

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

VICTORIA COUNTY 1997 EIGHT-HOUR OZONE  
ATTAINMENT AREA



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

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

PROJECT NUMBER 2009-033-SIP-NR

Adoption  
July 28, 2010

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## EXECUTIVE SUMMARY

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

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

In early 2009, EPA Region 6 staff informed the TCEQ that to approve the Victoria County 1997 Eight-Hour Ozone Maintenance Plan, the contingency plan must be revised to contain an enforceable commitment to adopt and implement the contingency measures once they are triggered. The plan must also clearly identify the measures to be adopted and a specific schedule and procedure for adoption and implementation. Although the contingency plan is not required to specify exactly which contingency measures will be implemented, the potential contingency measures identified in the plan must be specific. The Victoria County 1997 Eight-Hour Ozone Maintenance Plan did not contain a list of specific contingency measures, but rather a commitment to identify and develop appropriate regulations to bring the design value below 85 ppb.

This SIP revision contains a revised contingency plan which fulfills EPA guidance requiring Section 110(a)(1) maintenance plan areas to include in the contingency plan an enforceable commitment to adopt and implement the contingency measures once triggered, and identify measures to be adopted. The current contingency plan includes six 30 Texas Administrative Code (TAC) rules the TCEQ may choose to amend should Victoria County monitoring data indicate the area has violated the 1997 eight-hour ozone NAAQS. The rules listed are included in the Chapter 114 Texas Low Emission Diesel (TxLED) compliant marine diesel rule, Chapter 115 volatile organic compounds (VOC) emission controls for storage tanks, and Chapter 117 nitrogen oxides (NO<sub>x</sub>) controls for combustion engines. Those to be considered include but are not limited to the control measures identified, as the most appropriate contingency measures may be significantly different from the measures mentioned.

This SIP revision is an amendment to the Victoria County 1997 Eight-Hour Ozone Maintenance Plan as required by the FCAA and no new control measures have been incorporated into this revision.

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

## SECTION V: LEGAL AUTHORITY

### A. General

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

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

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

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

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

Subchapters G and H of the TCAA authorize the TCEQ to establish vehicle inspection and maintenance programs in certain areas of the state, consistent with the requirements of the Federal Clean Air Act; coordinate with federal, state, and local transportation planning agencies to develop and implement transportation programs and measures necessary to attain and maintain

the NAAQS; establish gasoline volatility and low emission diesel standards; and fund and authorize participating counties to implement vehicle repair assistance, retrofit, and accelerated vehicle retirement programs.

**B. Applicable Law**

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

**Statutes**

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

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

**Chapter 5: Texas Natural Resource Conservation Commission**

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

**Chapter 7: Enforcement**

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

**Rules**

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

- Chapter 7: Memoranda of Understanding, §§ 7.110 and 7.119 May 2, 2002
- Chapter 19: Electronic Reporting March 1, 2007
- Chapter 35: Subchapters A-C, K: Emergency and Temporary Orders and Permits; Temporary Suspension or Amendment of Permit Conditions July 20, 2006
- Chapter 39: Public Notice, §§ 39.201; 39.401; 39.403(a) and (b)(8)-(10); 39.405(f)(1) and (g); 39.409; 39.411 (a), (b)(1)-(6), and (8)-(10) and (c)(1)-(6) and (d); 39.413(9), (11), (12), and (14); 39.418(a) and (b)(3) and (4); 39.419(a), (b), (d), and (e); 39.420(a), (b) and (c)(3) and (4); 39.423 (a) and (b); 39.601-39.605 March 29, 2006
- Chapter 55: Requests for Reconsideration and Contested Case Hearings; Public Comment, §§ 55.1; 55.21(a) - (d), (e)(2), (3), and (12), (f) and (g); 55.101(a), (b), and (c)(6) - (8); 55.103; 55.150; 55.152(a)(1), (2), and (6) and

(b); 55.154; 55.156; 55.200; 55.201(a) - (h); 55.203; 55.205; 55.209, and 55.221	March 29, 2006
Chapter 101: General Air Quality Rules	March 10, 2010
Chapter 106: Permits by Rule, Subchapter A	June 30, 2004
Chapter 111: Control of Air Pollution from Visible Emissions and Particulate Matter	July 19, 2006
Chapter 112: Control of Air Pollution from Sulfur Compounds	July 16, 1997
Chapter 113: Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants	May 14, 2009
Chapter 114: Control of Air Pollution from Motor Vehicles	June 26, 2008
Chapter 115: Control of Air Pollution from Volatile Organic Compounds	March 10, 2010
Chapter 116: Permits for New Construction or Modification	May 29, 2008
Chapter 117: Control of Air Pollution by Control of Air Pollution from Nitrogen Compounds	March 4, 2009
Chapter 118: Control of Air Pollution Episodes	March 5, 2000
Chapter 122: § 122.122: Potential to Emit	December 11, 2002
Chapter 122: § 122.215: Minor Permit Revisions	June 3, 2001
Chapter 122: § 122.216: Applications for Minor Permit Revisions	June 3, 2001
Chapter 122: § 122.217: Procedures for Minor Permit Revisions	December 11, 2002
Chapter 122: § 122.218 Minor Permit Revision Procedures for Permit Revisions Involving the Use of Economic Incentives, Marketable Permits, and Emissions Trading	June 3, 2001

