

CHAPTER 1: GENERAL

1.1 BACKGROUND AND INTRODUCTION

1.1.1 Purpose of Plan

The TCEQ is seeking redesignation of the BPA area to attainment for the eight-hour ozone standard under Section 107(d)(3)(E) of the FCAA, which states that the EPA can redesignate an area to attainment if all of the following conditions are met.

- The EPA has determined that the NAAQS have been attained.
- The applicable implementation plan has been fully approved by the EPA under Section 110(k).
- The EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.
- The state has met all applicable requirements for the area under Section 110 and Part D.
- The EPA has fully approved a maintenance plan, including a contingency plan, for the area under Section 175A.

The purpose of this State Implementation Plan (SIP) revision is to address all of the above requirements, including submittal of an eight-hour ozone maintenance plan that will fulfill the requirements under Section 107(d)(3)(E) of the FCAA and ensure the BPA area continues to attain of the 1997 eight-hour ozone standard through the horizon year 2021. This revision includes a commitment to submit a second 10-year maintenance plan in eight years as required by the EPA, i.e., two years before the end of the first 10-year maintenance plan period.

This revision will also address two outstanding one-hour ozone requirements not met through the Eight-Hour Ozone Attainment Demonstration for the Beaumont-Port Arthur Ozone Nonattainment Area adopted by the commission on September 28, 2005. The outstanding requirements are described below.

(1) Clean-Fuel Vehicle Programs under Section 182(c)(4) of the FCAA

The 2005 BPA Eight-Hour Ozone Attainment Demonstration SIP revision, Section 5.3.2: *Clean-Fuel Vehicle Programs* states that emissions reduced by the federal Tier II standards for all light-duty vehicles with model years of 2004 or later and federal heavy duty diesel engine (HDDE) standards far surpass the emissions reductions that would be expected from implementation of federal Clean-Fuel Vehicle Programs in the BPA area. Therefore, the emission reductions from these federal rules are sufficient to cover any shortfall from the repeal of the Texas Clean Fleet program, the EPA approved version of the Clean-Fuel Vehicle Program. The EPA has since indicated that emission reductions from a federal rule cannot replace those from the Clean-Fuel Vehicle Program, and that the TCEQ must find an alternative state rule to replace the Section 182(c)(4) requirements.

(2) Contingency Measures for Not Attaining the Standard by November 15, 1996

On March 20, 2004, when the EPA reclassified the BPA one-hour ozone nonattainment area from moderate to serious, EPA also required that a contingency plan be submitted to

backfill the contingency measures that should have been triggered as a result of the BPA area not attaining the standard by November 15, 1996.² The BPA Eight-Hour Ozone Attainment Demonstration SIP revision adopted by the commission on October 27, 2004, identified a marine vessel loading rule as the contingency measure, which was required to be equivalent to 3 percent of the 1996 target value. However, the supplemental BPA Eight-Hour Ozone Attainment Demonstration SIP revision adopted by the commission on September 28, 2005, removed this contingency measure and identified measures to replace the reductions that would have occurred had the marine vessel loading contingency measure been implemented. The substitute measures adopted in the 2005 SIP revision were NO_x reductions from two sources: 1) voluntary reductions from three companies in the BPA area, through Agreed Orders which were adopted by the commission on December 15, 2004, and made federally enforceable by submittal and approval by the EPA, and 2) reductions from the Texas Emissions Reduction Plan (TERP).

The TCEQ projected that the TERP projects would result in NO_x reductions of 3.0 tons per day (tpd). TERP reductions were later projected to be 2.4 tpd, 0.6 tpd short of this commitment.³

Please see Section 2.2.2.1: *One-Hour Nonattainment Area Requirements* for information about how the TCEQ plans to address these outstanding obligations.

1.1.2 One-Hour Ozone History in the BPA Area

The BPA one-hour ozone nonattainment area consists of Hardin, Jefferson, and Orange Counties. Following the 1990 Clean Air Act Amendments, the BPA area was classified as moderate and, therefore, was required to attain the one-hour ozone standard of 0.12 parts per million by November 15, 1996. The BPA area did not attain the standard by that date and also did not attain the standard by November 15, 1999, the attainment date for serious areas.

On April 16, 1999, the EPA proposed in the *Federal Register* to extend the BPA attainment date to November 15, 2007, based on its ozone transport policy in effect at the time. The EPA's transport policy provided that in determining the appropriate attainment date for an area, the EPA may consider the effect of transport of ozone or its precursors from an upwind area which interferes with the downwind area's ability to attain.

The BPA SIP revision that was adopted by the commission on October 27, 1999, and submitted to the EPA by November 15, 1999, contained modeling for both transport and non-transport episodes, two volatile organic compound (VOC) reasonably available control technology (RACT) rules, and a NO_x rule for lean-burn engines (Phase I).

