

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** June 20, 2025

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

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

Docket No.: 2025-0337-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 115 VOC Rule Revisions for the Bexar County 2015 Eight Hour Ozone
Serious Nonattainment Area
Rule Project No. 2025-006-115-AI

Background and reason(s) for the rulemaking:

On June 20, 2024, the U.S. Environmental Protection Agency (EPA) published the reclassification of Bexar County from moderate to serious nonattainment for the 2015 eight-hour ozone National Ambient Air Quality Standards (NAAQS), effective July 22, 2024 (89 *Federal Register* (FR) 51829). Bexar County is now subject to the serious nonattainment area requirements in federal Clean Air Act (FCAA), §172(c) and §182(c), and the Texas Commission on Environmental Quality (TCEQ or commission) is required to submit serious area attainment demonstration (AD) and reasonable further progress (RFP) state implementation plan (SIP) revisions to EPA by January 1, 2026. The attainment deadline for the Bexar County serious nonattainment area is September 24, 2027, with a 2026 attainment year. This rulemaking is necessary to fulfill SIP obligations resulting from the Bexar County area's reclassification to serious and to help fulfill the outstanding RFP requirement of a 15% volatile organic compounds (VOC) reduction from the 2017 baseline year.

Nonattainment areas classified as serious are required to meet the mandates of FCAA, §172(c)(1) and §182(b)(2). FCAA, §172(c)(1) requires that the SIP incorporate all reasonably available control measures (RACM), including reasonably available control technology (RACT), as expeditiously as practicable. FCAA, §182(b)(2) requires the state to implement RACT requirement rules for all categories of stationary sources identified by EPA in an alternative control technique (ACT) document or a control techniques guideline (CTG) document, as well as any non-ACT/CTG category sources that are classified as major stationary sources of nitrogen oxides (NO_x) or VOC. This rulemaking would fulfill serious classification VOC RACT requirements for the Bexar County area. Based on photochemical modeling results for future years, the Bexar County area is projected to meet the 2015 ozone standard without implementing additional control measures, and the RACM analysis provided in the concurrently proposed Bexar County 2015 Ozone NAAQS Serious AD SIP Revision (Non-Rule Project No. 2024-041-SIP-NR) determined that no potential control measures met the criteria to be considered RACM. As a result, no rule revisions are proposed as RACM.

Ozone nonattainment areas classified as moderate and above are also required by FCAA, §182(b)(1) to demonstrate a 15% VOC emissions reduction within six years after designation unless the requirement has already been met under a previous NAAQS, according to EPA's *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State*

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Implementation Plan Requirements; Final Rule, published on December 6, 2018 (83 FR 62998). Bexar County was not designated nonattainment under any prior NAAQS, and the required 15% emissions reduction in VOC has not been previously addressed for the nonattainment area. The proposed measures in this rulemaking would fulfill the outstanding 15% VOC reduction requirement from the 2017 baseline year, as demonstrated in the concurrently proposed Bexar County 2015 Ozone NAAQS Serious RFP SIP Revision (Non-Rule Project No. 2024-040-SIP-NR).

Scope of the rulemaking:

TCEQ is required to submit AD and RFP SIP revisions to EPA, consistent with FCAA requirements, for areas classified as serious nonattainment for the 2015 eight-hour ozone NAAQS. The proposed rule revisions listed would address the following SIP elements for the Bexar County nonattainment area:

- 1) RACT implementation for major VOC sources at a reduced emissions threshold of 50 tons per year from:
 - Subchapter B, Division 1 Storage of Volatile Organic Compounds (VOC storage tanks);
 - Subchapter B, Division 2 Vent Gas Controls (bakery ovens); and
 - Subchapter E, Division 4 Offset Lithographic Printing (lithographic printing operations).
- 2) VOC reductions to fulfill RFP requirements, including:
 - Subchapter E, Division 1 Degreasing Operations;
 - Subchapter E, Division 2 Surface Coating Operations (fabric coating);
 - Subchapter E, Division 5 Control Requirements for Surface Coating Processes (coating of metal parts and products, architectural coatings, and industrial maintenance coatings);
 - Subchapter E, Division 6 Industrial Cleaning Solvents; and
 - Subchapter C, in proposed new Division 6 Gasoline Dispensing Facilities (gasoline dispensing nozzles and low permeability hoses).

