and made available on the TCEQ's SIP Hot Topics webpage (https://www.tceq.texas.gov/airquality/sip/Hottop.html) and the Texas SIP Revisions webpage (https://www.tceq.texas.gov/airquality/sip/sipplans.html). The hearing notice was also sent in both languages to the Mayor of El Paso, the El Paso County Judge, City of El Paso staff, El Paso Metropolitan Planning Organization staff, and the TCEQ Region 6 (El Paso) Office.

Public hearing information was also noticed in English in the *El Paso Times* newspaper and in Spanish in *El Diario* newspaper on June 17, 2022. The TCEQ also posted a plain language summary of the proposed SIP revision in English and Spanish to the Texas SIP Revisions webpage. The plain language summary was

intended to describe the proposed SIP revision in a manner more accessible to the public.

In addition to the information provided on this SIP revision in English and Spanish, the TCEQ determined that a Spanish language interpreter should attend the public hearing. An interpreter was provided and assisted attendees when interpretation services were needed.

The TCEQ encourages participation in the SIP revision process. The Office of the Chief Clerk works to help the public and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that concerns are considered thoroughly and are handled in a way that is fair to all. Information on this topic is available from the Office of the Chief Clerk at 512-239-3300 and on the TCEQ's Title VI Compliance at TCEQ - Texas Commission on Environmental Quality webpage (https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance).

In addition, the Office of Public Interest Council reviews all proposed SIP revisions prior to agenda meetings and provides comments to the commission, including input on the public participation process. Comments regarding the apparent race or ethnicity of state representatives are outside the scope of this SIP revision.

No changes were made in response to this comment.

Earthworks, Eco El Paso, the Velo Paso Bicycle-Pedestrian Coalition, and seven individuals commented that the TCEQ should do more to protect the community in El Paso from ozone pollution. Earthworks, Eco El Paso, and six individuals stated that the TCEQ should place the importance of public health over the interests of industry and corporations. One individual quoted the commission's mission statement to protect the state's public health and natural resources.

The commission is committed to protect the environment and public health. The commission prepares and implements air quality plans in accordance with both state and federal law. The commission remains committed to working with area stakeholders toward the common goal of attaining the 2015 eight-hour ozone standard as expeditiously as practicable and in accordance with EPA rules and guidance under the FCAA.

No changes were made in response to this comment.

Environmental and Community Groups, the Velo Paso Bicycle-Pedestrian Coalition, and six individuals commented on the health effects of ground-level ozone exposure. The Environmental and Community Groups cited research that found elevated ozone levels in the El Paso area led to asthma attacks, difficulty breathing, and premature death. Seven individuals also raised concerns about air quality and the impact on childhood asthma as well as pulmonary and other respiratory disease. Two individuals were also concerned with the negative health impact of ozone pollution in environmental justice areas like the Chamizal neighborhood. One individual cited AQI reports indicating that

air quality in the El Paso area was unhealthy or unhealthy for sensitive groups. One individual cited their own research into potential connections between neighborhood proximity to emissions from steel plants and highways and rates of diagnosed cancer and respiratory illness. The Environmental and Community Groups as well as seven individuals referenced the American Lung Association's most recent State of the Air report, which listed El Paso as number 12 on a list of the most ozone-polluted metropolitan areas in the United States.

The commission appreciates the comments related to health effects of ozone and environmental justice. The primary NAAQS are those that the EPA determines are necessary to protect public health, including sensitive members of the population such as children, the elderly, and those with pre-existing conditions. The EPA considered these health impacts when setting the 2015 eight-hour ozone NAAQS. The commission takes the health and concerns of Texans seriously and remains committed to working with area stakeholders to attain the 2015 eight-hour ozone standard as expeditiously as practicable and in accordance with EPA rules and guidance under the FCAA.

The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

No changes were made in response to this comment.

The EPA, Environmental and Community Groups, Earthworks, the Velo Paso Bicycle-Pedestrian Coalition, the YolChikawa Inst., and eight individuals stated that the proposed SIP revision should not rely on an outdated nitrogen oxide (NO_x) waiver, 30 TAC §116.150(e). The EPA and Environmental and Community Groups stated that the previously approved El Paso NO_x waiver for the 1979 one-hour ozone standard is no longer relevant for the 2015 eight-hour ozone standard. The Environmental and Community Groups stated that 30 TAC §116.150(e) was adopted by the TCEQ pursuant to a waiver granted by the EPA, for an ozone standard which has since been revoked. The Environmental and Community Groups also stated that the technical information used to grant the waiver could not support a finding that the El Paso-Las Cruces area would attain the current 2015 eight-hour ozone standard without additional NO_x controls, nor would the TCEQ be able to obtain a new NO_x waiver. The EPA recommended revising the nonattainment NSR rule to include requirements for NO_x. The Environmental and Community Groups, Earthworks and 10 individuals asked the TCEQ to repeal the NO_x waiver for El Paso.

