South East Texas Regional Planning Commission

RECEIVED
JUL 23 2008
AIR QUALITY DIVISION

July 21, 2008

PRESIDENT
DELORIS "BOBBIE" PRINCE
Mayor
City of Port Arthur

1st VICE-PRESIDENT
SUZANNE SIMMONS
Mayor Pro Tem
City of Sour Lake

2nd VICE-PRESIDENT
SHIRLEY BONNIN
Mayor Pro Tem
City of West Orange

3rd VICE-PRESIDENT
EVERETTE "BO" ALFRED
County Commissioner
Jefferson County

TREASURER
KEN PELT
County Commissioner
Hardin County

SECRETARY
BEAMON MINTON
County Commissioner
Orange County

LEGAL COUNSEL
MELODY CHAPPELL
Wells, Peyton, Greenberg, & Hunt LLP

EXECUTIVE DIRECTOR
SHAUN P. DAVIS

2210 Eastex Freeway
Beaumont, Texas 77703-4929
Telephone (409) 899-8444
FAX (409) 347-0138
setrpc@setrpc.org
http://www.setrpc.org

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by our contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

If any questions arise, please feel free to contact me at (409) 899-8444 ext. 251.

Sincerely,

Bob Dickinson, Director
Transportation and Environmental Resources

City of West Orange

2700 Western Ave.
West Orange, Texas 77630-6136
Phone: (409) 883-3468 • Fax: (409) 882-0652
www.cityofwestorange.com

RECEIVED
JUL 24 2008
AIR QUALITY DIVISION

July 22, 2008

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson

The City Council of West Orange along with the South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and their data corroborates the TCEQ trend analysis. Indeed, their monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photo-chemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by the SETRPC contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

RECEIVED
JUL 24 2008
AIR QUALITY
DIVISION

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

If any questions arise, please feel free to contact me at (409) 883-3468.

Sincerely,

Roy McDonald

Roy McDonald, Mayor

CITY OF PORT NECHES

Post Office Box 758 • Port Neches, Texas 77651

RECEIVED
JUL 24 2008
AIR QUALITY
DIVISION

July 22, 2008

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by our contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

RECEIVED
JUL 24 2008
AIR QUALITY
DIVISION

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

Should you have any questions, please feel free to contact me at (409) 727-2182.

Sincerely,

R. Glenn Johnson
Mayor
City of Port Neches

/al

Entergy

Entergy Fossil Operations
W. Roundbunch Road
P.O. Box 888
Bridge City, TX 77611
Tel 409 734 3440

Thomas C. Odenthal
Manager
Sabine Plant

July 24, 2008

RECEIVED
JUL 30 2008
AIR QUALITY
DIVISION

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087

SUBJECT: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP Revision – Project Number 2008-006-SIP-NR

Dear Mr. Williamson:

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by SETRPC/AQAC's contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15, rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

SETRPC provides ozone; NOx and meteorological data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

In closing, I reiterate enthusiastic support for the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment.* If you have any questions, please contact me at 409-734-3440.

Sincerely,

Tom Odenthal
Manager, Power Plant IV

TCO:pmn

CITY OF ORANGE
P.O. Box 520
Orange, Texas 77631-0520
(409) 886-3611

RECEIVED
AUG 01 2008
AIR QUALITY
DIVISION

July 29, 2008

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by our contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

If any questions arise, please feel free to contact me at 409.883.1055.

Sincerely,

Shawn Oubre
City Manager
City of Orange, Texas

RECEIVED
JUL 3 1 2008
AIR QUALITY
DIVISION

CITY OF BRIDGE CITY TEXAS

KIRK ROCCAFORTE
MAYOR

LOUIS H. DAVIS
MAYOR PRO-TEM

CITY COUNCIL

KEVIN MOTT
MIKE REED
ROBERT L. SIMONTON, JR.
DAVID RUTLEDGE
MARK PHILPOTT

JERRY D. JONES
CITY MANAGER

SHERRY TISDALE
CITY SECRETARY

PAUL M. FUKUDA
CITY ATTORNEY

CITY HALL (409)735-6801 TELEFAX (409)735-3349

RECEIVED
AUG 04 2008
AIR QUALITY DIVISION

August 1, 2008

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson:

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by our contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from 75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These

RECEIVED
AUG 04 2008
AIR QUALITY
DIVISION

long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

If any questions arise, please feel free to contact me at 409.735.6801.

Sincerely,

Kirk Roccaforte, Mayor
City of Bridge City

/st

RECEIVED
AUG 11 2008
AIR QUALITY
DIVISION

Resolution

STATE OF TEXAS	§	COMMISSIONERS' COURT
	§	
COUNTY OF JEFFERSON	§	OF JEFFERSON COUNTY, TEXAS

BE IT REMEMBERED at a meeting of Commissioners' Court of Jefferson County, Texas, held on the 4th day of August, 2008, on motion made by Mark L. Domingue, Commissioner of Precinct No. 2, and seconded by Eddie Arnold, Commissioner of Precinct No. 1, the following Resolution was adopted:

WHEREAS, the Jefferson County Commissioners' Court finds that the TCEQ is currently seeking a redesignation of the Beaumont-Port Arthur area to attainment of the ozone National Ambient Air Quality Standard (NAAQS);

WHEREAS, the Jefferson County Commissioners' Court recognizes that the TCEQ and the Southeast Texas Regional Planning Commission have tirelessly monitored emissions and coordinated with heavy industry to dramatically reduce volatile and dangerous emissions in this area to demonstrate compliance with EPA standards;

WHEREAS, the Jefferson County Commissioners' Court recognizes that the reductions in the emissions of volatile organic compounds, propylene, NOx and ethylene levels demonstrates a long-term trend for maintainable air quality;

WHEREAS, the Jefferson County Commissioners' Court recognizes that a favorable redesignation of "attainment" by the EPA will properly reclassify our air quality and reward the efforts expended in that endeavor;

NOW THEREFORE, BE IT RESOLVED that Commissioners' Court of Jefferson County, Texas, does hereby approve submission a letter of support of the proposed redesignation.

SIGNED this 4th day of August, 2008.

JUDGE RONALD WALKER
County Judge

COMMISSIONER EDDIE ARNOLD
Precinct No. 1

COMMISSIONER WAYMON D. HALLMARK
Precinct No. 3

COMMISSIONER MARK L. DOMINGUE
Precinct No. 2

COMMISSIONER EVERETTE D. ALFRED
Precinct No. 4

South East Texas Regional Planning Commission

RECEIVED
AUG 15 2008
AIR QUALITY DIVISION

August 15, 2008

PRESIDENT
DELORIS "BOBBIE" PRINCE
Mayor
City of Port Arthur

1ST VICE-PRESIDENT
SUZANNE SIMMONS
Mayor Pro Tem
City of Sour Lake

2ND VICE-PRESIDENT
SHIRLEY BONNIN
Mayor Pro Tem
City of West Orange

3RD VICE-PRESIDENT
EVERETTE "BO" ALFRED
County Commissioner
Jefferson County

TREASURER
KEN PELT
County Commissioner
Hardin County

SECRETARY
BEAMON MINTON
County Commissioner
Orange County

LEGAL COUNSEL
MELODY CHAPPELL
Wells, Peyton, Greenberg, & Hunt, LLP

Texas Commission on Environmental Quality, Air Quality Division
Attn: Walker Williamson – MC 206
Chief Engineer's Office
PO Box 13087
Austin, Texas 787111-3087

Re: Project Number: 2008-006-SIP-NR
Beaumont-Port Arthur area
Redesignation Request and Maintenance Plan SIP Revision

Dear Mr. Williamson:

Thank you for the opportunity to provide comments regarding the proposed SIP revision and redesignation for the Beaumont-Port Arthur area. The South East Texas Regional Planning Commission (SETRPC) is the designated Metropolitan Planning Organization (MPO) for the Jefferson Orange Hardin Regional Transportation Study (JOHRTS) area, which includes the Beaumont-Port Arthur area (BPA).

