

## Office of Air

This office is divided into three divisions, Air Quality, Air Permits, and Air Grants. The office develops and implements plans to protect and restore air quality in cooperation with local, regional, state, and federal stakeholders. The office also oversees all air permitting activities and provides grants to reduce air pollution.

### *Air Quality Division*

The Air Quality Division protects and restores air quality by coordinating the development of the state implementation plan (SIP), the state's plan for meeting the National Ambient Air Quality Standards (NAAQS). This involves developing, reviewing, and reporting the emissions inventory of stationary and mobile sources and developing control strategies to protect and improve air quality for the SIP. The division also performs data analysis and photochemical modeling to estimate future expected air quality for planning purposes and to evaluate potential pollution control strategies. In addition, the division supports the SIP by designing and managing air quality research programs to further the agency's understanding of air quality science. The division is also responsible for assessing emissions and inspection fees funding multiple agency air programs and managing the Tax Relief for Pollution Control Property program (Tax Relief program). The Tax Relief program provides relief, through property tax exemptions, to individuals, companies, and political subdivisions making capital investments to meet or exceed environmental regulations.

### *Air Permits Division*

The Air Permits Division processes air permits and authorizations for facilities that, when operational, will emit contaminants into the atmosphere. There are two air permitting programs in the division, New Source Review (NSR) Permits and Title V Federal Operating Permits (FOPs). NSR Permits are required for certain facilities before construction begins. Several potential air authorizations fall under the category of NSR Permits including Permits by Rule, Standard Permits, and case-by-case permits (minor NSR permits and major NSR permits, including, but not limited to, Prevention of Significant Deterioration (PSD) permits and nonattainment (NA) permits). Title V FOPs apply to all major sites and certain non-major sites identified by United States Environmental Protection Agency (EPA) and are required prior to operation. There are two types of FOPs, Site Operating Permits and General Operating Permits.

The division also manages the Emission Banking and Trading (EBT) program. The EBT program uses market-based strategies to address air quality issues in non-attainment (NA) areas throughout Texas and to provide a mechanism for regulated entities to create and/or obtain emission credits necessary for emission offsets required for permitting.

### *Air Grants Division*

The Air Grants Division administers the Texas Emissions Reduction Plan (TERP) program which includes incentive funding for a variety of grant programs designed to reduce pollutant emissions in Texas. The primary TERP program provides grants to reduce nitrogen oxides (NO<sub>x</sub>) emissions from mobile sources in areas of Texas designated as NA for ground-level ozone under the Federal Clean Air Act (FCAA), as well as other affected counties. Other programs include funding for natural gas vehicles and other alternative fuel vehicles, and infrastructure to provide fuel for those vehicles. TERP also includes funding to reduce emissions from school buses, advance technologies reducing NO<sub>x</sub> and other emissions from stationary

sources, and to conduct studies and pilot programs for port authorities to encourage cargo movement that reduces emissions.

## Air Quality Planning

### A. Provide the following information at the beginning of each program description.

**Name of Program or Function:** Air Quality Planning

**Location/Division:** Austin Headquarters / Air Quality Division

**Contact Name:** Donna F. Huff

**Statutory Citation for Program:** 42 United States Code (USC) Sections 7401 et seq., 7506, 7511a, and 11001 et seq. Federal Clean Air Act (FCAA); Texas Health and Safety Code (THSC) Chapter 382, Subchapters G and H and Sections 382.002, 382.011–382.014, 382.017–382.0173, 382.0191, 382.0205, 382.021, 383.023–383.027, 382.062, 382.0621, 382.0622, and 382.063; THSC Sections 370.001 et seq.; THSC Section 386.051(b).

### B. What is the objective of this program or function? Describe the major activities performed under this program.

The Air Quality Planning program is responsible for meeting state and federal air quality requirements. The program develops U.S. Environmental Protection Agency (EPA) approvable air quality State Implementation Plan (SIP) revisions. The SIP is the state's comprehensive plan to clean the air and meet federal ambient air quality standards, the National Ambient Air Quality Standards (NAAQS). The program activities include SIP, mobile sources, rule-writing/control strategy development, modeling, data analysis, emissions assessment, and research.

#### *SIP Program*

The SIP Program coordinates plan revisions required by the FCAA showing how Texas will attain and maintain the NAAQS for the six criteria pollutants (carbon monoxide (CO), ozone, sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide, particulate matter (PM), and lead), and other related FCAA requirements. Areas not meeting NAAQS are known as non-attainment (NA) areas, and TCEQ is required to submit to EPA a SIP revision showing how a NA area will come into compliance with the standard by a deadline specified by the FCAA. A SIP revision includes work developed by the other Air Quality Planning programs and various other agency programs, such as permitting, enforcement, implementation grants, and monitoring.

#### *Mobile Source Programs*

Mobile source programs include SIP and federally required programs to ensure air quality is protected and emissions reduced.

The vehicle Inspection and Maintenance (I/M) program requires emissions testing for applicable vehicles.

Several fuel programs reduce evaporative refueling emissions and reduce nitrogen oxides (NO<sub>x</sub>) and other ozone-forming emissions.

Conformity, a FCAA requirement, ensures federal actions will not cause or aggravate a violation of NAAQS or delay timely attainment of NAAQS. Transportation conformity requirements must be met for federal actions undertaken by the Federal Highway Administration (FHWA) and Federal Transit Administration

(FTA), and general conformity requirements must be met for all other federal actions. General conformity regulations allow for early emissions reduction programs to be implemented by federal agencies for use as offsets in future general conformity demonstrations.

The Federal Aviation Administration (FAA) created the Voluntary Airport Low Emission (VALE) program in 2005 to provide sponsors with financial and regulatory incentives to increase their investments in proven low-emission technology, thereby reducing emissions of harmful pollutants.

The National Environmental Policy Act (NEPA) is an environmental law promoting evaluation of environmental, social, and economic effects of a proposed federal action. TCEQ often performs environmental reviews as a “participating agency” as defined in 40 Code of Federal Regulations (CFR) Part 1508.1(w).

Other mobile source programs include the coordination of local mobile emission reduction strategies, such as, idling restrictions, transportation control measures, and voluntary mobile emissions reduction strategies. These strategies have been included in the SIP to demonstrate attainment of NAAQS for affected areas.

#### *Control Strategies Development*

Pollution control measures and technologies are evaluated as part of SIP development to identify feasible control strategies that will help affected areas attain NAAQS. Control strategies apply to specific emissions sources and are implemented through the agency rulemaking process or formal agreements, such as, agreed orders, memorandums of understanding (MOU), and memorandums of agreement (MOA). The following rules in Title 30 Texas Administrative Code (30 TAC) address the following sources: Chapter 111 rules address sources emitting particulate matter, Chapter 112 rules address sources emitting sulfur, Chapter 115 rules address sources emitting volatile organic compounds (VOCs), and Chapter 117 rules address sources emitting NO<sub>x</sub>. Some types of sources addressed by these rules include chemical plants, petroleum refineries, electric generating facilities, and oil and natural gas production and processing.

#### *Air Modeling and Data Analysis*

The Air Modeling and Data Analysis Section (AMDA) conducts photochemical modeling, data analysis, and scientific research to provide technical support for the development of the SIP. Major activities include photochemical modeling for ozone and regional haze and air dispersion modeling for SO<sub>2</sub> to predict outcomes for air quality planning; analysis of trends in air quality and meteorological data to help predict progress toward meeting federal air quality standards; and assessments of the causes and sources of high pollutant concentrations, including for exceptional event and international transport demonstrations.

#### *Emissions Assessment*

Emissions Assessment is responsible for administering five major activities: the point source emissions inventory (EI), the area source EI, the mobile source EI, management of air emissions and inspection fees, and the toxics release inventory (TRI). These emissions assessment activities allow TCEQ to track and better understand air quality emissions data used for SIP development, modeling, setting air emissions fees, tracking trends, placing air monitors, assessing potential emission reductions from air quality control strategies, publishing data, and planning other air quality activities.

For the point source EI, Emissions Assessment annually collects, quality assures, and publishes air pollution emissions data reported by industrial sites in Texas. Air pollutants reported include any criteria air pollutant subject to NAAQS and other regulated air pollutants. Federal rule requires the state-wide point source EI to be submitted annually to EPA for inclusion in the National Emissions Inventory (NEI).

For the area source EI, Emissions Assessment develops air emissions inventories for stationary sources such as gas stations and dry cleaners below point source reporting thresholds and too numerous to inventory individually. For the mobile source EI, Emissions Assessment develops air emissions inventories for mobile sources such as vehicles and construction equipment too numerous to inventory individually. Federal rule requires area and mobile source emissions inventories to be developed, quality assured, and submitted to EPA every three years for criteria pollutants and precursors for each mobile source category.

To manage air emissions and inspection fees, Emissions Assessment collects, reviews, and assesses two fees for industrial sites: air emissions fees to cover the direct and indirect costs to administer the federal (Title V) operating permit program, and inspection fees to cover the costs for other air programs.

Federal law requires certain industries to annually report site-level toxic releases to both EPA and the state. For the TRI, Emissions Assessment reviews toxic release data and assesses each site a fee for the number of toxic chemical release forms submitted.

#### *Air Quality Research and Development*

The Air Quality Research and Development (AQRD) program provides technical and scientific support for the assessment of air quality. This program sponsors scientific research related to Texas air quality in the areas of atmospheric chemistry, meteorology, air quality modeling, and data analysis. The AQRD program activities also include development of emissions inventories, software development, and targeted monitoring efforts, including field studies and local monitoring networks. This program includes technical projects by local entities through the Rider 7 program, monitoring in the Dallas Fort Worth area by the North Texas Commission (NTC), work related to supercritical carbon dioxide (CO<sub>2</sub>) through the Rider 29 program, and energy efficiency work by the Texas A&M Energy Systems Laboratory (ESL).

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to," but do not repeat measures listed in Exhibit 2.**

*SIP Program.* The SIP Program has developed, or is currently developing, SIP revisions to meet FCAA requirements. No key performance measures are associated with the SIP Program. However, the following table outlines how the design values for the eight-hour ozone standards are trending downward despite increases in population in all areas. Decreasing ozone levels show SIP revisions and associated rules are improving air quality. The design value for attainment of the 2008 eight-hour ozone standard is 75 parts per billion (ppb) and 70 ppb for the 2015 eight-hour ozone standard.

### Eight-Hour Ozone Design Values in Parts per Billion

Area	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
HGB	84	84	89	88	87	80	80	79	81	78	81	79
DFW	86	86	90	87	87	81	83	80	79	76	77	76
ELP	75	71	71	72	72	72	71	70	71	73	75	76
SAN	74	75	75	80	81	80	78	73	74	72	73	72
BPA	77	74	79	80	75	70	68	68	67	67	70	68
AMA	NM	NM	NV	NV	73	70	66	64	65	68	69	68
KT	NV	NV	70	75	74	72	69	67	69	68	69	67
ARR	75	74	75	74	73	69	68	66	69	68	69	65
NET	75	74	77	79	77	71	68	66	65	65	66	65
WAC	72	70	72	72	74	69	67	63	NV	NV	NV	64
BB	66	64	69	70	71	65	64	62	62	63	64	63
CC	69	71	72	72	70	66	65	64	62	61	61	61
Polk	NM	NM	NV	NV	NV	NV	NV	61	60	60	61	59
LRG	62	65	64	64	60	58	59	57	57	57	59	57
MEM	57	61	62	62	59	57	56	55	55	55	55	55
VIC	65	66	70	69	67	63	64	65	65	NV	NV	NV
LAR	55	57	NV	NV	NV	NV	59	54	NV	NV	NV	NV

Design values are from EPA's Air Quality System. Design values are calculated in accordance with the 2015 eight-hour ozone NAAQS. An "NV" value in the table indicates there was not enough data to calculate a valid design value. "NM" indicates there was no monitor in the area.

HGB – Houston-Galveston-Brazoria ozone NA area

DFW – Dallas-Fort Worth ozone NA area

ELP – El Paso County

SAN – Bexar County ozone NA area

BPA – Beaumont-Port Arthur metropolitan area

AMA – Amarillo metropolitan area

KT – Killeen-Temple metropolitan area

ARR – Austin-Round Rock metropolitan area

NET – Northeast Texas (Tyler metropolitan area and

Longview-Marshall metropolitan area)

WAC – Waco metropolitan area

BB – Big Bend (Brewster County)

CC – Corpus Christi metropolitan area

Polk – Polk County

LRG – Lower Rio Grande Valley (Brownsville-Harlingen metropolitan area)

MEM – McAllen-Edinburg-Mission metropolitan area

VIC – Victoria metropolitan area

LAR – Laredo metropolitan area

In addition, all areas of Texas have attained the revoked one-hour ozone and 1997 eight-hour ozone standards. Furthermore, a portion of El Paso County previously designated NA for CO and a portion of Collin County previously designated NA for lead have since been redesignated to attainment.

*Mobile Source Programs.* A number of mobile source programs are included as part of the SIP. Federal regulations 40 CFR Part 51.353 require the I/M program to perform a program evaluation every two years. The evaluation continues to show I/M is a vital component of overall strategies to improve air quality. Key dataset OA-3 Texas Emissions Management System applies to the I/M program.

*Control Strategies Development.* Development of control strategies does not have specific performance measure requirements, but the control strategies and rules developed by the program have resulted in significant reductions in pollution to help improve air quality in NAAQS NA areas in Texas. The rules developed are included in the SIP and must be approved by EPA. See the SIP Program discussion above for additional information regarding air quality improvement.

*Air Modeling and Data Analysis.* Program effectiveness is evidenced by developing attainment, international transport, and exceptional event demonstrations meeting the relevant EPA guidance. Program efficiency is determined by meeting internal deadlines to support TCEQ decision making. Modeling and data analyses have contributed to the overall improvement in air quality in Texas, with positive trends in monitored readings of regulated pollutants, especially when population growth is taken into consideration. The following performance measures are reported in Section II, Exhibit 2.

- Percent of Texans living where the air meets federal air quality standards; and
- Number of days ozone exceedances are recorded in Texas.

*Emissions Assessment.* For FY 2020, Emissions Assessment demonstrated effectiveness by meeting or exceeding its four output performance measures and one of its outcome measures, reduction in ozone precursor emissions in Texas NA areas as shown in Section II, Exhibit 2. The following performance measures are reported in Section II, Exhibit 2.

- Percent of stationary and mobile source pollution reduction in ozone non-attainment areas;
- Number of point source air quality assessments;
- Number of area source air quality assessments;
- Number of on-road mobile source air quality assessments;
- Number of non-road mobile source air quality assessments; and
- Average cost per air quality assessment.

Emissions Assessment also demonstrated effectiveness by assessing TRI data from 1,789 regulated entities which submitted a total of 8,508 toxic chemical release forms. The following performance measure is reported in Section II, Exhibit 2.

- Percent decrease in the toxic releases in Texas.

Emissions Assessment administered the air inspection, air emissions, and TRI fee program as evidenced by assessing 880 regulated entities an emissions fee totaling \$33 million; assessing 2,282 regulated entities an inspection fee totaling \$13 million; reviewing fee inapplicability requests from 515 regulated entities; identifying under-reported emissions of 6,376 tons, resulting in \$341,753 in additional emissions fee revenue; and assessing \$130,950 in toxic release fees in FY 2020. Key datasets OA-1, Point Source Emissions Inventory, and OA-2, Texas Air Emissions Repository apply to emissions assessment.

*Air Quality Research and Development.* Efficacy of the AQRD program is evidenced by the use of extensive technical support and through the information gathered by regional efforts, including NTC monitoring and Rider 7 activities in revisions to the SIP. The program has contributed to overall improvement in ambient air quality in Texas, particularly in positive trends in ozone in urban areas of the state. In addition, research efforts through this program have resulted in contributions to scientific literature, including over 100 publications and presentations through the Air Quality Research Program (AQRP) and directly funded research portions of the program.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

*Mobile Source Programs.* In 2014, EPA approved revisions to 30 TAC Chapter 115, Subchapter C, Division 4, and Texas' SIP for decommissioning Stage II vapor recovery equipment at gasoline dispensing facilities. Stage II vapor recovery is technology that prevents gasoline vapors from escaping into the air during refueling. It was required under the FCAA until EPA issued a decision that vehicle on-board vapor recovery was in widespread use throughout the vehicle fleet, allowing states to request requirements for Stage II be removed from their SIPs.

On June 12, 2017, Governor Greg Abbott vetoed the legislative appropriations for FY 2018 and FY 2019 for the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, which was referred to in TCEQ's 2009 Self Evaluation Report as Mobile Emissions Reduction Grants. All 16 participating counties subsequently ended their programs by August 31, 2019.

*Air Modeling and Data Analysis.* In 1995, the legislature (74R) included rider funds in the Texas Natural Resource Conservation Commission (TNRCC) Appropriations Bill to support an air quality program designed to keep areas of the state in attainment of the ozone standard. It was known as the Near-NA Area program and initially included the areas of Austin, San Antonio, Corpus Christi, and Tyler-Longview.

In 2000, a major air quality study was conducted along the eastern half of the state designed to research ground-level ozone and fine particle air pollution in the Houston region and the eastern half of Texas. The data were used to develop better assessment tools and more efficient and cost-effective strategies to manage air quality. The state joined forces with more than 40 public, private, and academic institutions to complete this study as well as an additional field study during 2005 and 2006 with many of the same partners.

In 2015 and 2021, TCEQ submitted demonstrations showing wildfires drove high ozone readings in El Paso and Dallas-Fort Worth, respectively. Monitor values affected by events that cannot reasonably be controlled, such as wildfires, may be excluded from air quality planning or regulatory decisions under EPA's Exceptional Events Rule.

In 2020, TCEQ submitted a demonstration showing Bexar County would have attained the 2015 eight-hour ozone standard but for international emissions. The FCAA allows EPA to consider international emissions, through FCAA, Section 179B demonstrations in air quality decisions.