A.) Summary of what the rulemaking would do:

This proposed rulemaking includes emission limits and control requirements, work practice standards, operational requirements, monitoring, testing, recordkeeping, and reporting requirements for affected sources necessary to fulfill RACT or RFP requirements for the Bexar County 2015 eight-hour ozone NAAQS nonattainment area. The proposed rulemaking would also add or update compliance dates for existing sources as well as sources that become subject to the rules after the initial compliance dates. The proposed rulemaking would revise existing rules and add new rules to Chapter 115, as discussed below.

The commission proposes to implement RACT requirements in Bexar County for offset lithographic printing operations, bakery ovens, and VOC storage tanks. This proposed measure aims to expand the applicability of RACT measures by lowering the major source threshold from 100 tons per year (tpy) to 50 tpy of VOC emissions. The proposed changes to Subchapter B, Division 1 Storage of Volatile Organic Compounds, Subchapter B, Division 2 Vent Gas Controls, and Subchapter E, Division 4 Offset Lithographic Printing would address SIP obligations resulting from the Bexar County area's reclassification from moderate to serious nonattainment. However, these measures are not expected to result in substantial reductions in VOC emissions. The

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minimal impact of the measures is expected because moderate RACT measures were very recently implemented in the area and have already addressed all relevant emission sources through application of previous control measures in a limited pool of affected sources (Rule Project No. 2023-116-115-AI).

The commission also proposes several changes to Chapter 115 to generate sufficient VOC emission reductions in the Bexar County area to meet the FCAA 15% VOC-only RFP requirement.. The proposed changes would produce 12.13 tons per day (tpd) in VOC reductions from newly proposed measures. These proposed measures, together with measures recently implemented in Bexar County (Bexar County area moderate RACT rules, Rule Project No. 2023-116-115-AI, adopted April 24, 2024), are estimated to result in a total of 15.88 tpy of VOC reductions from the 2017 baseline, fulfilling the outstanding RFP requirement of a 15% VOC reduction from the 2017 baseline (15.85 ton per day). Proposed measures include amendments to existing rules for degreasing processes in Subchapter E, Division 1 Degreasing Processes; revisions to fabric coating provisions in Subchapter E, Division 2 Surface Coating Processes; revisions to provisions for coating of metal parts and products, architectural coatings, and industrial maintenance coatings in Subchapter E, Division 5 Control Requirements for Surface Coating Processes; and revisions to provisions for industrial cleaning solvents in Subchapter E, Division 6 Industrial Cleaning Solvents. Proposed measures also include establishing new rules for gasoline dispensing nozzles and low permeability hoses in proposed new Division 6 Gasoline Dispensing Facilities of Subchapter C.

Existing rules proposed for revision:

Subchapter B, General Volatile Organic Compounds Sources

- Division 1, Storage of Volatile Organic Compounds
- Division 2, Vent Gas Control

Subchapter E, Solvent Using Processes

- Division 1, Degreasing Processes
- Division 2, Surface Coating Processes
- Division 4 Offset Lithographic Printing
- Division 5, Control Requirements for Surface Coating Processes
- Division 6, Industrial Cleaning Solvents

New rules proposed for addition:

Subchapter C, Volatile Organic Compound Transfer Operations

- Division 6, Gasoline Dispensing Facilities

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

The new and amended rules proposed in this rulemaking are necessary to address FCAA-required AD and RFP SIP elements for the Bexar County serious ozone nonattainment area, which include rules to implement serious classification VOC RACT and RFP VOC emission reduction requirements.