As per our review of the proposed SIP revision for the control of ozone air pollution and the MPO, being responsible for conducting comprehensive, coordinated, and continuing long-range transportation planning for this region, we offer the following comment for your consideration.

Comment: We ask your consideration in assigning the maximum safety margin permitted for VOC and NOx to help us maintain compliance as we experience future growth and development in the BPA area. Currently one tpd of NOx is provided for a safety margin as currently outlined on pages 4-6 and 4-7 in Section 4.2.2.1. for on-road mobile emissions.

If any questions arise, please feel free to contact me at 409-899-8444 ext. 251.

Sincerely,

Bob Dickinson

Bob Dickinson, Director
Transportation and Environmental Resources Division

BD:an

cc: M. McAllister, TCEQ - AQ-Transportation Policy

EXECUTIVE DIRECTOR
SHAUN P. DAVIS

2210 Eastex Freeway
Beaumont, Texas 77703-4929
Telephone (409) 899-8444
FAX (409) 347-0138
setrpc@setrpc.org
http://www.setrpc.org

>>> TRRules 8/15/2008 10:43 AM >>>

>>> <sfeeser@mayerbrown.com> 8/15/2008 10:28 AM >>>
08/15/2008 10:28 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Shantell
Last Name: Feeser
Company/Organization: Mayer Brown LLP, on behalf of Thomas W. Dimond and for BMC Holdings, Inc.
E-mail Address: sfeeser@mayerbrown.com
Street Address: 71 South Wacker Drive
City: Chicago
State: IL
Zip Code: 60606
Phone Number: 312-701-7606
Fax Number:

Rule: 2008-006-SIP-NR

Comments:

Please see the attached PDF document.

MAYER • BROWN

Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606-4637

Main Tel (312) 782-0600
Main Fax (312) 701-7711
www.mayerbrown.com

Thomas W. Dimond
Direct Tel (312) 701-7038
Direct Fax (312) 706-9110
tdimond@mayerbrown.com

August 15, 2008

ELECTRONIC DELIVERY

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

Re: Comments of BMC Holdings, Inc. on Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area, Proposed July 9, 2008

Dear Mr. Williamson:

On behalf of BMC Holdings, Inc., I am submitting the enclosed comments on the Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area, Proposed July 9, 2008. These comments are being submitted electronically.

Please contact me if you have any questions.

Very truly yours,

Thomas W. Dimond (By SRF)

Thomas W. Dimond

Encl.

Mayer Brown LLP operates in combination with our associated English limited liability partnership and Hong Kong partnership (and its associated entities in Asia).

Comments of BMC Holdings, Inc. on

Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area, Proposed July 9, 2008

A. Introduction

BMC Holdings, Inc. ("BMC") submits the following comments on the report titled Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area, Project No. 2008-006-SIP-NR, Proposed July 9, 2008 (the "Redesignation Proposal") published by the Texas Commission on Environmental Quality ("TCEQ"). BMC supports TCEQ's Redesignation Proposal and believes that it reflects the substantial progress made in reducing ozone air pollution due to the combined efforts of TCEQ, industry and other stakeholders. Obtaining approval from the United States Environmental Protection Agency ("EPA") of this proposal will be a significant step forward for the Beaumont-Port Arthur ("BPA") community.

These comments are not intended to express any disagreement with the overall conclusions of the Redesignation Proposal. Indeed, BMC agrees that TCEQ can demonstrate compliance with the Clean Air Act standards for EPA approval of the Redesignation Proposal and related maintenance plan. Still, certain minor adjustments to the Redesignation Proposal will improve the technical and legal basis for redesignation of the BPA area to attainment for the national ambient air quality standard ("NAAQS") for 8-hour ozone. The proposed adjustments all relate to the apparent failure of the Redesignation Proposal to adequately reflect representative emissions of the BMC plant in the attainment emissions inventory, projected future emissions or in the attainment analyses, itself. These changes will, in turn, make the Redesignation Proposal more consistent with the Clean Air Act, implementing regulations and EPA guidance and increase the likelihood of EPA approval of the proposal.

B. Legal Framework

"A state may request the EPA to redesignate an area from nonattainment to attainment status if that area has improved in air quality." *Wall v. United States Environmental Protection Agency*, 265 F.3d 426, 429 (6th Cir. 2001). The standards for EPA approving a state request to redesignate a nonattainment area are set forth in section 107(d)(3)(E), as follows:

> The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless –
>
> (i) the Administrator determines that the area has attained the national ambient air quality standard;
>
> (ii) the Administrator has fully approved the applicable implementation plan for the area under section 7410(k) of this title;
>
> (iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and

> applicable Federal air pollutant control regulations and other permanent and enforceable reductions;
> (iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 7505a of this title; and
> (v) the State containing such area has met all requirements applicable to the area under section 7410 of this title and part D of this subchapter.

42 U.S.C. §7407(d)(3)(E).

These five criteria "must be met for an area to be redesignated from nonattainment to attainment status." *Wall*, 265 F.3d at 430. To assist states in complying with these provisions, the EPA has provided important guidance documents, one of which is the Memorandum from John Calcagni, Director, Air Quality Management Division, EPA, Procedures for Processing Requests to Redesignate Areas to Attainment (Sept. 4, 1992), (the "Calcagni Memorandum"). *See Wall*, 265 F.3d at 430-31 (citing the memorandum); Determination of Nonattainment and Reclassification of the Beaumont/Port Arthur 8-Hour Ozone Nonattainment Area; State of Texas; Final Rule, 73 Fed. Reg. 14391, 14392 n. 1 (March 18, 2008).

The Calcagni Memorandum emphasizes the requirement that air quality improvements reflected in ambient monitoring data must be the result of "permanent and enforceable reductions in emissions." 42 U.S.C. § 7407(d)(3)(E)(iii). The Calcagni Memorandum states:

> The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. [footnote omitted] <u>Attainment resulting from temporary reductions in emission rates (e.g., reduced production or shutdown due to temporary adverse economic conditions)</u> or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions.

Calcagni Memorandum at 4 (emphasis added). The analysis of whether the air quality improvements apparent in monitoring data are based on permanent and enforceable emission reductions "should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic." *Id.* Thus, EPA has emphasized that a state cannot simply accept the results of monitoring data showing attainment without critical analysis of whether the conditions that resulted in the monitoring data are realistic and whether the monitoring data truly reflects emission reductions that are permanent and enforceable.

The Calcagni Memorandum also provides guidance on the development of maintenance plans as required by section 107(d)(3)(E)(iv). That section requires that a maintenance plan be developed in accordance with section 175A of the Clean Air Act, which in turn requires the plan to show maintenance of attainment "for at least 10 years after the redesignation." 42 U.S.C. § 7505a. States "may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS." Calcagni Memorandum at 9. Further "any final determination regarding the adequacy of a maintenance plan will be made 'in light of the

particular circumstances facing the area proposed for redesignation and based on all relevant information available at the time.'" *Wall*, 265 F.3d at 430-31, quoting the Calcagni Memorandum at 8.

