

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

AGENDA REQUESTED: April 24, 2024

DATE OF REQUEST: April 5, 2024

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

CAPTION: Docket No. 2023-1222-SIP. Consideration for the adoption of the Bexar County 2015 Eight-Hour Ozone Standard Moderate Nonattainment Area Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision.

This SIP revision includes a RACT analysis to address federal Clean Air Act, §172(c)(1), and §182(b)(2) RACT requirements. This SIP revision also incorporates concurrent revisions to rules in 30 Texas Administrative Code Chapter 115 (Rule Project No. 2023-116-115-AI) and Chapter 117 (Rule Project No. 2023-117-117-AI) to address RACT requirements for volatile organic compounds and nitrogen oxides. (Stephanie Frederick, Terry Salem; Project No. 2023-132-SIP-NR)

Richard C. Chism

Director

Donna F. Huff

Division Deputy Director

Jamie Zech

Agenda Coordinator

Copy to CCC Secretary? NO YES

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 5, 2024

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Richard C. Chism, Director *RCC*
Office of Air

Docket No.: 2023-1222-SIP

Subject: Commission Approval for Adoption of the Bexar County 2015 Eight-Hour Ozone Standard Moderate Nonattainment Area Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision

Bexar County RACT SIP Revision
Non-Rule Project No. 2023-132-SIP-NR

Background and reason(s) for the SIP revision:

On October 7, 2022, the U.S. Environmental Protection Agency (EPA) published reclassification of Bexar County to moderate nonattainment for the 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS), effective November 7, 2022 (87 *Federal Register* (FR) 60897).

Nitrogen oxides (NO_x) and volatile organic compounds (VOC) RACT requirements mandated by federal Clean Air Act (FCAA), §172(c)(1) and §182(b)(2) must be satisfied for all nonattainment areas classified as moderate or above. A SIP revision that includes RACT requirements for moderate areas was due to EPA by January 1, 2023. The attainment date for the Bexar County 2015 ozone moderate nonattainment area is September 24, 2024, with a 2023 attainment year (87 FR 60897).¹

Scope of the SIP revision:

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

The SIP revision includes a RACT analysis to address moderate nonattainment area requirements for RACT mandated by FCAA, §172(c)(1) and §182(b)(2). This SIP revision also incorporates concurrent revisions to rules in 30 Texas Administrative Code Chapters 115 and 117 to implement moderate major source RACT requirements for VOC and NO_x.

B.) Scope required by federal regulations or state statutes:

The SIP revision includes an analysis of RACT for the Bexar County 2015 ozone NAAQS nonattainment area to satisfy EPA's interpretation of FCAA, §172(c)(1) and §182(b)(2) requirements. The FCAA requires RACT for all categories of stationary sources identified by EPA in an alternative control technique (ACT) document or a control techniques guideline (CTG) document in ozone nonattainment areas classified as moderate and above. Additionally, RACT is required for non-ACT/CTG category sources that are classified as major stationary sources of NO_x or VOC.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

¹ The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment deadline.

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Statutory authority:

The authority to propose and adopt SIP revisions is derived from the following sections of Texas Health and Safety Code, Chapter 382, Texas Clean Air Act (TCAA), §382.002, which provides that the policy and purpose of the TCAA is to safeguard the state's air resources from pollution; TCAA, §382.011, which authorizes the commission to control the quality of the state's air; and TCAA, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air. This SIP revision will also be adopted under the commission's general authority under Texas Water Code, §5.102, General Powers and §5.105, General Policy. States are required to submit SIP revisions that specify the manner in which the NAAQS will be achieved and maintained within each air quality control region of the state by 42 United States Code, §§7420 *et seq.*, and implementing rules in 40 Code of Federal Regulations Part 51.

Effect on the:

A.) Regulated community:

The affected regulated community will be impacted by the concurrent Chapter 115 rulemaking (Rule Project No. 2023-116-115-AI) and Chapter 117 rulemaking (Rule Project No. 2023-117-117-AI), that, if adopted, will be incorporated as part of this SIP revision to satisfy major source VOC and NO_x RACT. The regulated community will be obligated to comply with any new requirements adopted by the commission and will incur costs associated with those requirements.

B.) Public:

The general public in Bexar County will benefit from emission reductions associated with any new rules adopted by the commission.

C.) Agency programs:

The Office of Compliance and Enforcement conducts field investigations to verify compliance with the rules addressed in SIP revisions. Enforcement of any revised rules incorporated in this Bexar County RACT SIP revision, if adopted by the commission, will not significantly increase the number of facilities investigated by state and local governments.

No additional burden on agency programs is anticipated as a result of this SIP revision.

Stakeholder meetings:

TCEQ hosted a virtual Bexar County Stakeholders Meeting on June 8, 2022 to discuss what emission reduction strategies (primarily VOC) are being or could be implemented by different source sectors. The meeting was open to the public, but the focus was on stationary sources. In addition, two virtual Technical Information Meetings were hosted by TCEQ. One was held on August 16, 2021, and the other was held on August 22, 2022. The purpose of these meetings was for TCEQ to have an open, consultative forum regarding the technical work associated with the SIP including development of control measures.

Public Involvement Plan

Yes.

Alternative Language Requirements

Yes. Spanish.

Public comment:

The public comment period opened on December 1, 2023 and closed on January 16, 2024. The commission offered a public hearing in San Antonio on January 9, 2024 at 7:00 p.m. Notice of the public hearing was published in the *San Antonio Express-News* newspaper in English on December

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1, 2023 and in *Conexion* in Spanish on December 6, 2023. Notices in English and Spanish were also distributed to subscribers through GovDelivery and posted to TCEQ's website, and a notice was published in English in the *Texas Register* on December 15, 2023 (48 TexReg 7643-7644). A plain language summary was provided in both English and Spanish. TCEQ staff were present and ready to open the hearing for public comment; however, none of the attendees signed up to make comments on the record. Therefore, the public hearing was not formally opened for comment and a transcript was not prepared.

During the comment period, comments were received from EPA, Air Alliance Houston, Earthjustice, Environmental Integrity Project, Environment Texas, Public Citizen, Sierra Club, Texas Environmental Justice Advocacy Services (TEJAS), and twelve individuals. Generally, the comments focused on public health, public involvement, control strategies, inadequacy of the RACT analysis, and environmental justice concerns.

Significant changes from proposal:

None.

Potential controversial concerns and legislative interest:

The current project timeline will allow for submission of a SIP revision, including provisions for RACT, to EPA by May 7, 2024, after EPA's SIP submittal deadline. Missing the January 1, 2023, submittal deadline has led to EPA issuing a finding of failure to submit, which started clocks for sanctions and a federal implementation plan (FIP) effective November 17, 2023 (88 FR 71757). EPA is required to promulgate a FIP anytime within two years of finding TCEQ failed to make the required submission unless TCEQ submits, and EPA approves, a plan revision correcting the deficiency prior to promulgating the FIP. Sanctions could include transportation funding restrictions, grant withholdings, and 2-to-1 emissions offset requirements for new construction and major modifications of stationary sources in the Bexar County 2015 ozone NAAQS nonattainment area.

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

No.

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

On October 18, 2023, EPA issued a finding of failure to submit required SIP revisions for the 2015 eight-hour ozone NAAQS moderate nonattainment areas, effective November 17, 2023 (88 FR 71757). On October 12, 2023, Texas Governor Greg Abbott signed and submitted a letter to EPA to reclassify the Bexar County, Dallas-Fort Worth, and Houston-Galveston-Brazoria 2015 eight-hour ozone NAAQS moderate nonattainment areas to serious. EPA's proposal to reclassify these areas to serious in accordance with Governor Abbott's letter was published on January 26, 2024 (89 FR 5145). EPA proposes that a number of moderate classification requirements are still due, including a RACT demonstration for Bexar County. This Bexar County RACT SIP revision satisfies the RACT demonstration portion of the outstanding moderate area classification requirements for the 2015 eight-hour ozone NAAQS. The commission could choose to not comply with the requirements to develop and submit the required SIP elements to EPA. However, a 2-to-1 emissions offset sanction will apply in the nonattainment area 18 months after the effective date of EPA's finding unless TCEQ submits, and EPA finds complete, a plan revision that resolves the deficiency. Highway funding sanctions will apply six months after the offset sanction begins if a complete plan revision has not been submitted to resolve the deficiency. In addition, EPA is required to promulgate a FIP within 24 months of the effective date of the finding of failure to submit if TCEQ does not submit, or if TCEQ submits but EPA does not approve, the required SIP revisions within the 24-month period.

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Key points in the adoption SIP revision schedule:
Anticipated agenda date: April 24, 2024

Agency contacts:

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

BEXAR COUNTY 2015 EIGHT-HOUR OZONE STANDARD
NONATTAINMENT AREA



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

**BEXAR COUNTY 2015 EIGHT-HOUR OZONE STANDARD
MODERATE NONATTAINMENT AREA REASONABLY AVAILABLE
CONTROL TECHNOLOGY STATE IMPLEMENTATION PLAN
REVISION**

PROJECT NUMBER 2023-132-SIP-NR
SFR-122/2023-132-SIP-NR

Adoption
April 24, 2024

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EXECUTIVE SUMMARY

Bexar County was originally designated nonattainment with a marginal classification for the 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS) of 0.070 parts per million with a September 24, 2021 attainment date.¹ Based on monitoring data from 2018, 2019, and 2020, Bexar County did not attain the standard by the September 24, 2021 attainment date for the area under the marginal classification and did not qualify for a one-year attainment date extension in accordance with federal Clean Air Act (CAA), §181(a)(5).² On October 7, 2022, the U.S. Environmental Protection Agency (EPA) published a final notice reclassifying Bexar County from marginal to moderate with a September 24, 2024 attainment date and a 2023 attainment year.³ The final action was effective November 7, 2022 (87 *Federal Register* (FR) 60897).