In 2020 and 2021, TCEQ responded to EPA designating NA areas under the 2010 one-hour SO<sub>2</sub> standard. The responses included data analysis and modeling to justify NA area boundaries, attainment designations, and attainment demonstrations.



*Emissions Assessment.* In June 2002 EPA promulgated the Consolidated Emissions Reporting Rule (CERR) which expanded emissions inventory reporting requirements to the entire state and added additional pollutants. In December 2008, EPA promulgated the Air Emissions Reporting Requirements (AERR) to replace the CERR and shorten the timeline to submit EI data to EPA from 18 months to 12 months. From 2008 to 2010, TCEQ developed an online reporting system to simplify and streamline point source EI reporting and increase the accuracy of reported point source information.

TNRCC adopted emissions and inspection fee rule revisions to 30 TAC Sections 101.24 and 101.27 that became effective October 20, 2002. These revisions changed the emissions and inspection fees from self-reported fees to a billed system beginning in fiscal year 2003 in accordance with a previous Texas Sunset Advisory Commission (Sunset) recommendation. These rule revisions also adjusted the air emissions and inspection fee annually for inflation using the consumer price index. In accordance with the 2010-2011 Sunset recommendations, TCEQ adopted emissions and inspection fee rule revisions to 30 TAC Section 101.27 that became effective August 11, 2011. These rules allow the program area to adjust the emissions fee rate as necessary to ensure adequate funding of the Title V Operating Permit program.

The TRI program was created in 1986 by the federal Emergency Planning and Community Right-to-Know Act as Title III of the Superfund Amendment and Reauthorization Act. These statutes require applicable industries manufacturing, processing, or using toxic chemicals above certain thresholds to annually report the toxic releases, discharges, waste generation, and disposal at their site on toxic-chemical-release forms to EPA and to supply a copy of the forms to the state. Periodically, since the passage of the federal Pollution Prevention Act in 1990, the TRI program has modified or expanded reporting requirements for industry sectors, chemicals, or chemical categories and adjusted reporting thresholds for certain chemicals or chemical categories, such as persistent bio accumulative toxics in 1999 and lead in 2001. In 2013, EPA mandated web-based TRI reporting.

*Air Quality Research and Development.* Beginning with the 2010-2011 biennium, the AQRP was administered by The University of Texas at Austin and funded by TCEQ, through the TERP, which funds emission reduction projects in communities throughout Texas. In order to ensure these emission reductions are as effective as possible in improving air quality, a fraction of the TERP funding is used to improve scientific understanding of how emissions impact air quality in Texas.

Since 2001, TCEQ has directly funded dozens of projects related to air quality modeling, data analysis, emissions inventory development, and air quality planning to address federal mandates and emerging air quality issues in Texas and to support development of the SIP.

The State and Local Air Quality Planning program originated as an appropriations rider with a \$500,000 appropriation from the legislature (74R) in 1995 to support local air quality planning efforts in Austin, San Antonio, Northeast Texas, and Corpus Christi toward attaining the ozone NAAQS. Over the biennia, the Rider has appropriated various amounts and revised the areas eligible for the program. In 1999 the legislature (86R) Rider 7 provided \$4.5 million in the FY 2020 –2021 biennium for air quality grants with certain specified areas and limited to inventorying emissions, monitoring pollution levels, and administration of the program.

In 2011, SB 527 (82R) directed TCEQ to fund a regional air monitoring program, limited to TCEQ Regions 3 and 4, using a portion of the appropriated funds for the TERP and overseeing its implementation through a regional nonprofit located in North Texas that met specific eligibility requirements. NTC was found to meet all eligibility requirements, and a direct award was granted. A total of 21 monitoring sites have been established under the program since 2012. The regional air monitoring program was designed to collect

air toxics data to determine the potential for health effects with the extensive growth in the region due to Barnett Shale gas production.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

*SIP Program.* The SIP Program goal is to develop and submit SIP revisions to meet standards and rules established by EPA under the FCAA. The program develops three types of SIP revisions: including area, regional, and statewide. In Texas, which in 2020 had a population of 29,360,759, the following populations are affected:

- Population with SIP revisions specific to an area: 21,843,343; and
- Percentage of population represented in SIP Program Areas: 74.4%.

The following table includes a breakdown, by population, of each county for the 2008 and 2015 eight-hour ozone standard NA areas as well as other areas in Texas with current SIP revisions in place for a NAAQS.

**Estimated 2020 Population for NAAQS NA Counties with SIP Revision in Place**

County / Area	Estimated 2020 Population
Collin County / DFW Area	1,072,069
Dallas County / DFW Area	2,635,888
Denton County / DFW Area	919,324
Ellis County / DFW Area	191,760
Johnson County / DFW Area	179,575
Kaufman County / DFW Area	143,198
Parker County / DFW Area	148,198
Rockwall County / DFW Area	109,888
Tarrant County / DFW Area	2,123,347
Wise County / DFW Area	71,084
<b>DFW Area Total</b>	<b>7,594,331</b>
Brazoria County / HGB Area	380,518
Chambers County / HGB Area	45,590
Fort Bend County / HGB Area	839,706
Galveston County / HGB Area	345,089
Harris County / HGB Area	4,738,253
Liberty County / HGB Area	91,547
Montgomery County / HGB Area	626,351
Waller County / HGB Area	57,452
<b>HGB Area Total</b>	<b>7,124,506</b>
Hardin County / BPA Area	58,305
Jefferson County / BPA Area	250,127
Orange County / BPA Area	82,878
<b>BPA Area Total</b>	<b>391,310</b>

County / Area	Estimated 2020 Population
Bexar County	2,026,823
El Paso County	841,286

(Population information is from the U.S. Census Bureau at <https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates/2020-evaluation-estimates/2010s-counties-total.html>. Estimates are for July 1, 2020.)

The SIP Program is also required under the FCAA to develop a plan to improve visibility in national parks and wilderness areas, such as Big Bend National Park and Guadalupe Mountains National Park, affecting 463,832 and 188,833 recreational visitors respectively in 2019. The estimated 9,232 residents in Brewster County and 2,149 in Culberson County (total: 11,381), will benefit as well. Park population information is from the National Park Service.

Several areas in Texas were designated by EPA as NA for the SO<sub>2</sub> NAAQS, and SIP revisions will be required to demonstrate attainment and/or maintenance of the standard. The NA areas comprise portions of the following counties: Rusk, Panola, Titus, Freestone, Anderson, Howard, Hutchinson, and Navarro.

*Mobile Source Programs.* The I/M program affects motorists who own gasoline-powered vehicles (excluding motorcycles) 2 through 24 years old and registered and primarily operated in one of the 17 affected counties. The affected counties are Brazoria, Collin, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Harris, Johnson, Kaufman, Montgomery, Parker, Rockwall, Tarrant, Travis, and Williamson.

The El Paso and Regional Low Reid Vapor Pressure (RVP) Gasoline programs affect fuel producers, importers, suppliers, and retail gasoline-dispensing facilities. Low RVP gasoline is fuel refined to have a lower evaporation rate and lower volatility than conventional gasoline. It also reduces evaporative emissions generated during vehicle refueling and therefore decreases the emissions of VOCs and other ozone-forming emissions. These programs require only low RVP may be sold in 95 central and eastern Texas counties and El Paso County during the summer months when ozone pollution is at its worst. The El Paso Oxygenated Fuel program affects fuel producers, importers, suppliers, and retail gasoline dispensing facilities in El Paso County and was implemented to control CO emissions in the area.

The Texas Low-Emission Diesel Fuel (TxLED) program affects diesel fuel producers, importers, common carriers, distributors, transporters, bulk terminal operators, and retailers. The TxLED program is implemented to reduce emissions of NO<sub>x</sub> from diesel-powered motor vehicles and non-road equipment. The program covers 110 counties in the central and eastern part of Texas.

Transportation and general conformity requirements, and NEPA apply to entities sponsoring or undertaking projects requiring federal funding or approval in the state's ozone, CO, and PM<sub>10</sub> NA and maintenance areas including: Bexar, Brazoria, Chambers, Collin, Dallas, Denton, Ellis, Fort Bend, Galveston, Hardin, Harris, Jefferson, Johnson, Kaufman, Liberty, Montgomery, Orange, Parker, Rockwall, Tarrant, Waller, and Wise counties; and the City of El Paso. Only general conformity requirements and NEPA apply to entities sponsoring or undertaking projects requiring federal funding or approval in the state's SO<sub>2</sub> NA and maintenance areas including: portions of Rusk and Panola counties, a portion of Titus County, portions of Freestone and Anderson counties, a portion of Howard County, a portion of Hutchinson County, and a portion of Navarro County. Eligible airports in areas subject to general conformity requirements may participate in the voluntary FAA VALE program.

*Control Strategies Development.* Rules, agreed orders, MOUs, and MOAs developed to implement air quality control strategies can affect a wide range of industrial, commercial, institutional, and utility

sources. Some control strategies are only applicable in specified NAAQS NA areas, while others apply to larger regions or even statewide. For example, the 30 TAC Chapter 115 VOC and 30 TAC Chapter 117 NO<sub>x</sub> rules discussed previously affect areas such as the Dallas-Fort Worth and Houston-Galveston-Brazoria ozone NA areas. TCEQ has Agreed Orders with entities such as a cement kiln operator located in Ellis County. Additional information regarding NAAQS NA areas in Texas is provided in the SIP Program discussion above.

The SIP currently includes a 1991 MOU between the City of El Paso local government and the Texas Air Control Board, which was revised as an MOA in 2001 and updated in 2012, as well as an MOU with the Texas Department of Public Safety (DPS). The SIP also includes two 2002 MOAs—one with TCEQ, Texas Department of Transportation (TxDOT), EPA, and the Houston-Galveston Area Council and one with TCEQ, a number of member companies of the Texas Waterway Operators Association, EPA, and the Houston-Galveston Area Council—to cooperate to improve air quality in the Houston-Galveston-Brazoria ozone NA area.

*Air Modeling and Data Analysis.* This program primarily affects residents of areas not meeting NAAQS. See the description provided for the SIP Program for more information.

*Emissions Assessment.* In general, the overall EI and fee requirements primarily impact regulated stationary source entities. Approximately 2,100 regulated entities are required to submit point source emissions inventories annually per 30 TAC Section 101.10. In general, regulated entities must submit emissions inventories if the regulated entity is a major stationary source of emissions or is located in an ozone NA area and meets certain emissions thresholds. Per 30 TAC Section 101.10, regulated entities are area sources subject to special emissions inventories specifically requested by the program area.

Air emissions and inspection fees impact regulated entities that either: are required to obtain a Title V operating permit or have specific industry types as identified in 30 TAC Section 101.24. Approximately 3,680 regulated entities reported air fee information in FY 2020.

The TRI program requires applicable industries manufacturing, processing, or using toxic chemicals above certain thresholds to annually submit reports to both EPA and TCEQ. In FY 2020, 1,789 regulated entities located in Texas met the TRI reporting requirements and submitted a total of 8,508 toxic chemical release forms.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

*SIP Program.* Each state has one SIP revised as necessary to establish control strategies and target dates for reducing emissions necessary to attain and maintain NAAQS set by EPA for each criteria pollutant and meet other FCAA requirements.

The SIP describes the steps the state will take to monitor air quality, determine compliance with NAAQS, and reduce air pollution in the regions that do not meet a particular NAAQS. The SIP also addresses other requirements specified by the FCAA, such as enforcement programs, preconstruction permitting, etc.

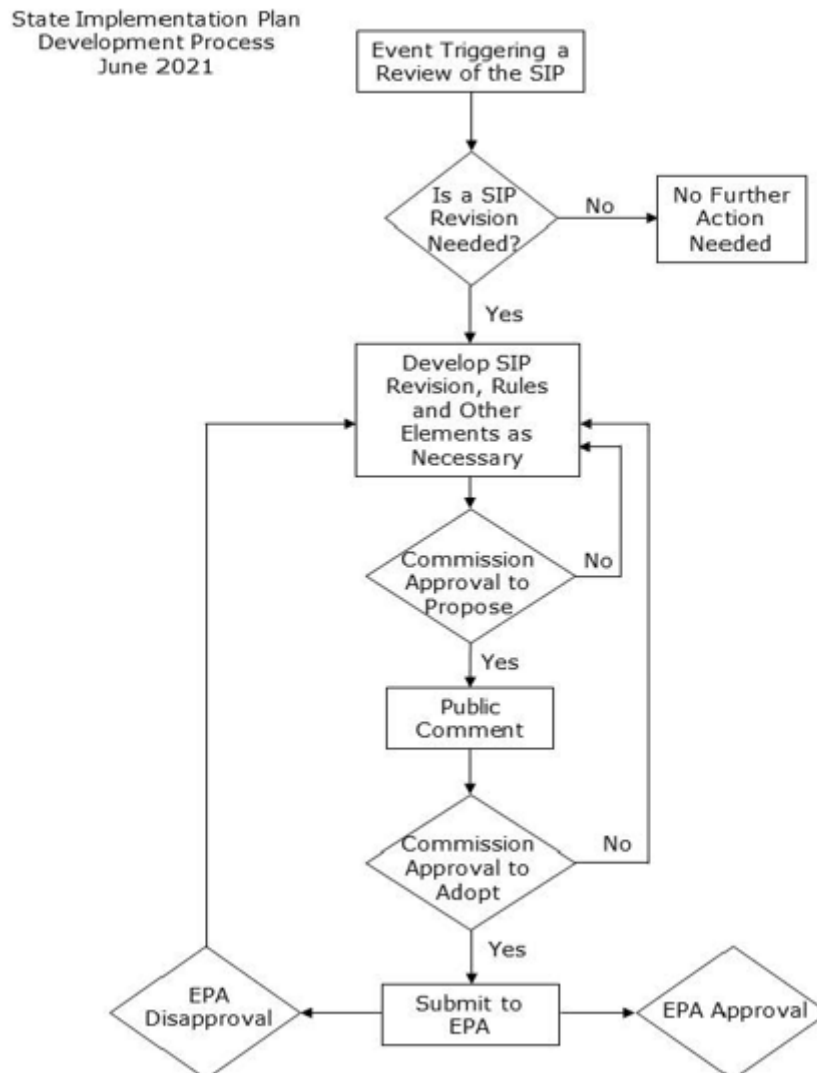
SIP revisions are required when:

- NAAQS for one of the six criteria pollutants is revised;
- the state submits a request for redesignation when an area attains NAAQS;
- an area does not attain the standard during the federally specified timeframe;
- an area is reclassified (e.g., an ozone NA area is reclassified from a moderate NA area to a serious NA area);
- new or revised rules or guidelines are adopted by EPA changing or adding requirements (e.g., Oil and Gas Control Techniques Guidelines for reasonably available control technology requirements and SIP requirements rule changes); or
- EPA finds a SIP is substantially inadequate to attain or maintain the relevant NAAQS, to mitigate interstate pollution transport, or otherwise comply with any requirement of the FCAA.

Depending on the complexity of the issues, the development of a SIP revision may require up to four years. The FCAA specifies deadlines for submitting SIP revisions and provides for sanctions if the deadlines are not met. EPA generally allows states 12 to 18 months to correct a failure to submit, after which the federal government is obligated to withhold highway money, require increased emission offsets from companies that want to build new or modify existing facilities, and implement a federal implementation plan in place of the applicable SIP element. These deadlines may also be modified, clarified, or revised by additional federal legislation and rulemaking or court action, which then changes the timelines for states to complete work associated with SIP revisions.

The following flowchart provides details of the SIP development process.

### State Implementation Plan Development Process Flowchart



**Mobile Source Programs.** Timelines associated with work in the mobile source programs are driven by deadlines established by EPA under the FCAA. These programs work in conjunction with the SIP planning efforts to ensure federal requirements are met.

The I/M program is administered as part of the DPS vehicle safety inspection program. Since March 2015 a passing vehicle inspection has been a prerequisite for annual vehicle registration through the Texas Department of Motor Vehicles. To meet the registration requirements in one of the affected counties, a subject vehicle must pass the prescribed emissions tests in addition to meeting the vehicle safety inspection requirements. If a motorist's vehicle is not in compliance, enforcement is through citations issued by law enforcement agencies and registration denial of the subject vehicle.

The state's motor vehicle fuel programs, including the Regional Low RVP Gasoline program, El Paso Oxygenated and Low RVP Gasoline program, and TxLED program, are administered by TCEQ. The regulations for these programs reside in 30 TAC Chapters 114 and 115.

