

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed State Implementation Plan Revision


AGENDA REQUESTED: January 13, 2010

DATE OF REQUEST: December 18, 2009

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Kerry Howard, 239-0556

CAPTION: Docket No. 2009-1258-SIP. Consideration for publication of, and hearing on, commission proposal for the Contingency Plan Revision to the 1997 Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area.

To conform to United States Environmental Protection Agency rules and guidance, the proposed State Implementation Plan revision would provide a revised contingency plan that includes clearly identified potential contingency measures to be implemented in the event Victoria County violates the 1997 eight-hour ozone National Ambient Air Quality Standard. (Holly Brightwell, John Minter) (Project No. 2009-033-SIP-NR)



Chief Engineer For Susan M. Holdebrand



Division Director



Agenda Coordinator

Copy to CCC Secretary? NO X YES _____

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** December 18, 2009
Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director
From: *pd* Susana M. Hildebrand, P.E., Deputy Director
h Chief Engineer's Office

Docket No.: 2009-1258-SIP

Subject: Commission Approval for the Proposed Contingency Plan Revision to the 1997 Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area State Implementation Plan (SIP)

Short Title - Victoria County Contingency Plan SIP Revision
Project No. 2009-033-SIP-NR

Background and reasons for the SIP revision:

In 1990, Victoria County was designated nonattainment for the one-hour ozone National Ambient Air Quality Standard (NAAQS). A redesignation petition and maintenance plan was submitted to the United States Environmental Protection Agency (EPA) in 1994, and on May 8, 1995, the EPA redesignated Victoria County as attainment for the one-hour ozone NAAQS and approved the ten-year maintenance plan. A subsequent one-hour ozone maintenance plan was submitted on February 5, 2003, as required by the Federal Clean Air Act, section 175(b), and the EPA approved that plan on January 3, 2005. On June 15, 2004, the EPA designated Victoria attainment for the 1997 eight-hour ozone NAAQS. On March 22, 2007, the Texas Commission on Environmental Quality (TCEQ) submitted the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision to the EPA. During calls in early 2009, EPA Region 6 staff communicated to TCEQ staff that the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision must be revised to include specific enforceable measures.

To meet maintenance plan guidance¹ requirements established by the EPA, the TCEQ must submit a SIP revision that contains amended contingency measures. The contingency measures portion of the plan must be revised, in accordance with instructions from EPA Region 6 staff, to contain clearly identified and enforceable measures based upon triggers occurring on or before a violation of the 1997 eight-hour ozone NAAQS. Once triggered, these measures must be adopted and implemented as expeditiously as possible, but no later than 24 months. The measures identified in the contingency plan must be specific, but the state need not specify which of the measures will be implemented.

The Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision included four contingency measures consisting of TCEQ and local ozone advisory staff actions triggered upon: (1) three or more eight-hour exceedances; (2) a design value of 82 parts per billion (ppb); (3) a design value of 83 ppb; and (4) a design value of 85 ppb. The plan did not include a commitment to adopt, according to a schedule, any specific measures.

¹ Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act, U.S. EPA, May 20, 2005

Re: Docket No. 2009-1258-SIP

Scope of the proposed SIP Revision:

A) Summary of what the SIP Revision will do:

The Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision contains four contingency measures. Three of these are early triggers, which are set in place to avoid a violation of the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS) of 0.08 parts per million (ppm). The fourth contingency measure states that if Victoria County monitors a design value (measured as an eight-hour ozone average over a three-year period) at or above 85 parts per billion (ppb), and the TCEQ determines the cause of violation can be controlled within state regulatory jurisdiction, the TCEQ will take prompt action to develop appropriate measures to bring the three-year average under the standard. This SIP revision is proposed to address the EPA's requirement for specifically identified contingency measures, to be implemented if Victoria County's design value violates the 1997 eight-hour ozone NAAQS. The contingency measures listed in this SIP revision, to be considered include but are not limited measured identified below:

- Revision to 30 Texas Administrative Code (TAC) Chapter 117, to control rich-burn, gas-fired, reciprocating internal combustion engines located in Victoria County.
- Inclusion of Victoria County in 30 TAC Chapter 115 volatile organic compounds (VOC) rules for the control of crude and condensate storage tanks at upstream oil and gas exploration and production sites or midstream pipeline breakout stations.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for more stringent controls for tank fittings on floating roof tanks.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules limiting emissions from landings of floating roofs in floating roof tanks.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for control of VOC emissions from degassing operations for storage tanks.
- Inclusion of Victoria County in 30 TAC Chapter 114 rule for Texas Low Emission Diesel (TxLED) compliant marine diesel.