Under Section 172(c)(3) of the Clean Air Act nonattainment plans "shall include a comprehensive, accurate, current inventory of actual emissions[1] from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met." 42 U.S.C. § 7502(c)(3). Consistent with this general requirement, a maintenance plan must include "an attainment emissions inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS." Calcagni Memorandum at 8. Normally, the attainment emissions inventory will be based on actual emissions at the time monitoring data demonstrates attainment of the NAAQS, but states retain the discretion to adjust the attainment emissions inventory for factors related to the attainment demonstration and to use allowable emissions if those are more representative in a particular case. *Id.* at 8, n. 5. *See also* Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas (Nov. 30, 1993) at 2 (hereafter, the "Berry Memorandum").

TCEQ has previously recognized that nonattainment plan emissions inventories (of which maintenance plan emissions inventories are a subset) should be adjusted to include representative emissions from emission units that were temporarily shut down during the time when actual emissions data was collected. Approval and Promulgation of Air Quality Implementation Plans; Texas; Attainment Demonstration for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area, 73 Fed. Reg. 40203, 40210 (July 14, 2008). In that instance, TCEQ "evaluated the base case emission[s] inventory [for a modeling exercise], and made some minor adjustments to the inventory to account for things that would not be expected to occur again or that were not normal (example: inclusion of EGUs that were not operating due to temporary shutdown during the base case period but were expected to be operating in 2009 [the year to be modeled])." *Id.* EPA approved those base case emissions inventory adjustments for temporary shutdowns. *Id.* Courts have similarly rejected EPA emissions inventory projections that were not based on representative or well-supported growth factors. *Appalachian Power Co. v. United States Environmental Protection Agency*, 251 F.3d 1026, 1034-35 (D.C. Cir. 2001).

These precedents clearly indicate that EPA does not require every emissions inventory to be based solely on actual emissions in the sense of emissions measured and reported from point sources during a particular time period. In appropriate circumstances, adjustments to measured

---

[1] Neither the Clean Air Act nor its implementing regulations define "actual emissions" as used in section 172(c)(3). *See* 42 U.S.C. §§7501, 7602; 40 C.F.R. Part 51, Subpart A. EPA's Comprehensive Emission Reporting Rule ("CERR") defines annual emissions as "[a]ctual emissions for a plant, point, or process – measured or calculated that represent a calendar year." 40 C.F.R. Part 51, App. A, Glossary. This definition makes clear that actual emissions are not always as measured and that actual emissions should be representative. While EPA guidance implies that actual emissions are not the same as potential emissions, it also clearly identifies circumstances where actual emissions, in the sense of those measured over a particular time period, may need to be adjusted in arriving at base year or other emissions inventories. *See* Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations, EPA-454/R-05-001, 16-19 & App. B at B-3 to B-4 (August 2005) (identifying potential to adjust for rule effectiveness, activity throughput, control device efficiency, allowable emissions and other matters).

emissions for a particular time period may be appropriate, or even required, so that the emissions inventory reflects representative emissions for the area and time period at issue. Similarly, growth factors used in projecting emissions inventories into the future must also be realistic and supported by the administrative record.

C. Status of the BMC Facility

The BMC facility was originally constructed in 1968 and generally operated continuously through December 1, 2004 at which time BMC temporarily suspended production within the methanol and ammonia manufacturing units due to market conditions and in accordance with an agreement with Methanex Methanol Company ("Methanex"). During this temporary suspension, the marine terminal loading and unloading operations have continued. Methanex also required BMC to be prepared to resume production at any time, if requested by Methanex. Methanex's right to continue the temporary suspension will expire on December 31, 2008.

BMC provided written notice to the TCEQ indicating that BMC would be temporarily suspending production of methanol and ammonia but would maintain the facility so it could resume production in the future. During the suspended production period, BMC has expended resources and kept the facility staffed to the level required to perform maintenance so that the facility would be capable of resuming production at Methanex's demand and/or following improved market conditions that could have allowed BMC to restart production on its own initiative. BMC maintains a staff of six full-time equivalents at the facility, of which two are primarily dedicated to maintenance of production and air emission units. As Methanex's right to suspend production will soon expire, and as market conditions continue to rebound, BMC is currently moving forward with equipment inspections and mechanical integrity verification testing to facilitate a restart of production at the facility in the near future.

BMC also has continued and maintained all relevant permits (for air emissions and other matters), paid all annual operating and emissions inventory fees, maintained compliance with all applicable state and federal regulations, and continued all related recordkeeping/reporting. These activities have included filing a renewal application for the facility's Title V operating permit and filing annual air emissions inventory reports with TCEQ. For particular inventory years, BMC's reported emissions of VOCs and NOx are as follows:

Emissions Inventory (EI) Description	VOCs (tons/ozone season day)	NOx (tons/ozone season day)
2000 EI (1)	0.1048	3.1259
2002 Periodic EI (2)	0.17455	3.14716
2005 Base EI (2)	0.01457	0.00026

(1) As incorporated in the Attainment Demonstration, table at ES-3 & Tables 3-9 & 3-28.
(2) As incorporated in the Redesignation Proposal, Tables 2-5 & 2-6 and other tables.

Thus, while BMC's measured and reported emissions have varied over the years, due in part to the temporary shutdown condition described above, BMC's reported emissions have always been included in the TCEQ's emissions inventories.

BMC has continuously taken the steps necessary to maintain the plant in condition to be restarted and has always intended that the restart would occur. The only question has been one of timing based on market conditions and the decisions of Methanex. In accordance with applicable EPA guidance, the facility should be considered to be in a temporary idle state and not permanently shutdown. For example, EPA previously determined that the Watertown Power Plant in South Dakota was properly maintained in temporary idle condition even when it had not been operated for nine years. *See* Memorandum from John B. Rasnic, Director, Stationary Source Compliance Division, Office of Air Quality Planning and Standards, Applicability of PSD to Watertown Power Plant, South Dakota; Shutdown for 9 Years (November 19, 1991) at 2. In that instance, the owner had kept two full-time employees on-site, conducted periodic testing of plant systems and otherwise maintained the plant to ensure its ability to restart. Those circumstances are remarkably similar to BMC's maintenance of its facility.

D. Specific Comments

1. Failure to consider the impact of typical, representative emissions from the BMC facility, which has maintained the right to restart, on the 2005-2007 ambient ozone monitoring data may not be consistent with the requirement that TCEQ determine that improvements in ozone air quality in the BPA area are due to permanent and enforceable reductions in emissions.

The EPA has stated that "[a]ttainment resulting from temporary reductions in emission rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) ... would not qualify as an air quality improvement due to permanent and enforceable emission reductions." Calcagni Memorandum at 4. The BMC facility has been temporarily shutdown since December 1, 2004 due to market conditions and the election of Methanex. During this temporary shutdown, the BMC facility has maintained its right to restart operations without pre-construction review and has continued to report its emissions to TCEQ on annual emission reporting forms. Nevertheless, the ambient ozone monitoring data relied upon by TCEQ to demonstrate attainment of the 8-hour ozone NAAQS does not reflect emissions from the BMC plant due to the plant's temporary shutdown. The reduction in emissions, as evidenced by the 2005-2007 ambient ozone monitoring data, would normally be adequate on its own to demonstrate the "permanent and enforceable" nature of emissions reductions. But, such a conclusion may not be supported without further analysis given the evidence presented herein that the monitoring data does not realistically reflect emissions from BMC's temporarily shutdown plant. *See* Calgani Memorandum at 4 (a state cannot assume sources are operating at permitted levels when evidence is presented to rebut the assumption).