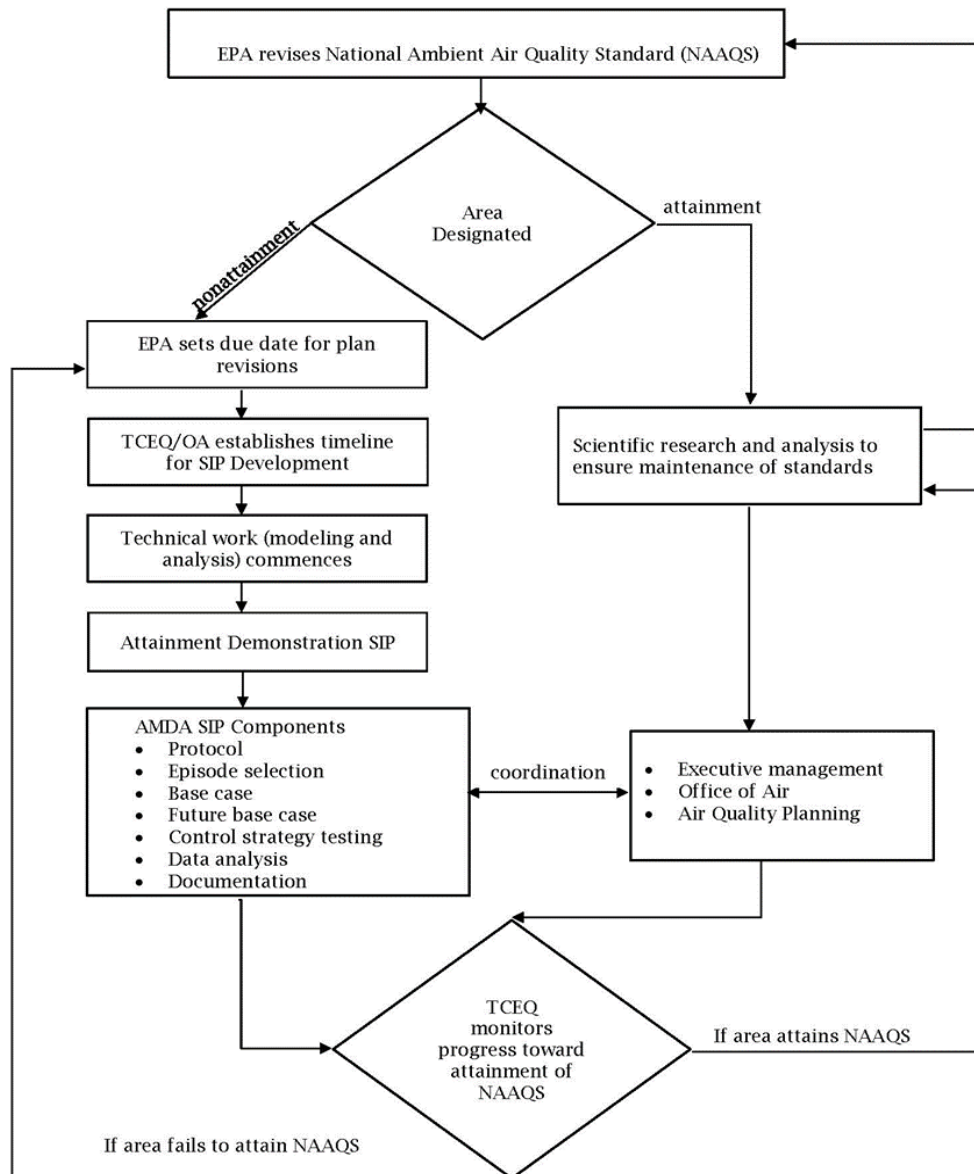
The Idling program is administered through MOAs between TCEQ and local governments. The local government adopts a resolution or ordinance incorporating TCEQ's idling rule into an MOA. The MOA is then signed by the appropriate local official and TCEQ. Enforcement occurs at the local level.

Transportation conformity links transportation planning with air quality planning and must be conducted in areas subject to transportation conformity requirements (ozone, CO, and PM<sub>10</sub> NA/maintenance areas) at least once every four years. This process is led by an affected area's metropolitan planning organization (MPO) and includes consultation and agreement by state and federal transportation partner agencies and state and federal air quality partner agencies. General conformity links air quality planning with individual, non-transportation federal actions and must be conducted for actions in areas subject to general conformity requirements (ozone, CO, PM<sub>10</sub>, and SO<sub>2</sub> NA/maintenance areas) before an individual federal action can be approved to proceed. This process is led by the affected federal agency or project sponsor and includes consultation and agreement by the federal agency and TCEQ, in consultation with EPA.

*Control Strategies Development.* Development of control strategies is administered under the same general process as the SIP Program (see flowchart *SIP Development Process* for more information). Any rules developed by the program must conform to agency and the Texas Secretary of State's Office rulemaking guidelines, requirements, and timelines. This process applies to revisions to 30 TAC discussed in previous sections.

*Air Modeling and Data Analysis.* This program's main functions are driven by federal requirements for photochemical and dispersion modeling and data analysis. The following flowchart provides details for AMDA program's process for SIP demonstrations.

### AMDA Program SIP Demonstration Process Flowchart



**Emissions Assessment.** Regulated entities determine whether they meet the requirements of 30 TAC Section 101.10 and submit point source emissions inventories annually by March 31 each year. Program staff quality assures and reviews all emissions data in accordance with EPA-approved Quality Assurance Project Plan (QAPP). Program staff documents its findings in accordance with point source EI review guidance and protocols. Regulated entities are provided an opportunity to approve or revise their quality assured emissions data. The annual EI data are stored and maintained in the point source EI database. The statewide point source EI are extracted from the point source EI database, formatted, and submitted to EPA for inclusion in the NEI. Program staff develops point source EI trends, provides training and technical assistance to regulated entities, and provides data to the public.



As required by the FCAA, area and mobile source emissions are developed, quality assured, and submitted to EPA every three years for criteria pollutants and precursors for specific source categories. Program staff either develops an EI or oversees development of an EI for each identified source category by using EPA-approved models and methods. Program staff quality assures all emissions data in accordance with the EPA-approved QAPP. The area and mobile source EIs are loaded and maintained in the area and mobile source EI database. Program staff develops EI trends.

Regulated entities determine whether they are subject to the assessment of an emissions fee and/or inspection fee each fiscal year and submit the fee basis information. Program staff reviews the self-reported fee basis information and reconciles this information with the regulated entity's reported company data, permits, and/or point source emissions inventories to determine the appropriate fee type and fee amount. A regulated entity subject to both emissions and inspection fees is only required to pay the higher of the two fees. Because these fees are billed, program staff provide the fee data to TCEQ's Financial Administration Division to invoice companies, collect the fees, and assess late fees and penalties.

For the TRI, program staff reviews toxic release data and assesses a fee for the number of toxic chemical release forms submitted by regulated entities determining their sites are subject to the TRI reporting requirements. Regulated entities submit toxic chemical release forms for each applicable chemical annually by July 1 of each year to both EPA and the state's TRI program.

Program staff develops TRI trends, reviews the Texas TRI data, and provides training and technical assistance specific to the industry in Texas. Program staff also compares TRI and EI data to identify any significant changes or potential TRI reporting issues.

Program staff determines the toxic chemical release fee owed and generates the TRI fee billing files. These files are transmitted to TCEQ's Financial Administration Division to invoice companies, collect the fees, and assess late fees and penalties.

*Air Quality Research and Development.* EPA establishes schedules for SIP submission as part of its rule implementation process following adoption of revisions to NAAQS. The technical support is developed in advance of the deadline for SIP submission and generally begins three years before a SIP revision is due to be submitted to EPA.

Each biennium, research topics are identified through input from stakeholders, AQRP Advisory Council, and TCEQ. Research project proposals are solicited through a request for proposal (RFP) and then reviewed and ranked by the Independent Technical Advisory Committee (ITAC). TCEQ then reviews the ITAC recommended projects for relevancy to Texas air quality needs. Finally, the AQRP Advisory Council selects research projects to be funded by the AQRP from the list of recommended and ranked projects.

Prior to the start of each biennium, TCEQ develops proposed research and development projects for consideration to meet the needs of SIP development and to build capacity for future SIP-related technical work.

For Rider 7, each of the ten eligible organizations were required to develop a statement of work (SOW) outlining their proposed projects allowed under Rider 7 before requesting funding. TCEQ provided input and feedback to the performing parties to help develop the proposed projects. Following the approval of the SOW, each organization then submits a QAPP for those projects listed in the SOW for TCEQ acceptance. Upon acceptance of the QAPP, the organizations then work to complete the projects described in the SOW and under the terms of the grant.

For the Regional Air Monitoring program, the NTC assembled a monitoring committee comprised of local municipalities, higher education, and private sector interests in the region to aid in the development of the monitoring proposal for submittal to TCEQ for review and approval. A total of 21 monitoring sites have been funded by SB 527 (82R) to include three new air toxics monitors in Region 3 and nine new air toxics monitors in Region 4 as well as the preservation of nine existing air toxics monitoring sites deployed by TCEQ in response to Barnett Shale activities where funding was limited.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

#### Air Quality Planning Program Funding

Account	Account Title	CFDA	CFDA Name	FY 2020 Expended
0001	General Revenue	N/A	N/A	\$4,000,000
0151	Clean Air Account - Dedicated	N/A	N/A	\$11,755,967
0555	Federal Funds	66.605	Performance Partnership Grant	\$1,152,917
5071	TERP Account - Dedicated	N/A	N/A	\$4,013,061
5094	Operating Permit Fee Account - Dedicated	N/A	N/A	\$2,239,333
<b>TOTAL</b>				<b>\$23,161,278</b>

The program is funded in the Air Quality Assessment and Planning Strategy.

The program includes the following riders:

- Rider 7 - Air Quality Planning;
- Rider 10 - Refinement and Enhancement of Modeling to Demonstrate Attainment with the Clean Air Act;
- Rider 12 - Appropriation Limited to Revenue Collections: Automobile Emission Inspections;
- Rider 19 - TERP: Grants and Administration; and
- Rider 29 - Emission Reductions Technologies using Supercritical CO<sub>2</sub>.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

*SIP Program.* No programs either internal or external to TCEQ provide identical or similar services or functions of the SIP Program.

*Mobile Source Programs.* As required by THSC Chapter 382 Subchapter G, the I/M Program is administered by both TCEQ and DPS.

The transportation conformity program requires interagency consultation bringing together local, state, and federal air quality and transportation stakeholders in NA and maintenance areas, and each partner brings the following particular expertise to achieve a common result:

- MPOs coordinate local transportation planning and develop periodic transportation conformity demonstrations;

- FHWA and the FTA set federal rules and guidance related to transportation planning and implementation and review and approve regional transportation conformity demonstrations;
- TxDOT oversees state transportation planning and reviews and consults on regional transportation conformity demonstrations;
- EPA sets federal air quality planning and implementation rules and guidance, reviews and determines approval of the state's air quality SIP, and reviews and consults on regional transportation conformity demonstrations; and
- TCEQ maintains the state's transportation conformity requirements in the SIP and associated rule, develops SIP motor vehicle emissions budgets for use in transportation conformity, and reviews and consults on regional transportation conformity demonstrations.

*Emissions Assessment.* No other program collects and assesses statewide point, area, or mobile source emissions data and reports them to EPA per the AERR. EPA develops default area and mobile source emissions inventory data to assist states with complying with reporting requirements, but these data can be imprecise and result in inaccurate emissions. Because area and mobile source data are used for SIP revisions, the program area submits more accurate state-specific data to EPA when available, and EPA replaces its default data with the Texas-specific data for inclusion in EPA's NEI.

The state has an approved federal operating permitting program and collects emissions fees sufficient to cover the direct and indirect costs for administering the federal operating permit program.

EPA administers the TRI program at the national level. Per 42 USC Section 11023(a), the governor shall appoint a designee for the state TRI program. Both EPA and TCEQ TRI programs provide technical assistance to regulated industries and the general public. Per the THSC Chapter 370, program staff assesses a toxics chemical release fee. No other program assesses this fee.

*Air Quality Research and Development.* Air Quality Planning receives funds through a rider (Rider 7 86R) to support local governmental organizations. Recipients include:

- Heart of Texas Council of Governments for Waco;
- El Paso MPO for El Paso;
- South East Texas Regional Planning Commission for Beaumont;
- Capital Area Council of Governments for Austin;
- City of Corpus Christi for Corpus Christi;
- City of Granbury for Granbury;
- Central Texas Council of Governments for Killeen-Temple;
- East Texas Council of Governments for Longview-Tyler-Marshall;
- City of Victoria for Victoria; and
- Alamo Area Council of Governments (AACOG) for Atascosa, Bandera, Comal, Guadalupe, Kendall, Medina, and Wilson counties.

The funds support emission inventory and air quality monitoring projects supporting the SIP. The projects are limited to the specific counties of the local governments, which are in attainment of the eight-hour ozone standard. Air Monitoring and Data Analysis completes projects of similar scope but focuses on NA areas, the entire state, or larger geographic areas.

The Regional Air Monitoring program is implemented under TCEQ oversight, through the NTC. The regional air monitoring program provides data used for SIP development and revisions for NA areas. This

work is not required for SIP development but complements efforts to achieve a more comprehensive dataset and analyses.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

Mobile Source Programs. To ensure there is no conflict or duplication of duties in implementing the I/M program, TCEQ and DPS initiated an MOU dated December 13, 1996, and updated it on January 22, 1997.

Local, state, and federal transportation conformity consultation partners all work to achieve the same goal for transportation plans, projects, and programs conform to the SIP. Because each partner's expertise and responsibilities are different, there is no duplication of work in the transportation conformity process. While the consultation process is intended to achieve consensus among the partner agencies, the state's transportation conformity rule, which is part of the SIP, lays out procedures for navigating conflict among the partner agencies so disagreements do not impede the transportation conformity process. A MOU between TxDOT and TCEQ (43 TAC Chapter 2 Subchapter I and adopted by reference in 30 TAC Section 7.119) provides a formal mechanism by which TCEQ reviews transportation projects having the potential to affect resources within TCEQ's jurisdiction and promotes mutually beneficial information sharing between the agencies.

Emissions Assessment. Emissions Assessment submits accurate state-specific area and mobile source EI data to EPA and coordinates with EPA to ensure EPA default data are replaced with TCEQ Texas-specific data.

EPA administers the TRI program at the national level. Both EPA and TCEQ TRI programs provide technical assistance to regulated industries and the general public. Per 42 USC Section 11023(a), the governor is required to appoint a designee for the state TRI program. Emissions Assessment focuses on aiding regulated entities within the state. Per THSC Chapter 370, program staff assesses a toxics chemical release fee. No other program assesses this fee.

Air Quality Research and Development. The activities of regional and local governmental agencies under Rider 7 are performed through grant contracts. Work carried out through those agreements is negotiated with TCEQ staff and management.

The activities of the regional air monitoring program are performed through a grant contract with the NTC. Work carried out under the grant is negotiated with TCEQ staff and management.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

SIP Program. The SIP Program works with EPA, local governments, MPOs, councils of government, and stakeholders—including industry and environmental groups—to develop SIP revisions.

Mobile Source Programs. Mobile source programs work with regional councils of government and local law enforcement task forces by providing access to emissions inspection data to assist in identifying potential fraud in the I/M program.

The state emission reduction fuel programs are approved under the SIP, so the state and EPA have authority to enforce for noncompliance.

The Idling program is implemented by having governmental entities sign an idling MOA with TCEQ.

TCEQ consults with local, state, and federal transportation planning agencies (MPOs, TxDOT, FHWA, and FTA) as well as EPA to ensure emissions from the transportation system in the state's applicable NAAQS NA and maintenance areas conform to the SIP. This includes a demonstration estimating emissions from the area's transportation system do not exceed the emissions limit established in the SIP, which is referred to as the motor vehicle emissions budget (MVEB). TCEQ develops the MVEB in the SIP, and it must be found adequate or approved for use in transportation conformity analysis before an MPO can use it to conduct a transportation conformity demonstration.

*Control Strategies Development.* Control Strategies Development staff periodically meet with EPA representatives, typically from EPA Region 6 in Dallas. EPA Region 6 is responsible for reviewing and approving control measures and rules included in the Texas SIP.

*Air Modeling and Data Analysis.* AMDA participates in a group of local, state, regional, and federal air quality modelers to develop collaborative photochemical modeling platforms, sharing knowledge and resources.

AMDA works with EPA as required to reach agreement on technical components included in attainment, exceptional event, and international transport demonstrations. Staff also address issues and comments raised by EPA during the SIP comment period, prior to adoption by TCEQ and submission of the revised SIP by the governor to EPA.

Program staff works with federal land managers, such as the National Park Service, in the consultation phase of Regional Haze SIP development to discuss elements of the plan.

*Emissions Assessment.* Emissions Assessment program staff works with EPA's emissions inventory group to assess and submit annual point source emissions inventory data and triennial (every three years) area and mobile source emissions inventory data. EPA's emissions inventory group develops the guidance and instruction for each state's EI programs. EPA also uses the statewide data for other EPA initiatives and programs.

Program staff works with EPA's operating permits program on air emissions and inspection fees. EPA's operating permits program ensures the states' Title V programs are being administered in accordance with federal requirements. The state's fee program must demonstrate to EPA sufficient emissions fees are collected to cover the direct and indirect costs associated with administering the Title V program.

For the TRI, program staff works with EPA's TRI program. EPA is responsible for administering the TRI program, including compliance and enforcement duties, maintenance, and storage of the TRI data in a national database, and publication of the TRI data. EPA also issues and updates TRI guidance and reporting requirements. The Emissions Assessment staff attends numerous public outreach events to provide technical assistance to the regulated entities subject to the TRI reporting requirements.

*Air Quality Research and Development.* Projects are carried out through contracts with local entities, including the ones mentioned above, and also in collaboration with the North Central Texas Council of Governments and the Houston-Galveston Area Council.

**K. If contracted expenditures are made through this program please provide**

- **a short summary of the general purpose of those contracts overall;**

Mobile source programs use contracts to satisfy federal or state air quality implementation, reporting, and/or data requirements.

Emissions Assessment uses contracts to accomplish specific tasks the program area cannot perform with existing resources, such as aerial surveys of air pollution sources or SIP emissions inventories for specific areas and/or sources.

AQRD uses contracts for: upgrades to software used to analyze vehicle emissions, deployment of specialized monitoring, analysis of data collected during field studies, supplemental photochemical modeling support for the SO<sub>2</sub> SIP revision, investigative studies to improve understanding of the complex nature of ozone formation along the Texas Gulf coast, development of emissions inventories and growth projections used in developing SIP revisions, collection of data used to improve emissions inventories, and collaborations with local governments on air quality programs designed to keep areas in attainment of the ozone air quality standard.

- **the amount of those expenditures in fiscal year 2020**

Expenditures total \$2,080,120.

- **the number of contracts accounting for those expenditures;**

28 contracts.

- **the method used to procure contracts;**

Contracts were procured through direct award, solicitation work orders, and proposals for grant activities.