The Texas Commission on Environmental Quality was required to submit SIP elements under CAA, §182(b) for moderate ozone nonattainment areas by January 1, 2023: an attainment demonstration, including reasonably available control technology (RACT) and reasonably available control measures analyses, and contingency measures, as well as reasonable further progress. On October 18, 2023, EPA issued a finding of failure to submit required SIP revisions for the 2015 eight-hour ozone NAAQS moderate nonattainment areas, effective November 17, 2023 (88 FR 71757). On October 12, 2023, Texas Governor Greg Abbott signed and submitted a letter to EPA to reclassify the Bexar County, Dallas-Fort Worth, and Houston-Galveston-Brazoria moderate 2015 eight-hour ozone NAAQS nonattainment areas to serious. EPA's proposal to reclassify these areas to serious in accordance with Governor Abbott's letter was published on January 26, 2024 (89 FR 5145). EPA proposes that a number of moderate classification requirements are still due, including a RACT demonstration for Bexar County. This Bexar County RACT SIP revision satisfies the RACT demonstration portion of the outstanding moderate area classification requirements for the 2015 eight-hour ozone NAAQS.

This SIP revision includes a RACT analysis to fulfill CAA, §172(c)(1) and §182(b)(2) RACT requirements for volatile organic compounds (VOC) and nitrogen oxides (NO_x). This SIP revision also incorporates concurrent revisions to rules in 30 Texas Administrative Code Chapter 115 (Rule Project No. 2023-116-115-AI) and Chapter 117 (Rule Project No. 2023-117-117-AI) to implement RACT requirements for VOC and NO_x in Bexar County.

¹ Bexar County was designated nonattainment for the 2015 ozone NAAQS effective September 24, 2018, after most of the rest of the country (83 FR 35136, July 25, 2018).

² An area that fails to attain the 2015 eight-hour ozone NAAQS by its attainment date would be eligible for the first one-year extension if, for the attainment year, the area's 4th highest daily maximum eight-hour average is at or below the level of the standard (70 parts per billion (ppb)); Bexar County's fourth highest daily maximum eight-hour average for 2020 was 72 ppb.

³ The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date.

SECTION V-A: LEGAL AUTHORITY

General

The Texas Commission on Environmental Quality (TCEQ) has the legal authority to implement, maintain, and enforce the National Ambient Air Quality Standards (NAAQS) and to control the quality of the state's air, including maintaining adequate visibility.

The first air pollution control act, known as the Clean Air Act of Texas, was passed by the Texas Legislature in 1965. In 1967, the Clean Air Act of Texas was superseded by a more comprehensive statute, the Texas Clean Air Act (TCAA), found in Article 4477-5, Vernon's Texas Civil Statutes. In 1989, the TCAA was codified as Chapter 382 of the Texas Health and Safety Code. The TCAA is frequently amended for various purposes during the biennial legislative sessions.

Originally, the TCAA stated that the Texas Air Control Board (TACB) was the state air pollution control agency and was the principal authority in the state on matters relating to the quality of air resources. In 1991, the legislature abolished the TACB effective September 1, 1993, and its powers, duties, responsibilities, and functions were transferred to the Texas Natural Resource Conservation Commission (TNRCC). In 2001, the 77th Texas Legislature continued the existence of the TNRCC until September 1, 2013 and changed the name of the TNRCC to TCEQ. In 2009, the 81st Texas Legislature, during a special session, amended section 5.014 of the Texas Water Code, changing the expiration date of TCEQ to September 1, 2011, unless continued in existence by the Texas Sunset Act. In 2023, the 88th Regular Session of the Texas Legislature continued the existence of TCEQ until 2035.

With the creation of the TNRCC (and its successor TCEQ), authority over air quality is found in both the Texas Water Code (TWC) and the TCAA. The general authority of TCEQ is found in TWC, Chapter 5 and enforcement authority is provided by TWC, Chapter 7. TWC, Chapter 5, Subchapters A - F, H - J, and L, include the general provisions, organization, and general powers and duties of TCEQ, and the responsibilities and authority of the executive director. TWC, Chapter 5 also authorizes TCEQ to implement action when emergency conditions arise and to conduct hearings. The TCAA specifically authorizes TCEQ to establish the level of quality to be maintained in the state's air and to control the quality of the state's air by preparing and developing a general, comprehensive plan. The TCAA, Subchapters A - D, also authorize TCEQ to collect information to enable the commission to develop an inventory of emissions; to conduct research and investigations; to enter property and examine records; to prescribe monitoring requirements; to institute enforcement proceedings; to enter into contracts and execute instruments; to formulate rules; to issue orders taking into consideration factors bearing upon health, welfare, social and economic factors, and practicability and reasonableness; to conduct hearings; to establish air quality control regions; to encourage cooperation with citizens' groups and other agencies and political subdivisions of the state as well as with industries and the federal government; and to establish and operate a system of permits for construction or modification of facilities.

Local government authority is found in Subchapter E of the TCAA. Local governments have the same power as TCEQ to enter property and make inspections. They also may make recommendations to the commission concerning any action of TCEQ that affects

their territorial jurisdiction, may bring enforcement actions, and may execute cooperative agreements with TCEQ or other local governments. In addition, a city or town may enact and enforce ordinances for the control and abatement of air pollution not inconsistent with the provisions of the TCAA and the rules or orders of the commission.

In addition, Subchapters G and H of the TCAA authorize TCEQ to establish vehicle inspection and maintenance programs in certain areas of the state, consistent with the requirements of the federal Clean Air Act; coordinate with federal, state, and local transportation planning agencies to develop and implement transportation programs and measures necessary to attain and maintain the NAAQS; establish gasoline volatility and low emission diesel standards; and fund and authorize participating counties to implement vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.

Applicable Law

The following statutes and rules provide necessary authority to adopt and implement the state implementation plan (SIP). The rules listed below have previously been submitted as part of the SIP.

Statutes

All sections of each subchapter are included, with the most recent effective date, unless otherwise noted.

TEXAS HEALTH & SAFETY CODE, Chapter 382	September 1, 2023
TEXAS WATER CODE	September 1, 2023

Chapter 5: Texas Natural Resource Conservation Commission

Subchapter A: General Provisions

Subchapter B: Organization of the Texas Natural Resource Conservation Commission

Subchapter C: Texas Natural Resource Conservation Commission

Subchapter D: General Powers and Duties of the Commission

Subchapter E: Administrative Provisions for Commission

Subchapter F: Executive Director (except §§5.225, 5.226, 5.227, 5.231, 5.232, and 5.236)

Subchapter H: Delegation of Hearings

Subchapter I: Judicial Review

Subchapter J: Consolidated Permit Processing

Subchapter L: Emergency and Temporary Orders (§§5.514, 5.5145, and 5.515 only)

Subchapter M: Environmental Permitting Procedures (§5.558 only)

Chapter 7: Enforcement

Subchapter A: General Provisions (§§7.001, 7.002, 7.0025, 7.004, and 7.005 only)

Subchapter B: Corrective Action and Injunctive Relief (§7.032 only)

Subchapter C: Administrative Penalties

Subchapter D: Civil Penalties (except §7.109)

Subchapter E: Criminal Offenses and Penalties: §§7.177, 7.178-7.183 only

Rules

All of the following rules are found in 30 Texas Administrative Code, as of the following latest effective dates:

Chapter 7: Memoranda of Understanding, §§7.110 and 7.119	December 13, 1996 and May 2, 2002, respectively
Chapter 19: Electronic Reporting	March 1, 2007
Subchapter A: General Provisions	
Subchapter B: Electronic Reporting Requirements	
Chapter 39: Public Notice	
Subchapter H: Applicability and General Provisions, §§39.402(a)(1) - (a)(6), (a)(8), and (a)(10) - (a)(12); §§39.405(f)(3) and (g), (h)(1)(A), (h)(2) - (h)(4), (h)(6), (h)(8) - (h)(11), (i) and (j), §39.407; §39.409; §§39.411(a), (e)(1) - (4)(A)(i) and (iii), (4)(B), (e)(5) introductory paragraph, (e)(5)(A), (e)(5)(B), (e)(6) - (e)(10), (e)(11)(A)(i), (e)(11)(A)(iii) - (vi), (11)(B) - (F), (e)(13), and (e)(15), (e)(16), and (f) introductory paragraph, (f)(1) - (8), (g) and (h); §39.418(a), (b)(2)(A), (b)(3), and (c); §39.419(e), §39.420(c)(1)(A) - (D)(i)(I) and (II), (c)(1)(D)(ii), (c)(2), (d) - (e), and (h), and Subchapter K: Public Notice of Air Quality Permit Applications, §§39.601 - 39.605	September 16, 2021
Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, all of the chapter, except §55.125(a)(5) and (a)(6)	September 16, 2021
Chapter 101: General Air Quality Rules	May 14, 2020
Chapter 106: Permits by Rule, Subchapter A	April 17, 2014
Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter	November 12, 2020
Chapter 112: Control of Air Pollution from Sulfur Compounds	October 27, 2022
Chapter 114: Control of Air Pollution from Motor Vehicles	December 21, 2023
Chapter 115: Control of Air Pollution from Volatile Organic Compounds	May 16, 2024
Chapter 116: Control of Air Pollution by Permits for New Construction or Modification	July 1, 2021
Chapter 117: Control of Air Pollution from Nitrogen Compounds	May 16, 2024
Chapter 118: Control of Air Pollution Episodes	March 5, 2000

Chapter 122: Federal Operating Permits Program
§122.122: Potential to Emit

February 23, 2017

SECTION VI: CONTROL STRATEGY

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

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Chapter 5: Weight of Evidence (Placeholder for Future Attainment Demonstration)

Chapter 6: Ongoing and Future Initiatives (Placeholder for Future Attainment Demonstration)

LIST OF ACRONYMS

ACT	alternative control techniques
BACT	best available control technology
CTG	control technologies guidelines
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
EI	emissions inventory
FCAA	Federal Clean Air Act
FR	<i>Federal Register</i>
I/M	inspection and maintenance
MACT	maximum achievable control technology
NAAQS	National Ambient Air Quality Standard
NO _x	nitrogen oxides
NSR	new source review
ppb	parts per billion
PTE	potential to emit
RACM	reasonably available control measures
RACT	reasonably available control technology
SIP	State Implementation Plan
TAC	Texas Administrative Code
TACB	Texas Air Control Board
TCAA	Texas Clean Air Act
TCEQ	Texas Commission on Environmental Quality (commission)
TERP	Texas Emissions Reduction Plan
TNRCC	Texas Natural Resource Conservation Commission
tpy	tons per year
VOC	volatile organic compounds

LIST OF TABLES

Table 4-1: Existing Ozone Control and Voluntary Measures Applicable to Bexar County

LIST OF APPENDICES

<u>Appendix</u>	<u>Appendix Name</u>
Appendix A	RACT Analysis

CHAPTER 1: GENERAL

1.1 BACKGROUND

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

1.2 INTRODUCTION

The following history of the 2015 eight-hour ozone National Ambient Air Quality Standard (NAAQS) for Bexar County is provided to give context and greater understanding of the complex issues involved in the area's ozone challenge.