On November 28, 1994, the EPA published its approval of FCAA, §182(f) exemptions for the Dallas-Fort Worth and El Paso ozone nonattainment areas for the 1979 one-hour ozone standard (59 FR 60709). On October 20, 1995, the TCEQ's predecessor, the Texas Natural Resource Conservation Commission, published the adopted language of the 30 TAC §116.150(b) NO_x waiver in response to the EPA's approval (20 TexReg 8619). On June 10, 2005, the TCEQ adopted a new 30 TAC §116.150(b) that "exempts sources located in El Paso County from the requirements of this section concerning NO_x emissions and contains identical language from previously designated subsection (b)" (30 TexReg 3422). The language in 30 TAC

§116.150(e) states that "for sources located in the El Paso ozone nonattainment area as defined in 40 CFR, Part 81, the requirements of this section do not apply to NO_x exemptions." It is clear from the history of 30 TAC §116.150(e) that the intent of the commission was to implement a NO_x exemption for the El Paso nonattainment area under the 1979 one-hour ozone standard, in accordance with the EPA's approval of the NO_x waiver for that area. The TCEQ interprets 30 TAC §116.150(e) to apply only to the 1979 one-hour ozone NAAQS. As such, it does not apply to nonattainment NSR requirements for the El Paso nonattainment area under the 2015 eight-hour ozone standard. Clarifying language was added to Section 3.4: *Nonattainment NSR Program* to reflect this interpretation, and Appendix H: *NO_x Exemption Clarification & Commitment Letter* of the adopted SIP revision includes a commitment from the TCEQ Executive Director to initiate rulemaking to clarify 30 TAC §116.150(e).

Five individuals commented that increasing particulate matter pollution is becoming a greater issue in the Chamizal neighborhood and the City of El Paso. Two individuals linked the particulate matter pollution to increased traffic and the proximity of schools and communities to major highways. The two individuals expressed concern over the negative health impacts of particulate matter in these areas.

These comments are outside of the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

No changes were made in response to this comment.

Eco El Paso and two individuals stated there is not enough monitoring of air quality pollution in El Paso. One individual said that El Paso is having more ozone alert days with minimal monitoring.

These comments are outside of the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

The TCEQ has met EPA requirements for monitoring within the El Paso nonattainment area. There are currently nine air quality monitors operating in the El Paso area. Of those, six monitors sample for ozone or ozone precursors.[1]

Environmental and Community Groups, Earthworks, and the Velo Paso Bicycle-Pedestrian Coalition asked the TCEQ to withdraw the FCAA, §179B demonstration for El Paso County from the EPA's review. Commenters stated that the demonstration is an effort to avoid implementing emissions controls at local industrial sources by shifting the blame to Juarez, Mexico.

Comments concerning the §179B Demonstration for El Paso County are outside of the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the

1 https://www.tceq.texas.gov/border/air-quality-stations.html

FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

Environmental and Community Groups, the Velo Paso Bicycle-Pedestrian Coalition, the YolChikawa Inst., and two individuals commented that the TCEQ should take proactive measures to reduce ozone forming emissions from local sources. The Environmental and Community Groups provided a list of recommended reasonably available NO_x control technologies to require at existing gas-fired combustion turbines.

The commission appreciates the information regarding recommended reasonably available NO_x control technologies; however, new control measures are outside the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

Environmental and Community Groups commented that rising emissions in the Texas Permian Basin contribute to ozone levels in the El Paso-Las Cruces nonattainment area. The commenters recommended implementing emission control measures like banning routine flaring, strengthening leak detection and repair requirements, and strengthening emissions standards for equipment to further reduce air pollution in the Permian Basin.

This comment is outside of the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

Earthworks provided references to video documentation of greenhouse gas and volatile organic compound emissions from the Newman Gas Plant, the Montana Vista Gas Plant, and the Marathon Refinery.

Greenhouse gas emissions are not relevant to this SIP revision and are therefore outside of the scope. This SIP revision provides the required emissions inventory, emissions statement, and nonattainment NSR certification elements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard. Inventory values for NO_x and volatile organic compounds (VOC) are included in this SIP revision as required by FCAA, §182.

No changes were made in response to this comment.

EMISSIONS INVENTORY

The EPA recommended that biogenic emissions be included in the 2017 base year EI.

The TCEQ disagrees that emissions from biogenic sources should be included in the 2017 base year emissions inventory. Previously, under the June 2002 Consolidated Emissions Reporting Rule and earlier emissions reporting rules, biogenic sources

were required to be reported along with point, nonpoint, on-road mobile, and non-road mobile sources (67 FR 39602). Beginning with the December 2008 Air Emissions Reporting Rule, the emissions required to be reported to the EPA no longer include emissions from biogenic sources (73 FR 76539).