- **top five contracts by dollar amount, including contractor and purpose;**

#### Air Quality Planning Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-19-90500	Ramboll Environmental US Corporation	Air Quality Research projects to support the SIP	\$723,169
582-19-90502	Eastern Research Group, Inc	Air Quality Research projects to support the SIP	\$715,771
582-19-90498	Atmospheric and Environmental Research, Inc	Air Quality Research projects to support the SIP	\$323,311
582-17-70025	LEAK Surveys, Inc	Aerial and/or ground passive infrared camera survey services	\$145,737
582-18-84318	Department of Information Resources	Maintenance and development of TexAER system	\$135,647

- **the methods used to ensure accountability for funding and performance; and**

Methods used to ensure accountability for funding and performance include a defined and consistent process for developing, implementing, and tracking projects. This includes project prioritization in alignment with required work and with agency priorities, development of a detailed scope of work to describe the work to be performed as well as deliverables and due dates, and review of all invoices to ensure consistency with contract dates, deliverables, work performed, and allowable expenses.

- **a short description of any current contracting problems.**

No contracting problems were encountered in FY 2020.

#### **L. Provide information on any grants awarded by the program.**

North Texas Commission Monitoring. The TERP program funds a regional air monitoring program, limited to TCEQ Regions 3 and 4. It is implemented through a regional nonprofit located in North Texas meeting specific eligibility requirements. The NTC was found to meet all eligibility requirements and a direct award was granted to the NTC. Since 2012, a total of 21 monitoring sites have been funded. The regional air monitoring program was designed to collect air toxics data to determine the potential for health effects with the extensive growth in the region due to Barnett Shale gas production. The monitors are in the communities of Abilene, Arlington, Bowie, Dallas, Decatur, DISH, Eagle Mountain Lake, Everman, Flower Mound, Fort Worth, Gainesville, Godley, Keller, Kennedale, Lancaster, Mansfield, Mineral Wells, Rhome, Weatherford, and Wichita Falls.

Rider 7 – Air Quality Planning Grants (86R). In 2019, the legislature (86R) provided \$4.5 million for air quality grants within certain specified areas. Ten organizations for 16 areas receive funding under a direct award. Each area receives \$281,250. AACOG of represents seven areas and receives \$1,968,750.

Rider 29 – House Bill 1 (86R). This rider requires TCEQ to provide \$4 million to the University of Houston through a direct award contract to fund projects reducing emissions through improved energy production efficiency using supercritical carbon dioxide (CO<sub>2</sub>). Contract No. 582-20-10498 between TCEQ and the University of Houston was executed October 15, 2019. The university is using the funds to support a project with Gas Technology Institute which has partnered with Southwest Research Institute and General Electric to design, build, and operate a new supercritical CO<sub>2</sub> power generation facility.

The State of Texas Air Quality Research Program. AQRP is administered by The University of Texas at Austin and funded by TERP to ensure emission reductions projects are as effective as possible in improving air quality and are used to improve our scientific understanding of how emissions impact air quality in Texas. Some of the directly funded research projects and development of some emissions inventory data are funded through grants. For example, TCEQ obtains assistance with the development of on-road mobile inventories through a grant to the Texas Transportation Institute. TCEQ also works with universities through grants to fund specialized monitoring and field studies.

Texas A&M Engineering Experiment Station. THSC Chapter 386 Sections 386.051(b)(9) and 386.252(a)(12) require TCEQ to enter into a direct award contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station (not more than \$216,000 annually) for the development and annual computation of creditable statewide emissions reductions from wind and other renewable energy resources for the SIP.

*TCEQ and the University of Texas at El Paso.* These agencies entered into a direct award agreement allowing the Border Affairs Team and Air Quality Division to collaborate to better understand ozone formation in El Paso. This work will include studies to characterize PM formed during wildfires and to better characterize the complex meteorology of the area.

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

Timely and thorough implementation guidance from EPA for NAAQS revisions and their associated increase in regulatory requirements helps to reduce uncertainty for states throughout the SIP planning process and allows states to take steps to ensure resources are properly allocated. Implementation guidance received late in the process or not at all, reversal of prior federal actions, and/or expedited timelines for review and implementation for states, which have all occurred historically, create a challenge for the program.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Air quality research has been a key component in the development of the SIP, regulations, and control strategies during the past decade. For example, field studies demonstrated the important role of a class of VOCs in ozone formation. Consequently, the agency adopted rules to reduce these compounds, resulting in an effective strategy for addressing industrial pollution. In carrying out the mission of TCEQ, the agency strives to base decisions on sound science. Air quality research supports this goal.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.**

N/A



## Tax Relief for Pollution Control Property Program

**A. Provide the following information at the beginning of each program description.**

***Name of Program or Function:*** Tax Relief for Pollution Control Property

***Location/Division:*** Austin Headquarters / Air Quality Division

***Contact Name:*** Donna F. Huff

***Statutory Citation for Program:*** Texas Tax Code (TTC) Section 11.31.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Tax Relief for Pollution Control Property program (Tax Relief program) was created in 1993 to provide relief through property tax exemptions, to individuals, companies, and political subdivisions making capital investments to meet or exceed environmental regulations. Pollution control property includes pollution control equipment, pollution prevention technology, or changes to processes or methods meeting or exceeding existing environmental standards.

TCEQ determines whether property meets the requirements for receiving a tax exemption under TTC Section 11.31. The program evaluates applications to determine if the property was installed to meet or exceed an adopted environmental regulation, and if the equipment is used to prevent, monitor, or control air, water, or land pollution.

Once reviewed, the property receives a "use" determination. A positive use determination means the equipment is partially or wholly used for pollution control or prevention. A negative use determination is issued if the property is not pollution control property. After receiving a positive use determination, the applicant applies to the local appraisal district to receive a property tax exemption.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The first Tax Relief program application was received on November 21, 1994. As of December 31, 2020, the program has processed 23,346 applications. The total listed property value listed on applications, which may be different from the appraised value, is \$52.2 billion. Since January 1994, the average annual number of applications received is 865. Positive use determinations have been issued for approximately 92% of the applications processed. Negative use determinations have been issued for approximately 1.3% of the applications, and approximately 6.7% have been withdrawn by the applicant or returned to the applicant by the program for failure to provide requested information.

By rule, staff has a 230-day time frame after an application is declared administratively complete to complete the technical review. In FY 2020, the average technical review time was three days with 100% of technical reviews being completed in 45 days or less.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

The Tax Relief program was created in 1993 by the passage of House Bill (HB) 1920 (73R), which added TTC Section 11.31. In November 1993, Texas voters approved Proposition 2 adding Section 1-I to Article VIII of the Texas Constitution. In 1999, administrative rules were adopted in 30 TAC Chapter 277 and later moved to 30 TAC Chapter 17. In 2001, HB 3121 (77R) amended TTC Section 11.31 by creating an appeals process and requiring TCEQ to adopt by rule an application review process. In 2002, the appeals process was adopted in 30 TAC Section 17.25. The application review process was adopted as the Decision Flow Chart (30 TAC Section 17.15) and the Cost Analysis Procedure (30 TAC Section 17.17).

In 2007, HB 3732 (80R) amended TTC Section 11.31 by adding three new subsections: (k), requiring the adoption of 18 categories of potential pollution-control property; (l), requiring review of the list in (k) at least once every three years; and (m), establishing a 30-day review for applications containing property in one of the categories in Subsection (k). The list in TTC Section 11.31(k) was combined with the previous predetermined equipment list defined in 30 TAC Section 17.2 and in 2008 adopted into 30 TAC Section 17.14 as the Equipment and Categories List (ECL).

In 2009, HB 3206 (81R) and HB 3544 (81R) amended TTC Section 11.31 by adding two new subsections. New Subsection (g-1) requires applications containing equipment adopted under TTC Section 11.31(k) be reviewed using the methods and standards adopted under Section 11.31(g). New TTC Subsection (n) requires the establishment of a permanent advisory committee charged with advising the commission on the implementation of TTC Section 11.31. In 2010, the Tier I Table replaced the ECL in 30 TAC Section 17.14, and the Expedited Review List containing property listed in TTC Section 11.31(k) was added to 30 TAC Section 17.17.

HB 1920 (73R) also added TTC Section 26.045, which enabled a political subdivision required to incur capital expenditures due to a TCEQ-issued permit to increase their tax rate to cover the expenditures. In 2007, the 80th legislature amended Section 26.045, requiring TCEQ to adopt a list of 18 categories of property, a formal policy for reviewing the list, and an expedited review process for applications containing the items on the list. In 2008, TCEQ adopted 30 TAC Chapter 18 to establish the procedures and mechanisms for obtaining a use determination under the Rollback Tax Rate Relief program. In 2019, the 86th legislature amended Section 26.045 to change the title and accordingly TCEQ revised the title of 30 TAC Chapter 18 from "Rollback Relief for Pollution Control Requirements" to "Voter-Approval Tax Rate Relief for Pollution Control Requirements." Since its inception, only four applications have received positive use determinations under 30 TAC Chapter 18.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Businesses and individuals in Texas having capital expenditures for pollution control equipment may participate in the Tax Relief program, though property used for residential purposes is not eligible for a tax exemption under the program. The Tax Relief Program requirements specify the property eligible for a tax exemption must have been constructed, acquired, or installed after January 1, 1994; must not have been taxable prior to January 1, 1994; and must be used, constructed, acquired, or installed wholly or partly to meet or exceed an environmental law, rule, or regulation. Historically the primary customers for this program have been industries and other businesses, with the largest number of applications from

chemical plants, gasoline service stations, electric utilities, and oil and gas facilities. Since the program began, TCEQ has received applications from approximately 2,300 individual property owners. The following table provides details on the five counties with the largest number of filings. Note that nearly 20% of applications have been for facilities located in Harris County, representing just over 20% of the total dollar value of property for which a tax exemption has been applied for since the beginning of the Tax Relief program.

#### Counties with Largest Number of Tax Relief for Pollution Control Property Filings

County	Number of Applications Received	% of Total Applications Received	Application Listed Dollar Value	% of Listed Dollar Value of Total Applications
Harris	4,636	19.9%	\$11,228,296,713	20.7%
Dallas	1,351	5.8%	\$353,790,984	0.6%
Brazoria	1,309	5.6%	\$4,390,007,678	8.1%
Tarrant	1,010	4.3%	\$516,336,929	1.0%
Jefferson	899	3.9%	\$6,435,211,690	11.9%
Five-County Total	9,205	39.5%	\$22,923,643,994	42.3%

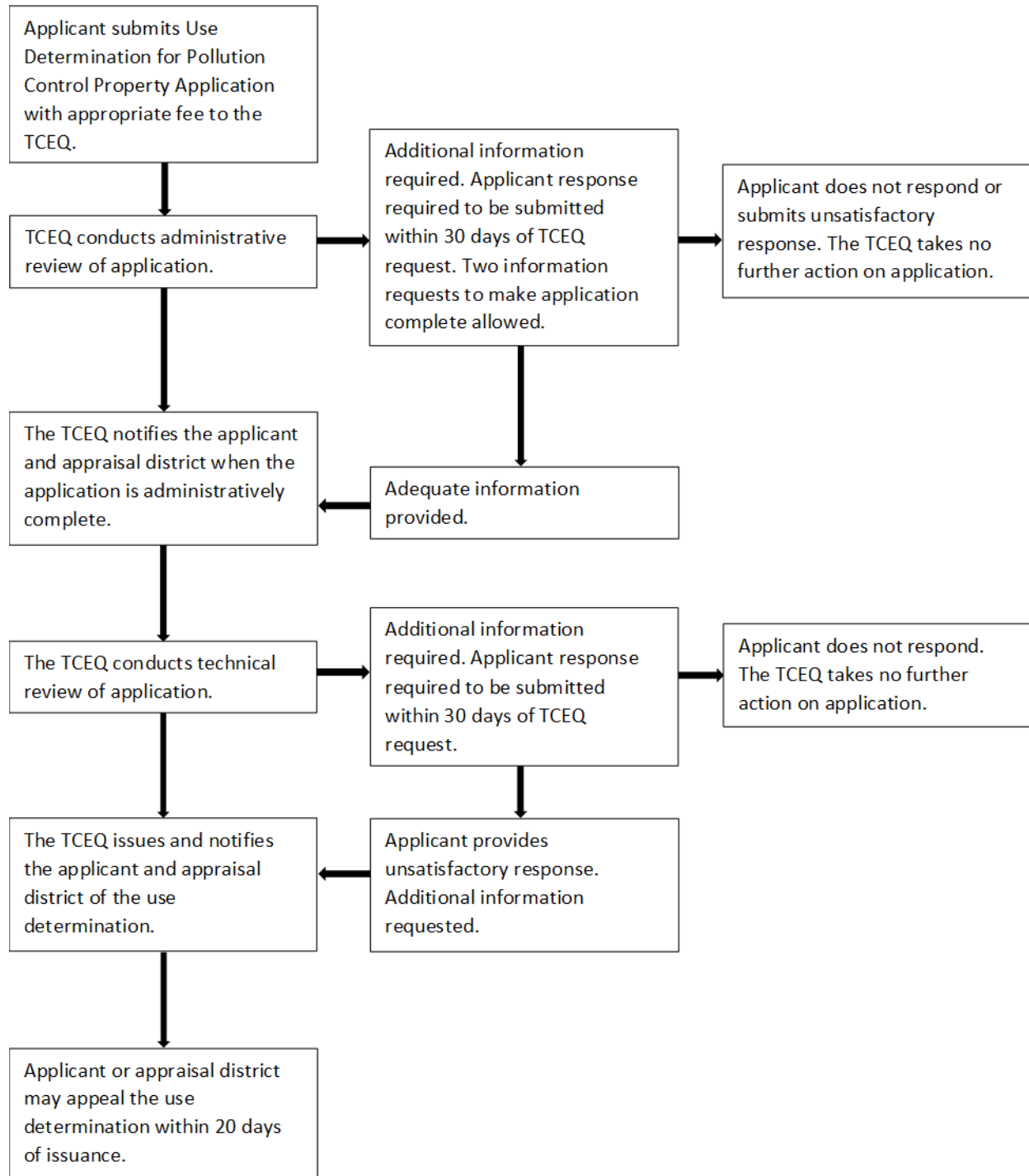
**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The tax relief application process consists of three parts:

- Administrative review of the application. The administrative review ensures the application is complete. Once an application has been declared administratively complete, the appropriate appraisal district is notified of its receipt;
- Technical review. All portions of the application are reviewed to ensure the application meets the technical requirements as stated in the rules. Technical requirements for which the application is reviewed include demonstrating the purpose of the property is to meet or exceed an environmental law, rule, or regulation; the property is used at least partly as pollution control, and there is anticipated environmental benefit for the use of the property. Next, the application and review documents are forwarded for management approval; and
- Final determination. The final determination is sent to the applicant with a copy to the appropriate appraisal district.

The following flowchart illustrates application review process steps.

**Tax Relief Application Review Process Flowchart**



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

**Tax Relief for Pollution Control Property Program Funding**

Account	Account Title	FY 2020 Expended
0001	General Revenue	\$153,106

The program is funded in the Pollution Prevention Recycling Strategy and includes Rider 5 - Fee Revenue: Pollution Control Equipment Exemptions.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

There are no other programs, internal or external to TCEQ, that review property in Texas to determine if it qualifies as pollution control property for purposes of exemption from property tax.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The Tax Relief program is required to notify the affected appraisal district that an application has been filed and send the district a copy of the final determination.

**K. If contracted expenditures are made through this program please provide**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.**

N/A

## New Source Review Permits

**A. Provide the following information at the beginning of each program description.**

**Name of Program or Function:** New Source Review (NSR) Permits

**Location/Division:** Austin Headquarters / Air Permits Division

**Contact Name:** Samuel Short

**Statutory Citation for Program:** Texas Health and Safety Code (THSC) Chapter 382; Federal Clean Air Act (FCAA) Sections 110(a)(2)(c), 165(a)(2), 172(c)(5), and 173.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Texas Clean Air Act (TCAA), THSC Chapter 382, governs all air quality permitting in the state and implements provisions of the Federal Clean Air Act (FCAA). The TCAA requires authorization for all air contaminants in addition to authorization of federally regulated pollutants.

The main objective of the Air Permits Division (APD) is to review and authorize air applications and registrations for facilities that, when operational, would emit contaminants into the air. The division meets its objective through two air permitting programs: NSR Permits and Title V Federal Operating Permits (FOPs). The NSR Permits Program has a major and a minor component. The term “major” is based on a stationary source’s annual potential to emit a federally regulated pollutant. The state’s “minor” NSR program applies to all facilities that emit pollutants at levels less than a major source.

The NSR Permit Program requires stationary sources of air pollution to obtain authorization before construction or alteration of a facility. For “major” NSR facilities, the authorization types include, but are not limited to, a Prevention of Significant Deterioration (PSD) permit and a NA permit. Several types of “minor” NSR authorizations are available, and a source’s facilities may be authorized by more than one type of permit under the NSR permits program (e.g., a stationary source may be required to have a PSD permit and may also be required to obtain minor NSR permits for activities at the same site that do not require changes to the PSD permit).

The NSR program is also referred to as construction permitting or preconstruction permitting. Under the TCAA, the NSR program addresses all air contaminants emitted from a facility including those pollutants for which there is a National Ambient Air Quality Standard (NAAQS) and precursors to the formation of identified pollutants, if applicable.

### *Primary NSR Authorization Types*

Before work begins, a person who plans to construct a new facility or to modify an existing facility must satisfy the criteria of a streamlined authorization for a de minimis facility or source, a permit by rule (PBR), or standard permit (SP) or obtain a case-by-case permit (Minor NSR permit or major NSR PSD or NA permit).