## SECTION VI: CONTROL STRATEGY

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

## LIST OF ACRONYMS

CFR	Code of Federal Regulations
EPA	United States Environmental Protection Agency
FCAA	Federal Clean Air Act
NAAQS	National Ambient Air Quality Standard
NO <sub>x</sub>	Nitrogen Oxides
ppb	Parts Per Billion
ppm	Parts Per Million
psia	Pounds per Square Inch Absolute
SIP	State Implementation Plan
TAC	Texas Administrative Code
TACB	Texas Air Control Board
TCAA	Texas Clean Air Act
TCEQ	Texas Commission on Environmental Quality (commission)
TNRCC	Texas Natural Resource Conservation Commission
TxLED	Texas Low Emission Diesel
VOC	Volatile Organic Compounds

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## CHAPTER 1: GENERAL

### 1.1 BACKGROUND

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

### 1.2 INTRODUCTION

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

#### 1.2.1 History

##### 1.2.1.1 One-Hour Ozone History in Victoria County

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

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

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

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

In 1997, the one-hour ozone standard was replaced by the more protective eight-hour ozone standard. The one-hour standard has been revoked in all areas, although former one-hour ozone nonattainment areas such as Victoria County have continuing obligations to comply with the anti-backsliding requirements described in 40 Code of Federal Regulations (CFR) 51.905(a).

##### 1.2.1.2 1997 Eight-Hour Ozone History in Victoria County

On April 30, 2004 (69 FR 23858), the EPA designated and classified areas for the 1997 eight-hour ozone NAAQS with an effective date of June 15, 2004. Also on April 30, 2004 (69 FR 23951), the EPA published the final Phase 1 implementation rule of the 1997 eight-hour ozone NAAQS. Sections 51.905(c) and (d) of 40 CFR Part 51, Subpart X established anti-backsliding

requirements as part of that rulemaking. These requirements applied to areas, such as Victoria County, designated attainment for both the 1997 eight-hour ozone standard and the one-hour ozone standard with an approved one-hour maintenance plan. These provisions require affected states to submit a ten-year maintenance plan under Section 110(a)(1) of the FCAA.

#### 1.2.1.3 Current Victoria County Contingency Plan SIP Revision

This Victoria County Contingency Plan SIP Revision contains a revised contingency plan that fulfills EPA guidance<sup>1</sup> requiring Section 110(a)(1) maintenance plan areas to include in the contingency plan an enforceable commitment to adopt and implement the contingency measures once triggered, and identify measures to be adopted. The current contingency plan includes six 30 Texas Administrative Code (TAC) rules that the state may amend to include Victoria County if monitoring data indicate the area has violated the 1997 eight-hour ozone NAAQS. The rules listed are included in the Chapter 114 Texas Low Emission Diesel (TxLED) rule, Chapter 115 volatile organic compounds (VOC) emission controls for storage tanks, and Chapter 117 nitrogen oxides (NO<sub>x</sub>) controls for combustion engines.

### **1.3 HEALTH EFFECTS**

In 1997, the EPA revised the NAAQS for ozone from a one-hour to an eight-hour standard. To support the 1997 eight-hour ozone standard, the EPA provided information indicating that health effects can occur at levels lower than the previous standard and at exposure times longer than one hour. High concentrations of one-hour ozone were not shown to correlate well with mortality. Exposure to ambient ozone can aggravate asthma in some people. Repeated exposures to ozone can make people more susceptible to respiratory infection and lung inflammation and can aggravate preexisting respiratory diseases, such as bronchitis and emphysema.

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

### **1.4 PUBLIC HEARING INFORMATION**

The commission offered a public hearing for the proposed SIP revision on February 23, 2010, at 6:00 p.m. at the City of Victoria's North Main Building. A question and answer session was held 30 minutes prior to the hearing. The hearing was not officially opened because no party indicated a desire to give comment.