1.2.1 2015 Eight-Hour Ozone NAAQS History

On October 1, 2015, the U.S. Environmental Protection Agency (EPA) lowered the primary and secondary eight-hour ozone standards to 0.070 parts per million (ppm) and published the final rule revising the NAAQS in the *Federal Register* (FR) on October 26, 2015, effective December 28, 2015 (80 FR 65291). On June 4, 2018, EPA published final designations for areas under the 2015 eight-hour ozone NAAQS (83 FR 25766), effective August 3, 2018; however, EPA did not designate Bexar County as part of that action. The EPA published the nonattainment designation for Bexar County for the 2015 ozone NAAQS with a marginal classification on July 25, 2018, effective September 24, 2018 (83 FR 35136).

1.2.1.1 Marginal Classification for the 2015 Eight-Hour Ozone NAAQS

Under a marginal classification, Bexar County was required to attain the 2015 ozone NAAQS by the end of 2020, the attainment year, to meet a September 24, 2021 attainment date.⁴ On January 15, 2020, the commission approved proposal of a federal Clean Air Act (FCAA), §179B Demonstration SIP revision (Non-Rule Project No. 2019-106-SIP-NR) that demonstrated that the Bexar County marginal ozone nonattainment area would attain the 2015 eight-hour ozone standard by its attainment deadline “but for” anthropogenic emissions emanating from outside the United States. On January 9, 2020, EPA issued draft guidance for the development of §179B demonstrations. On July 1, 2020, the commission adopted the Bexar County §179B Demonstration SIP revision. It was submitted to EPA on July 13, 2020. On December 21, 2020, EPA issued final guidance for the development of §179B demonstrations.

On June 10, 2020, the commission adopted an emissions inventory (EI) SIP revision for the 2015 eight-hour ozone NAAQS marginal nonattainment areas, including Bexar County (Non-Rule Project No. 2019-111-SIP-NR). It was submitted to EPA on June 24, 2020. The revision satisfied FCAA EI reporting requirements for areas designated nonattainment for the 2015 eight-hour ozone NAAQS and also included certification statements to confirm that emissions statement and nonattainment new source review (NSR) SIP requirements had been met for the 2015 eight-hour ozone nonattainment areas. On June 29, 2021, EPA published final approval of the EI for the Bexar County

⁴ The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date.

2015 ozone NAAQS nonattainment area (86 FR 34139). On September 9, 2021, EPA published final approval of the emissions statement and nonattainment NSR certification statements (86 FR 50456).

1.2.1.2 Reclassification to Moderate for the 2015 Eight-Hour Ozone NAAQS

Based on monitoring data from 2018, 2019, and 2020, Bexar County did not attain the 2015 eight-hour ozone NAAQS in the 2020 attainment year under the marginal classification and did not qualify for a one-year attainment date extension in accordance with FCAA, §181(a)(5).⁵ On October 7, 2022, EPA published the final notice reclassifying the Bexar County 2015 ozone NAAQS nonattainment area from marginal to moderate, effective November 7, 2022 (87 FR 60897). The attainment date for the Bexar County moderate nonattainment area was set as September 24, 2024, with a 2023 attainment year. In this same action, EPA also disapproved the Bexar County §179B Demonstration SIP Revision.

TCEQ was required to submit SIP elements under FCAA, §182(b) for moderate ozone nonattainment areas by January 1, 2023: an attainment demonstration, including reasonably available control technology (RACT) and reasonably available control measures analyses, and contingency measures, as well as reasonable further progress. On October 18, 2023, EPA issued a finding of failure to submit required SIP revisions for the 2015 eight-hour ozone NAAQS moderate nonattainment areas, effective November 17, 2023 (88 FR 71757). On October 12, 2023, Texas Governor Greg Abbott signed and submitted a letter to EPA to reclassify the Bexar County, Dallas-Fort Worth, and Houston-Galveston-Brazoria 2015 eight-hour ozone NAAQS moderate nonattainment areas to serious. EPA's proposal to reclassify these areas to serious in accordance with Governor Abbott's letter was published on January 26, 2024 (89 FR 5145). EPA proposes that a number of moderate classification requirements are still due, including a RACT demonstration for Bexar County. This Bexar County RACT SIP revision satisfies the RACT demonstration portion of the outstanding moderate area classification requirements for the 2015 eight-hour ozone NAAQS.

1.3 HEALTH EFFECTS

In 2015, EPA revised the primary eight-hour ozone NAAQS to 0.070 ppm (70 ppb). To support the 2015 eight-hour primary ozone standard, EPA provided information that suggested that health effects may potentially occur at levels lower than the previous 0.075 ppm (75 ppb) standard. Breathing relatively high levels of ground-level ozone can cause acute respiratory problems like cough and decreases in lung function and can aggravate the symptoms of asthma. Repeated exposures to high levels of ozone can potentially make people more susceptible to allergic responses and lung inflammation.

Children are at a relatively higher risk from exposure to ozone when compared to adults since they breathe more air per pound of body weight than adults and because children's respiratory systems are still developing. Children also spend a considerable

⁵ An area that fails to attain the 2015 eight-hour ozone NAAQS by its attainment date would be eligible for the first one-year extension if, for the attainment year, the area's 4th highest daily maximum eight-hour average is at or below the level of the standard (70 parts per billion (ppb)); Bexar County's fourth-highest daily maximum eight-hour average for 2020 was 72 ppb.

amount of time outdoors during summer and during the start of the school year (August through October) when elevated ozone levels are typically measured. Adults most at risk from exposures to elevated ozone levels are people working or exercising outdoors and individuals with preexisting respiratory diseases.

1.4 STAKEHOLDER PARTICIPATION AND PUBLIC MEETINGS

1.4.1 Bexar County Virtual Technical Information Meeting (TIM)

The Bexar County Air Quality TIMs were provided to present technical and scientific information related to air quality modeling and analysis in the Bexar County nonattainment area. The TCEQ hosted two virtual TIMs, one on August 16, 2021, and the other was held on August 22, 2022. These TIMs included presentations on ozone planning, ozone design values, modeling platform updates, emissions inventory development, and updates from EPA. More information is available on the [San Antonio Air Quality TIM](https://www.tceq.texas.gov/airquality/airmod/meetings/aqtim-sa.html) webpage (<https://www.tceq.texas.gov/airquality/airmod/meetings/aqtim-sa.html>).

1.4.2 Bexar County Stakeholders Meeting

The TCEQ hosted a virtual Bexar County Stakeholder Meeting on June 8, 2022 related to SIP planning for the Bexar County area. The purpose of the meeting was to discuss what emission reduction strategies (primarily VOC) are being or could be implemented by different source sectors. The meeting was opened to public, but the focus was on companies and industry in Bexar County with stationary sources of ozone precursor emissions.

1.5 PUBLIC HEARING AND COMMENT INFORMATION

The public comment period opened on December 1, 2023 and closed on January 16, 2024. Notice of the public hearing was published in the *San Antonio Express-News* newspaper in English on December 1, 2023 and in *Conexion* in Spanish on December 6, 2023. Notices in English and Spanish were also distributed to subscribers through GovDelivery and posted to TCEQ's website, and a notice was published in English in the *Texas Register* on December 15, 2023 (48 TexReg 7643). The commission offered a public hearing for this SIP revision on January 9, 2024 at 7:00 p.m. in San Antonio at the Alamo Area Council of Governments. TCEQ staff were present and ready to open the hearing for public comment; however, no attendees signed up to make comments on the record. Therefore, the public hearing was not opened.

Written comments were accepted via mail, fax, or through TCEQ's Public Comment system (<https://tceq.commentinput.com/>). During the comment period, comments were received from EPA, Air Alliance Houston, Earthjustice, Environmental Integrity Project, Environment Texas, Public Citizen, Sierra Club, Texas Environmental Justice Advocacy Services, and twelve individuals. The public comments received are summarized and addressed in the Response to Comments for this SIP revision.

1.6 SOCIAL AND ECONOMIC CONSIDERATIONS

For a detailed explanation of the social and economic issues involved with the concurrent rule revisions associated with this SIP revision (Rule Project Nos. 2023-116-115-AI and 2023-117-117-AI), please refer to the preamble of each rulemaking.

1.7 FISCAL AND MANPOWER RESOURCES

The state has determined that its fiscal and manpower resources are adequate and will not be adversely affected through the implementation of this plan.

**CHAPTER 2: ANTHROPOGENIC EMISSIONS INVENTORY DESCRIPTION
(PLACEHOLDER)**

CHAPTER 3: PHOTOCHEMICAL MODELING (PLACEHOLDER)

CHAPTER 4: CONTROL STRATEGIES AND REQUIRED ELEMENTS

4.1 INTRODUCTION

The Bexar County 2015 ozone National Ambient Air Quality Standard (NAAQS) nonattainment area, which consists of Bexar County, includes a variety of major and minor industrial, commercial, and institutional entities. The Texas Commission on Environmental Quality (TCEQ) has implemented regulations that address emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) from many of these sources. This chapter describes existing ozone control measures for Bexar County and a reasonably available control technology (RACT) analysis as well as regulations necessary to implement RACT requirements.

The FCAA and 40 Code of Federal Regulations (CFR) Part 51, as amended, require nonattainment areas classified as moderate or above to submit a state implementation plan (SIP) revision that addresses: nonattainment new source review (NSR), reasonable further progress, an attainment demonstration for the 2015 ozone NAAQS, a reasonably available control measure (RACM) analysis, contingency measures, a vehicle inspection and maintenance (I/M) program, and a RACT analysis.

The Bexar County 2015 ozone NAAQS nonattainment area was initially classified as marginal with a September 24, 2021 attainment date. Based on monitoring data from 2018, 2019, and 2020, Bexar County did not attain the 2015 ozone NAAQS in the 2020 attainment year and did not qualify for a one-year attainment date extension in accordance with FCAA, §181(a)(5).^{6,7} On October 7, 2022, the U.S. Environmental Protection Agency (EPA) published a final notice reclassifying Bexar County from marginal to moderate nonattainment for the 2015 eight-hour ozone NAAQS, effective November 7, 2022 (87 FR 60897). SIP revisions to address moderate classification SIP requirements under the 2015 ozone NAAQS were due to EPA no later than January 1, 2023.