- *De Minimis Facilities/Sources*. De minimis emissions are so small a registration, authorization, or certification before construction is not required. To qualify, emissions must meet the conditions specified by TCEQ rule.
- *PBR Claims and Registrations*. PBRs are for facilities with insignificant emissions of air contaminants producing more than de minimis emissions but less than other permitting options. Some PBRs require registration. Facilities must meet all conditions specified by TCEQ rules for PBR requirements. A PBR can never be used to authorize emissions that must undergo PSD or NA review. The public participates in rule development and adoption.
- *SP Claims and Registrations*. If an applicant cannot claim a PBR for a facility, the facility may qualify for a SP. SPs are tailored to industry type. Facilities must meet all conditions specified by the SP. An SP can never be used to authorize emissions that must undergo PSD or NA review. The public participates in the SP adoption process.
- *New Construction or Modification Permit*. Applicants with facilities that do not qualify for PBRs or SPs can submit an NSR permit application. New construction and modifications to existing facilities are also known as case-by-case permits for major or minor sources. Applicants shall propose the best available control technology (BACT) and the application have no indication that emissions from the facility will contravene the intent of the TCAA, including protection of the public's health and physical property. An applicant must demonstrate compliance with all applicable rules and regulations and acceptability of off-property impacts due to permitted emissions. The public participates in the permitting process and has the opportunity to provide comments and request meetings and hearings on individual applications. A minor NSR construction permit must be renewed every 10 years in most circumstances.
- *PSD Permit*. A PSD permit is a major NSR permit required if an applicant wants to locate in an area meeting NAAQS and permitted emissions would exceed federal significant emission levels for regulated pollutants. Applicants must identify control technologies and demonstrate compliance with all applicable rules and regulations and acceptability of off-property impacts due to permitted emissions. The public participates in the permitting process and has the opportunity to provide comments and request meetings and hearings. A PSD permit does not expire but can be modified.
- *NA Permit*. An NA permit is a major NSR permit required if an applicant wants to locate a source of emissions in an area that does not meet NAAQS and permitted emissions would exceed federal significant emission levels for the area. Unlike PSD permits, NA permits require lowest achievable emission rate (LAER) controls and emission reductions to offset the proposed emissions increases. The public participates in the permitting process and has the opportunity to provide comments and request meetings and hearings.

#### *Other NSR Authorization Mechanisms*

- *FCAA Section 112(g) Permit*. A FCAA Section 112(g) permit is a NSR construction or modification permit establishing federally enforceable case-by-case maximum achievable control technology (MACT) emission limitations and controls for hazardous air pollutants (HAPs) at a major stationary source. Under FCAA Section 112(g), relating to HAPs, the division must determine appropriate MACT standards for major sources of HAPs for which a standard has not been promulgated by EPA or which has been vacated by the courts.
- *Plant-wide Applicability Limit (PAL) Permit*. Major source permit applicants have the option of establishing a PAL for all facilities at a site. A PAL permit is not a pre-construction permit. A PAL permit establishes a site-wide emission limit, in tons per year, for a regulated NSR pollutant. The site-wide emission limits provide facilities with greater flexibility to modernize operations without



triggering major NSR review (requiring a PSD or NA permit or revisions to those permits). A PAL must be renewed every 10 years.

- Greenhouse Gas (GHG) Permits. A separate GHG PSD permit is required when GHG emissions exceed the thresholds in 30 TAC Section 116.164. Sources must apply BACT, but an air quality analysis for GHGs is not required.
- Flexible Permit. A flexible permit is a type of minor NSR construction or modification permit covering emissions from many facilities at the same site. This type of authorization allows an owner or operator more flexibility in managing operations by staying under an overall emissions cap or individual emission limitation. Owners or operators are allowed to structure flexible permits to best serve their needs while assuring BACT equivalent controls and acceptable impacts.
- Permit Amendment and Alterations. After a case-by-case permit is issued, the permit holder may need to change the manner in which the facility is operated. An amendment consists of a change in method of control, change in the character of emissions, or increase in actual or allowable emissions. A revision consists of changes that would not involve an increase in emissions or a change in the character or method of control of emissions. Amendments go through the same review process as an NSR permit for a new facility, which may include public participation if the emissions increases exceed the de minimis criteria defined by commission rule and change in character. Revisions do not require public participation.
- Permit Renewals. Permits must be renewed every 10 years at which time the facilities in the permit must be evaluated and reauthorized. The renewal is intended to continue the operation for which a permit was originally sought. It is not intended to authorize changes in operation, physical modifications, or construction of new facilities. A review is conducted to ensure the facilities continue to operate as originally permitted and continue to meet BACT considering the age of the facilities.
- Changes to a Qualified Facility. Senate Bill (SB) 1126 (74R), THSC Chapter 382.0512, gave qualified facilities the flexibility to make physical and operational changes without a permit. All facilities involved must be qualified at the time of the change. A facility is qualified if it had a permit or amendment issued within 120 months before the change occurred or it is exempted from permitting requirements or has controls at least as effective as BACT. There can be no net increases or new contaminants, and the qualified facility authorization cannot be used to authorize new facilities. A qualified facility authorization requires notification, documentation, and recordkeeping.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The effectiveness and the efficiency of the NSR Permits program is evidenced by the timely review and issuance of permits. In FY 2020, APD exceeded its production goal and achieved 121% of its performance measure target for permits reviewed within specified timeframes. As discussed more fully in Section XII, the increase in performance is attributed to the permit reforms enacted by APD, including the creation of automated processes, backlog reduction initiatives, and streamlining efforts. The following performance measures are reported in Section II, Exhibit 2.

- Percent of air quality permit applications reviewed within established time frames;
- Number of state and federal NSR air quality permit applications reviewed; and
- Number of state and federal air quality permits issued.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

The following history highlights significant actions directly affecting NSR Permits.

#### **2001**

- House Bill (HB) 2912 (77R) makes the permitting of “grandfathered” facilities mandatory. Facilities not modified since August 31, 1971, were previously "grandfathered" from the requirement to obtain a permit.

#### **2006**

- The commission adopts rules to remove, over a seven-year period, the ability for regulated entities to claim an affirmative defense for planned maintenance, startup, and shutdown activities. While the rule did not require authorization, it resulted in increased requests to permit planned maintenance, startup, and shutdown emissions.

#### **2007**

- The U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issues a final ruling on the court’s December 2006 decision on the rule to implement the eight-hour ozone NAAQS. This ruling restores NSR applicability thresholds and emission offsets pursuant to classifications previously in effect for areas designated in NA for the one-hour ozone standards.

#### **2008**

- The D.C. Circuit Court of Appeals restores electric utility steam generating units to the list of regulated source categories subject to MACT standards and invalidates EPA’s Clean Air Mercury Rule.
- Since 1992, when EPA approved Texas' major clean air permitting plan, the state has submitted more than 30 regulatory changes. The Business Coalition for Clean Air (BCCA) Appeal Group, Texas Association of Business (TAB), and Texas Oil and Gas Association (TxOGA) sued EPA seeking deadlines for it to act on the state's proposed changes to its previously approved plan. Although EPA approved the original and many updates to the Texas NSR permitting program.

#### **2009**

- The BCCA, TAB, TxOGA, and EPA agree to a schedule whereby EPA shall sign for publication in the *Federal Register* notices of final rulemaking to approve or disapprove, in whole or in part, key SIP revisions.

#### **2013**

- HB 788 (83R) authorizes TCEQ permitting of GHG Emissions.

**2018**

- EPA's January 25, 2018, memorandum rescinded EPA's 1995 "Once-in-always-in" policy concerning the applicability of 40 CFR Part 63 MACT standards to major sources of HAPs. TCEQ developed guidance to supplement the memo which outlined the basic process by which a major source of HAP subject to a MACT standard can become an area source.
- Effective February 1, 2018, all applicants must submit PBR and SP registration applications via ePermits. Effective July 1, 2018, all applicants must submit requests for change in ownership for all NSR authorizations including registrations under PBRs or SPs via ePermits.
- In November 2018 new tools and policies were released to process NSR applications more efficiently and reduce permitting timeframes.

**2019**

- Effective January 1, 2019, all APD-Certs and all notifications associated with 30 TAC Section 106.264, Replacement of Facilities, must be submitted electronically via ePermits.
- Effective January 1, 2019, all enclosed painting projects authorized through a case-by-case permit must submit the Paint Emission Calculation and Impacts Analysis workbook with the application.
- Effective June 1, 2019, the NSR General Application form (PI-1) workbook is required for all applications and the Electronic Modeling Evaluation workbooks are required for all minor projects utilizing modeling to complete an impacts analysis.

**2020**

- Effective September 1, 2020, the form for concrete batch plant (CBP) registrations (PI-1S-CBP) workbook is required for all CBP SP registration applications.

**2021**

- Effective January 1, 2021, application submittal is required through ePermits for the following: NSR case-by-case permits, excluding stand-alone permit actions for GHG PSD, PAL, and HAP Major source (all action types); all SP registrations, excluding Temporary Rock and Concrete Crushers (all action types); and all PBR registrations, including portables.
- Effective April 1, 2021, the PBR General Facilities workbook is required with any 30 TAC Section 106.261 or Section 106.262 registration.
- Effective April 1, 2021, the Fugitive workbook is required for all applications with fugitive emissions.
- Revisions were made to 30 TAC Chapter 116 to make rule language for major NSR applicability consistent with EPA's March 2018 guidance and rules on Project Emissions Accounting. The commission adopted revisions on June 9, 2021, and notice of the adopted changes was published in the *Texas Register* on June 25, 2021.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Air permitting affects any organization or person planning to construct a new facility or modify an existing facility that will emit air contaminants, including the public; universities; city and county governments; small businesses; manufacturers; industries; semiconductor plants; power plants; refineries; chemical

plants; mechanical; construction; and agricultural activities, etc. The APD does not track specific affected persons or organizations but does track certain permit authorizations by major or minor source categories. There are approximately 90,303 active NSR permits and authorizations, including registered PBRs and standard permits, at 67,400 sites.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The APD issues permits and authorizations meeting the requirements of the TCAA and the FCAA. APD issues both minor and major NSR permits and provides for other authorization mechanisms under its SIP approved NSR program. The program receives an application and assigns it to staff. Staff perform both an administrative and a technical review of the application to ensure the permit meets all applicable legal requirements. Certain authorization mechanisms do not require preapproval, application, or staff review.

During the administrative review, public notice packages, if applicable, are developed and the public is given an opportunity to comment. During the technical review, program staff check compliance history, evaluate control technology and impacts, draft permit conditions, and if applicable, develop another public notice package, conduct public meetings, and respond to comments.

If the permit application is not contested, the permit is issued or approved. If the permit is contested, hearing requests are considered by the commission at an open meeting. If hearing requests are granted, the permit may be referred to the State Office of Administrative Hearings for a hearing on contested matters. The commission will consider the Proposal for Decision by the Administrative Law Judge and approve or deny the issuance of a permit. If the commission denies the hearing request, the permit may be issued.

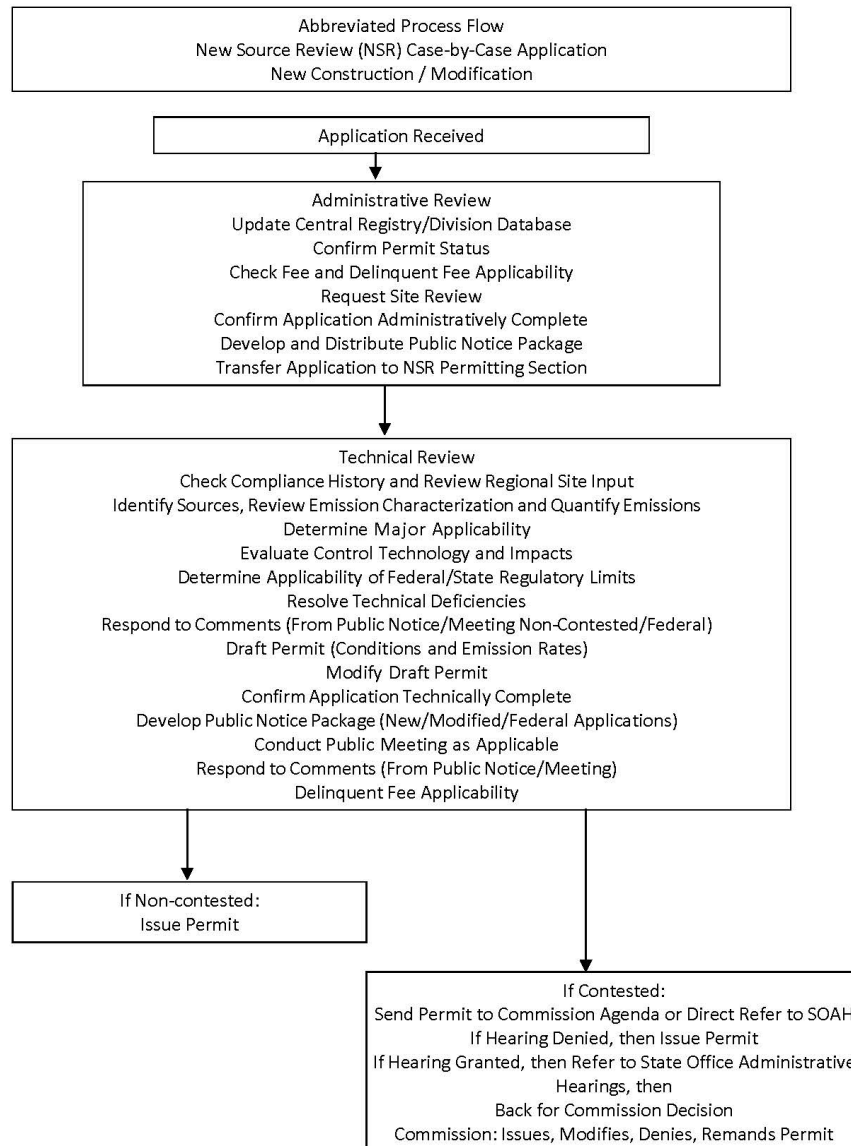
Air quality permits are legally binding documents and include enforceable conditions with which the owner or operator must comply. Some conditions are general to all types of facilities, while some are developed for specific facilities. Overall, the permit conditions establish limits on the types and amounts of air pollution allowed, operating requirements for pollution control devices or pollution prevention activities, and monitoring and recordkeeping requirements. These conditions are based on the technical review which primarily relate to source identification and air emission quantification, analysis of the off-property health impacts of those emissions, determination of BACT, and applicability of source category or emission-based state and federal regulations, as applicable.

If the facility is in a NA area, additional permitting requirements may apply. In addition to the requirements discussed above for NSR permits, NA permit review is required if the facility has emissions above the major source and significant thresholds for the specific county designated as NA. NA permitting requires the installation of LAER control technology and the acquisition of emissions reductions to offset the proposed emissions increases. If the new facility is a major stationary source, or construction is a major modification, located in an attainment or unclassifiable area, a PSD permit will be required. A PSD permit review will require additional modeling.

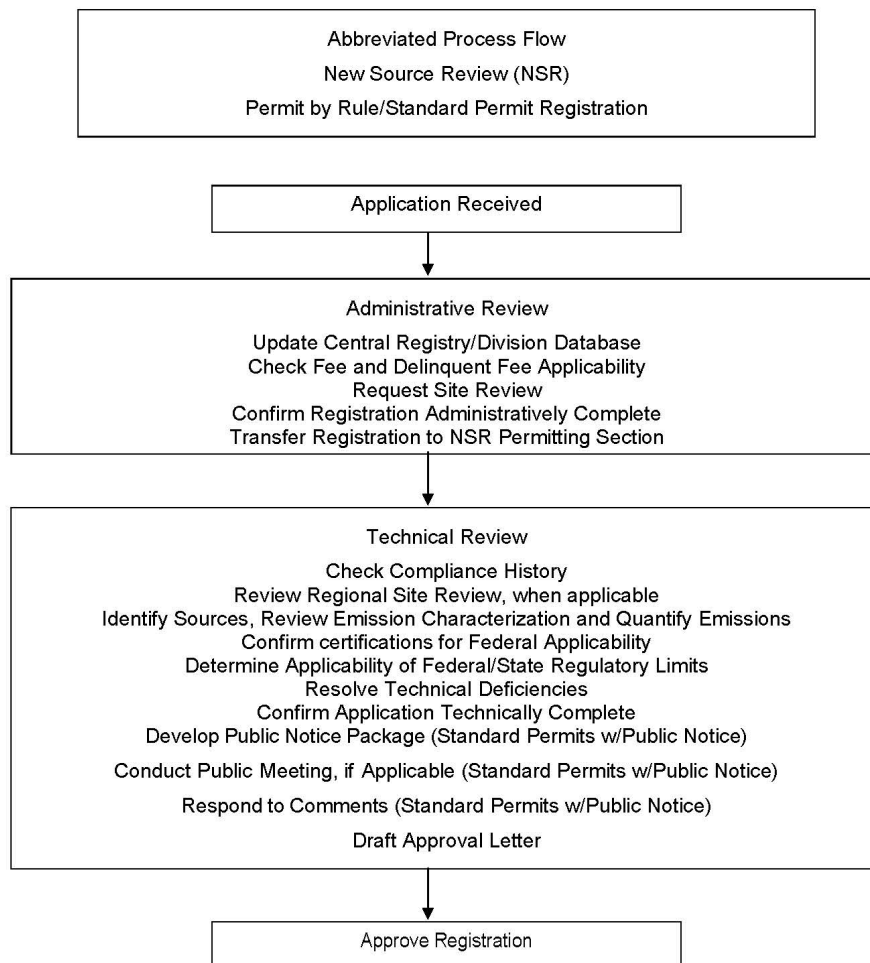
Technical reviews are conducted for PBR and standard permit registrations. Reviewers must ensure each PBR and standard permit registration meet all the general conditions and specific applicable rules. The reviewer checks the registrant has included necessary emission calculations, federal applicability, and determines the applicability of federal limits based on specific NA county designations.

The following flowcharts illustrate the abbreviated process flow for the highest volume NSR applications: case-by-case applications for new construction or modification permits and permit by rule or standard permit registrations.

