

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 9, 2007

U.S. Environmental Protection Agency
Docket No. EPA-HQ-OAR-2005-0172
Mail Code 6102T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Re: Proposed Revisions to the National Ambient Air Quality Standards for Ozone

Dear Sir or Madam:

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) submits the following comments on the EPA's proposed rule for ozone and related photochemical oxidants published in the *Federal Register* July 11, 2007.

Texas currently has twenty counties in three designated ozone nonattainment areas, three counties in one deferred nonattainment area with an Early Action Compact, and ten counties in two other areas with Early Action Compacts.

If the standard is lowered to 0.075 parts per million (ppm), ten additional counties would exceed the standard, resulting in four new nonattainment areas. However, if the standard is lowered to 0.060 ppm, every county in Texas that has an ozone monitor would exceed the standard, resulting in twelve nonattainment areas.

Because Texas could experience significant impacts if the standard is lowered, any tightening of the standard must be clearly warranted and irrefutable based upon thorough scientific health data. However, the epidemiological and clinical studies used by EPA to support lowering the ozone NAAQS do not adequately demonstrate attributing the adverse effects only to ozone.

The epidemiology studies used ambient monitoring data instead of personal exposures and used patient medical records instead of patient histories to monitor exposure and assess health effects. Ambient monitoring data and patient medical records are inadequate indices to associate ozone exposure and health effects. Of those epidemiology studies that found an association with ozone and health effects, the effects may be attributed to other pollutants such as particulate matter, nitrogen dioxide, and sulfur dioxide. The ratios of these pollutants vary tremendously from region to region. Many recent studies have indicated the regional variability in pollutant mixtures to confound the results and indicate a negative association of exposure to ambient ozone and adverse health effects. For example, the Kaiser Permanente Report and the Gauderman study in 2004 found no increased hospital admissions in elderly patients and health effects in children due to ozone alone. In fact, Texas Inpatient Hospital Discharge data on numbers of hospital visits for asthma between 1999 and 2001 actually show that fewer children in Texas visit the hospital for asthma during peak summer ozone season as compared to wintertime.

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Regarding clinical studies, there is insufficient scientific data to justify the EPA's proposal to consider an alternative level of 0.06 ppm. One of the studies on which the proposed new standard is primarily based (Adams, et al. 2006) used a very small sample size (30 adults, few of which were exposed to low concentrations). In addition, the study author expressed during a teleconference on March 5, 2007, that he was uncomfortable with EPA's statistical interpretation of the study.

The challenges Texas faces in Houston may foreshadow what most of the country may face under stricter standards. The Houston-Galveston-Brazoria (HGB) area has unique meteorological conditions and includes one of the most comprehensively controlled industrial complexes in the world. Yet, even with extensive regulations, such as 80 percent nitrogen oxides (NOx) emissions reduction requirements for point sources, control of highly reactive volatile organic compounds, and mobile source controls such as vehicle inspection and maintenance, Texas Low Emission Diesel, and a multi-million dollar grant incentive program for mobile sources, attainment of the current standard by 2010 is impossible. Only by requesting the area be reclassified to provide adequate time to appropriately address what is left to control in the HGB area may success be found under the current standard. Ultimately, Texas is using every opportunity to address the current ozone problem and still faces insurmountable challenges.

The feasibility of attaining a new standard is questionable for other reasons. Background concentrations of ozone in many areas are higher than the proposed standard. States do not have authority to address interstate transport. The EPA should recognize that the majority of emissions contributing to ozone formation come from mobile sources, which states are generally preempted from regulating. In addition, the TCEQ has already placed very stringent controls on point sources, leaving few available options. The control strategies to meet a new standard may be completely different in nature than control strategies in place or being considered to address the existing standard. Stakeholders may be faced with installing controls to meet the current standard and then having to install completely different control technologies to meet a new standard.

One final complication is that implementation guidance for the proposed standards was not included in the proposal. The current State Implementation Plan process must be thoroughly reconsidered and revised to have any hope in meeting a new standard in a timely manner. The process will need to place greater accountability on the federal government to do their share to address interstate transport and mobile sources. Because of the increased complexities with the proposed standard, current funding provided to states from the EPA will not be adequate to address any expected implementation requirements.

Thank you for the opportunity to comment on the proposed rules. If you have questions concerning the comments, please contact Mr. David C. Schanbacher, P.E., Chief Engineer, at (512) 239-1228.

Sincerely,



Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

Enclosures