

APPENDIX H

NO_x EXEMPTION CLARIFICATION & COMMITMENT LETTER

2015 Eight-Hour Ozone National Ambient Air Quality Standard
Emissions Inventory State Implementation Plan 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

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 16, 2022

Earthea Nance, PhD, PE
Regional Administrator
U.S. Environmental Protection Agency - Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

Subject: Nonattainment New Source Review Requirements in El Paso County

Dear Dr. Nance:

This letter is in regard to your agency's correspondence dated July 21, 2022, concerning the proposed El Paso County Emissions Inventory (EI) State Implementation Plan (SIP) Revision for the 2015 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS). In that correspondence, EPA Region 6 noted that the nonattainment new source review requirement (NSR) that is currently approved for El Paso County does not include nonattainment NSR requirements for nitrogen oxides (NO_x) based on a NO_x waiver that was approved for the area under the revoked 1979 one-hour ozone standard. EPA Region 6 also recommended that the TCEQ revise the nonattainment NSR rule to include the requirements for NO_x.

Currently, 30 Texas Administrative Code (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 emissions." It is clear from the regulatory 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.

This letter confirms that the TCEQ interprets the language of 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 El Paso County. Further, I commit to initiate a rulemaking project to request commission approval to propose a clarification of the language in §116.150(e). If proposed and adopted, I expect this action to remedy the concerns raised by EPA Region 6.

Sincerely,

Toby Baker, Executive Director
Texas Commission on Environmental Quality