

December 14, 2023

VIA THE TCEQ PUBLIC COMMENT SYSTEM

Laurie Gharis
Chief Clerk, MC 105
TCEQ
P.O. Box 13087
Austin, TX 78711-3087

Alison Stokes
Vanessa T. De Arman
Denine Calvin
MC 206
State Implementation Plan Team
Air Quality Division, TCEQ
P.O. Box 13087
Austin, TX-78711-3087

RE: Request for 30-Day Public Comment Period Extension and Additional Public Hearings Concerning the Bexar County 2015 Ozone NAAQS Moderate RACT SIP Revision, the HGB 2008 Ozone NAAQS Severe AD SIP Revision, the DFW 2008 Ozone NAAQS Severe AD SIP Revision, and the DFW-HGB 2008 Ozone NAAQS Severe RFP SIP Revision

Dear TCEQ Chief Clerk and Air Quality Division State Implementation Plan Team,

On behalf of several thousand members and supporters that live, work, and recreate in the Houston, Dallas, and San Antonio area, Air Alliance Houston, Sierra Club, Environment Texas, Public Citizen, Texas Environmental Justice Advocacy Services, and Earthjustice (collectively, “Requestors”) hereby respectfully request a thirty (30) day extension to the public comment period for various proposed State Implementation Plans (“SIPs”), each of which has established January 16, 2024, as the final date for the submission of public comments. Requestors also ask that TCEQ host one additional public hearing in each of the three cities concerning the corresponding SIP Revisions after granting the 30-day extension. One additional hearing in each of the three cities will ensure that the public has the opportunity to learn about the revisions and provide meaningful feedback to TCEQ. A modest, 30-day extension will still allow the TCEQ just under three months to respond to public comments and comply with the May 7, 2024, deadline that the EPA has set for states to submit Attainment Demonstration (“AD”) and

Reasonable Further Progress (“RFP”) SIP revisions to address the 2008 eight-hour ozone standard severe nonattainment area requirements.

The four SIP Revisions in question are:

1. Proposed Bexar County 2015 Eight-hour Ozone Standard Moderate Nonattainment Area Reasonable Available Control Technology (RACT) SIP Revision (“Bexar County RACT SIP Revision”); Docket No. 2023-1222-SIP/Project No. 2023-132-SIP-NR;
2. Proposed Houston Galveston Brazoria Severe Classification Attainment Demonstration (AD) SIP Revision for the 2008 Eight-Hour Ozone NAAQS (“HGB AD SIP Revision”); Docket No. 2023-1223-SIP/Project No. 2023-110-SIP-NR;
3. Proposed Dallas-Fort Worth Severe Area Attainment Demonstration SIP Revision for the 2008 Eight-Hour Ozone NAAQS (“DFW AD SIP Revision”); Docket No. 2023-1178-SIP/Project No. 2023-107-SIP-NR; and
4. Proposed Dallas-Fort Worth and Houston-Galveston-Brazoria Severe Areas Reasonable Further Progress (RFP) SIP Revision for the 2008 Eight-Hour Ozone NAAQS (“DFW-HGB RFP SIP Revision”); Docket No. 2023-1159-SIP/Project No. 2023-108-SIP-NR.

Multiple reasons support the extension of the public comment period by thirty days. First, the proposed SIP Revisions collectively contain a voluminous amount of material. The Bexar County RACT SIP Revision is thirty-two (32) pages long with a nineteen (19) page long appendix. The HGB AD SIP Revision is a one hundred and twenty-nine (129) page long document with five appendices that total three hundred and seventy-nine (379) pages in length. The DFW AD SIP Revision document is one hundred and twenty-two (122) pages long with five appendices that total three hundred and forty-four (344) pages. Finally, the DFW-HGB RFP SIP Revision is eighty-six (86) pages in length and has fifteen appendices that are over twelve hundred (1200) pages in length. In sum, the above proposed SIP Revisions and supporting materials total more than twenty-two hundred (2,200) pages. Moreover, these SIP Revisions are dependent upon concurrently proposed revisions to rules in the 30 Texas Administrative Code Chapters 115 and 117 (Rule Project No. 2023-116-115-AI and No. 2023-117-117-AI, respectively). These proposed rule revisions themselves run over 1,000 pages. The Requestors, along with the public, will benefit from additional time to review the voluminous materials comprising and supporting each of these SIPs in their entirety. A public comment period longer than the standard forty-five days is thus warranted here.

Second, the comment period here is likely to be functionally shorter than the allotted time because of the intervening holiday season. Given pre-existing plans, the public, including Requestors, may not have adequate time to fully analyze the proposals and prepare for the public hearings TCEQ has set for the first two weeks of the new year. Indeed, in scheduling the public hearings when it did, TCEQ makes it likely that the public hearings will be overlooked, forgotten, and underattended by members of the public. TCEQ can and should correct this not only by granting the requested thirty-day extension to the public comment period, but also by offering one additional public hearing in each of the three cities at some point toward the end of January or beginning of February 2024.

Third, the proposed SIP Revisions are likely to prompt intense public interest given their implications for public health and the communities affected by these four SIP Revisions. Ozone pollution levels in the Dallas, Houston, and San Antonio areas remain stubbornly elevated despite legal requirements to bring ozone pollution levels into compliance with health standards. More than a decade after implementation of the 2008 ozone standard began, harm to the health and wellbeing of thousands of Requestors' members and supporters, and to the communities where they live, continues. In Houston in particular, certain communities affected by these SIP revisions have long been burdened by air pollution that is excessive even relative to other areas of Houston. Prior similar proposed SIP revisions have resulted in detailed, substantive comments. Because the smog in Texas persists notwithstanding those prior SIP revisions, this new round of expanded air pollution control planning is likely to draw still more interest and engagement from the public, and TCEQ must ensure the public's right to fully and fairly study and comment on the multiple proposals at issue is not encumbered.

CONCLUSION

For the above stated reasons, Requestors respectfully request a thirty-day extension to the public comment period to each of the following: the Bexar County RACT SIP Revision, HGB AD SIP Revision, DFW AD SIP Revision, and DFW-HGB RFP SIP Revision. Additionally, Requestors respectfully call for one additional public hearing in each of the three cities where public hearings on these SIP Revisions have already been announced. TCEQ can ensure greater and more thorough public participation on these important matters by granting these requests.

Respectfully submitted by Earthjustice, with the support of the following groups:

Sincerely,

Rodrigo G. Cantú,
TX Bar: 24094581
Earthjustice
845 Texas Ave.,
The Sq. Suite 200
Houston, TX 77002
rcantu@earthjustice.org
281.675.5841

Joshua Smith
Kate Huddleston
Sierra Club
Joshua.smith@sierraclub.org
Kate.Huddleston@sierraclub.org

Luke Metzger
Executive Director
Environment Texas
luke@environmenttexas.org

Jennifer M. Hadayia
Executive Director
Air Alliance Houston
jennifer@airalliancehouston.org

Juan Parras
Ana Parras
Texas Environmental Justice Advocacy Services
parras.juan@gmail.com
ana.parras@yahoo.com

Ilan Levin
Associate Director
Environmental Integrity Project
1206 San Antonio Street
Austin, TX 78701
512.619.7287
ilevin@environmentalintegrity.org