



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

January 16, 2024

Mr. Cory Chism, Director  
Office of Air  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Bexar County Moderate Area Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision for the 2015 Ozone National Ambient Air Quality Standards (NAAQS), Project No. 2023-132-SIP-NR; the proposed revisions to 30 TAC Chapter 115, Control of Air Pollution from Volatile Organic Compounds, Project No. 2023-116-115-AI; and the proposed revisions to 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, Project No. 2023-117-117-AI.

Dear Mr. Chism:

Thank you for working to address the recently reclassified Bexar County Moderate nonattainment area under the 2015 ozone NAAQS. We appreciate the opportunity to review the three proposed SIP revisions that address this area. We have enclosed comments for your consideration regarding the proposed RACT SIP revision and the proposed revisions to Chapters 115 and 117. We appreciate the work by the TCEQ in developing these documents.

We look forward to discussing the enclosed comments with you. Please feel free to contact me at [magee.melanie@epa.gov](mailto:magee.melanie@epa.gov) or 214-665-7161 if you have questions.

Sincerely,

*Melanie Magee*

Melanie Magee  
Section Supervisor, Infrastructure & Ozone Section

Enclosures

## Enclosure: EPA's Comments

### **Acronyms used in EPA's comments:**

Alternative Control Technology (ACT)  
Best Available Control Technology (BACT)  
Clean Air Act (CAA)  
Clean Air Markets Program Data (CAMPD)  
Control Techniques Guidelines (CTG)  
Economic Incentive Program (EIP)  
Emission Specification for Attainment Demonstration (ESAD)  
Limited English Proficiency (LEP)  
National Ambient Air Quality Standards (NAAQS)  
Oxides of Nitrogen (NOx)  
Reasonable Available Control Technology (RACT)  
Selective Catalytic Reduction (SCR)  
Texas Commission on Environmental Quality (TCEQ)  
Volatile Organic Compounds (VOC)

### **Project Number 2023-132-SIP-NR**

#### **Comments addressing Bexar County Moderate Area Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision**

We appreciate the detailed work submitted in the RACT SIP revision. We have the following concerns:

1. The TCEQ's proposed Bexar County Moderate nonattainment RACT SIP states that staff used both EPA's recent CTG and ACT VOC RACT guidance and VOC RACT determinations from current RACT rules for other Texas ozone nonattainment areas to serve as the basis for the commission's proposed new RACT rules for Bexar County. The commission proposed to expand the applicability of portions of rules in 30 Texas Administrative Code (TAC) Chapters 115 and 117 to apply in the Bexar County 2015 ozone NAAQS Moderate nonattainment area. In its proposal, TCEQ asserts that the rules, when applied to Bexar County, will meet Moderate nonattainment classification RACT; however, TCEQ did not 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. Again, 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 should discuss if and how such information affected their RACT determination. This documentation and discussion should be included for all types of RACT: CTG RACT, non CTG Major Source VOC RACT, and Major Source NOx RACT.
2. Texas relies on existing approved RACT rules in other Texas nonattainment counties as fulfilling RACT requirements. However, some Texas counties have lower rates than proposed Bexar County rates for the same source categories. Texas should evaluate these lower approved RACT rates for the same source categories in the Bexar County ozone nonattainment area. To provide some specific examples, EPA reviewed the proposed EGU rates:
  - a. For coal EGUs with SCR, Texas should evaluate a lower rate than the proposed rate of 0.069 lb/MMbtu rate. A review of CAMPD data from 2019-2022 for Spruce 1 indicates that the unit regularly operates well below this rate. In the Houston-Galveston-Brazoria (HGB) ozone nonattainment area, the ESAD rate for coal fired utility boilers is 0.05 lb/MMbtu for wall-

- fired boilers. Texas should evaluate this rate for the Bexar County ozone nonattainment area.
- b. For coal EGUs without SCR, Texas should evaluate both SCR and SNCR as control technologies. Additionally, a review of CAMPD data for Spruce 2 from 2019-2022 indicates that the unit regularly operates below the proposed rate of 0.20 lb/MMBtu. In the HGB nonattainment area, the ESAD rate for coal fired utility boilers is 0.045 lb/MMbtu for T-fired boilers. Texas should evaluate this rate for the Bexar County ozone nonattainment area.
  - c. For gas fired EGUs, 0.20 lb/MMbtu is significantly higher than rates for the similar sources in the Dallas-Ft. Worth and HGB ozone nonattainment areas. Texas should evaluate those rates and controls for the Bexar County ozone nonattainment area.
3. For the system cap option for EGUs, a “permanently retired or decommissioned and rendered inoperable may be included in the system cap emission limit” may not be included in the cap. See EPA’s 2001 guidance document “Improving Air Quality with Economic Incentive Programs”.<sup>1</sup> Section 7.2(a), Fundamental integrity elements, states *“The terms surplus, quantifiable, enforceable, and permanent refer to the fundamental integrity elements that apply to emission reductions that qualify for inclusion in your emission averaging EIP. In emission averaging EIPs, the source-specific fundamental elements of surplus, enforceable, quantifiable, and permanent, as used with reference to the actions of the individual sources participating in the EIP, have special meanings... Stationary-source shutdowns and production activity curtailments are not eligible as emission reductions”*.

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<sup>1</sup> EPA-452/R-01-001, January 2001, available on EPA’s web page at: <https://www.epa.gov/sites/default/files/2015-07/documents/eipfin.pdf>

## **Environmental Justice and Civil Rights**

Executive Order 12898, directed each listed federal agency to make “achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”<sup>2</sup> Executive Order 14008, made explicit that federal agencies should address “climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.”<sup>3</sup> Provisions ensuring that environmental justice and civil rights be addressed in a State Implementation Plan (SIP) is one way to help ensure fair treatment of all communities affected by government decisions all represent a fairer distribution of environmental burdens and benefits. The TCEQ should carefully review applicable authorities for opportunities to incorporate environmental justice considerations and to ensure that such considerations are adequately and appropriately incorporated into SIP revisions.

EPA is committed to advancing environmental justice (EJ) and incorporating equity considerations into all aspects of our work. We encourage the TCEQ to screen their SIP actions for EJ concerns and to consider potential issues related to civil rights of the communities potentially impacted early in the SIP process by utilizing EJScreen and knowledge of the impacted area.<sup>4</sup> This screening will 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. A sound screening practice will also provide important information as to whether there are residents of the affected community who could be disproportionately subjected to adverse health, environmental and/or quality of life impacts on the basis of income, national origin (including LEP status), or other demographic factors. The TCEQ should also take into consideration whether facilities (major and minor sources of pollution) contribute to community risk. An area with an above average number of sources, especially if those sources are large or in close proximity to residents, is an area of concern.

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<sup>2</sup> Exec. Order No. 12898, 59 FR 7629 (February 16, 1994)

<sup>3</sup> Exec. Order No. 14008, 86 FR 7619 (February 1, 2021)

<sup>4</sup> EJScreen is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators. The EJScreen tool is publicly available at <https://www.epa.gov/ejscreen>.