

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Proposed State Implementation Plan Revision

AGENDA REQUESTED: June 15, 2022

DATE OF REQUEST: May 27, 2022

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

CAPTION: Docket No. 2022-0356-SIP. Consideration for publication 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 proposed SIP revision would satisfy 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 proposed SIP revision would also include a certification statement to confirm that the emissions statements and nonattainment new source review requirements have been met for El Paso County. (Jacoup Roiz, Terry Salem; Non-Rule Project No. 2022-010-SIP-NR)

Tonya Baer
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:** May 27, 2022

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

From: Tonya Baer, Director
Office of Air

Docket No.: 2022-0356-SIP

Subject: Commission Approval for Proposal 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 this SIP revision:

On October 1, 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. The 2015 eight-hour ozone NAAQS was published in the *Federal Register* (FR) on October 26, 2015 and became effective December 28, 2015 (80 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 proposed SIP revision addresses the base year EI 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 this SIP revision:

A.) Summary of what this SIP revision will do:

This proposed SIP revision would address 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 would satisfy

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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 proposed SIP revision would include 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 proposed 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 proposed 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.

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Effect on the:

A.) Regulated community:

This proposed SIP revision would impact 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 proposed SIP revision would 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 proposed SIP revision would have no new effect on the public.

C.) Agency programs:

None.

Stakeholder meetings:

If the proposed SIP revision is approved by the commission for public comment and public hearing, then a formal public comment period would be opened, and a public hearing would be held in the area.

Potential controversial concerns and legislative interest:

None.

Will this SIP revision affect any current policies or require development of new policies?

No.

What are the consequences if this SIP revision does not go forward? Are there alternatives to this 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 proposal SIP revision schedule:

Anticipated proposal date: June 15, 2022

Anticipated public hearing date: July 18, 2022

Anticipated public comment period: June 17, 2022 - July 21, 2022

Anticipated adoption date: November 16, 2022

Agency contacts:

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Commissioners

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May 27, 2022

Re: Docket No. 2022-0356-SIP

Jamie Zech, Agenda Coordinator, Air Quality Division, (512) 239-3935

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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
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**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**

PROJECT NUMBER 2022-010-SIP-NR

Proposal
June 15, 2022

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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 1, 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 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, 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 proposed SIP revision addresses the initial base year EI requirement for nonattainment areas under the 2015 eight-hour ozone NAAQS. 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 proposed 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 complying with applicable nonattainment planning requirements for the

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.

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 proposed 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, 2019

TEXAS WATER CODE September 1, 2019

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 35: Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions	
Subchapter A: Purpose, Applicability, and Definitions	December 10, 1998
Subchapter B: Authority of Executive Director	December 10, 1998
Subchapter C: General Provisions	March 24, 2016
Subchapter K: Air Orders	July 20, 2006
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 10, 2021
Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, all of the chapter, except §55.125(a)(5) and (6)	September 10, 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	August 3, 2017
Chapter 112: Control of Air Pollution from Sulfur Compounds	July 16, 1997
Chapter 113: Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants	May 14, 2009
Chapter 114: Control of Air Pollution from Motor Vehicles	July 2, 2020
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	May 14, 2020
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
Chapter 122: §122.215: Minor Permit Revisions	June 3, 2001
Chapter 122: §122.216: Applications for Minor Permit Revisions	June 3, 2001
Chapter 122: §122.217: Procedures for Minor Permit Revisions	June 3, 2001
Chapter 122: §122.218: Minor Permit Revision Procedures for Permit Revisions Involving the Use of Economic Incentives, Marketable Permits, and Emissions Trading	June 3, 2001

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)

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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	<i>Federal Register</i>
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

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Appendix G	2017 On-road Mobile Source Annual, Summer Weekday and Winter Weekday Emissions Inventories: El Paso County

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](http://www.tceq.texas.gov/airquality/sip) webpage (<http://www.tceq.texas.gov/airquality/sip>) on the [Texas Commission on Environmental Quality's \(TCEQ\)](http://www.tceq.texas.gov) website (<http://www.tceq.texas.gov>).

1.2 INTRODUCTION

On October 1, 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 commission will hold a public hearing for this proposed SIP revision at the following time and location.

Table 1-1: Public Hearing Information

City	Date	Time	Location
El Paso	July 18, 2022	6:00 p.m.	Carlos M. Ramirez Tech ₂ O Water Resources Learning Center 10751 Montana Avenue El Paso, Texas 79935

The public comment period will open on June 17, 2022 and close on July 21, 2022. Written comments will be accepted via mail, fax, or through the [eComments](https://www6.tceq.texas.gov/rules/ecomments/) system (<https://www6.tceq.texas.gov/rules/ecomments/>). All comments should reference the “El Paso County Emissions Inventory State Implementation Plan Revision for the 2015 Eight-Hour Ozone Standard” and should reference Project Number 2022-010-SIP-NR. Comments should be submitted to Jacoup Roiz, MC 206, State Implementation Plan Team, Office of Air, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-6188. Electronic comments must be submitted through the eComments system. File size restrictions may apply to comments being submitted via the eComments system. Comments must be received by July 21, 2022.

An electronic version of this proposed SIP revision and appendices can be found at the TCEQ's [Air Pollution from Ozone](https://www.tceq.texas.gov/airquality/sip/criteria-pollutants/sip-ozone) webpage (<https://www.tceq.texas.gov/airquality/sip/criteria-pollutants/sip-ozone>). An electronic version of the hearing notice will be available on the [Texas SIP Revisions](https://www.tceq.texas.gov/airquality/sip/siplans.html#prosips) webpage (<https://www.tceq.texas.gov/airquality/sip/siplans.html#prosips>).

1.5 SOCIAL AND ECONOMIC CONSIDERATIONS

Because this SIP revision does not create new regulations, there are no changes that will impact society or the economy.

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 five general categories of emissions sources: point, area, non-road mobile, on-road mobile, and biogenic. 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](https://www.tceq.texas.gov/airquality/point-source-ei/psei.html) 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](http://www.economy.com/default.asp) 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](https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-plan) 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 proposed 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 proposed 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 proposed 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 proposed 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 emissions required to be reported to the EPA no longer include 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.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-51/subpart-B/section-51.101-10) (<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. 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).

Appendices Available Upon Request

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