### New Source Review Case-by-Case Application for New Construction or Modification Process Flowchart



### New Source Review Permit by Rule or Standard Permit Registration Process Flowchart



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

#### NSR Permits Program Funding

Account	Account Title	FY 2020 Expended
0151	Clean Air Account - Dedicated	\$4,887,182

The program is funded in the Air Quality Permitting Strategy and includes Rider 27: Expedited Processing of Permit Applications.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other internal or external programs provide identical or similar services or functions.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The APD works with EPA Region 6 Office of Air and Radiation implementing the federal NSR Permit program. The two agencies conduct monthly meetings.

**K. If contracted expenditures are made through this program please provide**

- **a short summary of the general purpose of those contracts overall;**

The general purpose of the contracts was the employment of temporary staff and contractors to assist with processing permit applications.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total \$116,075.

- **the number of contracts accounting for those expenditures;**

Nine contracts.

- **the method used to procure contracts;**

Purchase orders are used to procure the contracts.

- **top five contracts by dollar amount, including contractor and purpose;**

#### **New Source Review Permits Program Contracts**

<b>Contract No.</b>	<b>Vendor Name</b>	<b>Purpose</b>	<b>FY 2020 Expended</b>
582-20-10300	WORKQUEST	Temporary services to support the permitting processes	\$50,905
582-20-10295	WORKQUEST	Temporary services to support the permitting processes	\$29,588
582-20-10297	WORKQUEST	Temporary services to support the permitting processes	\$26,636
Procard 2200572	Dallas Morning News	Notice of public hearing for proposed air quality permits	\$2,188
Procard 2200590	Hearst Newspapers	Notice of public hearing for proposed air quality permit	\$1,919

- **the methods used to ensure accountability for funding and performance; and**

The APD reconciled monthly payments and kept track of weekly hours to ensure appropriate expenditure.

- a short description of any current contracting problems.

No contracting problems were encountered in FY 2020.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.**

Refer to the Office of Compliance and Enforcement, Field Operations Program, Question P for complaint related data for this program.



## Title V Federal Operating Permits Program

**A. Provide the following information at the beginning of each program description.**

**Name of Program or Function:** Title V FOPs

**Location/Division:** Austin Headquarters / Air Permits Division

**Contact Name:** Samuel Short

**Statutory Citation for Program:** Texas Health and Safety Code (THSC) Chapter 382; Federal Clean Air Act (FCAA) Sections 501–507.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Texas Clean Air Act (TCAA), THSC Chapter 382, governs all air quality permitting in the state and implements provisions of the Federal Clean Air Act (FCAA). The TCAA requires authorization for all air contaminants in addition to authorization of federally regulated pollutants.

The main objective of the Air Permits Division (APD) is to review and authorize air applications and registrations for facilities that, when operational, would emit contaminants into the air. The division meets its objective through two air permitting programs: New Source Review (NSR) Permits and Title V Federal Operating Permits (FOPs). The term “major” is used to determine the applicability of Title V FOP and is based on a stationary source’s annual potential to emit a federally regulated pollutant. Title V FOPs are also required for certain minor sources.

“Title V” refers to the section of the FCAA requiring operating permits. The Title V FOP program requires major sources and certain federally identified minor sources to obtain a permit consolidating all applicable air requirements in a single document to improve compliance. A Title V permit grants a source permission to operate.

### *Title V Federal Operating Permit Program*

There are two types of operating permits:

- **General Operating Permit (GOP)**. The GOP is a streamlined Title V authorization designed to cover numerous similar sources at a single site. An owner or operator can apply for an authorization to operate under a GOP. The GOP, like a NSR permit, contains uniform conditions that may apply to all sources in a defined class which are determined by unit specific attributes. Applicants cannot apply for authorization to operate under a GOP if they are subject to NSR case-by-case construction or modification permits. Additionally, they must meet other GOP qualification criteria and certify compliance each year with the authorization to operate under a GOP. The public participates in GOP adoption process, rather than each individual authorization to operate under the GOP.
- **Site Operating Permit**. The Site Operating Permit documents all applicable requirements applying at a specific site, or an area for large sites (a large site may have multiple site operating permits). An owner or operator can apply for authorization to operate under the Site Operating Permit and the permit contains specific conditions applying to the site. The public participates in the process

and is notified through public notice in newspapers and sign postings. The public may provide comments, request a notice and comment hearing, and petition the U.S. Environmental Protection Agency (EPA) to object to the issuance of the site operating permit, if EPA does not object to the permit prior to issuance. Applicants must certify compliance with the Site Operating Permit annually and report deviations on a semi-annual basis.

#### *Other Title V Authorization Actions*

- *Permit Revisions and Renewals.* After initial permit issuance, changes at a site or in applicable requirements may result in the need to revise the Title V permit. Changes at a site may include the addition or removal of emission sources, operational changes, or changes to existing monitoring, reporting, recordkeeping, and testing requirements identified in the permit. Revision applications may be submitted to revise the permits. Site Operating Permits and authorizations to operate under the GOPs must be renewed every five years by applicants. The public participates in the process and is notified through a public announcement on TCEQ's website for minor Site Operating Permit revisions or public notice in newspapers and sign postings for all other Site Operating Permit actions. The public may request a notice and comment hearing and can petition EPA. The public participates in the GOP revision and renewal process, but not the individual authorizations to operate.
- *The GOP must be renewed every five years by the APD.* Before the issuance or significant permit revision of any GOP, the executive director must publish notice for public comment and hearing on the draft GOP. The notice must be published in the *Texas Register*; on TCEQ's website; and in a newspaper of general circulation in the area affected by the GOP, or, in a newspaper within Austin, Houston, and Dallas if the GOP has statewide applicability. For a minor permit revision to a GOP, the executive director is required to publish an announcement on TCEQ's website. For any issuance or revision of a GOP, the executive director is required to notify EPA and any affected state. The public may participate in the issuance, renewal, or revision of a GOP through public comment, and can request meetings and petition EPA.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The effectiveness and the efficiency of the Title V Federal Permits program is evidenced by the timely review and issuance of permits. As stated for NSR permits, in FY 2020, APD exceeded its production goal and achieved 121% of its performance measure target for all permits reviewed within specified timeframes. The program also exceeded all of its other performance measures. As discussed more fully in Section XII, the increase in performance is attributed to the permit reforms enacted by APD, including backlog reduction initiatives and streamlining efforts. The following performance measures are reported in Section II, Exhibit 2.

- Percent of air quality permit applications reviewed within established time frames;
- Number of federal air quality operating permits reviewed; and
- Number of federal air quality permits issued.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

The following history highlights significant actions directly affecting APD.

#### **2009**

- BCCA, TAB, TxOGA, and EPA agree to a schedule whereby EPA shall sign for publication in the Federal Register notices of final rulemaking to approve or disapprove, in whole or in part, key SIP revisions.

#### **2010**

- Effective August 1, 2010, all vents constructed on or before January 31, 1972, must be identified in the Title V permit to address EPA's concerns.

#### **2020**

- TCEQ implements programmatic changes to Title V permits to incorporate PBR requirements. Effective August 1, 2020, all Site Operating Permit and GOP applications for initial and renewal projects, and significant revisions more than two years from renewal are required to include the new PBR Supplemental Table.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Air permitting affects any organization or person planning to construct a new facility or modify an existing facility that emits air contaminants, including the public; universities; city and county governments; small businesses; manufacturers; industries; semiconductor plants; power plants; refineries; chemical plants; mechanical, construction, and agricultural activities; etc. The APD does not track specific affected persons or organizations but does track Title V permit authorizations. There are approximately 440 GOPs and 1,128 Site Operating Permits at 1,387 Title V sites.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

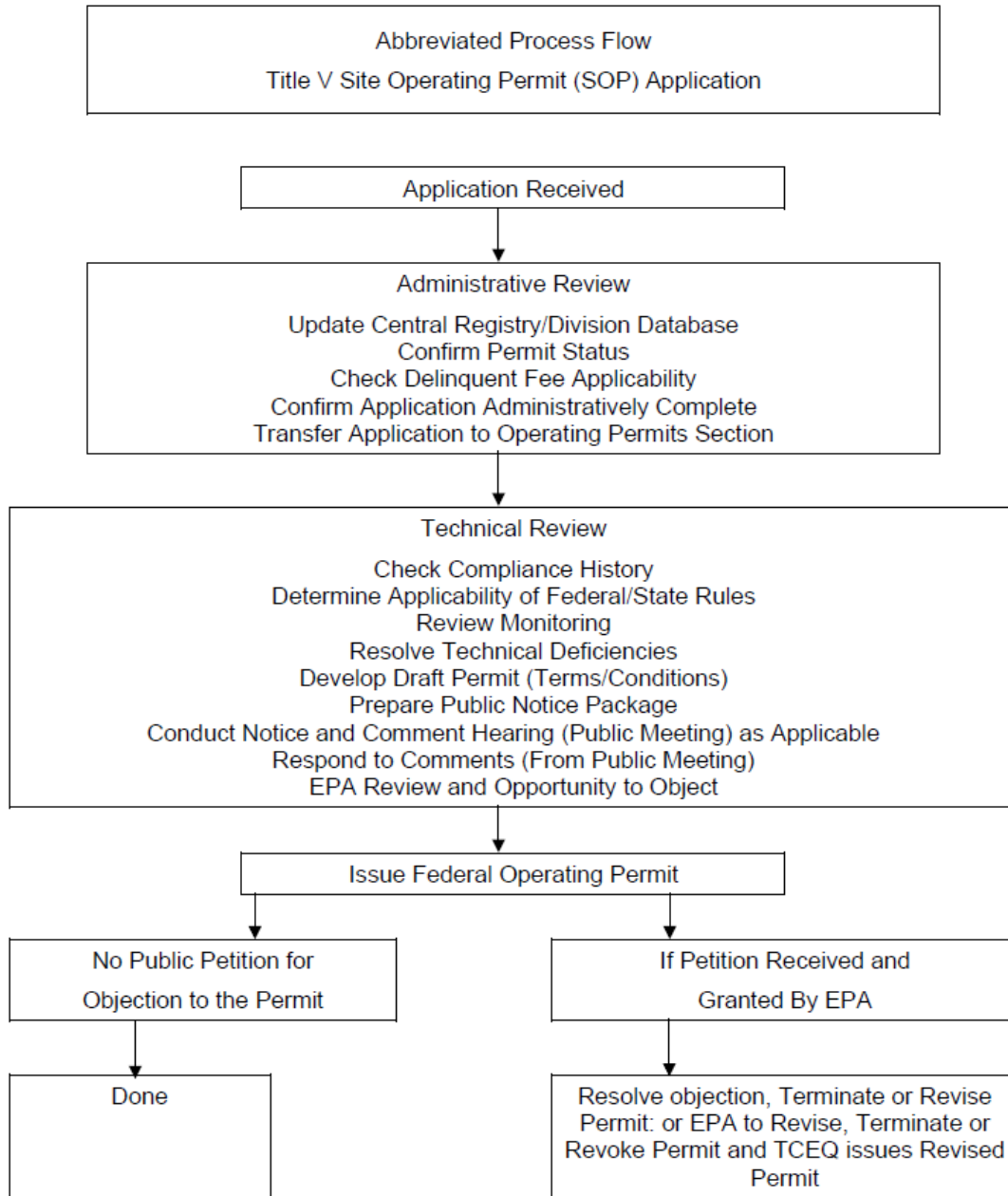
The APD issues permits and authorizations meeting the requirements of the FCAA. In addition, EPA has approved the APD's Title V program. The program receives applications for operating permits. Once the application is received, it is assigned to program staff. Program staff conduct an administrative review and a technical review of the application to ensure the permit meets all applicable legal requirements. During the administrative review, staff confirm the application is administratively complete, check for delinquent fees, and update databases. During the technical review, program staff check compliance history, determine applicable state and federal requirements, review monitoring requirements, draft a permit, develop a public notice package, conduct a notice and comment hearing (if applicable), and respond to comments. Concurrent with public notice, affected states within 50 miles of the site and EPA are also able

to review and comment on the application. After APD issues the Site Operating Permit, the public has 60 days in which to petition EPA for review.

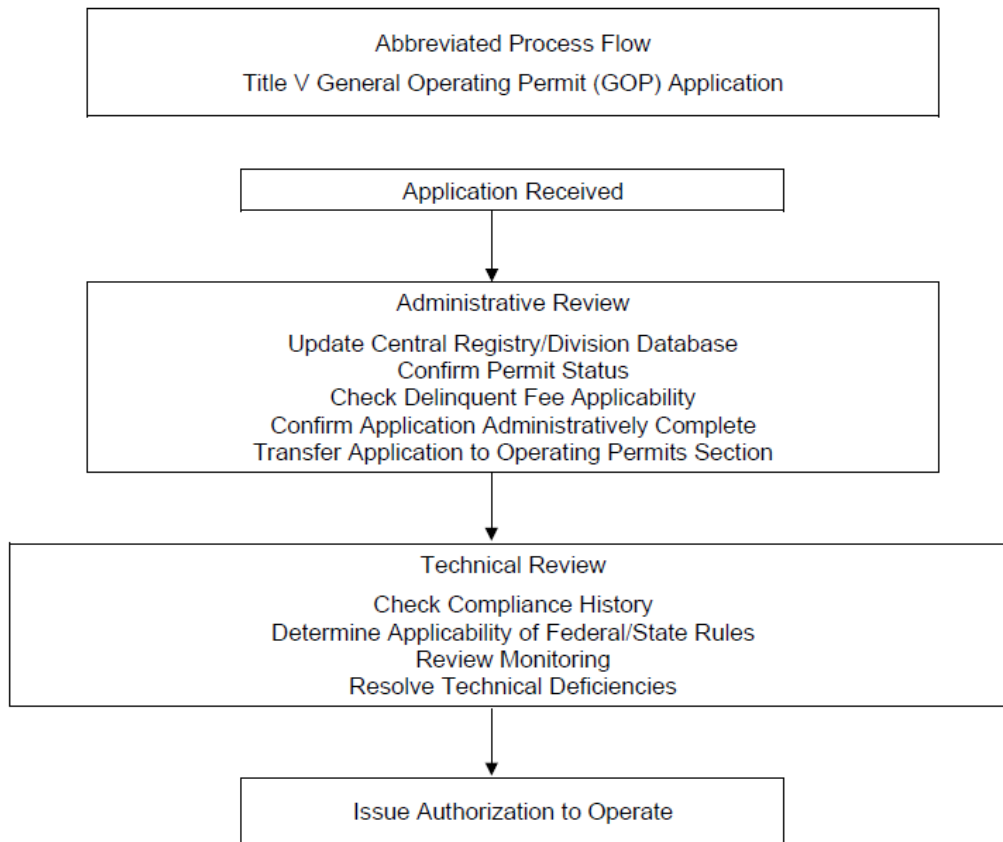
A Title V permit codifies previously authorized air emissions and documents all state and federal requirements are applicable to a site in a single document. In addition, a Title V permit contains monitoring, recordkeeping, reporting and testing requirements. The Title V program helps assure compliance with all requirements through semi-annual deviation reports and annual compliance certifications. Title V permits do not authorize any air emissions. The permits contain requirements applying to the site as a whole, as well as requirements specific to individual facilities. All Title V Site Operating Permits are subject to public notice or public announcement requirements and the public may provide comments or request a notice and comment hearing.

The following flowcharts illustrate the process flow for Title V Site Operating Permits and General Operating Permits.

**Title V Site Operating Permit Application Process Flowchart**



### Title V General Operating Permit Application Process Flowchart



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

#### Title V Federal Operating Permits Program Funding

Account	Account Title	FY 2020 Expended
5094	Operating Permit Fees Account - Dedicated	\$7,486,509

The program is funded in the Air Quality Permitting Strategy.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other internal or external programs provide identical or similar services or functions.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The APD works with EPA Region 6 Office of Air and Radiation implementing the Title V FOP program. The two agencies conduct monthly meetings.

**K. If contracted expenditures are made through this program please provide**

- a short summary of the general purpose of those contracts overall;

The general purpose of the contracts was the employment of temporary staff and contractors to assist with processing permit applications.

- the amount of those expenditures in fiscal year 2020;

Expenditures total \$78,351.

- the number of contracts accounting for those expenditures;

Four contracts.

- the method used to procure contracts;

Purchase Orders are used to procure the contracts.

- top five contracts by dollar amount, including contractor and purpose;

#### Title V Federal Operating Permits Program Contracts

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-20-10293	WorkQuest	Develop and Review Requirements Reference Tables (RRT)	\$39,364
582-20-10295	WorkQuest	Temporary services to support the permitting processes	\$19,725
582-20-10297	WorkQuest	Temporary services to support the permitting processes	\$17,758
Procard 2120159	Brazil and Co.	Court reporting services for public hearing	\$1,505

- the methods used to ensure accountability for funding and performance; and

The APD reconciled monthly payments and kept track of weekly hours to ensure appropriate expenditure of the encumbrance.

- a short description of any current contracting problems.

No contracting problems were encountered in FY 2020.

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.**

Refer to the Office of Compliance and Enforcement, Field Operations Program, Question P for complaint related data for this program.



## Banking and Trading Program

**A. Provide the following information at the beginning of each program description.**

**Name of Program or Function:** Emissions Banking and Trading

**Location/Division:** Austin Headquarters / Air Permits Division

**Contact Name:** Samuel Short

**Statutory Citation for Program:** Texas Health and Safety Code (THSC) Chapter 382.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Air Permits Emissions Banking and Trading (EBT) Programs are market-based strategies used to address air quality issues in non-attainment (NA) areas throughout Texas. These programs are designed to provide flexibility in complying with the Texas Clean Air Act (TCAA) and the Federal Clean Air Act (FCAA), while also providing incentives to reduce emissions from stationary, areas, and mobile sources through the trading of emission reductions within a market-based framework. TCEQ currently maintains and administers six different EBT Programs across the state, each targeting specific criteria pollutants or air quality issues. Five programs are described below, while the sixth, the Clean Air Interstate Rule (CAIR), is no longer administered by TCEQ. On July 6, 2011, EPA finalized the Cross-State Air Pollution Rule to replace CAIR.

