

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 23, 2013

Environmental Protection Agency
Air and Radiation Docket
Mailcode: 2822T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OAR-2003-0079

Re: Agency Information Collection Activities; Proposed Collection; Comment Request; 8-Hour Ozone National Ambient Air Quality Standard Implementation Rule, EPA ICR No. 2236.04.

Dear Sir or Madam,

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to respond to the United States Environmental Protection Agency's (EPA) announcement of a public comment period for the proposed Agency Information Collection Activities regarding the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Implementation Rule.

Detailed comments on this proposed Information Collection Request are enclosed. If there are any questions concerning the TCEQ's comments, please contact Mr. Steve Hagle, P.E., Deputy Director, Office of Air, at 512-239-1295 or steve.hagle@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Zak Covar".

Zak Covar
Executive Director

Enclosure

**COMMENTS BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
REGARDING AGENCY INFORMATION COLLECTION ACTIVITIES; PROPOSED
COLLECTION; COMMENT REQUEST; 8-HOUR OZONE NATIONAL AMBIENT AIR
QUALITY STANDARD IMPLEMENTATION RULE, EPA ICR NO. 2236.04**

EPA DOCKET ID NO. EPA-HQ-OAR-2003-0079

I. Summary

On July 26, 2013, the United States Environmental Protection Agency (EPA) published in the *Federal Register* a notice announcing that they are planning to submit to the Office of Management and Budget a request to renew an existing approved Information Collection Request (ICR) 2236.03-8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Implementation Rule. This ICR, which pertains to the 1997 eight-hour ozone NAAQS, expired on July 31, 2013. The EPA is soliciting comments on specific aspects of the proposed information collection with regard to additional state implementation plan (SIP) activities under the 1997 eight-hour ozone NAAQS during the period from August 1, 2013 through July 31, 2016.

II. Comments

Estimating the Burden

The proposed cost associated with the EPA's estimated burden to implement additional SIP activities under the 1997 eight-hour ozone NAAQS during this time period is too low.

The EPA has indicated that the 1997 eight-hour ozone NAAQS will be revoked upon finalization of the 2008 eight-hour ozone standard. If this happens as expected, there should be no additional burden to states in developing SIP submittals for the 1997 eight-hour ozone standard. However, there could be responsibilities and costs for activities that remain applicable for the revoked standard.

If the 1997 eight-hour ozone NAAQS is not revoked or is delayed, then the TCEQ disagrees with the methodology that the EPA used to account for the estimated agency burden in fulfilling the SIP activities associated with eight-hour ozone nonattainment as published in the *Information Collection Request, Supporting Statement for the 8-hour Ozone National Ambient Air Quality Standard Implementation Rule (Renewal), EPA ICR #2236.04, July 16, 2013*.

The EPA assumes that an area's 1997 eight-hour ozone SIP submittal already includes most of the elements that would be required for a bump-up in classification status. However, developing the required SIP elements for a higher classification would require a full re-analysis of each required planning element. The Texas Commission on Environmental Quality (TCEQ) performed a rough estimate of the burden associated with the reclassification of an ozone nonattainment area. A description of the burden for each element using the Dallas-Fort Worth 1997 eight-hour ozone nonattainment area as an example of being reclassified from moderate to severe is as follows:

- Reasonably Available Control Technology – The EPA is correct that some reasonably available control technology (RACT) requirements may have already been fulfilled through prior SIP submissions, such as certain control technique guideline (CTG) RACT requirements, which would decrease some of the burden associated with a new RACT SIP submittal. However, a reclassification to a higher ozone nonattainment classification results in more stringent major source thresholds for RACT analyses. If the Dallas-Fort Worth nonattainment area were reclassified from serious to severe ozone

nonattainment, the major source RACT threshold would be lowered from 50 tons per year (tpy) to 25 tpy. Sources previously classified as minor in prior SIP submissions may become major sources by the reclassification. Additionally, new sources not covered under existing RACT requirements may have begun operations since the prior RACT analysis. Emissions inventory and major source RACT analyses would still be required even if all CTG RACT requirements have been previously met. Rulemaking to implement RACT for applicable sources could also be required, which includes assessment of emission inventory data, stakeholder input, rule development, rule publication and response to comment, adoption, and submittal of SIP revisions to EPA with all supporting information. These activities typically involve 1,400 hours of labor and result in costs of \$35,700.

- Reasonable Further Progress SIP – The requirements of a serious ozone nonattainment area under the 1997 ozone NAAQS include meeting the standard by the end of calendar year 2012 and Reasonable Further Progress (RFP) milestone years for Motor Vehicle Emissions Budget for the years 2008, 2011, and 2012. The requirements for a severe ozone nonattainment area under this standard include attaining the standard by the end of calendar year 2018 and having RFP milestone years of 2008, 2011, 2014, 2017, and 2018. For the Dallas-Fort Worth area to be reclassified to severe, the TCEQ would be required to update the emissions inventory projected out to 2018 and re-run the milestone years with the new emissions inventory. These emission inventory updates and revisions to the milestone years would be required to be submitted to EPA as a SIP revision, which would require data analysis, stakeholder input, data assessment (including impacts to motor vehicle emission budgets), publication and response to comment, adoption and submittal of SIP revisions to EPA with all supporting information. These activities typically involve 7,000 hours of labor and result in costs of \$178,500.
- Attainment Demonstration SIP – As with the RFP SIP, the TCEQ would need to remodel with updated emissions inventory inputs going out to 2018 instead of 2012. In addition to a new RACT SIP submittal, a reasonably available control measure (RACM) analysis would also still be required as part of the attainment demonstration. A RACM analysis is necessary to evaluate control measures beyond RACT that might help advance attainment of the standard. Control measures that will advance attainment and meet all other RACM criteria are required to be implemented, which could also result in rulemaking. An updated attainment demonstration would be required to be submitted to EPA as a SIP revision, which would require potential control strategy development, data analysis, stakeholder input, data assessment, publication and response to comment, adoption and submittal of SIP revisions to EPA with all supporting information. These activities typically involve 40,000 hours of labor and result in costs of \$1,020,000.
- Conformity – Both general conformity and transportation conformity requirements would remain in effect, requiring continuing local government and state resources. These activities typically involve 570 hours of labor and result in costs of \$14,535.
- Section 185 fees – An area redesignated as severe nonattainment has the potential of Section 185 fee program development and implementation. This requires significant agency resources (>4,000 hours) and is a waste of resources for a revoked standard.

On page three of section 1 under Abstract/Executive Summary of the support document for the ICR, it states that the EPA anticipates an additional 20,000 hours for the financial burden for state governments. In section 6 of the support document under Estimating Respondent Burden, Texas is listed with an estimated additional burden of 5,000 hours during the stated time period, presumably all for the Dallas-Fort Worth area, but the document provided no detailed

justification for the activities and associated costs. For the reasons stated above, the TCEQ recommends that a more realistic estimate of burden for Texas alone should range between 45,000 to 55,000 hours with an estimated total cost of \$1,248,735 for work associated with implementing the 1997 ozone standard in the Dallas-Fort Worth area, based on the activities described above.