We understand that TCEQ intends to submit the document Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, 8-Hour Ozone Attainment Demonstration for the Beaumont-Port Arthur Ozone Nonattainment Area, Project No. 2005-020-SIP-NR (Sept. 28, 2005) (the "Attainment Demonstration") to EPA at the same time as the Redesignation Proposal. Among other things, the Attainment Demonstration includes "the results of photochemical modeling and technical analyses in support of the demonstration of the [attainment] of the 8-hour ozone standard" for the BPA area. *Id.* at ES-1. The baseline emissions inventory for that modeling included emissions for point sources based on reporting for year 2000, during which the BMC plant was operating. *See* chart in Section C, above. Based

on this modeling analysis, TCEQ may still be able to conclude that the emissions observed in the 2005-2007 ozone monitoring data reflect "permanent and enforceable" emissions reductions due to the BPA area SIP, thus satisfying section 107(d)(3)(E)(iii). *See California v. United States Environmental Protection Agency*, 774 F.2d 1437, 1441 (9th Cir. 1985) (affirming EPA approval of Nevada's request to redesignate the Lake Tahoe Basin to attainment for carbon monoxide based on modeling results that were modified by worst-case monitoring data). TCEQ should make that analysis explicit in the Redesignation Proposal to ensure that EPA will approve it.

2. Failure to adjust the 2005 emissions inventory for typical, representative emissions from the BMC facility may not be consistent with the requirement that the maintenance plan develop an attainment emissions inventory that is comprehensive, accurate and current.

The EPA has stated in its guidance that the emissions inventory "should include the emissions during the time period associated with the monitoring data showing attainment." Calcagni Memorandum at 8. While this normally means actual emissions, states retain the discretion to use different emission estimates in a particular case, if necessary, to be representative. Berry Memorandum at 2. Moreover, all emissions inventories used in nonattainment SIPs must be "comprehensive, accurate, [and] current." 42 U.S.C. §7502(c)(3).

As noted above, TCEQ adjusted the actual measured emissions in a baseline inventory for a modeling demonstration for the Dallas/Fort Worth moderate 8-hour ozone nonattainment area. 73 Fed. Reg. 40203 (July 14, 2008). EPA stated in its proposed rule that TCEQ "made some minor adjustments to the inventory to account for things that would not be expected to occur again or that were not normal (example: inclusion of EGUs that were not operating due to a temporary shutdown during the base case period but were expected to be operating in 2009)." *Id.* at 40210. A similar adjustment to the 2005 emissions inventory is warranted given BMC's temporary shutdown during 2005. Given that TCEQ's attainment demonstration should properly consider the impact of the BMC plant's temporary shutdown on the 2005-2007 ozone monitoring data (*see* Comment 1, above), an adjustment to the 2005 emissions inventory would also make the attainment inventory consistent with the attainment demonstration, itself.

An appropriate adjustment could be made to the 2005 base maintenance inventory using either the 2002 data alone for the BMC plant or the average of its 2000 and 2002 data. Either adjustment would provide a reasonably representative estimate of the plant's actual emissions when not in temporary shutdown. Such an adjustment would have a *de minimis* impact on the 2005 base maintenance inventory for VOCs. VOC emissions in tons per average ozone season day (Redesignation Proposal, Table 2-5) would increase by less than 0.5% (from 42.68 to 42.85, if based on 2002 alone, or 42.82, if based on the average of 2000 and 2002). The adjustment to NOx emissions (Redesignation Proposal, Table 2-6) would be more noticeable but still not large at less than 5% (from 69.49 to 71.64, if based on 2002 alone, or 71.63, if based on the average of 2000 and 2002).

3. Failure to take into account the likely restart of the BMC facility in projecting emissions inventories for the milestone years in the maintenance plan may not be consistent with applicable law and guidance on the development of emissions inventories for maintenance plans.

According to EPA, projected inventories "should consider future growth, including population and industry, should be consistent with the attainment inventory, and should document data inputs and assumptions." Calcagni Memorandum at 9-10. Projected inventories should also "reflect the expected actual emissions based on enforceable emission rates and typical production rates." *Id.* at 10 (emphasis added). Further, EPA (and by extension TCEQ) must be able to provide a "reasoned explanation" for the growth rates it selects to rely on in making its projections. *Appalachian Power Co.*, 251 F.3d at 1034-35 (remanding EPA's growth factor determinations because EPA did not have a reasoned basis for its choices).

BMC understands that the projected emissions inventories for the milestone years and the horizon year (2021) reflected in the Redesignation Proposal are based on (1) the 2005 emissions inventory that includes BMC emissions only at temporary shutdown levels; (2) inclusion of the BMC plant in SIC code 2869; and (3) a zero growth rate for that SIC code because its emissions decreased from 2002 to 2005.[2] This approach seems contrary to Clean Air Act requirements on two counts. First, TCEQ's apparent conclusion that emissions in SIC code 2869 decreased from 2002 to 2005 may have been skewed by the temporary shutdown of the BMC plant. Second, applying a zero growth factor to the 2005 emissions inventory, which did not include representative emissions from the BMC plant, results in future projected emissions inventories that do not accurately reflect BMC's right to restart its plant. Because BMC has maintained the right to restart without pre-construction review, this zero growth factor underestimates emission levels in BMC's industry sector. TCEQ demonstrated its understanding that future growth rates, as applied to the 2005 base maintenance inventory, must accurately reflect future potential growth by adopting special growth factor procedures for several petroleum refineries that have submitted permits for plant expansions. *See* Redesignation Proposal, 4-11 and App. E, §E.3.1. Failure to take similar steps to accurately reflect the potential growth in emissions from the BMC plant creates a risk that the growth factors may be challenged as being inaccurate or inconsistent with the attainment inventory. *See Appalachian Power Co.,* 251 F.3d at 1034-35.

BMC cannot predict the precise impact of including an adjustment to the 2005 base maintenance inventory (*see* Comment 2, above) along with a possible revised growth factor based on the methodology outlined in Appendix E to the Redesignation Proposal. Because the suggested impact to the VOC base maintenance inventory is so small, less than 0.5%, the impact on the projected VOC emissions as of the 2021 horizon year inventory should be immaterial. While the impact on the NOx base maintenance inventory is still small, it might be enough to alter the growth factor applied to SIC code 2869 and thus to impact the 2021 horizon year inventory for NOx by more than the suggested adjustment to the base maintenance inventory. Still, it seems unlikely that the changes to the milestone or horizon year NOx inventories (Redesignation Proposal, Table 4-2) would be so great that TCEQ's predicted decrease in

---

[2] Conversation between Walker Williamson and Tom Dimond, July 31, 2008. While the Redesignation Proposal does not state the growth factors applied to each SIC code, it does state that "[f]or sectors with emission decreases [from 2002 to 2005], the TCEQ did not apply a growth factor to the 2005 emissions." Redesignation Proposal, App. E, §E.3.3.

combined emissions of VOCs and NOx (Redesignation Proposal, Table 4-3) would be materially changed. Accordingly, the suggested changes are unlikely to alter TCEQ's overall conclusion that the BPA will maintain compliance with the 8-hour ozone NAAQS through 2021.