B) Scope required by federal regulations or state statutes:

The contingency plan must include contingency provisions, as necessary, to promptly correct any violations of the standard (40 Code of Federal Regulations (CFR) 51.905 (a)(4)(ii)).

C) Additional staff recommendations that are not required by federal rule or state statute:

None

Statutory authority:

The authority to propose and adopt SIP revisions is derived from the following sections of the Texas Health and Safety Code Chapter 382: Texas Clean Air Act (TCAA): §382.002, which provides that the policy and purpose of the TCAA is to safeguard the state's air resources from pollution; TCAA, §382.011, which authorizes the commission to control the quality of the state's air; and §382.012, which authorizes the

Re: Docket No. 2009-1258-SIP

commission to prepare and develop a general, comprehensive plan for the control of the state's air. This SIP revision is required by §110(a)(1) of the Federal Clean Air Act (FCAA) and implementing rules in 40 CFR Part 51.

Phase 1 of the 1997 ozone NAAQS implementation rule, specifically 40 CFR §51.905(a)(4)(ii), requires areas initially designated attainment for the 1997 eight-hour ozone standard, and designated attainment for the one-hour ozone standard with an approved one-hour maintenance plan, submit a maintenance plan in accordance with §110(a)(1) of the FCAA, including contingency measures. Victoria County was designated nonattainment for the one-hour ozone standard in 1990, and was redesignated attainment for the one-hour ozone standard in 1994.

Effect on the:

A) Regulated community: There are no proposed rulemaking changes associated directly with this SIP revision; however, if the contingency measures triggered upon violation of the 1997 eight-hour ozone standard are implemented, rules affecting operators of combustion engines, storage tank facilities, and/or operators of marine diesel stations may require revision to include Victoria County. If these rules are revised to include Victoria County, affected parties may be fiscally impacted by costs associated with 30 TAC Chapter 114, 115, or 117 rule compliance. Contingency measures triggered upon 82 ppb and 83 ppb are voluntary actions taken by the City of Victoria and participating businesses. Participating businesses may be asked to curtail activities during high ozone days.

B) Public: The public will realize health and environmental benefits through continued maintenance of the 1997 eight-hour ozone standard.

C) Agency programs: This SIP revision will affect the following offices: the Chief Engineer's Office, Office of Permitting and Registration, Office of Legal Services, and Office of Compliance and Enforcement.

Stakeholder meetings:

Stakeholder meetings are not necessary to support this SIP revision; however, TCEQ staff has been in contact with local planning organizations concerning this issue.

Potential controversial concerns and legislative interest:

There is no known controversial concern or legislative interest at this time.

Will this SIP revision affect any current policies or require development of new policies?

No

What are the consequences if this SIP revision does not go forward? Are there alternatives?

If the TCEQ does not submit this SIP revision, the EPA may disapprove the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision. Disapproval could further lead to federal sanctions, a federal implementation plan, or both. The FCAA provides no alternative to a maintenance plan SIP revision.

Key dates in the proposed rulemaking schedule:

Anticipated proposal date: January 13, 2010

Commissioners
Page 4
December 18, 2009

Re: Docket No. 2009-1258-SIP

Anticipated *Texas Register* publication date: January 29, 2010
Public hearing date (if any): February 23, 2010
Public comment period: January 20, 2010 – February 26, 2010
Anticipated adoption date: August 2010

Agency contacts:

Holly Brightwell, Project Manager, 239-4905, Air Quality Division
John Minter, Staff Attorney, 239-0663
Kerry Howard, Texas Register Coordinator, 239-0556

Attachments

cc: Chief Clerk, 5 copies
Executive Director's Office
Susana M. Hildebrand, P.E.
Kevin Patteson
Curtis Seaton
Daniel Womack
Office of General Counsel
Holly Brightwell
Kerry Howard

REVISIONS TO THE STATE OF TEXAS AIR QUALITY IMPLEMENTATION
PLAN FOR THE CONTROL OF OZONE AIR POLLUTION

VICTORIA COUNTY 1997 EIGHT-HOUR OZONE ATTAINMENT AREA



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
AUSTIN, TEXAS 78711-3087

CONTINGENCY PLAN REVISION TO THE 1997 EIGHT-HOUR OZONE MAINTENANCE
PLAN FOR THE VICTORIA COUNTY OZONE ATTAINMENT AREA

PROJECT NUMBER 2009-033-SIP-NR

Proposal
January 13, 2010

This page intentionally left blank

EXECUTIVE SUMMARY

On March 22, 2007, the Texas Commission on Environmental Quality (TCEQ) submitted to the United States Environmental Protection Agency (EPA) the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area State Implementation Plan (SIP) Revision as required under the Federal Clean Air Act (FCAA), Section 110(a)(1) for the 1997 eight-hour ozone standard¹.

The Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision contains four contingency measures. Three of these are early triggers, which are set in place to avoid a violation of the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS) of 0.08 parts per million (ppm). The fourth contingency measure states that if Victoria County monitors a design value (measured as an eight-hour ozone average over a three-year period) at or above 85 parts per billion (ppb), and the TCEQ determines the cause of violation can be controlled within state regulatory jurisdiction, the TCEQ will take prompt action to develop appropriate measures to bring the three-year average under the standard.

In early 2009, EPA Region 6 staff informed the TCEQ that to approve the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision, the contingency plan must be revised to contain an enforceable commitment to adopt and implement the contingency measures once they are triggered. The plan must also clearly identify the measures to be adopted and a specific schedule and procedure for adoption and implementation. Although the contingency plan is not required to specify exactly which contingency measures will be implemented, the potential contingency measures identified in the plan must be specific. The Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision did not contain a list of specific contingency measures, but rather a commitment to identify and develop appropriate regulations to bring the design value below 85 ppb.

This SIP revision contains a revised contingency plan which fulfills EPA guidance requiring Section 110(a)(1) maintenance plan areas to include in the contingency plan an enforceable commitment to adopt and implement the contingency measures once triggered, and identify measures to be adopted. The current proposed contingency plan includes six 30 Texas Administrative Code (TAC) rules the TCEQ may choose to amend should Victoria County monitoring data indicate the area has violated the 1997 eight-hour ozone NAAQS. The rules listed are included in the Chapter 114 Texas Low Emission Diesel (TxLED) compliant marine diesel rule, Chapter 115 volatile organic compounds (VOC) emission controls for storage tanks, and Chapter 117 nitrogen oxides (NO_x) controls for combustion engines. Those to be considered include but are not limited to the control measures identified, as the most appropriate contingency measures may be significantly different from the measures mentioned.

This SIP revision is an amendment to the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP Revision as required by the FCAA and no new control strategies have been incorporated into this revision.

¹ *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, U.S. EPA, May 20, 2005

SECTION V: LEGAL AUTHORITY

A. General

The Texas Commission on Environmental Quality (TCEQ) has the legal authority to implement, maintain, and enforce the National Ambient Air Quality Standards (NAAQS) and to control the quality of the state's air, including maintaining adequate visibility.

The first air pollution control act, known as the Clean Air Act of Texas, was passed by the Texas Legislature in 1965. In 1967, the Clean Air Act of Texas was superseded by a more comprehensive statute, the Texas Clean Air Act (TCAA), found in Article 4477-5, Vernon's Texas Civil Statutes. The legislature amended the TCAA in 1969, 1971, 1973, 1979, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, and 2009. In 1989, the TCAA was codified as Chapter 382 of the Texas Health and Safety Code.

Originally, the TCAA stated that the Texas Air Control Board (TACB) is the state air pollution control agency and is the principal authority in the state on matters relating to the quality of air resources. In 1991, the legislature abolished the TACB effective September 1, 1993, and its powers, duties, responsibilities, and functions were transferred to the Texas Natural Resource Conservation Commission (TNRCC). With the creation of the TNRCC, the authority over air quality is found in both the Texas Water Code and the TCAA. Specifically, the authority of the TNRCC is found in Chapters 5 and 7. Chapter 5, Subchapters A - F, H - J, and L, include the general provisions, organization, and general powers and duties of the TNRCC, and the responsibilities and authority of the executive director. This chapter also authorizes the TNRCC to implement action when emergency conditions arise and to conduct hearings. Chapter 7 gives the TNRCC enforcement authority. In 2001, the 77th Texas Legislature continued the existence of the TNRCC until September 1, 2013, and changed the name of the TNRCC to the Texas Commission on Environmental Quality (TCEQ). In 2009, the 81st Texas Legislature, during a special session, amended section 5.014 of the Texas Water Code, changing the expiration date of the TCEQ to September 1, 2011, unless continued in existence by the Texas Sunset Act.