- *Discrete Emission Credit Program*. The Discrete Emission Credit program allows participants to generate credits by creating temporary emission reductions from point, area, and mobile sources. This program encourages emission reductions and provides participants flexibility in complying with various federal and state air regulations. Participation in the program is voluntary.
- *Emissions Banking and Trading of Allowances Program (EBTA)*. The EBTA program is a market-based cap-and-trade program implementing annual nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) emission caps for grandfathered and electing electric generating facilities in the State of Texas.
- *Emission Credit Program*. The Emission Credit program allows participants to generate credits by creating permanent emission reductions from stationary, area, and mobile sources in NA areas. This program encourages emission reductions and provides participants flexibility in complying with various federal and state air regulations. Emission Credits provide an additional method and flexibility for air permit holders to meet the emissions offset requirements of NA New Source Review (NSR) permits. Participation in the program is voluntary.
- *Highly Reactive Volatile Organic Compound (HRVOC) Emissions Cap and Trade Program*. The HRVOC program is market-based cap-and-trade program implementing an annual HRVOC emission cap for affected facilities in Harris County. Program participants are required to use allowances to cover HRVOC emissions on an annual basis. The allowances available for use each year are capped at a level necessary to attain the National Ambient Air Quality Standards (NAAQS) for ozone.
- *Mass Emissions Cap and Trade (MECT) Program*. The MECT program is a market-based cap-and-trade program implementing an annual NO<sub>x</sub> emission cap for affected facilities in the Houston-Galveston-Brazoria ozone NA area. Program participants are required to use allowances to cover NO<sub>x</sub> emissions on an annual basis. The allowances available for use each year are capped at a level necessary to attain NAAQS for ozone.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The effectiveness and efficiency of the EBT Program is evidenced by the number of transactions staff review and issue each year. The program has established a target to complete 1,000 EBT projects each fiscal year. This figure includes Emission Reduction Credit generations, trades, and annual reports. In FY 2020, The program staff completed 1,340 projects and achieved 134.4% of its performance goal. The following performance measure is reported in Section II, Exhibit 2.

- Number of Emissions Banking and Trading transaction applications reviewed.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

The following history highlights significant actions directly affecting the Air Permits EBT Program.

#### **2007**

- The D.C. Circuit Court of Appeals issues a final ruling on the court's December 2006 decision on the rule to implement the eight-hour ozone NAAQS. This ruling restores NSR applicability thresholds and emission offsets pursuant to classifications previously in effect for areas designated in NA for the one-hour ozone standards.

#### **2015**

- Effective on June 25, 2015, TCEQ adopts rules amending the divisions under 30 TAC Chapter 101 Subchapter H (relating to Emissions Banking and Trading). Amendments to Divisions 3 and 6 provide clarity and additional flexibility for the use of MECT and HRVOC Emissions Cap and Trade (HECT) Program allowances for NA NSR offsets.

#### **2017**

- TCEQ adopts rules, effective on October 12, 2017, amending 30 TAC Chapter 101 Subchapter H, Division 1 and Division 4, relating to the Emission Reduction Credit (ERC) Program and Discrete Emission Reduction Credit (DERC) Program. The amendments allow for the generation of credits from area and mobile sources, which may be used as NA NSR offsets.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

The EBT Programs are available to entities that have obtained air permits or authorizations. The APD does not track specific affected persons or organizations but does track companies and entities participating in one or more emissions banking programs. As of June 30, 2021, there are approximately 876 separate companies with 1040 regulated entities.

**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The EBT Programs are designed to provide flexibility in complying with the requirements of the TCAA and the FCAA, while also providing incentives to reduce emissions from various sources through the trading of emission reductions within a market-based framework.

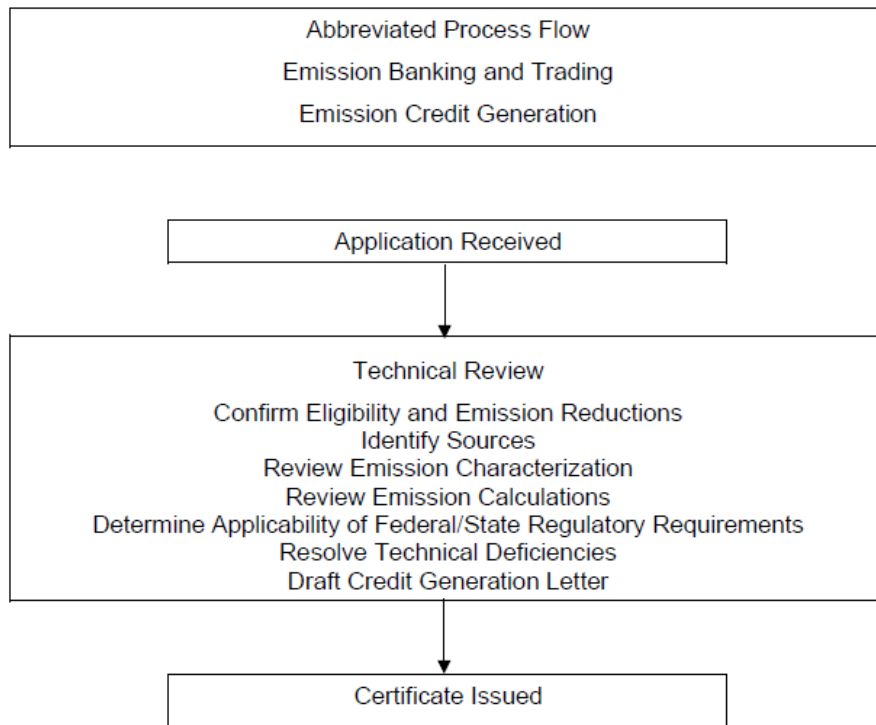
The emission credit generating program is available to a wide range of area, point, and mobile sources. Sources can voluntarily participate in the program and reduce emissions of certain pollutants to generate credits. Program staff reviews credit generation applications to confirm the eligibility of sources to generate the credits and to ensure the emissions reductions are from a criteria pollutant (excluding lead). The application review identifies the source types, verifies emission rate calculations and reductions, and confirms the applicability of regulatory requirements. Once program staff completes the review and approves the application, the applicant is issued an ERC certificate.

The MECT, HECT, and EBTA programs are all market-based cap and trade programs. Program participants are required to use allowances to cover emissions on an annual basis. Participants submit an annual report detailing the emissions for the previous year. These reports are reviewed by program staff to verify emissions calculations and other data. The program participant is issued a letter summarizing the allowance balance in their account.

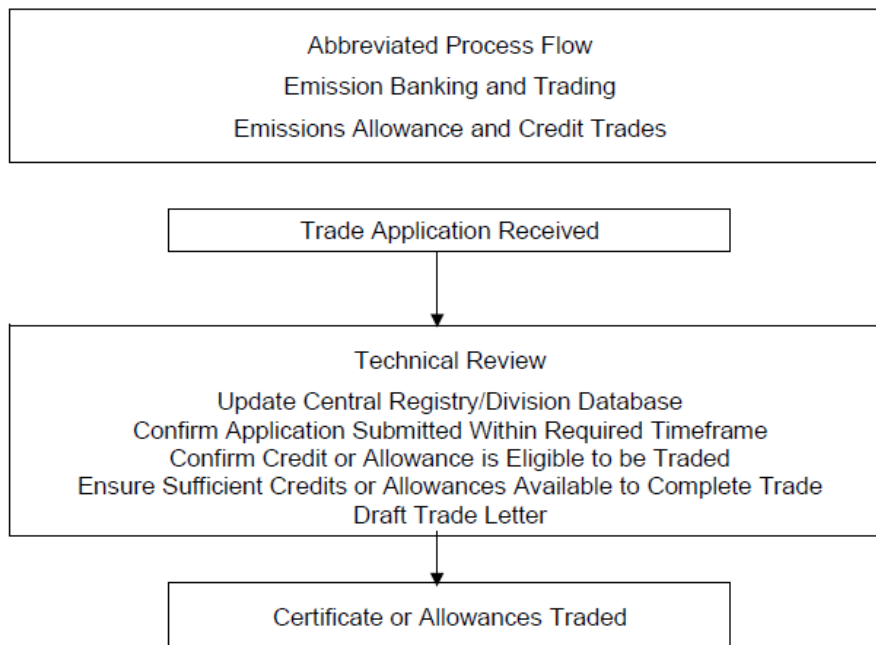
ERCs and allowances may be traded or used for compliance purposes, such as to meet the offset requirements in NA NSR permits or to meet compliance with 30 TAC Chapters 115 and 117. APD maintains a credit and allowance registry which includes the amount of credits and allowances held by participants. Program staff reviews use and trade applications and verifies calculations, confirms applicability of regulatory requirements, and the availability of credits or allowances in the applicant's account. If the application is approved, program staff updates the registry.

The following flowcharts illustrate EBT program processes for emission credit generation; emissions allowance and credit trades; MECT, HECT, and EBTA report; emissions credit use; and use of allowance for offsets.

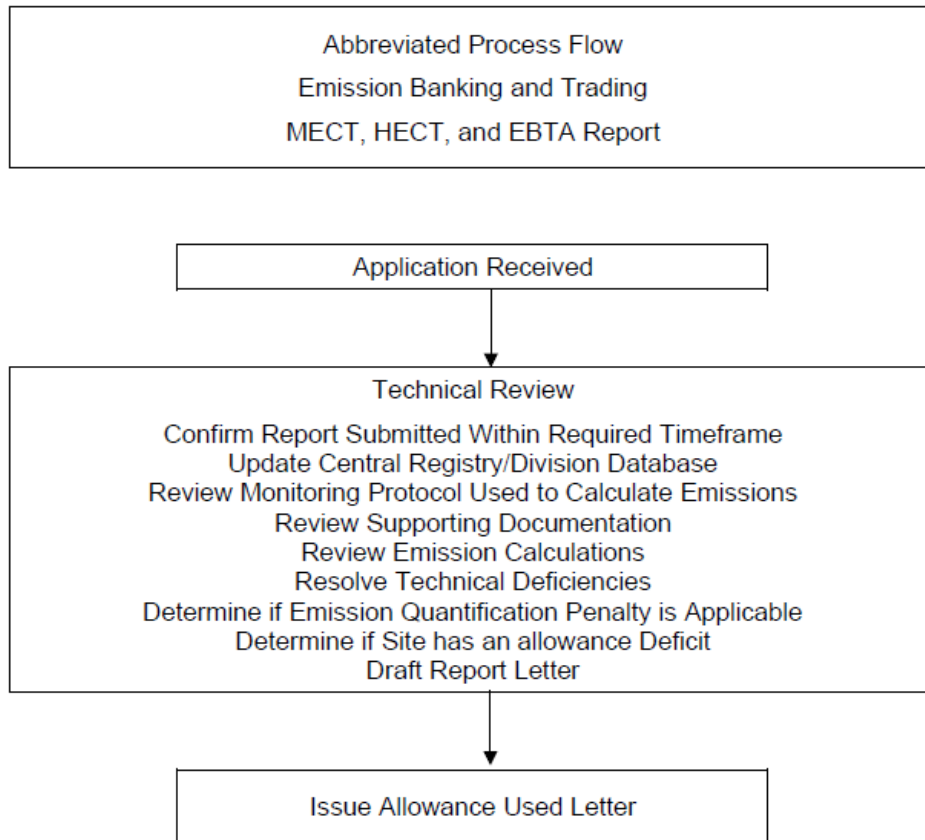
**Emission Banking and Trading  
Emission Credit Generation Process Flowchart**



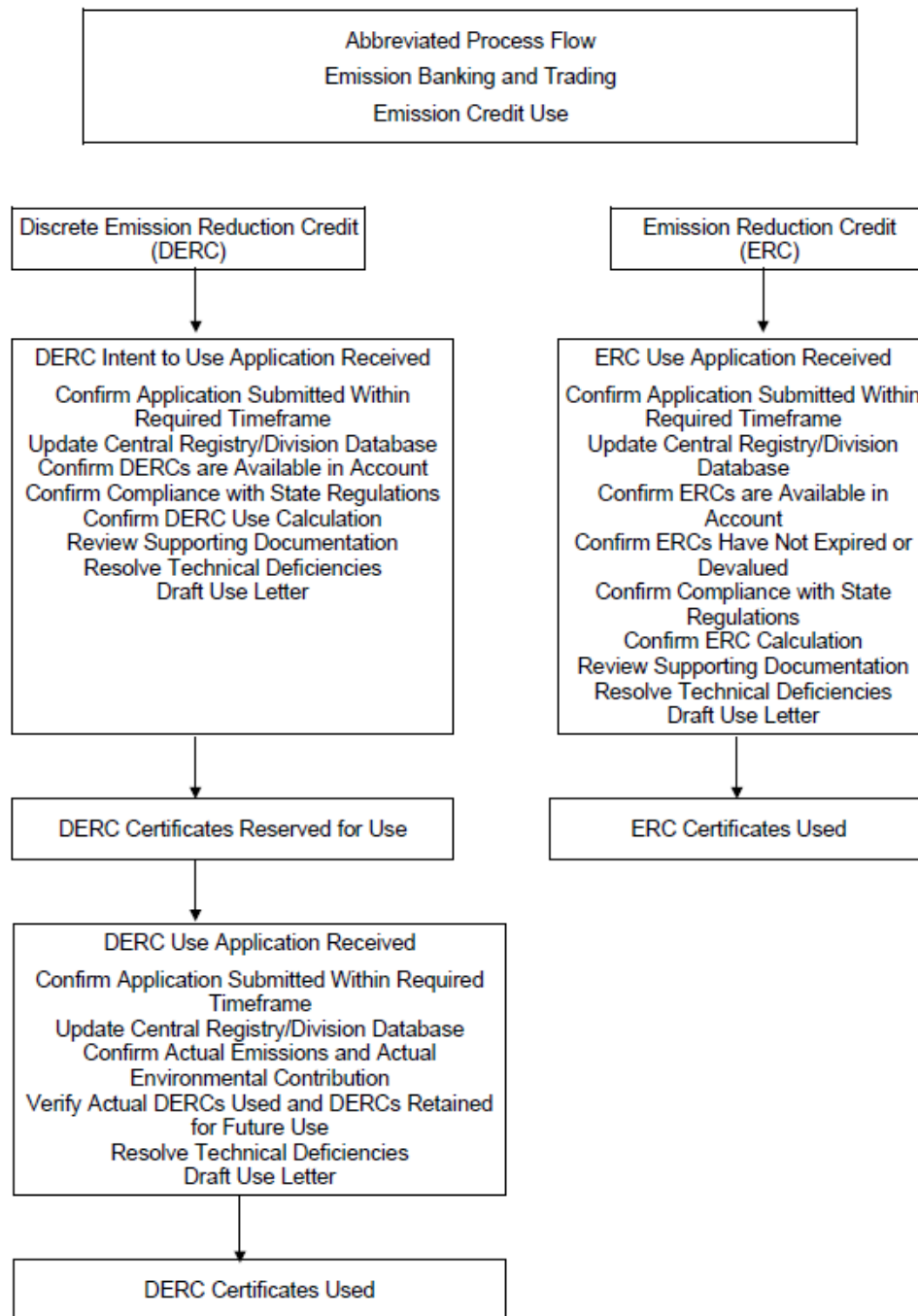
**Emission Banking and Trading  
Emissions Allowance and Credit Trades Process Flowchart**



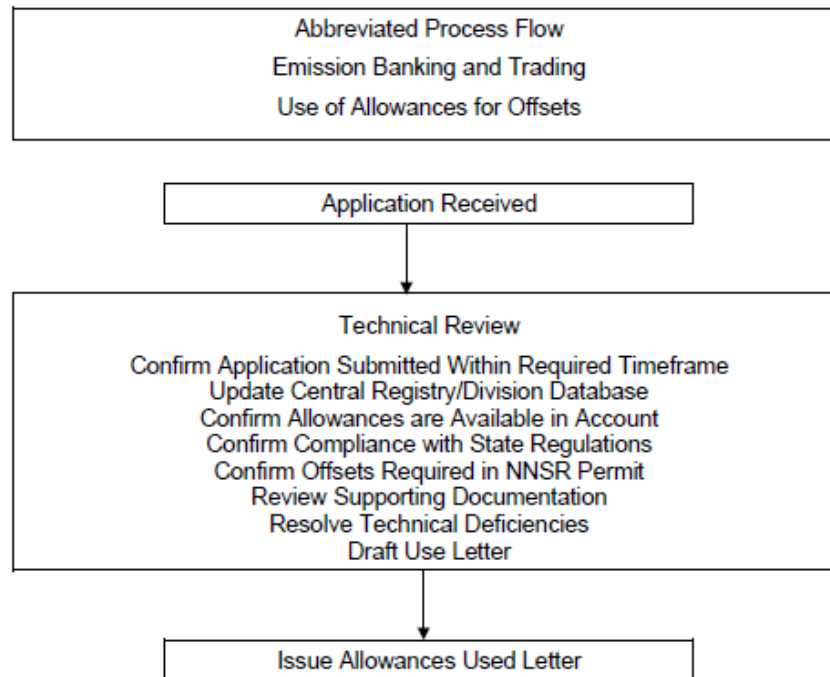
**Emission Banking and Trading  
MECT, HECT, and EBTA Report Process Flowchart**



**Emission Banking and Trading  
Emission Credit Use Process Flowchart**



**Emission Banking and Trading  
Use of Allowances for Offsets Process Flowchart**



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

**EBT Program Funding**

Account	Account Title	CFDA	CFDA Name	FY 2020 Expended
0151	Clean Air Account - Dedicated	N/A	N/A	\$269,049
0555	Federal Funds	66.605	Performance Partnership Grant	\$8,497
5071	TERP Account - Dedicated	N/A	N/A	\$79,248
5094	Operating Permit Fees Account – Dedicated	N/A	N/A	\$378,466
TOTAL				\$735,260

The program is funded in the Air Quality Assessment and Planning Strategy.