4. Making adjustments for the temporary shutdown of the BMC plant does not require TCEQ to make adjustments for other sources that may not have been operating at full capacity.

BMC understands TCEQ's concern that it is not practical to adjust its data or analyses for every source that may have been operating at less than full capacity during the 2005-2007 monitoring data period or the 2005 base maintenance inventory period. There is no reason or need for such adjustments where growth factors and/or other analytic techniques adequately reflect normal variations in emissions based on changes in hours of operation or production. But, temporary shutdowns that make reported emissions inventory figures non-representative and that have been brought to TCEQ's attention are another matter. TCEQ has made site-specific adjustments to emissions inventories for temporary shutdowns, 73 Fed. Reg. 40203, 40210, and to emission growth factors when needed to adequately reflect the impact of non-normal conditions. Redesignation Proposal, 4-11. Employing a base maintenance inventory and growth factors in the Redesignation Proposal that do not reflect likely future emissions from the BMC plant risks EPA disapproval of the proposal – and unnecessarily so. As indicated above, appropriate adjustments to the analyses and projections in the Redesignation Proposal should not alter the overall conclusions.

V. Conclusion

As noted at the outset, BMC supports and agrees with TCEQ's proposal to redesignate the BPA area to attainment for the 8-hour ozone NAAQS. Still, the proposal must have a sound factual and legal basis so that it will obtain EPA approval and withstand any further legal challenge. For those reasons, the Redesignation Proposal should reflect additional analyses and adjustments to the attainment emissions inventory and/or projections to the milestone and horizon year inventories to reflect representative future emissions from the BMC plant given its right to restart consistent with EPA guidance.

Greater
PORT Arthur Chamber of Commerce
4749 Twin City Hwy., Suite 300 • Port Arthur, TX 77642-5836
(409) 963-1107 • Fax (409) 962-1997 or (409) 963-3322

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

August 8, 2008

Mr. Walker Williamson
SIP Project Manager
MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson:

The South East Texas Regional Planning Commission (SETRPC) Air Quality Advisory Committee (AQAC) enthusiastically supports the TCEQ proposal to request a redesignation of the Beaumont-Port Arthur (BPA) Area to *attainment* of the ozone National Ambient Air Quality Standard (NAAQS).

Unquestionably, the air quality in BPA has improved over time. TCEQ has shown this in its proposal by presenting long-term trends in the ozone design values and exceedance days per year, as well as the long-term trends in NOx concentrations measured by TCEQ monitors. The SETRPC has been monitoring the air quality in BPA since 1989 and our data corroborate the TCEQ trend analysis. Indeed, our monitors at the Southeast Texas Regional Airport and in Mauriceville show roughly 50% decreases in the annual average NOx concentrations during 1990-2007.

Measurements of volatile organic compounds (VOC) show even greater decreases in the levels of some of the most photochemically reactive species. TCEQ did not present ambient VOC trends due to the lack of continuous long-term automated gas chromatography data; however, canister samples collected every 12th day by our contractor and analyzed by a TCEQ accredited laboratory show decreases in the annual average propylene levels at five sites ranging from

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

75% to 87% during 1993-2007. Decreases in ethylene levels over the same period were by margins ranging from 9% to 84%. These long-term trends though measured using EPA Methods TO-14 and TO-15 rather than by auto-gc, support the determination that the improvement in air quality is due to permanent and enforceable reductions in ozone precursor emissions.

SETRPC provides ozone and NOx data from its monitors to TCEQ continuously and in near real-time via the IPS MeteoStar LEADS data transfer protocol. As always, the SETRPC VOC monitoring data and associated Quality Assurance/Quality Control records are available to TCEQ upon request.

If any questions arise, please feel free to contact me at (409) 963-1107. Thank you!

Sincerely,

Mary Ann Reid
President

>>> TRRules 8/18/2008 4:07 PM >>>

>>> <bsago@eastman.com> 8/18/2008 3:55 PM >>>
08/18/2008 03:55 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Brett
Last Name: Sago
Company/Organization: Eastman Chemical Company
E-mail Address: bsago@eastman.com
Street Address: 100 North Eastman Road, B75
City: Kingsport
State: TN
Zip Code: 37660-5075
Phone Number: (423) 229-4827
Fax Number: (423) 229-1895

Rule: 2008-006-SIP-NR

Comments:

Legal Department
Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662-5075

EASTMAN

Brett A. Sago
Senior HSES Attorney
Phone: (423) 229-4827
FAX: (423) 229-1895
bsago@eastman.com

August 18, 2008

VIA ELECTRONIC DELIVERY & FACSIMILE (512) 239-5687

Mr. 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

Re: Comments of Eastman Chemical Company on TCEQ's Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP Revision Project Number 2008-006-SIP-NR, Proposed July 9, 2008

Dear Mr. Williamson:

Congratulations to the Texas Commission on Environmental Quality (TCEQ) and the Beaumont/Port Arthur (BPA) community for succeeding in improving that area's air quality such that the TCEQ may pursue having it redesignated as attaining the 1997, 8-hour ozone National Ambient Air Quality Standard. Eastman Chemical Company (Eastman) is very excited about the prospect of siting its newest operation in an area so interested in improving air quality.

As you may know, Eastman announced on September 28, 2007, that it had exercised its option to purchase a Terra Industries, Inc. business known as BMC Holdings, Inc. (BMC) (TCEQ Account No.: JE-0343-H; Regulated Entity No.: RN102559291; Customer No.: CH601307218) located near Beaumont.[1] Eastman expects to close on the BMC assets on or around January 1, 2009. Eastman is presently identifying all work required to restart these assets and operate them as BMC operated them prior to the temporary shutdown. It is Eastman's ultimate desire to see this facility supplied with raw materials from TX Energy LLC's planned gasification facility.[2] Eastman is looking forward to investing in the future of the Beaumont/Port Arthur area with these two projects.

It has come to our attention, however, that the TCEQ's above-referenced State Implementation Plan ("SIP)" revision does not account for or consider air emissions

[1] See <http://www.eastman.com/Company/News_Center/News_Archive/2007/English/Corporate_News/Financial_News/070928.htm>.
[2] See <http://www.eastman.com/Company/News_Center/News_Archive/2007/English/Corporate_News/Financial_News/070727.htm>.

from the operation of BMC's methanol and ammonia manufacturing asset. The TCEQ's decision to exclude emissions from the BMC plant is effectively a decision to treat the BMC plant as permanently shut down for purposes of the attainment demonstration inventories (the demonstration inventory and the maintenance plan inventory). That decision seems contrary to EPA requirements, similar decisions made by TCEQ in this proceeding, and TCEQ's established pattern of practice in other attainment demonstration proceedings. As noted in the comments filed by BMC (which Eastman supports and incorporates in their entirety here by reference), the BMC plant has been temporarily idled since December 2004 due to market conditions and in accordance with a third party contract. With the expiration of that contract at the end of this year, this BMC plant is permitted, capable and anticipated to recommence operation.