The TCAA specifically authorizes the TCEQ to establish the level of quality to be maintained in the state's air and to control the quality of the state's air by preparing and developing a general, comprehensive plan. The TCAA, Subchapters A - D, also authorize the TCEQ to collect information to enable the commission to develop an inventory of emissions; to conduct research and investigations; to enter property and examine records; to prescribe monitoring requirements; to institute enforcement proceedings; to enter into contracts and execute instruments; to formulate rules; to issue orders taking into consideration factors bearing upon health, welfare, social and economic factors, and practicability and reasonableness; to conduct hearings; to establish air quality control regions; to encourage cooperation with citizens' groups and other agencies and political subdivisions of the state as well as with industries and the federal government; and to establish and operate a system of permits for construction or modification of facilities.

Local government authority is found in Subchapter E of the TCAA. Local governments have the same power as the TCEQ to enter property and make inspections. They also may make recommendations to the commission concerning any action of the TCEQ that affects their territorial jurisdiction, may bring enforcement actions, and may execute cooperative agreements with the TCEQ or other local governments. In addition, a city or town may enact and enforce ordinances for the control and abatement of air pollution not inconsistent with the provisions of the TCAA and the rules or orders of the commission.

Subchapters G and H of the TCAA authorize the TCEQ to establish vehicle inspection and maintenance programs in certain areas of the state, consistent with the requirements of the Federal Clean Air Act; coordinate with federal, state, and local transportation planning agencies to develop and implement transportation programs and measures necessary to attain and maintain the NAAQS; establish gasoline volatility and low emission diesel standards; and fund and authorize participating counties to implement vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.

B. Applicable Law

The following statutes and rules provide necessary authority to adopt and implement the state implementation plan (SIP). The rules listed below have previously been submitted as part of the SIP.

Statutes

All sections of each subchapter are included, unless otherwise noted.

TEXAS HEALTH & SAFETY CODE, Chapter 382	September 1, 2009
TEXAS WATER CODE	September 1, 2009

Chapter 5: Texas Natural Resource Conservation Commission

- Subchapter A: General Provisions
- Subchapter B: Organization of the Texas Natural Resource Conservation Commission
- Subchapter C: Texas Natural Resource Conservation Commission
- Subchapter D: General Powers and Duties of the Commission
- Subchapter E: Administrative Provisions for Commission
- Subchapter F: Executive Director (except §§ 5.225, 5.226, 5.227, 5.2275, 5.231, 5.232, and 5.236)
- Subchapter H: Delegation of Hearings
- Subchapter I: Judicial Review
- Subchapter J: Consolidated Permit Processing
- Subchapter L: Emergency and Temporary Orders (§§ 5.514, 5.5145, and 5.515 only)
- Subchapter M: Environmental Permitting Procedures (§ 5.558 only)

Chapter 7: Enforcement

- Subchapter A: General Provisions (§§ 7.001, 7.002, 7.0025, 7.004, and 7.005 only)
- Subchapter B: Corrective Action and Injunctive Relief (§ 7.032 only)
- Subchapter C: Administrative Penalties
- Subchapter D: Civil Penalties (except § 7.109)
- Subchapter E: Criminal Offenses and Penalties: §§ 7.177, 7.179-7.183

Rules

All of the following rules are found in 30, Texas Administrative Code, as of the following effective dates:

Chapter 7: Memoranda of Understanding, §§ 7.110 and 7.119	May 2, 2002
---	-------------

Chapter 19: Electronic Reporting	March 1, 2007
----------------------------------	---------------

Chapter 35: Subchapters A-C, K: Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions	July 20, 2006
--	---------------

Chapter 39: Public Notice, §§ 39.201; 39.401; 39.403(a) and (b)(8)-(10); 39.405(f)(1) and (g); 39.409; 39.411 (a), (b)(1)-(6), and (8)-(10) and (c)(1)-(6) and (d); 39.413(9), (11), (12), and (14); 39.418(a) and (b)(3) and (4); 39.419(a), (b), (d), and (e); 39.420(a), (b) and (c)(3) and (4);

39.423 (a) and (b); 39.601-39.605	March 29, 2006
Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, §§ 55.1; 55.21(a) - (d), (e)(2), (3), and (12), (f) and (g); 55.101(a), (b), and (c)(6) - (8); 55.103; 55.150; 55.152(a)(1), (2), and (6) and (b); 55.154; 55.156; 55.200; 55.201(a) - (h); 55.203; 55.205; 55.209, and 55.211	March 29, 2006
Chapter 101: General Air Quality Rules	January 1, 2009
Chapter 106: Permits by Rule, Subchapter A	June 30, 2004
Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter	July 19, 2006
Chapter 112: Control of Air Pollution from Sulfur Compounds	July 16, 1997
Chapter 113: Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants	May 14, 2009
Chapter 114: Control of Air Pollution from Motor Vehicles	June 26, 2008
Chapter 115: Control of Air Pollution from Volatile Organic Compounds	July 19, 2007
Chapter 116: Permits for New Construction or Modification	May 29, 2008
Chapter 117: Control of Air Pollution by Control of Air Pollution from Nitrogen Compounds	March 4, 2009
Chapter 118: Control of Air Pollution Episodes	March 5, 2000
Chapter 122: § 122.122: Potential to Emit	December 11, 2002
Chapter 122: § 122.215: Minor Permit Revisions	June 3, 2001
Chapter 122: § 122.216: Applications for Minor Permit Revisions	June 3, 2001
Chapter 122: § 122.217: Procedures for Minor Permit Revisions	December 11, 2002
Chapter 122: § 122.218 Minor Permit Revision Procedures for Permit Revisions Involving the Use of Economic Incentives, Marketable Permits, and Emissions Trading	June 3, 2001