As of the 2011 reporting year, the TCEQ's comprehensive triennial EI no longer includes emissions from biogenic sources. The 2017 EIs in this SIP revision represent anthropogenic sources only. Biogenic inventories may still be developed for air quality modeling purposes, as necessary. Minor wording changes were made to Section 2.1: *Introduction* and Section 2.6: *Biogenic Sources* of this SIP revision in response to this comment.

ON-ROAD SOURCES

Environmental and Community Groups, the YolChikawa Inst., as well as three individuals requested that the commission work with schools in the El Paso area or the El Paso Independent School District to reduce emissions from school buses through the implementation of zero-emission vehicles. The Environmental and Community Groups and two individuals mentioned concern over increased vehicle emissions from idling buses stationed at the Bowie High School Bus Hub. Environmental and Community Groups, the YolChikawa Inst., as well as four individuals commented that the commission should implement measures to reduce emissions from idling cars and trucks at international border crossings, especially in cases where those border crossings are close in proximity to marginalized communities like the Chamizal neighborhood. Two individuals said that poor air quality in the El Paso area contributes to decreased visibility within the region.

Comments regarding motor vehicle control strategies and visibility are outside the scope of this SIP revision. The purpose of this EI SIP revision is to satisfy the FCAA, §172 and §182 EI requirements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard.

The commission notes that information concerning programs to reduce emissions from school buses are available from both the TCEQ and the EPA. More information is available at: https://www.tceq.texas.gov/airquality/terp/school-buses.html and https://www.epa.gov/cleanschoolbus.

Two individuals expressed concerns over the potential increase in air pollution that could result from the Texas Department of Transportation's (TxDOT) construction of new lanes on Interstate 10, which crosses through downtown El Paso.

This SIP revision is not applicable for transportation conformity purposes. It provides the required emissions inventory, emissions statement, and nonattainment NSR certification elements for the El Paso County portion of the El Paso-Las Cruces, Texas-New Mexico marginal nonattainment area for the 2015 eight-hour ozone standard. This comment is outside of the scope of this SIP revision.

Texas Commission on Environmental Quality

ORDER ADOPTING
REVISION TO THE STATE IMPLEMENTATION PLAN

Docket No. 2022-0356-SIP
Project No. 2022-010-SIP-NR

On November 16, 2022, the Texas Commission on Environmental Quality (Commission), during a public meeting, considered adoption of a revision to the State Implementation Plan (SIP) for the 2015 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) Emissions Inventory (EI) SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area. The Commission adopts the revision to the SIP. The Commission adopted revisions to the SIP to address requirements for marginal ozone NAAQS nonattainment areas, including the initial base year emission inventory submission requirement as well as the emission statement and nonattainment new source review requirements. Under Tex. Health & Safety Code Ann. §§ 382.011, 382.012, and 382.023 (West 2016), the Commission has the authority to control the quality of the state's air and to issue orders consistent with the policies and purposes of the Texas Clean Air Act, Chapter 382 of the Tex. Health & Safety Code. Notice of the public hearing on the proposed SIP revision was published in the July 1, 2022, issue of the *Texas Register* (47 *TexReg* 3835) and in the June 17, 2022 edition of the *El Paso Times*. The hearing notice was also published in Spanish in the June 17, 2022 edition of *El Diario* newspaper.

Pursuant to 40 Code of Federal Regulations § 51.102 and after proper notice, the Commission conducted a public hearing to consider the 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area. Proper notice included prominent advertisement in the areas affected at least 30 days prior to the date of the hearing. A public hearing was held in El Paso, Texas on July 18, 2022.

The Commission circulated hearing notices of its intended action to the public, including interested persons, the Regional Administrator of the EPA, and all applicable local air pollution control agencies. The public was invited to submit data, views, and recommendations on the proposed 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area, either orally or in writing, at the hearing or during the comment period. Prior to the scheduled hearing, copies of the proposed 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area were available for public inspection at the Commission's central office and on the Commission's website.

Data, views, and recommendations of interested persons regarding the proposed 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area were submitted to the Commission during the comment period and were considered by the Commission as reflected in the analysis of testimony incorporated by reference to this Order. The Commission finds that the analysis of testimony includes the names of all interested groups or associations offering comment on the proposed 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area and their position concerning the same.

IT IS THEREFORE ORDERED BY THE COMMISSION that the 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area incorporated by reference to this Order are hereby adopted. The adopted 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area is incorporated by reference in this Order as if set forth at length verbatim in this Order.

IT IS FURTHER ORDERED BY THE COMMISSION that on behalf of the Commission, the Chairman should transmit a copy of this Order, together with the adopted 2015 Eight-Hour Ozone NAAQS EI SIP Revision for the El Paso County Portion of the El Paso-Las Cruces, Texas-New Mexico Nonattainment Area to the Regional Administrator of EPA as a proposed revision to the Texas SIP pursuant to the Federal Clean Air Act, codified at 42 U.S. Code Ann. §§ 7401 - 7671q, as amended.

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

_____

Jon Niermann, Chairman

_____

Date Signed