On April 19, 2000, the commission adopted an attainment demonstration SIP for the BPA area, which included Phase II of the NO_x reductions. The SIP included the following elements.

- A modeling demonstration showing attainment of the one-hour ozone standard and transport of ozone and its precursors from Houston; and a request that BPA's attainment date be extended to that of the Houston area (November 15, 2007) based on the EPA's ozone transport policy.

² USEPA, Determination of Nonattainment as of November 15, 1996 and Reclassification of the Beaumont/Port Arthur Ozone Nonattainment Area; State of Texas; Final Rule, 69 Fed Reg 16483, 16494 (2004)

³ TCEQ: "Texas Emission Reduction Plan Biennial Report to the Texas Legislature" TCEQ Publication SFR-079/06, December 2006.

- A commitment to submit a mid-course review (MCR) to the EPA by May 1, 2004.
- Rules implementing the control strategy. Since the majority of NO_x emissions in BPA come from large industrial point sources, the attainment demonstration SIP relies primarily on point source NO_x reductions.

The EPA approved the BPA SIP on May 14, 2001, with an attainment date of November 15, 2007. Environmental groups subsequently challenged the EPA's extension of attainment dates based on transport; BPA was one of three areas in the nation for which suits were filed. On December 11, 2002, the Fifth Circuit Court of Appeals ruled that the EPA is not authorized by the FCAA to extend the area's attainment date based on transport. On June 19, 2003, the EPA proposed in the *Federal Register* to reclassify BPA to either serious or severe, with a November 15, 2005, attainment date for either classification. Negotiations were held between the environmental litigants, BPA industries, the EPA, and the TCEQ to obtain commitments from BPA industries in providing voluntary reductions and other environmental benefits. The EPA published final action in the *Federal Register* on March 30, 2004, reclassifying the BPA area to serious with an attainment date of November 15, 2005. The EPA's final rule also withdrew the following for the BPA area:

- Motor Vehicle Emissions Budget (MVEB);
- mid-course review commitment; and
- finding that BPA has implemented all Reasonable Available Control Measures (RACM).

In addition, the state was required to submit a new attainment demonstration, showing attainment by 2005, within one year of the effective date of the action.

The requirements for the new attainment demonstration were set forth in the EPA's March 30, 2004, *Federal Register* notice, as follows:

- revise the MVEB for 2005 using MOBILE6, the EPA's mobile source emission factors model;
- perform post-1996 Rate of Progress (ROP) analyses for 1999, 2002, and 2005;
- perform a new Reasonably Available Control Measures (RACM) demonstration;
- activate contingency measures previously adopted under 15 percent ROP requirements; and
- provide additional contingency measures as part of the SIP to meet post-1996 through 2005 ROP requirements.

1.1.3 Eight-Hour Ozone in the BPA Area

Effective June 15, 2004, the EPA designated the BPA area as a marginal nonattainment area under the 1997 eight-hour ozone standard and promulgated the first phase of the eight-hour implementation rules. This marginal classification required that the BPA area attain the eight-hour ozone standard by June 15, 2007. On October 27, 2004, the commission adopted an attainment demonstration for both the one-hour and eight-hour ozone standards for the BPA area. The attainment demonstration contained results of photochemical modeling and technical analyses in support of the demonstration of attainment of the one-hour and eight-hour ozone standards.

On September 28, 2005, the commission adopted revisions to the BPA SIP, addressing each of the remaining requirements needed for an EPA-approvable SIP. These requirements include: reasonably available control technology (RACT), reasonably available control measures (RACM), an FCAA Clean-Fuel Vehicle Program demonstration, a 3 percent contingency requirement, and a new MVEB.

The BPA area did not monitor attainment of the 1997 eight-hour ozone NAAQS by the June 15, 2007, deadline (based on data from the three years prior, 2004, 2005, and 2006). As a result, the EPA reclassified the area to moderate nonattainment for eight-hour ozone, effective April 17, 2008. The new attainment date for the BPA area is June 15, 2010.

1.2 PUBLIC HEARING INFORMATION

The commission will hold public hearings at the following times and location:

DATE	TIME	LOCATION
August 14, 2008	7:00 p.m.	South East Texas Regional Planning Commission 2210 Eastex Freeway, Beaumont, TX
August 15, 2008	10:00 a.m.	South East Texas Regional Planning Commission 2210 Eastex Freeway, Beaumont, TX

The public comment period will open on July 11, 2008, and close on August 18, 2008. Written comments will be accepted via mail, fax, or through the e-comment system. All comments should reference “the Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision” and Project Number 2008-006-SIP-NR. Comments may be submitted to Walker Williamson, 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. Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments>. Comments must be received by August 18, 2008, at 5:00 p.m.

1.3 SOCIAL AND ECONOMIC CONSIDERATIONS

Because rulemaking is not a part of this SIP revision, there are no changes that would require an analysis of social and economic considerations.

1.4 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.