SECTION VI. CONTROL STRATEGY

- A. Introduction (No change)
- B. Ozone (Revised)
 - 1. *Dallas-Fort Worth* (No change)
 - 2. *Houston-Galveston-Brazoria* (No change)
 - 3. *Beaumont-Port Arthur* (No change)
 - 4. *El Paso* (No change)
 - 5. *Regional Strategies* (No change)
 - 6. *Northeast Texas* (No change)
 - 7. *Austin Area* (No change)
 - 8. *San Antonio Area* (No change)
 - 9. *Victoria Area* (**Revised**)
 - Chapter 1: General (**Revised**)
 - Chapter 2: Attainment Emissions Inventory (No change)
 - Chapter 3: Maintenance Demonstration (No change)
 - Chapter 4: Monitoring Network (No change)
 - Chapter 5: Contingency Plan (**Revised**)
- C. Particulate Matter (No change)
- D. Carbon Monoxide (No change)
- E. Lead (No change)
- F. Oxides of Nitrogen (No change)
- G. Sulfur Dioxide (No change)
- H. Conformity with the National Ambient Air Quality Standards (No change)
- I. Site Specific (No change)
- J. Mobile Sources Strategies (No change)
- K. Clean Air Interstate Rule (No change)
- L. Transport (No change)
- M. Regional Haze (No change)

LIST OF ACRONYMS

CFR -- Code of Federal Regulations
EPA -- United States Environmental Protection Agency
FCAA -- Federal Clean Air Act
NAAQS -- National Ambient Air Quality Standard
NO_x -- Nitrogen Oxides
ppb -- Parts Per Billion
ppm -- Parts Per Million
psia -- Pounds per Square Inch Absolute
SIP -- State Implementation Plan
TAC -- Texas Administrative Code
TACB -- Texas Air Control Board
TCAA -- Texas Clean Air Act
TCEQ -- Texas Commission on Environmental Quality (commission)
TNRCC -- Texas Natural Resource Conservation Commission
TxLED -- Texas Low Emission Diesel
VOC -- Volatile Organic Compounds

TABLE OF CONTENTS

Executive Summary

List of Acronyms

Table of Contents

List of Appendices

Chapter 1: General (Revised)

1.1 Background

1.2 Introduction

1.2.1 History

1.2.1.1 One-Hour Ozone History in Victoria County

1.2.1.2 Eight-Hour Ozone History in Victoria County

1.2.1.3 Current Proposed Victoria County Contingency Plan

1.3 Health Effects

1.4 Public Hearing Information

1.5 Social and Economic Consideration

1.6 Fiscal and Manpower Resources

Chapter 2: Attainment Emissions Inventory (No change)

Chapter 3: Maintenance Demonstration (No change)

Chapter 4: Monitoring Network (No change)

Chapter 5: Contingency Plan (Revised)

5.1 Background

5.2 Contingency Measures and Trigger Levels

Appendices

LIST OF APPENDICES

<u>Appendix</u>	<u>Appendix Name</u>
A	City of Victoria Voluntary Control Measures

CHAPTER 1: GENERAL

1.1 BACKGROUND

"The History of the Texas State Implementation Plan (SIP)," a comprehensive overview of the SIP revisions submitted to the United States Environmental Protection Agency (EPA) by the State of Texas, is available at the following Web site: <http://www.tceq.state.tx.us/implementation/air/sip/siplans.html>.

1.2 INTRODUCTION

The history of the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area as well as information regarding the current proposed Contingency Plan Revision to the 1997 Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area SIP (Victoria County Contingency Plan SIP Revision) are provided.