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

Beyond the proposed substantive changes, non-substantive updates to Chapter 115 are proposed to remove obsolete language, use consistent terminology, and update the rule language to conform to current Texas Register and TCEQ style and format requirements.

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Statutory authority:

The rule amendments are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, §5.103, concerning Rules, and §5.105, concerning General Policy, that authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The rules would also be proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.014, Emissions Inventory, which authorizes the commission to require a person whose activities cause air contaminant emissions to submit information to enable the commission to develop an emissions inventory; §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe requirements for owners or operators of sources to make and maintain records of emissions measurements; and §382.021, concerning Sampling Methods and Procedures, that authorizes the commission to prescribe the sampling methods and procedures to determine compliance with its rules. The rule amendments would also be proposed consistent with 42 United States Code, §§7420 et seq., which requires states to submit SIP revisions that specify the manner in which the NAAQS will be achieved and maintained within each air quality control region of the state.

Effect on the:

A.) Regulated community:

The regulated community in Bexar County would be obligated to comply with, and incur costs associated with, any new rules adopted by the commission. To meet the emission specifications in the proposed rules, owners or operators of affected sources in the Bexar County area may need to install control equipment; implement work practices; or comply with monitoring, testing, and recordkeeping requirements. Costs associated with new requirements would be incurred by the owner or operator.

B.) Public:

The general public in Bexar County may benefit from the reduction in VOCs associated with the proposed rulemaking. Reduced VOC emissions may result in less ozone formation in the area, which may help improve air quality.

C.) Agency programs:

This rulemaking would affect certain parts of the agency. Air Permits Division staff would be required to update Title V Operating Permits if new rules became applicable to more major sources. Additionally, staff in the Office of Compliance and Enforcement may be required to conduct additional or expanded investigations as a result of any new or amended regulations in Chapter 115.

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Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, if this proposed rulemaking is approved by the commission for public comment and public hearing, then a formal public comment period will be opened, and a public hearing will be offered.

Public Involvement Plan

Yes

Alternative Language Requirements

Yes. Spanish.

Potential controversial concerns and legislative interest:

Bexar County was required to meet a 15% VOC emissions reduction for RFP between a 2017 base year and the 2023 moderate classification attainment year. To meet the 15% VOC requirement within the required timeframe, additional measures would have had to be implemented by March 1, 2023, the beginning of ozone season in Bexar County, for potential reductions to be captured in the first six-year period. However, there were no measures that could have been implemented by March 1, 2023, to demonstrate the 15% reduction in VOC emissions from the 2017 base year to the 2023 moderate classification attainment year. The moderate RFP SIP revision achieved the necessary 15% reasonable further progress with a combination of VOC and NO_x reductions. The current proposed rulemaking includes measures to achieve the 15% reduction in VOC emissions required by FCAA, §182(b)(1), as incorporated into the concurrently proposed Bexar County 2015 Ozone NAAQS Serious RFP SIP Revision (Non-Rule Project No. 2024-040-SIP-NR), to demonstrate the required reductions would be achieved by December 31, 2026.

Would this rulemaking affect any current policies or require development of new policies?

The rulemaking does not affect any current policies or require the development of new policies.

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

The commission could choose to not comply with the requirements to develop and submit the Chapter 115 rulemaking to EPA to address serious classification RACT requirements and RFP VOC reduction requirements for Bexar County. However, a 2-to-1 emissions offset sanction will apply in the Bexar County nonattainment area 18 months after the effective date of a finding by EPA that TCEQ has failed to submit the required SIP elements, unless TCEQ submits, and EPA deems 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 federal implementation plan within 24 months of the effective date of a finding of failure to submit if TCEQ does not submit, or if TCEQ submits but EPA does not approve, the required rules within the 24-month period.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: July 9, 2025

Anticipated *Texas Register* publication date: July 25, 2025

Anticipated public hearing date: August 19, 2025

Anticipated public comment period: July 11, 2025 - August 25, 2025

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Anticipated adoption date: December 17, 2025

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