

**COMMENTS BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
REGARDING AGENCY INFORMATION COLLECTION ACTIVITIES; PROPOSED
COLLECTION; COMMENT REQUEST; IMPLEMENTATION OF THE 2008 OZONE
NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE;
STATE IMPLEMENTATION PLAN REQUIREMENTS, EPA ICR NO. 2347.03
EPA DOCKET ID NO. EPA-HQ-OAR-2010-0885**

I. Summary

On October 2, 2017, the United States Environmental Protection Agency (EPA) published in the *Federal Register* a notice announcing that it is planning to submit to the Office of Management and Budget a request to renew an existing approved Information Collection Request (ICR) 2347.02, Implementation of the 2008 National Ambient Air Quality Standards (NAAQS) for ozone. This ICR, which pertains to the 2008 eight-hour ozone NAAQS, is scheduled to expire on January 31, 2018. The EPA is soliciting comments on specific aspects of the proposed information collection with regard to additional state implementation plan (SIP) activities under the 2008 eight-hour ozone NAAQS during the period from February 1, 2018 through January 31, 2021.

II. Comments

Estimating the Burden

The proposed cost associated with the EPA's estimated burden to implement additional SIP activities under the 2008 ozone NAAQS during this time period is too low, without clarification or alternative estimates.

The EPA has indicated that the 2008 ozone NAAQS will be revoked upon finalization of the 2015 ozone standard. If this happens as expected, there should be no additional burden to states in developing SIP submittals for the 2008 ozone standard during the ICR period from February 1, 2018 through January 31, 2021, as long as no states are required to prepare additional SIP revisions to address antibacksliding obligations or for areas reclassified to higher classifications for the 2008 ozone standard. However, there could be responsibilities and costs for activities that remain applicable for the revoked standard, which the EPA has not estimated.

If the 2008 ozone NAAQS is not revoked or revocation is delayed, then the Texas Commission on Environmental Quality (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 Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements; Information Collection Request Renewal, EPA ICR #2347.03, July 7, 2017*.

The EPA assumes that an area's 2008 ozone SIP submittal already includes most of the elements that would be required for a bump-up in classification status. However, to meet EPA guidance requirements, developing the required SIP elements for a higher classification would require a full re-analysis of each required planning element. The 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 for a 2008 eight-hour ozone nonattainment area being reclassified from moderate to serious 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 a nonattainment area were reclassified from moderate to serious ozone nonattainment, the major source RACT

threshold would be lowered from 100 tons per year (tpy) to 50 tpy. Sources previously classified as minor in prior SIP submissions may become major sources by the reclassification. In this specific case, while most counties included in the Dallas-Fort Worth and Houston-Galveston-Brazoria 2008 ozone nonattainment areas were previously at classifications of serious or higher, Wise County has only been classified as moderate. 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, rule adoption, and submittal of SIP revisions to the EPA with all supporting information. These activities typically involve 1,400 hours of labor and result in costs of \$58,408.

- Reasonable Further Progress (RFP) SIP –The requirements for a serious ozone nonattainment area under this standard include attaining the standard by the end of calendar year 2020. For an area to be reclassified to serious, the TCEQ would be required to update the emissions inventory projected out to 2020 and re-calculate 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 the 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 the EPA with all supporting information. These activities typically involve 7,000 hours of labor and result in costs of \$292,040.
- Attainment Demonstration SIP –The TCEQ would need to conduct additional photochemical modeling with updated emissions inventory inputs going out to 2020 instead of 2017. 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 the 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 the EPA with all supporting information. These activities typically involve 40,000 hours of labor and result in costs of \$1,668,800.

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 62,000 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 2,500 hours during the stated time period for the Dallas-Fort Worth area and 2,500 hours for the Houston-Galveston-Brazoria 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 associated with continued implementation of the 2008 ozone standard be developed. Contingent on the activities described above, the burden *in each* Texas nonattainment area alone, based on current average salary projections, would be as follows:

- Range between 45,000 to 50,000 hours of labor; and
- Result in an estimated total cost of \$2,019,248 for work.