This SIP revision includes a RACT analysis and describes the regulations necessary to implement RACT requirements in Bexar County associated with a moderate classification.

4.2 EXISTING CONTROL MEASURES

Bexar County has existing VOC and NO_x regulations that were promulgated during the 1970s when the county was not attaining the photochemical oxidants air quality standard, the predecessor to the 1979 one-hour ozone NAAQS. Additional VOC regulations were added as part of the San Antonio early action compact SIP revision for the 1997 eight-hour ozone NAAQS, submitted to EPA in 2004. Bexar County has also been included in regulations affecting east and central Texas and various statewide and inter-regional rules designed to implement controls to address detrimental effects

⁶ The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment deadline.

⁷ An area that fails to attain the 2015 eight-hour ozone NAAQS by its attainment date would be eligible for the first one-year extension if, for the attainment year, the area's 4th highest daily maximum eight-hour average is at or below the level of the standard (70 parts per billion (ppb)); the Bexar County area's fourth highest daily maximum eight-hour average for 2020 was 74 ppb as measured at the Camp Bullis C58 monitor. The Bexar County area's design value for 2020 was 72 ppb.

on air quality from emissions in one Texas nonattainment on other Texas ozone nonattainment areas. Several statewide requirements for various consumer-related products also apply to Bexar County. Table 4-1: *Existing Ozone Control and Voluntary Measures Applicable to Bexar County* lists the existing ozone control strategies and the corresponding rules in 30 Texas Administrative Code (TAC) that are currently applicable in Bexar County for the 1979 one-hour ozone NAAQS and the 1997 and 2008 eight-hour ozone NAAQS.

Table 4-1: Existing Ozone Control and Voluntary Measures Applicable to Bexar County

Measure	Description	Effective Date(s)
VOC Storage Rules 30 TAC Chapter 115, Subchapter B, Division 1	VOC control requirements applicable to storage tanks to satisfy federal Clean Air Act (FCAA) requirements for the Metropolitan San Antonio Intrastate Air Quality Control Region. ⁸	December 31, 1973
VOC Vent Gas Rules 30 TAC Chapter 115, Subchapter B, Division 2	VOC control requirements applicable to stack emissions to satisfy FCAA requirements for the Metropolitan San Antonio Intrastate Air Quality Control Region.	December 31, 1973
VOC Water Separation 30 TAC Chapter 115 Subchapter B, Division 3	VOC control amendments satisfy RACT requirements for the Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds control techniques guidelines category (EPA450/2-77-025).	December 31, 1973
VOC Loading and Unloading Rules 30 TAC Chapter 115, Subchapter C, Division 1	VOC control consistent with the EPA's 1977 Control of Volatile Organic Emissions from Bulk Gasoline Plants control techniques guidelines (EPA-450/2-77-035).	December 31, 1973
VOC Transport Rules 30 TAC Chapter 115, Subchapter C, Division 3	VOC control requirements for VOC transport vessels in covered attainment counties, including Bexar.	April 30, 2000
VOC Degreasing Rules 30 TAC Chapter 115, Subchapter E, Division 1	VOC controls to implement RACT requirements for degreasing processes based on the EPA's 1977 Control of Volatile Organic Emissions from Solvent Metal Cleaning control techniques guidelines document (EPA-450/2-77-022).	May 7, 1979

⁸ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-81/subpart-B/section-81.40>

Measure	Description	Effective Date(s)
VOC Windshield Washer Fluid Rules 30 TAC Chapter 115, Subchapter G, Division 1	VOC content controls for consumer windshield washer fluid sold in Texas. Enacted to generate VOC reductions required for FCAA 15% Rate of Progress requirements. Rules made applicable statewide.	May 27, 1994
Refueling - Stage I 30 TAC, Chapter 115, Subchapter C, Division 2	Requirements for capture of gasoline vapors that are released when gasoline is delivered to a storage tank. Vapors returned to tank truck as storage tank is filled with fuel, rather than released into ambient air.	December 31, 2005
Utility Electric Generation in East and Central Texas 30 TAC Chapter 117, Subchapter E, Division 1	NO _x emission limits for electric power boilers and stationary gas turbines (including duct burners used in turbine exhaust ducts) at utility electric generation sites in East and Central Texas, including Bexar County.	May 1, 2003 through May 1, 2005
Cement Kiln Rule 30 TAC Chapter 117, Subchapter E, Division 2	NO _x emission limits for all Portland cement kilns located in Bexar County.	May 1, 2005
Natural Gas-Fired Small Boilers, Process Heaters, and Water Heaters 30 TAC Chapter 117, Subchapter E, Division 3	NO _x emission limits on small-scale residential and industrial boilers, process heaters, and water heaters equal to or less than 2.0 million British thermal units per hour (statewide rule).	July 1, 2002
NO _x Emission Standards for Nitric Acid Manufacturing-General 30 TAC Chapter 117, Subchapter F, Division 3	NO _x emission limits for nitric acid manufacturing facilities (state-wide rule - no nitric acid facilities in the Bexar County).	November 15, 1999
Texas Emissions Reduction Plan (TERP) 30 TAC Chapter 114, Subchapter K	Voluntary program provides grant funds for on-road and non-road heavy-duty diesel engine replacement/retrofit.	January 2002
Texas Low Emission Diesel 30 TAC Chapter 114, Subchapter H, Division 2	Requires all diesel fuel for both on-road and non-road use to have a lower aromatic content and a higher cetane number.	Phased in from October 31, 2005 through January 31, 2006

Measure	Description	Effective Date(s)
30 TAC Chapter 114, Subchapter I, Division 3	Standards for non-road gasoline engines 25 horsepower and larger.	May 1, 2004
Federal On-Road Measures	Series of emissions limits implemented by the EPA for on-road vehicles. Included in measures: Tier 1, Tier 2, and Tier 3 light-duty and medium-duty passenger vehicle standards, heavy-duty vehicle standards, low sulfur diesel standards, National Low Emission Vehicle standards, and reformulated gasoline.	Phase in through 2010 Tier 3 phase in from 2017 through 2025
Federal Area/Non-Road Measures	Series of emissions limits implemented by the EPA for area and non-road sources. Examples: diesel and gasoline engine standards for locomotives and leaf-blowers.	Phase in through 2018

4.3 NEW CONTROL MEASURES

The FCAA and 40 CFR Part 51, as amended, require a basic vehicle emissions I/M program in ozone nonattainment areas classified as moderate. Rulemaking is required to implement I/M and set the testing fee applicable in Bexar County, and a SIP revision is required to incorporate a Bexar County I/M program into the SIP. On November 29, 2023, the commission adopted a 30 TAC Chapter 114 rulemaking and associated SIP revision (Project Nos. 2022-026-114-AI and 2022-027-SIP-NR). These projects satisfy the I/M requirements for Bexar County and were submitted to EPA on December 18, 2023.

New control measures are contained in two rule projects developed concurrent with this SIP revision. The rulemakings revise 30 TAC Chapter 115 pertaining to control of VOC emissions (Rule Project No. 2023-116-115-AI) and Chapter 117 pertaining to control of NO_x emissions (Rule Project No. 2023-117-117-AI). These rules address RACT associated with a moderate classification for the Bexar County 2015 ozone NAAQS nonattainment area. The compliance date for these rules is January 1, 2025.

4.4 RACT ANALYSIS

4.4.1 General Discussion

Ozone nonattainment areas classified as moderate and above are required to meet the mandates of the FCAA under §172(c)(1) and §182(b)(2) and (f) to address RACT. According to EPA's *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements: Final Rule* (2015 eight-hour ozone standard SIP requirements rule) published on December 6, 2018, states containing areas classified as moderate ozone nonattainment or higher must submit a SIP revision to fulfill RACT requirements for all source categories addressed by control techniques guidelines (CTG) or alternative control techniques (ACT) as well as any non-ACT/CTG category sources that are classified as major stationary sources of NO_x or VOC (83 *Federal Register* (FR) 62998). Specifically, this SIP contains RACT regulations, certifications where appropriate that existing provisions are RACT, or negative

declarations affirming that there are no sources within the nonattainment area that are subject to a specific CTG or ACT source category.

RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979). RACT requirements for moderate and higher classification ozone nonattainment areas are included in the FCAA to ensure that significant source categories at major sources of ozone precursor emissions are controlled to a reasonable extent but not necessarily to the best available control technology (BACT) levels expected of new sources or to maximum achievable control technology (MACT) levels required for major sources of hazardous air pollutants.

While RACT and reasonably available control measures (RACM) have similar consideration factors like technological and economic feasibility, there is a significant distinction between RACT and RACM. A control measure must advance attainment of the area towards the meeting the NAAQS for that measure to be considered RACM. Advancing attainment of the area is not a factor of consideration when evaluating RACT because the benefit of implementing RACT is presumed under the FCAA.

The TCEQ reviewed the emission sources in Bexar County and the applicable TCEQ rules to verify that all CTG or ACT emission source categories and non-CTG or non-ACT major emission sources in Bexar County were subject to requirements that meet or exceed RACT requirements associated with a moderate classification, or that further emission controls on the sources were either not economically feasible or not technologically feasible. The major source threshold for moderate ozone nonattainment areas is a potential to emit (PTE) 100 tons per year (tpy) or more of either NO_x or VOC. To identify major source RACT categories, the 2019 emissions inventories (EI) were screened for all sources within the Bexar County area that demonstrate either a PTE or actual emissions of 50 tpy or more. Emission sources subject to the more stringent BACT or MACT requirements were determined to also fulfill RACT requirements. Additional details are provided in Appendix A: *Reasonably Available Control Technology Analysis* of this SIP revision.

4.4.2 NO_x RACT Determination

The TCEQ reviewed the 2019 point source emissions inventory (EI) to verify that the NO_x controls and reductions that will be implemented through concurrent rule revisions to 30 TAC Chapter 117 for the Bexar County 2015 ozone NAAQS nonattainment area address RACT controls required for all NO_x source categories identified in the EPA's ACT documents for moderate areas (Project No. 2023-117-117-AI).⁹ Details of this analysis are included in Appendix A, specifically Table A-1: *State Rules Addressing NO_x RACT Requirements in ACT Reference Documents* and Table A-4:

⁹ All data submitted in the EI are reviewed for quality assurance purposes and then stored in the State of Texas Air Reporting System (STARS) database. The [TCEQ's Point Source Emissions Inventory](https://www.tceq.texas.gov/airquality/pointsource-ei/psei.html) webpage (<https://www.tceq.texas.gov/airquality/pointsource-ei/psei.html>) contains guidance documents and historical point sources.