The program includes:

- Rider 12 - Appropriation Limited to Revenue Collections: Automobile Emission Inspections; and
- Rider 19 - TERP: Grants and Administration.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

No other internal or external programs provide identical or similar services or functions.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

**K. If contracted expenditures are made through this program please provide**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2020;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

**L. Provide information on any grants awarded by the program.**

N/A

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N/A



**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.**

N/A

## Texas Emissions Reduction Plan Program

**A. Provide the following information at the beginning of each program description.**

**Name of Program or Function:** Texas Emissions Reduction Plan

**Location/Division:** Austin Headquarters / Air Grants Division

**Contact Name:** Michael Wilson, P.E.

**Statutory Citation for Program:** Texas Health and Safety Code (THSC) Chapter 386.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Air Grants Division (AGD) of TCEQ administers the Texas Emissions Reduction Plan (TERP) grant programs. TCEQ awards TERP grants through vendor solicitations selected either in the order of receipt (first-come, first-served), or competitively based upon pre-determined program scoring criteria. TCEQ also has authority to execute direct awards for specific projects or as a pass-through grant for third parties to administer.

The TERP provides financial incentives for activities to reduce nitrogen oxides (NO<sub>x</sub>) emissions, a precursor to the formation of ground-level ozone. Activities include the upgrade or replacement of older diesel vehicles and equipment with newer, cleaner models. The TERP primarily targets areas in Texas designated as non-attainment (NA) for ground-level ozone under the Federal Clean Air Act (FCAA), as well as other affected counties for ozone.

TERP also provides financial incentives for activities to:

- Encourage the use of natural gas vehicles and other alternative fuel vehicles, and infrastructure to provide fuel for those vehicles;
- Achieve reductions of emissions of diesel exhaust from school buses;
- Advance technologies to reduce NO<sub>x</sub> and other emissions from facilities and other stationary sources;
- Conduct studies and fund pilot programs for port authorities to encourage cargo movement to reduces emissions; and
- Implement new technologies to reduce emissions from certain stationary facilities.

TERP grant programs currently administered by the AGD are listed and explained briefly below.

- The Alternative Fueling Facilities Program (AFFP) provides grants for the construction or expansion of facilities to store, compress, or dispense alternative fuels in the area designated the Clean Transportation Zone.
- The Diesel Emissions Reduction Incentive (DERI) Program provides grants for projects to reduce NO<sub>x</sub> emissions in the NA areas and affected counties. The DERI Program awards projects under the Emissions Reduction Incentive Grants (ERIG) Program and Rebate Grants Program.
- The ERIG Program provides grants for the lease or purchase, replacement, repower, or retrofit of non-road equipment, heavy-duty on-road vehicles, marine vessels, locomotives, and stationary equipment. Grants may also be available for the acquisition and installation of refueling and idle-

reduction infrastructure for heavy-duty non-road equipment, heavy-duty on-road vehicles, marine vessels, locomotives, and stationary equipment.

- The Rebate Grants Program is a simplified first-come, first-served grant program to replace or repower diesel heavy-duty vehicles and/or non-road equipment.
- The Governmental Alternative Fuel Fleet (GAFF) Program provides grants statewide for state agencies and political subdivisions to upgrade, replace, or expand their vehicle fleets to alternative fuel, and to purchase, lease, or install refueling infrastructure for grant-funded vehicles.
- The Light-Duty Motor Vehicle Purchase or Lease Incentive Program (LDPLIP) provides rebates statewide for the purchase of light-duty vehicles operating on natural gas, propane, or electricity.
- The New Technology Implementation Grant (NTIG) Program provides grants statewide to offset the incremental cost of emissions reductions of pollutants from facilities and other stationary sources in Texas.
- The Port Authority Studies and Pilot Programs (PASPP) provides grants for port authorities located in the NA areas or affected counties to implement studies of and pilot programs for incentives to encourage cargo movement to reduce emissions of NO<sub>x</sub> and PM.
- The Seaport and Rail Yard Areas Emissions Reduction (SPRY) Program provides grants to replace older drayage trucks and equipment operating at eligible seaports and Class I rail yards in NA areas.
- The Texas Clean Fleet Program (TCFP) provides grants to owners of at least 75 vehicles in Texas to replace a minimum of ten diesel vehicles with new alternative-fuel or hybrid vehicles.
- The Texas Clean School Bus (TCSB) Program provides grants statewide to replace or retrofit older school buses to reduce the exposure of school children to diesel exhaust in and around school buses.
- The Texas Natural Gas Vehicle Grant Program (TNGVGP) provides grants to replace or repower existing diesel or gasoline vehicles with natural gas vehicles and engines.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.**

The TERP Program achieved 108% of its performance measure goal for the tons per day of NO<sub>x</sub> estimated to have been reduced by projects funded under the Diesel Emissions Reduction Incentive (DERI) Program in FY 2020. The upgrade or replacement of older equipment with newer, cleaner models resulted in an estimated 20.8 tons per day of NO<sub>x</sub> reduced. This measure demonstrates TERP's effectiveness at reducing NO<sub>x</sub> emissions in areas of the state designated as NA for ground-level ozone under the FCAA, as well as other affected counties for ozone. The following performance measures are reported in Section II, Exhibit 2.

- NO<sub>x</sub> emissions reduced through the TERP Program;
- Tons of NO<sub>x</sub> reduced through the TERP Program; and
- Average cost per ton of NO<sub>x</sub> reduced through TERP expenditures.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.**

In 2021 the legislature passed House Bill 4472 (87R) which: redirects the transfer of the Motor Vehicle Certificate of Title Fee revenue from the Texas Mobility fund to the TERP Trust Fund; directs TCEQ may not remit less than 35% of the TERP Trust Fund to the state highway fund for the Texas Department of Transportation (TxDOT) to administer congestion mitigation projects; and requires TxDOT to report emissions reductions and other information related to congestion mitigation projects to TCEQ. The Act is effective September 1, 2021.

**E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.**

Participation in the TERP Program is voluntary. Eligible applicants under the TERP grant programs include individuals, corporations, organizations, governments or governmental subdivisions or agencies, school districts, business trusts, partnerships, associations, or any other legal entity. Applicants must be eligible to conduct business in Texas.

The following table provides a breakdown of applicants considered for a grant during FY 2020-2021 by applicant type.

**FY 2020-2021 TERP Program Applications by Applicant Type**

Applicant Type	Total Applications Received
Individual (not owning a business)	2,423
Texas Corporation or Limited Liability Corporation	492
Sole Ownership	116
School District	88
Limited Partnership	65
Out-of-State Corporation	53
Other Governmental Entity	32
City	29
County	23
Partnership	22
State Agency or University	7
Other	6
Professional Corporation	4
<b>Total</b>	<b>3,360</b>

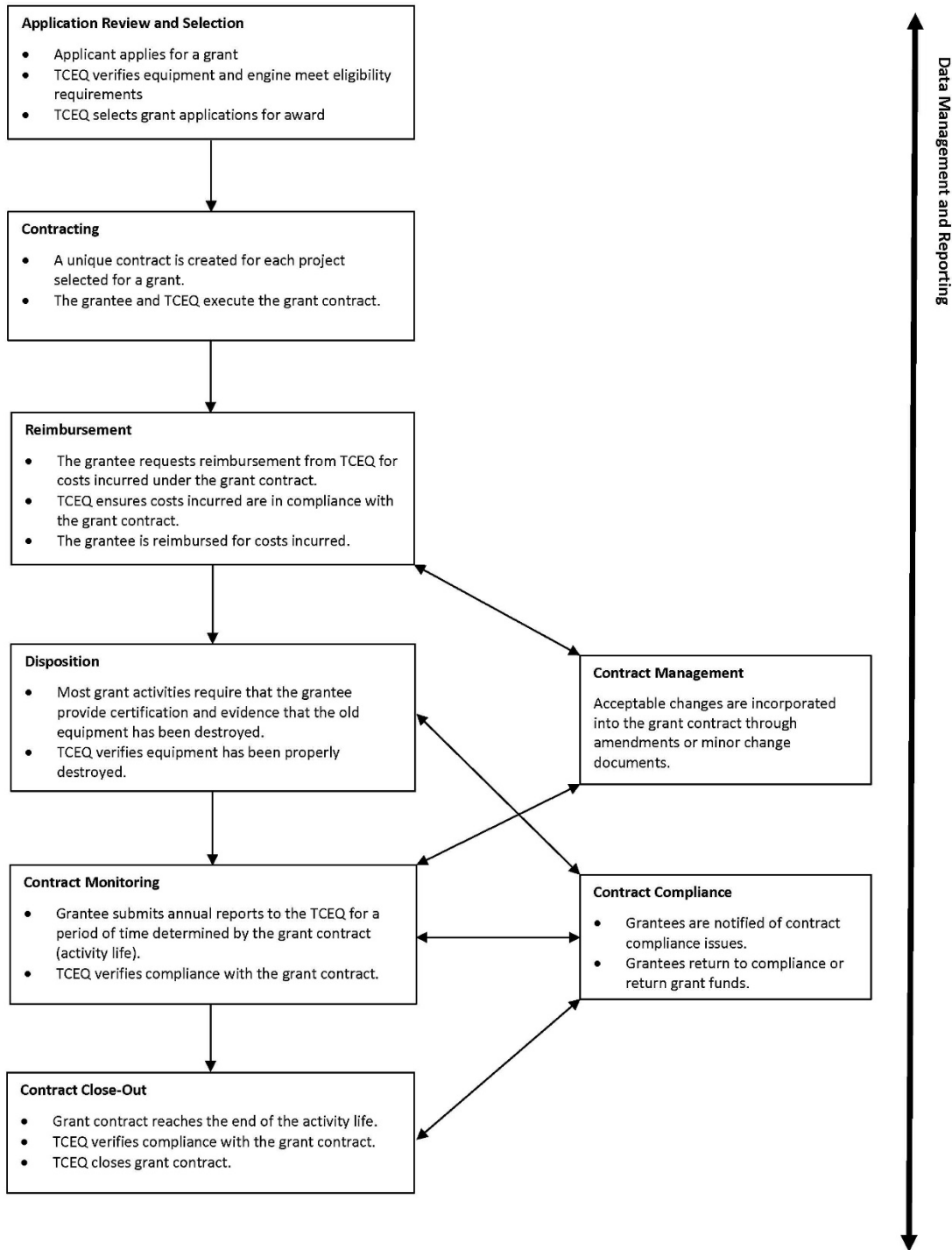
**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The AGD is responsible for implementing each of the TERP grant programs and managing the complete lifecycle of each grant awarded, including:

- Developing program rules and guidelines for adoption by the commissioners;
- Creating grant documents including solicitation documents, application forms, contract terms and conditions, and other grant administration forms;
- Conducting outreach and education to promote opportunities for funding under the TERP grant programs;
- Opening grant rounds through formal Requests for grant applications;
- Receiving, tracking, and reviewing grant applications for eligibility;
- Pre-application monitoring through on-site visits by a TCEQ contractor to confirm vehicle and equipment condition and use;
- Managing the grant selection and approval process in coordination with the Office of Air and Office of the Executive Director;
- Developing grant agreements and managing the contract approval and execution process in coordination with the General Law Division and Financial Administration Division;
- Receiving reimbursement requests from grant recipients, reviewing for compliance with the grant agreement, and managing the approval process in coordination with the Financial Administration Division;
- Managing grant agreements through the execution of amendments and minor-change documents;
- Long-term monitoring and tracking of grant-funded vehicles and equipment;
- Periodic on-site monitoring of grant-funded vehicles and equipment by a TCEQ contractor to ensure grantee compliance with the grant agreement;
- Enforcing the conditions of the grant agreement, including invoicing for the return of grant funds for non-compliant grantees in coordination with the General Law Division and Office of Attorney General, and
- Tracking project data and information in a TERP database.

The following flowchart illustrates TERP grant process.

### Lifecycle of a TERP Grant Flowchart



**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

#### TERP Program Funding

Account	Account Title	FY 2020 Expended
5071	TERP Account - Dedicated	\$16,422,891

The program is funded in the Air Quality Assessment and Planning Strategy and includes Rider 19 - TERP: Grants and Administration.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

#### *Internal*

Governor Greg Abbott selected TCEQ as the lead agency responsible for the administration of funds received from the Volkswagen State Environmental Mitigation Trust (Trust). The Trust is part of an Environmental Mitigation Trust Agreement resulting from litigation between EPA, the State of California, and Volkswagen (VW) and its related entities. The Trust has allocated a minimum of \$209 million to Texas for projects to reduce NO<sub>x</sub> emissions. While the TERP Program provides grants to reduce NO<sub>x</sub> emissions that would otherwise occur in the future if the grant-funded project were not awarded, the VW Trust is intended to help mitigate the impact of NO<sub>x</sub> emissions that should not have previously occurred. The AGD will administer grants, as part of the Texas Volkswagen Emissions Mitigation Program until these funds are exhausted.

#### *External*

Federal Congestion Mitigation and Air Quality (CMAQ) grants from the Federal Highways Administration and Diesel Emissions Reduction Act (DERA) grants from EPA may also be used for projects similar to the types of projects funded under TERP. Eligibility requirements and criteria for determining maximum grant amounts under the CMAQ and DERA Programs differs from TERP grant programs.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

TERP grant applications include a section for applicants to identify other funding sources for the same project. Program staff then coordinate with the applicant to confirm the source of funds and the requirements for use of the emissions reductions associated with the project. Program staff also review reports from the TERP database to ensure applications do not include vehicles or equipment previously funded under the TERP grant programs.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

Local, state, and federal governmental authorities are eligible to receive grants under the TERP grant programs. These entities also play an important role in helping to promote TERP funding opportunities within their respective areas and communities.

**K. If contracted expenditures are made through this program please provide**

- **a short summary of the general purpose of those contracts overall;**

The purpose is provided in the TERP Program Contracts table.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total \$792,007.

- **the number of contracts accounting for those expenditures;**

27 contracts.

- **the method used to procure contracts;**

The AGD works alongside TCEQ's Financial Administration Division and General Law Division to ensure all state procurement laws and requirements are followed when soliciting and awarding a contract for these services.

- **top five contracts by dollar amount, including contractor and purpose;**

**Texas Emissions Reduction Plan Program Contracts**

Contract No.	Vendor Name	Purpose	FY 2020 Expended
582-18-80021	McLane Group	Maintenance and enhancement of the TERP data management system and development of TERP online application	\$523,757
582-16-63039	IPSO Facto	External auditor for pre-award site visits and compliance monitoring	\$190,000
582-20-12291	WORKQUEST	Temporary staff for processing higher than anticipated volume of grant applications	\$17,876
582-20-13082	Focus Advertising	Billboard promotion of the TERP grant programs	\$16,975
582-20-13942	WORKQUEST	Intern to assist with grant program projects	\$11,813

- **the methods used to ensure accountability for funding and performance; and**

AGD has a separate fiscal unit to review reimbursement and payment requests. All payment requests are reviewed by a contract manager. The contracts have scopes of work describing performance expectations and reporting requirements to explain results to date and how the funds have been used. Payment



requests are routed to TCEQ's Financial Administration Division for additional review and payment by the Texas Comptroller of Public Accounts.

- **a short description of any current contracting problems.**

No contracting problems were encountered in FY 2020.

**L. Provide information on any grants awarded by the program.**

See, Texas Emissions Reduction Program, Section VII.B. above. Grant summaries for each TERP grant program, from inception through FY 2020, are available at <https://www.tceq.texas.gov/airquality/terp/leg.html> (see "Project Summary Reports").

**M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.**

None

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Emissions reductions achieved under the TERP will continue to support attainment demonstrations in the SIP revisions as an existing control measure; as a long-term strategy for reasonable progress; or as additional measures called "Weight of Evidence," which include activities that are expected to further reduce ozone levels in the NA areas.

The TERP Program is funded from revenue deposited to the TERP Fund established under THSC Section 386.251 as an account in the state treasury. The revenue going to the TERP Fund comes from the fees and surcharges listed below.

- Texas Tax Code (TTC) Section 151.0515(b): A 1.5% surcharge on the sale price or lease/rental amount of off-road diesel equipment sold, rented, or leased. A surcharge is also applied to the storage, use, or consumption of this equipment in Texas.
- TTC Section 152.0215(a): A 2.5% surcharge of the total consideration on sale or lease of model year pre-1997 on-road diesel vehicles over 14,000 pounds and a 1% surcharge for vehicle model year 1997 and newer.
- Texas Transportation Code Section 502.358: A 10% surcharge of the total fees due for the registration of truck-tractors and commercial motor vehicles.
- Texas Transportation Code Section 501.138(a): A portion of the vehicle certificate of title fee, \$20 of the \$33 fee for applicants in the NA counties and affected counties and \$15 of the \$28 fee for applicants in all other counties.
- Texas Transportation Code Section 548.5055: A \$10 fee on commercial motor vehicles required to have an annual safety inspection.

Use of the revenue deposited to the TERP Fund was authorized through appropriation by the legislature through August 31, 2021. The TERP Fund will be established as a trust fund, outside of the state treasury, to be held by the Texas Comptroller of Public Accounts and administered by TCEQ as trustee beginning September 1, 2021. The fund will consist of money deposited from the TERP fees and surcharges and from

grant money recaptured under the TERP programs. TCEQ can use money in the fund only as directed by THSC Chapter 386 relating to the TERP programs, allocations, and criteria.

*Refer to Appendix 1 and 2 of the [TERP Biennial Report](#) for a summary of the estimated revenue to the TERP Fund, the TERP Fund balance, and TERP funding allocations for FY 2020-2021.*

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe**

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

**P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure.**

N/A