TCEQ's use of 2005 emissions that exclude representative emissions from the BMC plant due to the temporary shutdown inappropriately takes credit for the temporarily reduced BMC emissions (which should be on the order of about 3 tons of nitrogen oxide ("NOx") per day) in the attainment demonstration itself. In EPA's seminal redesignation, that of the Detroit-Ann Arbor nonattainment area, where EPA first applied its newly developed redesignation criteria, EPA stated:

> Section 107 (d)(3)(E)(iii) [of the CAA] requires that, for USEPA to approve a redesignation, it must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions. The September Calcagni memorandum, at p. 4, clarifies this requirement by stating that 'attainment resulting from temporary reductions in emission rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable reductions.'[3]

TCEQ's use of an attainment inventory that includes emission reductions from the temporary idling of the BMC plant would appear to be contrary to EPA's requirement that the relied-upon reductions be permanent and enforceable.

---

[3] Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Michigan, Final Rule, 60 Fed. Reg. 12459, 12469 (March 7, 1995) (codified at 40 C.F.R. pts. 52 and 81). See also State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 Fed. Reg. 13498 (§ III.H.6.) (April 16, 1992) ("...the State must show that the emission inventory that occurred during the time of no violations of the [NAAQS] standard is based on the implementation of permanent and enforceable regulations rather than a 'temporary' reduction in emissions, which may have resulted from a suspension of industrial production or other temporary change in the industrial or economic activity in the area. Reductions in emissions from shutdowns are considered permanent and enforceable to the extent those shutdowns have been reflected in the SIP, and all applicable permits have been modified accordingly.")

Notably, the prohibition on taking credit for temporary shutdowns in the demonstration inventory is a clear exception to the EPA rule that states may otherwise use actual emissions data (as TCEQ has here) for the demonstration inventory. Since the ability to use actual emissions is predicated on the state's ability to make "an adequate demonstration that air quality has improved as a result of the SIP (as discussed previously), the attainment inventory will generally be the actual inventory at the time the area attained the standard."[4] As EPA further discusses, in order to show that air quality has improved as a result of the SIP, the state

> must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. Attainment resulting from temporary reductions in emissions rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) ... would not qualify as an air quality improvement due to permanent and enforceable emissions reductions.[5]

Consequently, TCEQ is not authorized to use actual 2005 emissions from BMC (which reflect a temporary reduction in emissions from over 600 tpy of NOx to less than 1 tpy of NOx) because those emission reductions did not result from the SIP, and are neither permanent nor enforceable.

Similar flaws exist with respect to the maintenance inventory, which also excludes emissions from BMC's expected rate of production. The Calcagni memo provides that to demonstrate maintenance for ozone, "the projected emissions should reflect the expected actual emissions based on enforceable emission rates and typical production rates."[6] The guidance further provides that:

> Any assumptions concerning emission rates must reflect permanent, enforceable measures. In other words, a State generally cannot take credit in the maintenance demonstration for reductions unless there are regulations in place requiring those reductions or the reductions are otherwise shown to be permanent. ... Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly.[7]

---

[4] Memorandum from John Calcagni, Director, Air Quality Management Division, EPA, "Procedures for Processing Requests to Redesignate Areas to Attainment" (Sept. 4, 1992), at p. 8, n. 5 (the "Calcagni Memo").
[5] Id. at 4.
[6] Calcagni Memo at 10.
[7] Id. at 10.

TCEQ's exclusion of BMC's expected future emissions from the maintenance inventory also appears not to be consistent with this EPA policy, since the idling of the BMC facility is temporary, and BMC retains all permits necessary to recommence operations, and expects to do so.

TCEQ's decision with respect to this facility is also inconsistent with its decisions in analogous circumstances in developing the 2005 inventory and the maintenance inventory. Those TCEQ decisions naturally reflect adherence to the EPA guidance discussed above, as well as the general underlying principle that attainment demonstrations must be based on reasonable and realistic emissions inventories.

In this redesignation proceeding, to project future emissions from the 2005 attainment inventory, in order to develop the maintenance inventory, TCEQ "normalized" the 2005 emissions from several oil refineries that are expanding production.[8] Since the refinery expansions are based on recently issued permits, but may not in fact be built, TCEQ obtained information about the plans and expected future emissions of each refinery, as described in Appendix E (E.3.1) of the BPA Redesignation Proposal, including information about whether and when Valero would complete the second phase of its expansion project. It is inconsistent for TCEQ to add emissions to the inventory for refinery expansions that are permitted but not yet operating based on the expectations of the refinery operators but not to add emissions from the BMC facility which is also permitted but not yet operating, particularly where the current and future owners of these assets have communicated an expectation of future operations to the agency.

In addition, TCEQ has established a pattern practice in adjusting its emission inventories where specific information about future operations and emissions is obtained. In developing the Dallas/Fort Worth ("DFW") attainment demonstration, TCEQ investigated and made adjustments to several aspects of the inventory, including adjustments regarding growth in the gas compressor inventory due to expected new oil and gas production, an analysis of expected future use of back-up generators, and adjustments to the air emissions inventory based on additional information regarding expected emissions provided by the airport and city.[9]

---

[8] See Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area, Project No. 2008-006-SIP-NR, proposed July 9, 2008, at 4-11 ("BPA Redesignation Proposal").

[9] Letter from Susana M. Hildebrand, Director, Air Quality Division, TCEQ, to Thomas Diggs, Associate Director for Air Programs, USEPA Region 6, (April 23, 2008) (related to the Dallas-Fort Worth Eight-Hour Ozone State Implementation Plan).

Indeed, in its response to comments on the DFW attainment demonstration, which included the inventory adjustments discussed above, the Commission iterated its policy in developing and adjusting emission inventories as follows:

> The commission uses the most currently available emissions inventory information and EPA-approved models and growth factors to estimate growth of emissions. In addition, the commission conducts special emissions inventory studies when information is provided on anticipated growth of a specific inventory source.[10]

It would seem to be inconsistent with the Commission policy set in the DFW Attainment Demonstration proceeding that the Commission will investigate and adjust emissions inventories when additional information is provided to it, for the Commission to in turn ignore the information regarding BMC's inventory.

Particularly instructive is TCEQ's treatment of temporarily idled electric generating units ("EGU") in the DFW Attainment Demonstration. In this demonstration, where TCEQ found zero emissions from an EGU in the attainment demonstration that had not been retired "the TCEQ checked with the facility to obtain its current operational status."[11] Moreover, in that attainment demonstration, when TCEQ concluded that an EGU shutdown was only temporary, TCEQ used emissions data from an earlier year because "it was more representative of the future emissions of that particular unit."[12]

Since the status of BMC's facility is identical to that of a temporarily idled EGU, consistency obligates TCEQ to verify the intentions of BMC (and Eastman) regarding planned operations, and an adjustment to the emissions data to use prior year data from BMC so that the inventory data will be "more representative of the future emissions of that particular unit." As well, in order to comply with the EPA requirement that states may not take credit in the demonstration inventory for temporary source shutdowns, adjustments must be made to both the future maintenance inventory as well as the demonstration inventory. That is particularly true here, where TCEQ's first projected maintenance inventory is for 2011, which would leave a five year gap between the attainment demonstration inventory and the maintenance inventory. Since the maintenance demonstration "through emission projections must demonstrate that the emissions will not exceed the attainment year inventory, that 5-year gap must be closed

---

[10] See Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution, Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Attainment Demonstration, Project No. 2006-013-SIP-NR, adopted May 23, 2007, Response to Comments at p. 51 ("DFW Attainment Demonstration").
[11] DFW Attainment Demonstration, Appendix B at B-27.
[12] Id.

to be consistent with EPA policy, and therefore requires adjustments to both the demonstration and maintenance inventories."[13]

Based on EPA attainment demonstration requirements regarding treatment of sources temporarily shutdown, as well as the commission's pattern of practice in reflecting future source intentions in its attainment inventories, it would be inappropriate and inconsistent for the Commission to ignore the information provided by BMC and not adjust the inventories as BMC has requested. Since it would appear vacatur of Clean Air Interstate Rule[14] will require at least some revisiting of the proposed inventories in any event, the Commission will have ample opportunity to also correct the BMC emissions. It is for the foregoing reasons, Eastman respectfully requests that the TCEQ include BMC's emissions in its BPA Redesignation Proposal.