State Rules Addressing NO_x RACT Requirements for Major Emission Sources in Bexar County.

4.4.3 VOC RACT Determination

All VOC emission source categories subject to EPA CTG or ACT documents that are in existence within Bexar County will be controlled by rules included in a concurrent rulemaking to revise 30 TAC Chapter 115 (Rule Project No. 2023-116-115-AI).

Additional information is available in Appendix A, specifically Table A-2: *State Rules Addressing VOC RACT Requirements in CTG Reference Documents* and Table A-3: *State Rules Addressing VOC RACT Requirements in ACT Reference Documents*.

Based on a review of the 2019 point source EI data, the TCEQ is submitting negative declarations for the following CTG source categories for the Bexar County 2015 ozone NAAQS nonattainment area:

- Fiberglass Boat Manufacturing Materials;
- Manufacture of Pneumatic Rubber Tires;
- Shipbuilding and Ship Repair Surface Coating Operations;
- Surface Coating for Insulation of Magnet Wire; and
- Flat Wood Paneling Coatings, Group II issued in 2006.

For all non-CTG and non-ACT major VOC emission sources for which VOC controls are technologically and economically feasible, RACT associated with a moderate classification will be fulfilled by the revisions to rules in 30 TAC Chapter 115 (Rule Project No. 2023-116-115-AI). Additional VOC controls on certain major sources were determined either not to be economically feasible or not to be technologically feasible. Additional information is available in Appendix A, Table A-5: *State Rules Addressing VOC RACT Requirements for Major Emission Sources in the Bexar County Area* provides additional detail on the non-CTG and non-ACT major emission sources.

CHAPTER 5: WEIGHT OF EVIDENCE (PLACEHOLDER)

CHAPTER 6: ONGOING AND FUTURE INITIATIVES (PLACEHOLDER)

Appendices Available Upon Request

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**RESPONSE TO COMMENTS RECEIVED CONCERNING THE
BEXAR COUNTY 2015 EIGHT-HOUR OZONE STANDARD
MODERATE NONATTAINMENT AREA REASONABLY
AVAILABLE CONTROL TECHNOLOGY (RACT) STATE
IMPLEMENTATION PLAN (SIP) REVISION)**

The Texas Commission on Environmental Quality (commission or TCEQ) offered a public hearing in San Antonio on January 9, 2024, at 7:00 p.m. No attendees registered to provide comment; therefore, the hearing was not opened. During the comment period, which opened on December 1, 2023 and closed on January 16, 2024, the commission received comments from the United States Environmental Protection Agency (EPA), Air Alliance Houston, Earthjustice, Environmental Integrity Project, Environment Texas, Public Citizen, Sierra Club, Texas Environmental Justice Advocacy Services (TEJAS), and twelve individuals.

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General Comments
RACT Analysis

GENERAL COMMENTS

EPA commented in appreciation of the commission's work to submit this proposed SIP revision.

The commission appreciates the support. No changes were made to this SIP revision in response to this comment.

Twelve individuals commented that TCEQ should do more to protect public health by reducing ozone pollution.

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

No changes were made to this SIP revision in response to this comment.

Air Alliance Houston, Sierra Club, Environment Texas, Public Citizen, TEJAS, Earthjustice, and Environmental Integrity Project commented requesting a 30-day extension to the comment period. The extension was requested due to the amount of material to be reviewed in the proposed SIP and the coinciding holiday season.

An additional public hearing was also requested to accommodate for the possible impact of the holidays on attendance at the originally scheduled hearing and to provide adequate opportunity for public participation.

The commission encourages public participation in the SIP development process and makes every effort to hold hearings in locations and at times that are

accessible and convenient to the public. In addition to providing the opportunity to comment at a public hearing, the commission also provides the public with the option to submit written comments by mail, fax, or electronically through TCEQ's Public Comment system. Instructions for the submittal of written comments were provided in the proposed SIP revision documents and public notices.

The commission strives to give all citizens of Texas appropriate prior notification and opportunity to comment. This SIP revision was filed with TCEQ's Chief Clerk's Office and made available to the public on TCEQ's website on November 20, 2023. Listserv subscribers received an email notification on November 20, 2023, that this SIP revision was scheduled to be considered by the commission for proposal on November 29, 2023. On November 30, 2023, another email was sent to listserv subscribers notifying the public that TCEQ had approved publication of, and hearing on, the proposal. These notices also directed the public to TCEQ's website, where all SIP revision documents and the hearing notice were posted. The hearing notice for this SIP revision was published in English in the *San Antonio Express News* on December 1, 2023, in Spanish in the *Conexion* on December 6, 2023, and in English in the *Texas Register* on December 15, 2023 (48 *Texas Register* 7643-7644).

The public comment period was open from December 1, 2023, through January 16, 2024, providing an additional 15 days beyond the required 30-day comment period in order to account for scheduling around the holidays. During this time the public had the opportunity to provide both written and oral comment regarding this SIP revision to TCEQ. A public hearing was offered in San Antonio on January 9, 2024, at the Alamo Area Council of Governments. However, no attendees registered to make comments on the record.

The commission did not extend the comment period or hold additional hearings on this SIP revision. An extension of the public comment period would not allow staff time to adequately consider and respond to comments, route SIP and rule revision documents through the required channels and submit adopted SIP revisions in a reasonable amount of time. Commenters were notified of this decision on December 19, 2023, before the close of the comment period.

No changes were made to this SIP revision in response to these comments.

Air Alliance Houston, Sierra Club, Environment Texas, Public Citizen, TEJAS, Environmental Integrity Project, and Earthjustice commented that TCEQ has failed to bring ozone levels in the Dallas, Houston, and San Antonio areas into compliance with levels protective of public health. The commenters stated that failure to attain the 2008 ozone standard continues to harm communities in these areas, particularly in Houston where certain areas experience greater exposure than other parts of the city.

The Bexar County area is designated as attainment and continues to monitor attainment of the 2008 eight-hour ozone National Ambient Air Quality Standards (NAAQS) of 75 parts per billion (ppb). The purpose of this SIP revision is to address FCAA RACT SIP requirements for the Bexar County moderate nonattainment area under the 2015 eight-hour ozone NAAQS of 70 ppb.

The FCAA requires EPA to set the primary ozone NAAQS at levels that protect the health of the public, including infants, children, the elderly, and those with pre-existing conditions, such as asthma. The EPA considered these health impacts when setting the 2008 and 2015 eight-hour ozone NAAQS. TCEQ takes the health and concerns of Texans seriously and remains committed to working with area stakeholders to attain the 2015 eight-hour ozone standard as expeditiously as practicable in accordance with EPA rules and guidance and the FCAA.

Comments relating to the Dallas and Houston areas are outside the scope of this SIP revision. No changes were made to this SIP revision in response to these comments.

Twelve individuals commented that TCEQ should create a strong ozone plan for the Bexar County nonattainment area. The individuals expressed that Texas has not done enough to bring its nonattainment areas back into compliance with federal standards and the state should do more to reduce ozone pollution. Additionally, the individuals commented in support of a determination by EPA to reject TCEQ's previous SIP submittal for the Bexar County nonattainment area under the 2015 eight-hour ozone NAAQS. Sierra Club and Earthjustice commented that existing data suggest that Bexar County will not attain the 2015 eight-hour ozone standard by the September 24, 2024, attainment date, and existing rules and controls are insufficient to result in attainment.

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

As referenced in the executive summary of this SIP revision, TCEQ was required to submit SIP elements under FCAA, §182(b) for moderate ozone nonattainment areas by January 1, 2023: an attainment demonstration, including RACT and reasonably available control measures analyses, and contingency measures, and reasonable further progress. Missing the January 1, 2023, submittal deadline led to EPA issuing a finding of failure to submit, effective November 17, 2023 (88 FR 71757). On October 12, 2023, Texas Governor Greg Abbott signed and submitted a letter to EPA to reclassify the Bexar County, Dallas Fort-Worth (DFW), and Houston-Galveston-Brazoria (HGB) 2015 eight-hour ozone NAAQS moderate nonattainment areas to serious. EPA's proposal to reclassify these areas to serious in accordance with Governor Abbott's letter was published on January 26, 2024 (89 FR 5145). EPA proposes that a number of moderate classification requirements are still due, including a RACT demonstration for Bexar County. This Bexar County RACT SIP revision satisfies the RACT demonstration portion of the outstanding moderate area classification requirements for the 2015 eight-hour ozone NAAQS. Future SIP submittals for the Bexar County area may be required to address SIP requirements under a serious nonattainment classification if EPA finalizes its proposed action.

No changes were made to this SIP revision in response to these comments.

EPA requested that TCEQ carefully review applicable authorities for opportunities to incorporate environmental justice (EJ) considerations and ensure they have been adequately and appropriately incorporated in this SIP. In addition, EPA suggested that TCEQ consider the number of pollution sources, major and minor, in a geographic area as part of evaluating community risk during SIP development.

EPA encouraged TCEQ to use both EJScreen and specific area information in developing its SIP to consider potential issues related to civil rights of the communities potentially impacted. EPA commented that using EJScreen would indicate whether a SIP revision has the potential to contribute to significant public health or environmental impacts, if the community may be particularly vulnerable to impacts from the SIP revision, and whether the community is already disproportionately impacted by public health and/or environmental burdens on the basis of demographic factors.

Sierra Club stated that ozone exposure does not affect all Texans equally and noted that EPA's EJScreen tool shows areas of concern, pointing out specific index values for Dallas, Fort Worth, and San Antonio.

Sierra Club and Earthjustice commented that Texas residents living in urban and environmental justice communities with worse air quality have much poorer health outcomes, as reflected in asthma hospitalization rates. Sierra Club and Earthjustice further stated that nonattainment areas in Texas have some of the highest environmental justice indices for ozone pollution, according to EPA.

This SIP revision includes a RACT analysis to address FCAA RACT requirements for the moderate classification in Bexar County in accordance with EPA's guidance and FCAA requirements. TCEQ followed all relevant federal and state statutes, regulations, and guidance in the development of this SIP revision for the Bexar County nonattainment area.