1.2.1 History

1.2.1.1 One-Hour Ozone History in Victoria County

Victoria County was originally designated nonattainment for exceeding the one-hour ozone National Ambient Air Quality Standard (NAAQS) in the *Federal Register* notice dated March 3, 1978 (43 FR 8962). This designation was based on six weeks of EPA contractor-collected data at two sites from September 24, 1977, through November 7, 1977. The EPA changed the one-hour ozone standard to 0.12 parts per million (ppm) in January 1979. Upon reexamination of Victoria County ozone data under the new standard, the EPA determined that Victoria County had exceeded the new standard on one occasion.

The 1990 Federal Clean Air Act (FCAA) Amendments authorized the EPA to designate areas failing to meet the ozone NAAQS as nonattainment and to classify them according to severity. Victoria County was designated as an "Incomplete or No Data Ozone Nonattainment Area" on November 15, 1990, and the county retained its prior one-hour ozone nonattainment designation by operation of law. The FCAA Amendments required unclassifiable nonattainment areas with incomplete or no data to collect three consecutive years of monitored data and to reach attainment by November 15, 1995. Victoria County completed three consecutive years of monitoring on May 2, 1994, with a design value of 0.10 ppm, below the 0.12 ppm standard.

On July 27, 1994, the Texas Commission on Environmental Quality (TCEQ) submitted the Redesignation Petition and Maintenance Plan for the Victoria County Ozone Nonattainment Area to the EPA. On May 8, 1995, the EPA redesignated Victoria County to attainment for the one-hour ozone standard.

The FCAA, Section 175A(b) requires states to submit a subsequent maintenance plan eight years after redesignation. The state adopted a second maintenance plan on February 5, 2003, and submitted the plan to the EPA on February 18, 2003. The EPA approved the maintenance plan revision on January 3, 2005.

1.2.1.2 1997 Eight-Hour Ozone History in Victoria County

On April 30, 2004 (69 FR 23858), the EPA designated and classified areas for the 1997 eight-hour ozone NAAQS with an effective date of June 15, 2004. Also on April 30, 2004 (69 FR 23951), the EPA published the final Phase 1 implementation rule of the 1997 eight-hour ozone NAAQS. Sections 51.905(c) and (d) of 40 Code of Federal Regulations (CFR) Part 51, Subpart X established anti-backsliding requirements as part of that rulemaking. These requirements applied to areas, such as Victoria County, designated attainment for both the 1997 eight-hour ozone standard and the one-hour ozone standard with an approved one-hour maintenance plan. These provisions require affected states to submit a ten-year maintenance plan under Section 110(a)(1) of the FCAA.

1.2.1.3 Current Proposed Victoria County Contingency Plan SIP Revision

This Victoria County Contingency Plan SIP Revision contains a revised contingency plan that fulfills EPA guidance¹ requiring Section 110(a)(1) maintenance plan areas to include in the contingency plan an enforceable commitment to adopt and implement the contingency measures once triggered, and identify measures to be adopted. The current proposed contingency plan includes six 30 Texas Administrative Code (TAC) rules the state may amend to include Victoria County if monitoring data indicate the area has violated the 1997 eight-hour ozone NAAQS. The rules listed are included in the Chapter 114 Texas Low Emission Diesel (TxLED) rule, Chapter 115 volatile organic compounds (VOC) emission controls for storage tanks, and Chapter 117 nitrogen oxides (NO_x) controls for combustion engines.

1.3 HEALTH EFFECTS

In 1997, the EPA revised the NAAQS for ozone from a one-hour to an eight-hour standard. To support the 1997 eight-hour ozone standard, the EPA provided information indicating that health effects can occur at levels lower than the previous standard and at exposure times longer than one hour. Exposure to ambient ozone can aggravate asthma in some people. Repeated exposures to ozone can make people more susceptible to respiratory infection and lung inflammation and can aggravate preexisting respiratory diseases, such as bronchitis and emphysema.

Children are at a relatively higher risk from exposure to ozone when compared to adults, since they breathe more air per pound of body weight than adults and because children's respiratory systems are still developing. Children also spend a considerable amount of time outdoors during summer and during the start of the school year (August - October) when high ozone levels are typically recorded. Adults most at risk to ozone exposure are people working or exercising outdoors and individuals with preexisting respiratory diseases.

1.4 PUBLIC HEARING INFORMATION

The commission will hold a public hearing at the following time and location:

DATE	TIME	LOCATION
February 23, 2010	6:00 p.m.	700 North Main, Room 204, Victoria, Texas, 77901

The public comment period will open January 20, 2010, and close February 26, 2010. Written comments will be accepted via mail, fax, or through the eComments system. All comments should reference the "Victoria County Contingency Plan SIP Revision" and Project Number 2009-033-SIP-NR. Comments may be submitted to C. Holly Brightwell, MC 206, State Implementation Plan Team, Chief Engineer's Office, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-5687 (Attn. C. Holly Brightwell). Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments>. File size restrictions may apply to comments being submitted through the eComments system. Comments must be received by February 26, 2010.