Should you have any questions, please feel free to contact me at 423-229-4827. With kind regards, I am

Yours very truly,

EASTMAN CHEMICAL COMPANY

Brett A. Sago
Senior Health, Safety,
Environmental & Security Attorney

[13] 60 Fed. Reg. 12459, 12472.
[14] See North Carolina v. EPA, No. 05-1244 (D.C. Cir., July 11, 2008) (vacating the CAIR rule).

>>> TRRules 8/18/2008 5:15 PM >>>

>>> <matthew.kuryla@bakerbotts.com> 8/18/2008 4:42 PM >>>
08/18/2008 04:42 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Matthew
Last Name: Kuryla
Company/Organization: Baker Botts L.L.P.
E-mail Address: matthew.kuryla@bakerbotts.com
Street Address: 910 Louisiana
City: Houston
State: TX
Zip Code: 77002
Phone Number: 713-229-1114
Fax Number: 713-229-2714

Rule: 2008-006-SIP-NR

Comments:

BAKER BOTTS L.L.P.

ONE SHELL PLAZA
910 LOUISIANA
HOUSTON, TEXAS
77002-4995
713.229.1234
FAX 713.229.1522

AUSTIN
BAKU
DALLAS
HOUSTON
LONDON
NEW YORK
WASHINGTON

August 18, 2008

Matthew L. Kuryla
713/229-1114
FAX 713/229-1522
matthew.kuryla@bakerbotts.com

Mr. Walker Williamson
SIP Project Manager, MC 206
State Implementation Plan Team
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Beaumont-Port Arthur Redesignation Request and Maintenance Plan SIP revision; Project Number 2008-006-SIP-NR

Dear Mr. Williamson:

The Texas Industry Project ("TIP")[1] appreciates the opportunity to provide comments on the proposed request by the Texas Commission on Environmental Quality ("TCEQ") for redesignation of the Beaumont/Port Arthur Area ("BPA") to attainment of the eight-hour ozone National Ambient Air Quality Standard ("NAAQS"). TIP strongly supports the proposed redesignation of BPA to attainment. BPA-area TIP members have worked hard over several years to achieve ozone attainment.

TIP is concerned, however, that the proposed action is not comprehensive, in that it does not make an express request for redesignation to attainment of the one-hour ozone standard. TIP notes that the data underlying the eight-hour attainment redesignation request also supports one-hour ozone attainment. "The one-hour ozone DV in 2007 for the BPA area was 107 ppb which meets the former one-hour ozone NAAQS." TCEQ, *Eight-Hour Ozone Redesignation Request and Maintenance Plan for the Beaumont-Port Arthur Ozone Nonattainment Area*, Section 2.1.2 (Proposed July 9, 2008). In fact, the data in the proposal establish that BPA attained the one-hour standard *by its attainment date*. *Id.*, Figure 2-3.

TIP notes that EPA has proposed a one-hour ozone attainment determination for the DFW area. *See* 73 *Fed. Reg.* 39,897 (July 11, 2008). Based on the current one-hour observations in BPA, TCEQ should pursue a one-hour attainment determination for the BPA area.

[1] TIP is composed of 66 companies in the chemical, refining, oil and gas, electronic, forest products, terminal, electric utility and transportation industries with operations in Texas. A list of TIP member companies is attached (Attachment A).

TIP strongly urges the TCEQ to:

1. Request that EPA formally redesignate BPA to attainment of the eight-hour ozone NAAQS;

2. Make a formal finding that BPA attained the one-hour ozone NAAQS by its attainment date;

3. Request that EPA formally find that BPA attained the one-hour ozone standard by its attainment date, and formally redesignate BPA to attainment of the one-hour ozone NAAQS; and

4. Request that EPA formally determine that one-hour NAAQS anti-backsliding requirements (including New Source Review requirements under the one-hour standard) need not, and will not, take effect in BPA.

In light of the success of our mutual efforts to achieve ozone attainment, it is fundamentally unfair for TCEQ to leave the specter of one-hour ozone anti-backsliding requirements unaddressed for BPA-area stakeholders. TCEQ should build the above elements into a single, comprehensive action confirming the success of BPA-area sources in achieving ozone attainment goals.

For further information regarding these comments, please contact me at the above address and telephone number.

Sincerely,

Matthew L. Kuryla

Baker Botts L.L.P.

2008 Environmental Clients Group (Texas Industry Project)

1. Albemarle Corporation
2. Arkema Inc.
3. BASF Corporation
4. BP
5. Celanese Chemicals, Ltd.
6. CenterPoint Energy Houston Electric, LLC
7. Chevron Corporation
8. Chevron Phillips Chemical Company LP
9. CITGO Petroleum Corporation
10. ConocoPhillips
11. DCP Midstream, LLC
12. Degussa Engineered Carbons, LP
13. Delek Refining Ltd.
14. Dixie Chemical Company, Inc.
15. Dow Chemical Company, The
16. Dynegy Inc.
17. Eagle Rock Energy
18. Eastman Chemical Company
19. E. I. Du Pont de Nemours & Company
20. Entergy Texas
21. Enterprise Products Operating LLC
22. Exelon Power Texas
23. ExxonMobil Chemical Company
24. Firestone Polymers, LLC
25. GB Biosciences Corporation
26. Goodyear Tire & Rubber Company, The
27. Halliburton Company
28. Huntsman Corporation
29. INEOS NOVA LLC
30. INEOS USA LLC
31. Intercontinental Terminals Company
32. International Paper Company
33. International Power
34. Kinder Morgan Liquids Terminals, LLC
35. LANXESS Corporation
36. LBC Houston, LP
37. Lockheed Martin Aeronautics Company
38. LyondellBasell Industries
39. Marathon Petroleum Company LLC
40. MeadWestvaco Corporation
41. Merisol USA, L.L.C.
42. NRG Texas Power LLC
43. Occidental Chemical Corporation
44. Odfjell Terminals (Houston) LP
45. Oiltanking Holding USA, Inc.
46. Pasadena Refining System, Inc.
47. Praxair, Inc.
48. Reliant Energy, Inc.
49. Rohm and Haas Texas, Incorporated
50. Shell Oil Company
51. Shintech, Inc.
52. Solutia Inc.
53. Spansion LLC
54. Sterling Chemicals, Inc.
55. Stolthaven Houston Inc.
56. Suez Energy North America
57. T3 Energy Services, Inc.
58. TARGA
59. Temple-Inland Inc.
60. Texas Instruments Incorporated
61. Texas Petrochemicals LP
62. Total Petrochemicals USA, Inc.
63. Union Pacific Railroad Company
64. Valero Energy Corporation
65. Vopak Logistics North America, Inc.
66. Western Refining Co., L.P.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

August 18, 2008

Ms. Theresa Pella, Manager
Air Quality Planning Section
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Pella:

We have reviewed the proposed revisions to the Beaumont – Port Arthur State Implementation Plan (SIP) Redesignation Request and Maintenance Plan for Eight-hour Ozone (Rule Project Number 2008-006-SIP-NR). We appreciate the efforts of the State in proposing these important revisions to the Beaumont - Port Arthur SIP. Moreover, we would like to commend the State for working collaboratively with local stakeholders through the Southeast Texas Regional Planning Commission to improve air quality in the BPA area. We are glad to have the opportunity to participate in the public review process and provide the enclosed comments.