The SIP is not the appropriate mechanism to address EJ issues. No federal or state statute, regulation, or guidance provides a process for evaluating or considering the socioeconomic or racial status of communities within an ozone nonattainment area. In a recent proposed approval of a TCEQ submittal for El Paso County, which did not include an EJ evaluation, EPA stated that the FCAA "and applicable implementing regulations neither prohibit nor require such an evaluation." TCEQ continues to be committed to protecting Texas' environment and the health of its citizens regardless of location. Specific health-related concerns are further addressed elsewhere in this response to comments.

While EPA may encourage states to utilize EJScreen in rulemaking actions, it is not necessary because the NAAQS are protective of all populations.

TCEQ provided the public equal access in accordance with Title VI of the Civil Rights Act. This SIP revision was developed in compliance with the policies and guidance delineated in TCEQ's Language Access Plan (LAP) and TCEQ's Public

Participation Plan (PPP).^{1,2} The LAP helps ensure individuals with limited English proficiency may meaningfully access TCEQ programs, activities, and services in a timely and effective manner; and the PPP identifies the methods by which TCEQ interacts with the public, provides guidance and best practices for ensuring meaningful public participation in TCEQ activities, and highlights opportunities for enhancing public involvement in TCEQ activities and programs.

In accordance with the PPP, EJScreen was used to conduct a preliminary analysis of the population in the Bexar County nonattainment area, which was then used to plan public engagement efforts for this SIP revision. Specifically, TCEQ developed a plain language summary, GovDelivery notices, a public hearing notice, and SIP Hot Topics notices that were provided in English and Spanish for this project. The newspaper hearing notice for this SIP revision was also translated and published in a Spanish language newspaper, and it included a statement that Spanish interpretation would be available at the hearing. Additionally, two Spanish language interpreters were available at the hearing.

Comments relating to environmental justice outcomes in the Dallas-Fort Worth area are outside the scope of this Bexar County SIP revision. No changes were made to this SIP revision in response to these comments.

Twelve individuals stated that TCEQ can strictly enforce the Clean Air Act and the permits it issues under the act. The commenters noted air pollution violations in Texas occur with no corrective action at all and that TCEQ has a crucial role to play in using enforcement to give companies an economic incentive to obey the law.

Proper implementation of the New Source Review program is an important element in attaining and maintaining the NAAQS, and TCEQ enforces this program as specified in the Texas Water Code, Texas Health & Safety Code, and commission rules. The commission does not agree that most air pollution violations in Texas occur with no corrective action, nor has the commenter provided specific information for this allegation that is relevant to this SIP revision.

No changes were made to this SIP revision in response to these comments.

Twelve individuals encouraged implementation of EPA's proposed Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review ("methane rule") and additional requirements specific to the Petroleum and Natural Gas sector.

The methane rule is not relevant to this SIP revision, the purpose of which is to establish reasonably available control technologies for the Bexar County ozone nonattainment area. In addition, EPA had not finalized the methane rule when this SIP revision was proposed; therefore, the commission was not able to consider its potential impact on ozone in the Bexar County nonattainment area or its relevance

¹ TCEQ, *TCEQ's Language Access Plan*, Sept. 2021, found at <https://www.tceq.texas.gov/downloads/agency/decisions/participation/language-access-plan-gi-608.pdf>.

² TCEQ, *TCEQ's Public Participation Plan*, June 2021, found at <https://www.tceq.texas.gov/downloads/agency/decisions/participation/public-participation-plan-gi-607.pdf>.

for creditability for RACT purposes. The methane rule establishes specific timelines for compliance with new source performance standards (NSPS) and emission guidelines for existing facilities in the oil and natural gas sector. States may choose to implement emission guidelines in state plans as specified in FCAA, §111(d), which are similar to, but not the same as SIPs required under FCAA, §110 for the control of criteria pollutants such as ozone. TCEQ may implement the NSPS according to the timelines established by the final rule upon its promulgation; the commission may consider the proposal and adoption of a state plan to implement the emission guideline in the future. If interested in future commission actions, the commission encourages the public to sign up for informational notices on the [TCEQ website \(https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new\)](https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new) and review upcoming commission agendas on the [Agenda Meetings and Work Sessions](https://www.tceq.texas.gov/agency/decisions/agendas) webpage (<https://www.tceq.texas.gov/agency/decisions/agendas>).

No changes were made to this SIP revision in response to these comments.

Twelve individuals provided comments regarding concerns about major sources circumventing major New Source Review (NSR) through various means, such as undercounting emissions and the improper aggregation of projects, as well as TCEQ allowing such circumvention.

Ensuring that circumvention of requirements does not occur is an important element of the air permitting program. Permit applicants are required to represent the maximum hourly and annual emission rates for new or modified facilities, including emission rates for planned maintenance, startup and shutdown (MSS) facilities and related activities. All supporting calculations based on established methods and the technical basis for the emission rates are required to be included. Emissions are calculated based on the maximum hourly operations and annual average operations being authorized for the facility. The submitted application information must enable the permit reviewer to duplicate all emission calculations to verify and confirm emissions data and rates represented in the application. An applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the applicant deviates from the representations made in the application, the applicant may be subject to enforcement action.

For every application that is received, TCEQ performs an applicability analysis for new major sources and modifications to existing major sources to determine if major new source review is triggered. As required by commission rules in 30 Texas Administrative Code Chapter (TAC) Chapter 116, when undergoing a physical or operational change (project), an existing major source must determine major NSR applicability through a two-step process that first considers whether the increased emissions alone are significant, followed by a calculation of the particular project's net emissions increase considering all contemporaneous increases and decreases at the source to determine if a major modification has occurred.

The process to determine whether a proposed project is subject to major NSR is determined based on a case-by-case evaluation based on available information. TCEQ relies on, and applies, EPA rules and guidance to determine when nominally

separate activities should be combined into a single project for purposes of major NSR applicability.

No changes were made to this SIP revision in response to these comments.

Twelve individuals commented that Texas recently discontinued vehicle safety inspections, which means that vehicles not meeting air pollution standards will go undetected. The commenters said that Texas must maintain emissions testing in counties where required. The individuals commented that Texas must ensure that car companies are not cheating on emission testing. The individuals also listed emissions tests, the smoking vehicle program, and remote emissions sensing as strategies to combat vehicle pollution.

Safety inspections for noncommercial vehicles in Texas are no longer required on January 1, 2025 due to passage of House Bill 3297, 88th Texas Legislature, 2023, Regular Session. Texas will continue to implement the vehicle emissions inspection and maintenance (I/M) program in the counties where it is required. An I/M program will be implemented in Bexar County beginning November 1, 2026. If the San Antonio area is reclassified to serious nonattainment, Bexar County will be required to implement remote sensing to fulfill the on-road testing requirement for an enhanced I/M program under 40 Code of Federal Regulations (CFR) §51.351.

The Texas Department of Public Safety is the agency responsible for enforcement of the I/M program, while EPA is responsible for enforcing federal engine standards.

Texas law enforcement agencies may issue a citation to a driver of a smoking vehicle under the state's smoking vehicle statute in Texas Transportation Code §547.605.

No changes were made to this SIP revision in response to this comment.

Sierra Club and Earthjustice commented that coal-fired electric generating units (EGU) are a major driver of high ozone in EJ communities, supported by a modeling study conducted by Sonoma Technology and submitted with the comment.³

Sierra Club and Earthjustice commented that ozone pollution disproportionately impacts low-income populations and people of color. Specifically, EPA's EJScreen tool finds disparate outcomes in exposure to pollution for different socioeconomic groups and a high EJ index. This results in a higher rate of asthma and other health effects in people of color and can be addressed through better controls on coal-fired EGUs.

³ The "Sonoma Report" is referenced in the comment letter submitted by Joshua Smith on behalf of Sierra Club and Earthjustice on January 16, 2024, pg. 2, n. 2 ("Lynn Alley & Kenneth Craig, Sonoma Technology, *Technical Memorandum Re: Analysis of Air Quality Impacts from Coal-Fired EGUs on Ozone Nonattainment Areas in Colorado, Indiana, Kentucky, Missouri, and Texas* (Mar. 2, 2023) [hereinafter, "Sonoma Report"].").

Sierra Club and Earthjustice commented that existing air quality monitors are not well placed to record ozone pollution in environmental justice communities impacted by emissions from coal-fired EGUs.

Operating a coal-fired EGU in the state of Texas requires an air quality permit from TCEQ. When TCEQ is required to review air quality permits, including those to authorize coal-fired EGUs, it does so without reference to the socioeconomic or racial status of the surrounding community. TCEQ is committed to protecting the health of the people of Texas and the environment regardless of location. Therefore, any control measures implemented for coal-fired EGUs are protective of all populations. TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Accordingly, TCEQ does not have jurisdiction to consider plant location, zoning, or land use when determining whether to approve or deny an air quality permit application, unless a statute or rule imposes specific limitations. The issuance of an air quality authorization does not override any local zoning or land use requirements. Federal network monitoring design criteria used to determine the number and placement of monitors reporting to the Air Quality System (AQS) require agencies to site monitors in populated areas that represent regional air quality where people live, work, and play, and are not generally sited to assess impacts from specific industrial sources or to specific demographic communities. TCEQ currently meets federal requirements to ensure that the network provides the information necessary to properly monitor and regulate all communities within Texas. Details regarding the annual review of the air monitoring network are located on TCEQ's website.

Specific health-related concerns are further addressed elsewhere in this response to comments.

No changes were made to this SIP revision in response to this comment.