¹Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act, U.S. EPA, May 20, 2005

1.5 SOCIAL AND ECONOMIC CONSIDERATIONS

This revision is a continuation of the existing maintenance plan as required by the FCAA and no new control strategies have been incorporated into this revision. There are no additional social or economic costs associated with this revision.

1.6 FISCAL AND MANPOWER RESOURCES

The state has determined that its fiscal and manpower resources are adequate and will not be adversely affected through implementation of this plan.

CHAPTER 2: ATTAINMENT EMISSIONS INVENTORY

(No Change)

CHAPTER 3: MAINTENANCE DEMONSTRATION

(No Change)

CHAPTER 4: MONITORING NETWORK

(No Change)

CHAPTER 5: CONTINGENCY PLAN

5.1 BACKGROUND

The United States Environmental Protection Agency's (EPA) Phase 1 implementation rule for the 1997 eight-hour ozone standard requires that Section 110(a)(1) maintenance plans include contingency provisions to promptly correct an exceedance of the National Ambient Air Quality Standard (NAAQS) for ozone.

5.2 CONTINGENCY MEASURES AND TRIGGER LEVELS

If Victoria County monitors a three-year eight-hour ozone average at or above 82 parts per billion (ppb), the City of Victoria will institute a voluntary program with industry to reschedule, revise, or curtail activities during Ozone Advisory Days, which are EPA's AIRNow Air Index Quality "Orange Days", and are at or above 76 ppb. This program will be developed and available within 30 days after notification by the TCEQ that the contingency measure will be required. This program will be implemented as expeditiously as practicable, but no later than 24 months after the Texas Commission on Environmental Quality's (TCEQ) notification that the contingency measure is needed.

If Victoria County monitors an eight-hour ozone three-year average at or above 83 ppb, the TCEQ will work with the City of Victoria and the local Air Victoria Team to implement various voluntary control measures that may include:

- substantially increasing the number of businesses notified on Ozone Advisory Days;
- increasing the number of ozone public announcements; and
- other voluntary control measures as identified in a letter from the City of Victoria, dated September 8, 2009 (Appendix A: *City of Victoria Voluntary Control Measures*).

In the event that this contingency measure is triggered, Victoria County may also be expected to voluntarily implement further local control measures, and previous efforts to reduce ozone may need to be retained. This program will be developed and available within 30 days after notification by the TCEQ that the contingency measure will be required. This program will be implemented as expeditiously as practicable, but no later than 24 months after verified monitoring data indicate that the Victoria County three-year average of each annual fourth-highest daily maximum eight-hour ozone average is at or above 83 ppb.

If air quality monitoring data indicate three or more exceedances of the 1997 eight-hour ozone NAAQS (measured at 0.08 parts per million) within one calendar year the TCEQ will analyze air quality data, meteorological conditions, transport, and related factors in Victoria County to determine the cause of the exceedances. The TCEQ will notify the EPA of its findings.

If air quality monitoring data indicate that Victoria County's design value violates the 1997 eight-hour ozone NAAQS, the TCEQ will implement specific contingency measures to promptly correct the violation. Those to be considered include but are not limited to the control measures identified below. The most appropriate contingency measures may be significantly different from the measures mentioned below due to technological, societal, economic, and political factors that are impossible to predict. Contingency measures will be implemented as expeditiously as practicable, but no later than 24 months after verified air quality monitoring data indicate that the Victoria County three-year average of each annual fourth-highest daily maximum eight-hour ozone average violates the 1997 eight-hour ozone NAAQS.

- Revision to 30 Texas Administrative Code (TAC) Chapter 117, Subchapter B, Division 1 or Subchapter E, Division 4, to control rich-burn, gas-fired, reciprocating internal combustion engines located in Victoria County to meet nitrogen oxides (NO_x) emission specifications and other requirements to reduce NO_x emissions and ozone air pollution.
- Inclusion of Victoria County in 30 TAC Chapter 115 volatile organic compounds (VOC) rules for the control of crude and condensate storage tanks at upstream oil and gas exploration and production sites or midstream pipeline breakout stations with uncontrolled flash emissions greater than 25 tons per year.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for more stringent controls for tank fittings on floating roof tanks, such as slotted guidepoles and other openings in internal and external floating roofs.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules limiting emissions from landings of floating roofs in floating roof tanks.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for control of VOC emissions from degassing operations for storage tanks with a nominal capacity of 75,000 gallons or more storing materials with a true vapor pressure greater than 2.6 pounds per square inch absolute (psia), or with a nominal capacity of 250,000 gallons or more storing materials with a true vapor pressure of 0.5 psia or greater. Degassing vapors from storage vessels, transport vessels, and marine vessels would be required to vent to a control device until the VOC concentration of the vapors is reduced to less than 34,000 parts per million by volume as methane.
- Inclusion of Victoria County in 30 TAC Chapter 114 rule for Texas Low Emission Diesel (TxLED) compliant marine diesel.