As we have discussed with the TCEQ staff, on July 11, 2008, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated EPA's Clean Air Interstate Rule (CAIR). (*State of North Carolina. v. EPA,* No. 05-1244 (D.C.Cir. 2008)). At the present time, EPA is considering what actions to take in response to the court decision, including evaluating the impacts of the court decision on SIPs that relied on the CAIR. In the meantime, we urge that TCEQ revise the BPA Redesignation Request and Maintenance Plan in order to make this SIP as independent of CAIR as possible.

Included as part of the enclosed comments, the SIP needs to be revised to include an analysis of the model year 2006 for the Clean Fuel Vehicle Program, as well as to clarify the Contingency Plan to provide more certainty regarding implementation of contingency measures.

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Recycled Paper (40% Postconsumer)

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

Thank you for the opportunity to comment on the proposed revision. We appreciate the work TCEQ has done and look forward to working with TCEQ to attain and maintain the National Ambient Air Quality Standards in the Beaumont – Port Arthur area. If you have questions regarding any of these comments, please feel free to contact me or Ellen Belk at (214) 665-2164.

Sincerely yours,

Guy R. Donaldson,
Chief
Air Planning Section

Enclosure

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

EPA Comments on Proposed Revisions to the Beaumont/Port Arthur State Implementation Plan for Ozone (Rule Project Number 2008-006-SIP-NR)

1. We support the Texas Emissions Reductions Program (TERP) as an emissions reduction measure in the BPA SIP revision. The numbers TX provided for TERP are correct and the area will see additional reductions from the applications received for the 2008 funding period. The area is eligible to apply for additional funds in 2009, so the reductions from TERP could increase even more.

2. Because of the importance of motor vehicle emission budgets to transportation planning, the VOC and NO_x motor vehicle emission budget and applicable year must be clearly delineated, preferably in a table.

3. The text in Chapter 2, page 2-1, 2.1.1, need to be changed to reflect EPA's threshold of attainment for the 1997 ozone standard which is 84 ppb, not 85 ppb.

4. In Chapter 2, page 2-7, *Clean Fuel Vehicles Programs under Section 182(c) (4) of the FCAA,* beginning with second paragraph, the analysis must include model year 2006. The reasoning for this is that the new attainment date was as expeditious as practicable but no later than November 15, 2005, and a serious 1-hour ozone SIP was due to EPA no later than April 24, 2005. Therefore, the State was required to cover model year 2006, i.e., September 1, 2005, under the Clean Fuel Fleet Program.

5. In Chapter 2, page 2-7, *Clean Fuel Vehicles Programs under Section 182(c) (4) of the FCAA,* fourth paragraph, it states that the recent federal standards for both light-duty and heavy-duty vehicles have "essentially rendered the CFV standards obsolete." Although the federal standards for new vehicles have eclipsed the current federal CFF standards, the FCAA retains the CFF mandatory provision and therefore the CFF program requirement is not legally obsolete. Therefore, please replace this language with a phrase such as "eclipsed the CFV standards".

6. In Chapter 2, pages 2-7 to 2-9, *Clean Fuel Vehicles Programs under Section 182(c) (4) of the FCAA*, there is an analysis to show there are no SIP credits for a CFF program beginning with model year 2007 (which needs to be re-analyzed to include model year 2006 – please see comment 4 above). This discussion needs to include a clear explanation about the lack of benefit from a CFFP such as: "Beginning with model year 2006, the analysis shows that the federal standards for new vehicles have eclipsed the current CFF standards and that no benefit would be derived from a CFFP; therefore, no substitute reductions are required from the State."

7. Chapter 4, pages 4-2 and 4-3: Table 4-3 illustrates that the NO_x emissions will decrease by 20.53 tons/day and the VOC emissions will increase by 12.80 tons/day. Much evidence is presented in Table 4-4 and the surrounding text to

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

demonstrate that the decreases in the NO_x future inventories more than sufficiently offset the increases in VOCs. It would be helpful for TCEQ to add a summary of this analysis to the last paragraph in Section 4.2, which could be revised as follows:

> "The trend analysis shows an overall decrease of 7.73 tons per average ozone season day in combined NO_x and VOC emissions for the BPA area. This is the net change including a projected 12.80 tpd increase in VOC and a 20.53 tpd decrease in NO_x. Also, photochemical modeling analysis for the BPA area shows that reducing NO_x emissions is expected to be more than 3 times as effective in reducing the ozone design value as VOC reductions. Therefore, the projected 20.53 tpd decrease of NO_x will more than offset the projected 12.80 tpd increase of VOC. Based on future trends and additional photochemical analysis, the BPA area is projected to show continued attainment through the end of the ten-year period following redesignation under the 1997 eight-hour ozone standard."

8. Chapter 4, pages 4-11 to the top of page 4-12, Tables 4-16 and 4-17 and Figures 4.1 and 4.2: Because of the recent D.C. appellate court ruling that vacated CAIR, as mentioned in the cover letter, we strongly urge TCEQ to revise its future inventories by removing any reliance upon CAIR.

9. In Chapter 5, please refer to EPA's air monitoring database as Air Quality System (AQS) instead of AIRS.

10. Chapter 5, second paragraph: We note that the monitors operated by SETRPC in the Beaumont/Port Arthur area provide important information. However, since there is no commitment in the proposed SIP from the SETRPC to continue to maintain its monitoring network in accordance with 40 CFR part 58, we also note that in the unlikely event that the SETRPC discontinues use of one or more of the ozone monitors, it may be necessary for TCEQ to replace one or more monitors to maintain an adequate network.

11. Chapter 6, Contingency Plan: For the purposes of Section 175A, a contingency plan should clearly identify the measures to be adopted, a schedule for adoption and implementation, and a specific time limit for action by the State. As a necessary component of the plan, the State also should identify specific indicators, or triggers, which will be used to determine when the contingency measures will be implemented. We have the following specific comments:

    a) In section 6.2, the second paragraph, the last sentence: Revise this sentence to more clearly identify the measures to be adopted; for example, "Contingency measures for implementation include, but are not limited to the following."

RECEIVED
AUG 18 2008
AIR QUALITY
DIVISION

b) Regarding section 6.2, the second to last paragraph, last sentence: to ensure that the schedule for implementation and the definition of the trigger are not ambiguous:

i) The phrase "would be adopted" must be changed to "will be adopted".

ii) The following parenthetical "(subject to commission approval and opportunity for public comment)" must be deleted.

ii) Also, regarding the trigger, we understand that TCEQ will continue to report air monitoring data in the BPA area to EPA on the schedule required by 40 CFR part 58.