Sierra Club and Earthjustice commented that high ozone in Texas has resulted in higher levels of asthma, mortality, and chronic respiratory, cardiovascular, reproductive, and nervous system conditions. Residents living in areas with worse air quality have poorer health outcomes and higher asthma hospitalization rates. Additionally, the comment stated that these health effects are cumulative, and respiratory effects can occur even at levels as low as 60 ppb. Sierra Club and Earthjustice also expressed that ozone has disproportionate health impacts for people with asthma/lung disease, children, the elderly, pregnant people, people of color, and outdoor workers. These factors along with exposure, susceptibility, access to healthcare and stress can exacerbate the health impacts experienced by individuals in areas with high ozone

TCEQ takes the health and concerns of Texans seriously. The ozone NAAQS have been determined by EPA as requisite to protect public health, including sensitive members of the population such as children, the elderly, and those with pre-existing conditions, such as asthma. EPA considered these health impacts when setting the 2015 eight-hour ozone NAAQS. The 2023 Draft EPA Policy Assessment for Ozone concluded that the 2015 ozone NAAQS of 70 ppb provides the requisite

protection of public health, including an adequate margin of safety and thus should be retained, without revision.⁴

Current scientific literature does not provide a definitive link between ambient ozone levels and asthma development. Many different health effects have been investigated to determine whether they are caused by ozone exposure. However, because data from minimal or inconsistent studies do not provide the weight of evidence necessary to demonstrate that a pollutant exposure causes a health outcome, only those health outcomes with consistent, robust data are determined to be causally associated with exposure to ozone in EPA's science assessments. Those that do not have robust datasets in the 2019 Ozone Integrated Science Assessment include mortality, cancer, reproductive, cardiovascular, and central nervous system impacts.⁵

The trends in asthma prevalence and the lack of a definitive link between ambient ozone concentrations and asthma rates are consistent on the national scale. Large, multi-city studies have not indicated a correlation between ambient concentrations of ozone and increased incidence of asthma symptoms.^{6,7} Another study has shown that the most important factors affecting asthma incidence are ethnicity and poverty.⁸ Finally, EPA's analysis completed as part of the 2015 ozone NAAQS does not anticipate a statistically significant reduction in asthma exacerbations as a result of a lower standard.⁹ Therefore, because asthma rates have remained steady while ambient levels of both ozone and ozone precursors have periods of steady decrease, and asthma rates can be higher in areas with lower ozone, it does not appear that ambient ozone concentrations are a significant contributing factor to asthma rates.

Although the causes of asthma are not fully understood, there are many factors that influence the development and exacerbation of asthma. According to the World Health Organization (WHO), one of the strongest risk factors for developing asthma is genetic predisposition. In addition, indoor allergens (dust mites, pet dander, and presence of pests such as rodents or cockroaches) together with outdoor allergens (pollen and mold), tobacco smoke, or other triggers such as cold air, extreme

⁴ Environmental Protection Agency (EPA). 2023. Policy Assessment for the Reconsideration of the Ozone National Ambient Air Quality Standards External Review Draft Version 2. https://www.epa.gov/system/files/documents/2023-03/O3_Recon_v2_Draft_PA_Mar1-2023_ERDcmp_0.pdf.

⁵ EPA 2019. Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft), September 2019.

⁶ O'Connor GT, Neas L, Vaughn B, Kattan M, Mitchell H, Crain EF. et al. 2008. Acute respiratory health effects of air pollution on children with asthma in US inner cities. *J Allergy Clin Immunol.* 121(5):1133-1139.

⁷ Schildcrout JS, Sheppard L, Lumley T, Slaughter JC, Koenig JQ, and Shapiro GG. 2006. Ambient air pollution and asthma exacerbations in children: An eight-city analysis. *American Journal of Epidemiology*, 164:505-517.

⁸ Keet CA, McCormack MC, Pollack CE, Peng RD, McGowan E, Matsui EC. 2015. Neighborhood poverty, urban residence, race/ethnicity, and asthma: Rethinking the inner-city asthma epidemic. *J Allergy Clin Immunol.* 135(3):655-62.

⁹ Table 6-20, EPA. 2015. The National Ambient Air Quality Standards. Overview of EPA's updates to the air quality standards for ground-level ozone. https://www.epa.gov/sites/default/files/2015-10/documents/overview_of_2015_rule.pdf.

emotions (anger or fear), and physical exercise can all provoke symptoms in those with asthma.

No changes were made to this SIP revision in response to this comment.

Twelve individuals commented that TCEQ used drilling rig counts from 2014 or 2015, which is unacceptable when more recent rig counts are readily available.

The drilling rig emissions contained in the HGB and DFW attainment demonstration and reasonable further progress SIP revisions are outside of the scope of this Bexar County RACT SIP revision.

No changes were made to this SIP revision in response to this comment.

Twelve individuals recommended that TCEQ reduce ozone pollution by closing large stationary sources of nitrogen oxide (NO_x) emissions such as the WA Parish and Martin Lake coal-fired power plants.

As discussed elsewhere in this response to comments, the purpose of this SIP revision is to establish reasonably available control technologies for the Bexar County ozone nonattainment area. Controls on the WA Parish plant in Fort Bend County and the Martin Lake plant in Rusk County are outside the scope of this SIP revision.

No changes were made to this SIP revision in response to this comment.

Twelve individuals suggested that TCEQ reduce emissions from the oil and gas industry by encouraging the adoption of electric drilling equipment and renewable energy sources.

As discussed elsewhere in this response to comments, the purpose of this SIP revision is to establish reasonably available control technologies for the Bexar County ozone nonattainment area. TCEQ has addressed RACT for the oil and gas industry by implementing the EPA's *Control Techniques Guidelines for the Oil and Natural Gas Industry* (EPA-453/B-16-001 2016/10), which did not recommend electric drilling equipment.

In this SIP revision and in rulemaking actions, TCEQ can specify emission limits or performance levels but cannot mandate that certain pieces of equipment or control techniques, including switching to electric motors or renewable energy, be used.

No changes were made to this SIP revision in response to this comment.

RACT ANALYSIS

Sierra Club commented that TCEQ's evaluation and determination of RACT for affected sources of NO_x emissions located in the Bexar County ozone nonattainment area was insufficient and lacked explanation, did not set sufficiently stringent NO_x limits for existing sources in the area, and failed to appropriately implement and thus satisfy RACT requirements under the FCAA. Sierra Club commented that TCEQ incorrectly assumed reliance on only EPA control techniques guidelines (CTG) and alternative

control technique (ACT) guidance documents to determine RACT and did not adequately consider all relevant information, including recent technical information and information received through public comment on the proposed SIP revision, that may have been available at the time the SIP revision was prepared to fully inform a RACT determination for the SIP revision.

EPA commented that TCEQ should provide documentation of its analysis of economic and technological feasibility to show it was based on the information that is current and available as of the time of development of the RACT SIP. EPA commented that TCEQ should document the information that they examined, demonstrate that it is current and relevant information, identify rules in Texas and states other than Texas that they examined, and discuss if and how such information affected its RACT determination. EPA requested this information for all types of RACT: CTG RACT, non CTG Major Source Volatile Organic Compounds (VOC) RACT, and Major Source Oxides of Nitrogen (NO_x) RACT.

Sierra Club claimed TCEQ relied only on decades old existing controls to satisfy RACT for the Bexar County area instead of evaluating additional controls and measures that could be implemented on existing sources in the area, thus concluding that existing sources could, and must, be updated or improved with reasonably available controls to further reduce NO_x emissions. Sierra Club further commented that the absence of an explanation for how existing, old rules could be applied to existing affected sources in the Bexar County area to satisfy RACT was unlawful and arbitrary.

The commission evaluated RACT for this Bexar County RACT SIP revision based on EPA's 2015 eight-hour ozone standard SIP requirements rule (83 FR 62998), which does not require states to perform exhaustive research of recent technical information when evaluating RACT, as claimed by EPA Region 6. Title 40 CFR §51.1312(a) requires states to "submit a SIP revision that meets the VOC and NO_x RACT requirements in CAA sections 182(b)(2) and 182(f)." The remainder of §51.1312 only speaks to deadlines for RACT SIP submittal and RACT implementation and the determination of major stationary sources for RACT.

The language referenced by EPA is from the preamble of the 2015 eight-hour ozone standard SIP requirements rule, not the rule itself. Additionally, the preamble language provided with this SIP requirements rule was referenced as prior language from the preamble of the 2008 eight-hour ozone standard SIP requirements rule (80 FR 12264). However, EPA omits other language from the same preamble of the 2008 eight-hour ozone standard SIP requirements rule that states sources already addressed by RACT determinations for the 1-hour and/or 1997 ozone NAAQS do not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement because the cost of the incremental benefit from additional control may not be reasonable.

Nothing in the 2015 eight-hour ozone standard SIP requirements rule preamble or rule negates this prior preamble language that states might determine that sources addressed by prior RACT determinations do not need to implement additional controls.

When developing attainment demonstrations for ozone NAAQS SIP revisions, state resources would be better spent on developing effective control strategies that are necessary to reach attainment than searching for and evaluating technical information on each and every emission source covered by a previous CTG or ACT document.

No changes were made to this SIP revision in response to this comment.

Sierra Club pointed to more stringent NO_x controls in other regions and recommended that TCEQ adopt similar RACT standards for Bexar County. EPA commented that TCEQ should evaluate RACT at lower than the proposed emission rates that are approved as RACT elsewhere in Texas nonattainment areas. Specifically, EPA commented that TCEQ should evaluate the following:

a) coal-fired EGUs with selective catalytic reduction (SCR) at a rate lower than 0.069 lb/MMBtu since the J.K. Spruce 1 unit regularly operates at rates less than 0.069 lb/MMBtu, and the Emissions Specifications for Attainment Demonstration (ESAD) rate for the same source type in the HGB nonattainment area is 0.05 lb/MMBtu;

b) coal-fired EGUs without SCR for the implementation of both selective noncatalytic reduction (SNCR) and SCR since the J.K. Spruce 2 unit regularly operates at rates less than 0.2 lb/MMBtu, and the ESAD rate for the same source type in the HGB nonattainment area is 0.045 lb/MMBtu; and

c) gas-fired EGUs at emission rates lower than the proposed 0.20 lb/MMBtu since the DFW and HGB nonattainment areas have lower emission rates in place for the same source type.

This Bexar County RACT determination does not need to set the lowest emission limit found elsewhere as RACT, but rather evaluate limits for technical feasibility and economic reasonableness for stationary sources in Bexar County.

TCEQ sets two tiers of emission limits. One for RACT and another that is beyond RACT. For NO_x, the beyond RACT tier is in sections of 30 TAC Chapter 117 with a title including “for Attainment Demonstration” and the RACT limits are in sections titled “Emission Specifications for Reasonably Available Control Technology (RACT)”. EPA appears to confuse EGU RACT limits with ESAD limits. TCEQ is adopting RACT limits for EGUs in Bexar County that are equal to or more stringent than RACT limits on the same source categories in the HGB area, the only Texas nonattainment area with RACT emission limits on EGUs (30 TAC §117.1205).