Texas has the authority to promulgate rules according to Texas Health and Safety Code Section 382.017 and Texas Water Code Section 5.103. State administrative law requires that proposed rules are adopted no more than six months after notice of the proposal is published in the *Texas Register* (see Texas Gov. Code Section 2001.027). The appropriate measures or strategies that would reduce the ozone precursor levels to the extent necessary to comply with the 1997 eight-hour ozone NAAQS will be adopted (subject to commission approval and opportunity for public comment), submitted, and implemented no later than 24 months following a monitored and quality assured violation of the NAAQS.



CITY OF VICTORIA

Established 1824, Founded By congress, Republic of Texas, 1839

ENVIRONMENTAL SERVICES DEPARTMENT

700 Main Center, Suite 108

September 8, 2009

Holly Brightwell
Air Quality Planning Staff

Dear Holly,

The City of Victoria offers the following voluntary control measures on the Victoria maintenance plan:

Deliverables:

Deliverables from the Previous Grant Contract under FY 2008-2009 that will continue through 2010-2011:

- Employment of an Education Specialist to act as a resource on environmental education for educators and schools in the Victoria area;
- Air quality curricula (Andy Airedale) in all third grade classrooms and Drive Clean Across Texas in all elementary classrooms in public and private schools in Victoria County;
- PowerPoint presentations modified for diverse audiences with accompanying educational materials (brochure, collaterals) addressing the subject matters of Air Quality and Health, Medical Presentation for Health Care Professionals, Air Friendly Landscaping, Air Victoria—Keep It Clean, Air Victoria Team, Blue Sky Initiative Idle Reduction and Walking School Bus;
- Contributions of articles, editorials and photos to the Victoria Advocate newspaper with a circulation of 75,000/day and its associated publications;
- Conduct an ozone season kick off event or campaign;
- Implementation of the “Statewide Transportation Air Quality Public Outreach and Education Program” in partnership with the Texas Transportation Institute, Texas Department of Transportation, and Texas Commission on Environmental Quality using television spots, billboards, and radio spots to encourage Texans to “Drive Clean across Texas” through car-pooling, proper vehicle maintenance and alternative transportation options.
- Employment of TCEQ’s web-based “Today’s Air Quality Forecast” extending over four days, giving participants more advance notice enabling better planning of ozone action day activities on television, radio, newspaper and email blast;
- Ozone action day messages and recommendations on National Weather Service telephone recordings, web site, television weather information channels, and weather radio announcements;
- Continued growth of the Air Victoria Team program educating small businesses on methods to reduce emissions focusing on mobile sources;



CITY OF VICTORIA

Established 1824, Founded By congress, Republic of Texas, 1839

ENVIRONMENTAL SERVICES DEPARTMENT

700 Main Center, Suite 108

- Facilitation of an annual Lawn Care Equipment Exchange/purchase incentive event to exchange gas powered lawn equipment for electric powered equipment or encourage the use of electric powered lawn equipment;
- Facilitation of an educational booth at major community events with distribution of educational materials and public interaction;
- Maintenance of Stop at the Click stickers on 1100+ gas pumps in the city of Victoria;
- Implementation of Blue Sky Initiative to reduce school zone idling including bus driver/parent/teacher/administrator/student education programs and materials;
- Educational marketing on television, radio, outdoor and print media on air quality messages in both English and Spanish language including: Fuel up, mow and run errands after 5 p.m., Rideshare and Tripchain, Stop at the Click, Reduce Idling;
- Promote and participate in activities and educational programs that address how air quality is benefited by other environmental concerns;
- Other programs as deemed necessary by staff to reach educational objectives of the program.

Should any of these voluntary control measures require further clarification, please by in touch. Thank you for your support of our air quality program in Victoria.

Regards,

A handwritten signature in cursive script that reads "Marie Lester".

C. Marie Lester, Environmental Programs Coordinator
City of Victoria, Environmental Services