For instance, the EGU RACT limit in HGB is 0.38 lb/MMBtu for tangential-fired units and 0.43 lb/MMBtu for wall-fired. The 0.05 lb/MMBtu limit that EPA cited is the ESAD limit in HGB for tangential-fired units. The 0.069 lb/MMBtu limit for coal-fired EGUs with SCR in Bexar County is less than the RACT limit in HGB.

The 0.2 lb/MMBtu RACT limit for coal-fired EGUs without SCR in Bexar County is less than the comparable RACT limit in HGB.

The gas-fired EGU boiler RACT limit in HGB is the same 0.20 lb/MMBtu limit applied in Bexar County.

No changes were made to this SIP revision in response to this comment.

Sierra Club commented that other states have set more stringent RACT requirements for EGUs, coal-fired boilers, gas-fired boilers, gas-fired process heaters, gas-fired engines, and stationary gas turbines, some of which have been approved by EPA. Sierra Club recommended that the commission review what other states are doing for RACT, including the size of applicable units, and set lower NO_x and VOC emission limits as RACT for the referenced source categories.

The commission evaluated RACT for this SIP revision based on the 2015 eight-hour ozone standard SIP requirements rule (83 FR 62998). The SIP requirements rule does not require the commission to choose the lowest RACT limits in other states. TCEQ may continue to consider the standards in other states for future RACT determinations.

No changes were made to this SIP revision in response to these comments.

Sierra Club asserted that installing SCR technology on coal-fired power plants such as J.K. Spruce Unit 1 is economically and technologically feasible due to widespread use, inclusion in other state and EPA regulations, and based on a modeling study report conducted by Sonoma Technology and submitted with the comment

The commission evaluated RACT for this Bexar County RACT SIP revision based on the 2015 eight-hour ozone standard SIP requirements rule (83 FR 62998). TCEQ considered economic and technological feasibility in its RACT determination and chose not to declare installing SCR to be RACT for J.K. Spruce Unit 1 for this Bexar County RACT SIP revision.

The commission calculated the cost of installation of an SCR system capable of removing 90% of the NO_x on J.K. Spruce Unit 1 as \$36,078/ton of NO_x removed. The commission concludes that installation of SCR technology on J.K. Spruce Unit 1 is economically infeasible at this time and is therefore not RACT for this unit.

No changes were made to this SIP revision in response to this comment.

Sierra Club suggested setting NO_x RACT limits for coal-fired EGU units with SCR such as J. K. Spruce Unit 2 aligned with the SCR system's full potential usage based on manufacturer guidelines and good engineering practices. Sierra Club recommended setting the RACT limit at 0.03 lb/MMBtu because it is the lowest rate achieved over the period October 2017 to October 2022.

The commission evaluated RACT for this SIP revision based on the 2015 eight-hour ozone standard SIP requirements rule (83 FR 62998). TCEQ considers economic and technological feasibility in its RACT determination. The 0.069 lb/MMBtu emission limit for J.K. Spruce Unit 2, an EGU boiler fired on coal and controlled by SCR, is the level set in its EPA-approved permit and measured as a 30-day rolling average. The commission also contends that an emission limit cannot be set at the lowest level a

unit has ever achieved in any 30-day period, as commenters suggest, but must be set at a value the unit can achieve in all 30-day periods. In its comment, Sierra Club included a table showing that during the October 2017 to October 2022 period, J. K. Spruce Unit 2 emitted between 0.031 and 0.069 lb/MMBtu. This shows that the RACT limit of 0.069 lb/MMBtu is technologically feasible for all 30-day periods analyzed.

No changes were made to this SIP revision in response to this comment.

Sierra Club argued that the inability to install SCR by the RACT deadline does not prevent its implementation as the benefits of RACT are presumed, unlike the advancement requirement for RACM. Sierra Club suggested requiring SCR by the earliest feasible attainment date to ensure timely NAAQS attainment and to ensure required emissions reductions. Sierra Club also noted that SCR for individual units can be installed in as few as 21 months.

The commission decided not to require installation of SCR technology on all CPS Energy coal-fired power plant units in Bexar County as RACT in this SIP revision, as discussed elsewhere in this response to comments

No changes were made to this SIP revision in response to this comment.

EPA commented retired or decommissioned and inoperable electric generating units may not be included in the system cap emission limit included in the concurrent 30 TAC Chapter 117 rulemaking (2023-117-117-AI). EPA cited its 2001 guidance document “Improving Air Quality with Economic Incentive Programs (EIP),” which indicates that “[S]tationary source shutdowns and production activity curtailments are not eligible as emission reductions.”

The system cap option in §117.1120 is not a type of emission averaging program, it is a source-specific emission cap program as described in Section 7.3 of the EPA’s EIP guidance referenced in EPA’s comment. EPA’s guidance describes a source-specific emissions cap as an emission trading EIP that allows a specified stationary source or a limited group of sources that are subject to a rate-based emission limit to meet that requirement by accepting a mass-based emission limit, or cap, rather than complying directly with a rate-based limit. The system cap option in §117.1120 is a mass-based limit (in pounds per day) that takes the summation of multiple units in one electric power generating system to demonstrate compliance with rate-based RACT limits. The system cap includes all applicable units owned by one entity (e.g., an electric cooperative or municipality) within the Bexar County nonattainment area. Unlike an emission averaging program that applies to multiple sources across different sites, a source-specific emission cap program does allow shutdowns and curtailments to be included as reductions, so long as the unit being retired was originally included in the system cap program. EPA’s guidance includes additional considerations to prevent a shutdown from merely shifting emissions elsewhere. The system cap in §117.1120 complies with the guidance for source-specific emission cap programs because a unit that is permanently retired or decommissioned and rendered inoperable may be included in the system cap only if the permanent shutdown occurred on or after the January 1, 2025 RACT compliance date. The rule also contains an additional limitation that prevents a

facility from using a shutdown that is relied on for NSR netting or offsets from being included in the system cap. For these reasons, the Bexar County system cap in §117.1120 complies with EPA guidance

No changes were made in response to this comment.

Sierra Club commented that TCEQ should include RACT analysis for pesticide applications as pesticides are precursors to VOC under CTG guidance in the FCAA. Sierra Club noted that pesticide use is regulated by Texas Department of Agriculture (TDA), which is tasked with identifying sources producing more than 25 tons of VOC/year from pesticide applications and is required to adopt rules implementing RACT for those sources. Sierra Club stated that TCEQ and TDA, alongside all state agencies, have a duty under the FCAA to regulate pesticides, pointing to nonattainment areas in California that regulate pesticides as part of their VOC attainment plans. Sierra Club suggested that since there is no assessment in the SIP revision showing lack of viability for pesticide regulation, the SIP revision should be amended to include pesticide controls or be amended with a negative declaration.

The comment refers to a March 1993 EPA Alternative Control Technology Document for Control of VOC Emissions from the Application of Agricultural Pesticides (EPA-453/R-92-011). FCAA, §182(b)(2) requires states to implement RACT that addresses each category of VOC sources covered by a CTG or ACT document and all other major stationary sources of VOC located in the ozone nonattainment area. As stated in Appendix A: *Reasonably Available Control Technology Analysis* for this SIP revision, no RACT determination is required for this source category because the ACT document does not give presumptive controls. No major sources of VOC from pesticide application were identified in the 2019 emissions inventory, so TCEQ did not set a VOC major source RACT limit for pesticide applications in this SIP revision.

No changes were made to this SIP revision in response to this comment.

Sierra Club commented that based on its Comprehensive Air Quality Model with Extensions (CAMx) modeling analyses for the 2016 ozone season, statewide coal-fired power plant emissions in Texas regularly contribute more than 1% of the surface ozone levels at Air Quality System (AQS) monitoring stations and in environmental justice zip codes in Bexar County. Sierra Club further commented that EPA has found that where contributions from all anthropogenic emissions outside a nonattainment area exceed 1%, those emissions are considered significant contributors to nonattainment. Therefore, since Texas' coal fired EGU fleet contributes more than 1% of the surface ozone levels in Bexar County, TCEQ must evaluate if Texas' coal-fired EGU fleet must be controlled to advance attainment.

Sierra Club also commented that a modeling study report conducted by Sonoma Technology and submitted with the comment shows that the J.K. Spruce coal-fired power plant in San Antonio alone is frequently responsible for contributing greater than 0.5% to violations of the ozone NAAQS in Bexar County and claimed this analysis justifies more stringent NO_x controls

Sierra Club claims that the 1% contribution metric EPA uses in its transport modeling to define significant contribution to modeled ozone is a valid reason to require controls in this Bexar County RACT SIP revision. Additionally, Sierra Club claims that a 0.5% contribution to modeled ozone is a valid reason to require controls in this SIP revision. TCEQ contends that this reasoning is invalid for a RACT SIP revision, the requirements for which are described in Section 4.4.1, *General Discussion*, of this Bexar County RACT SIP revision. According to the 2015 eight-hour ozone standard SIP requirements rule, “states containing areas classified as moderate ozone nonattainment or higher must submit a SIP revision to fulfill RACT requirements for all source categories addressed by control techniques guidelines (CTG) or alternative control techniques (ACT) as well as any non-ACT/CTG category sources that are classified as major stationary sources of NO_x or VOC” (83 FR 62998). This does not include determining a RACT emission limit for all sources of NO_x or VOC that contribute more than 1% to modeled ozone values in a nonattainment area.

No changes were made to this SIP revision in response to this comment.

Sierra Club encouraged the use of SCR at the 29 coal-fired EGUs in Texas. Sierra Club commented that only 35% of Texas coal-fired EGUs use SCR technology when compared to the national average (65%). Sierra Club noted that of the coal-fired EGUs that incorporate SCR in Texas, 75% do not use them at full potential to achieve the lowest possible NO_x emissions. Sierra Club recommended that TCEQ implement SCR-equivalent NO_x emission limits in Texas statewide to address uncontrolled NO_x emission from coal-fired EGUs. Sierra Club noted that these sources contribute to surface ozone levels, and reducing these NO_x emissions could advance attainment in the Bexar County area.

In this SIP revision, TCEQ evaluated RACT emission levels for applicable sources in Bexar County. Controls on sources outside the Bexar County area cannot be determined to be RACT for this Bexar County RACT SIP revision.

No changes were made to this SIP revision in response to this comment.