The public comment period opened January 20, 2010, and was extended from the proposed February 23, 2010, date to end on March 1, 2010, in order to allow additional time to ensure public notification. Written comments were accepted via mail, fax, and through the eComments system. The same comment letter was received from Citizens for a Clean Environment; Citizens Opposed to Power Plants for Clean Air; KIDS for Clean Air; Multi-County Coalition; Robertson County: Our Land Our Lives; Sustainable Energy and Economic Development Coalition; and Texans Protecting Our Water, Environment and Resources. A summary of the comment and the TCEQ response is provided as part of this SIP revision in Appendix B: Response to Comments.

An electronic version of this SIP revision can be found on the TCEQ Web site at <http://www.tceq.state.tx.us/implementation/air/sip/vic.html>.

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

### **1.5 SOCIAL AND ECONOMIC CONSIDERATIONS**

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

### **1.6 FISCAL AND MANPOWER RESOURCES**

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

## **CHAPTER 2: ATTAINMENT EMISSIONS INVENTORY**

(No Change)

## **CHAPTER 3: MAINTENANCE DEMONSTRATION**

(No Change)

## **CHAPTER 4: MONITORING NETWORK**

(No Change)

## CHAPTER 5: CONTINGENCY PLAN

### 5.1 BACKGROUND

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

### 5.2 CONTINGENCY MEASURES AND TRIGGER LEVELS

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

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

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

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

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

If air quality monitoring data indicate that Victoria County's design value violates the 1997 eight-hour ozone NAAQS with a monitored value of 85 ppb or above, the TCEQ will implement specific contingency measures to promptly correct the violation. Those to be considered include but are not limited to the control measures identified below. The most appropriate contingency measures may be significantly different from the measures mentioned below due to technological, societal, economic, and political factors that are impossible to predict. Contingency measures will be implemented as expeditiously as practicable, but no later than 24 months after verified air quality monitoring data indicate that the Victoria County three-year average of each annual fourth-highest daily maximum eight-hour ozone average violates the 1997 eight-hour ozone NAAQS.

- Revision to 30 Texas Administrative Code (TAC) Chapter 117 Subchapter E, Division 4, to control rich-burn, gas-fired, reciprocating internal combustion engines located in Victoria County to meet nitrogen oxides (NO<sub>x</sub>) emission specifications and other requirements to reduce NO<sub>x</sub> emissions and ozone air pollution.
- Inclusion of Victoria County in 30 TAC Chapter 115 volatile organic compounds (VOC) rules for the control of crude and condensate storage tanks at upstream oil and gas exploration and production sites or midstream pipeline breakout stations with uncontrolled flash emissions greater than 25 tons per year.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for more stringent controls for tank fittings on floating roof tanks, such as slotted guidepoles and other openings in internal and external floating roofs.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules limiting emissions from landings of floating roofs in floating roof tanks.
- Inclusion of Victoria County in 30 TAC Chapter 115 VOC rules for control of VOC emissions from degassing operations for storage tanks with a nominal capacity of 75,000 gallons or more storing materials with a true vapor pressure greater than 2.6 pounds per square inch absolute (psia), or with a nominal capacity of 250,000 gallons or more storing materials with a true vapor pressure of 0.5 psia or greater. Degassing vapors from storage vessels, transport vessels, and marine vessels would be required to vent to a control device until the VOC concentration of the vapors is reduced to less than 34,000 parts per million by volume as methane.
- Inclusion of Victoria County in 30 TAC Chapter 114 rule for Texas Low Emission Diesel (TxLED) compliant marine diesel.

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

## **APPENDIX A**

### **City of Victoria Voluntary Control Measures**



## CITY OF VICTORIA

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

### ENVIRONMENTAL SERVICES DEPARTMENT

700 Main Center, Suite 108

September 8, 2009

Holly Brightwell  
Air Quality Planning Staff

Dear Holly,

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

**Deliverables:**

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

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



## CITY OF VICTORIA

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### ENVIRONMENTAL SERVICES DEPARTMENT

700 Main Center, Suite 108

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

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

Regards,

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

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

## **APPENDIX B**

### **Response to Comments**

**RESPONSE TO COMMENTS RECEIVED REGARDING  
THE CONTINGENCY PLAN REVISION TO THE 1997  
EIGHT-HOUR OZONE MAINTENANCE PLAN FOR THE  
VICTORIA COUNTY OZONE ATTAINMENT AREA  
STATE IMPLEMENTATION PLAN REVISION**

The commission offered a public hearing in Victoria on February 23, 2010, at 6:00 p.m. Staff was available for a question and answer session which was held 30 minutes prior to the hearing. The hearing was not officially opened because no party indicated a desire to provide comment.

The comment period opened January 20, 2010, and closed March 1, 2010. The commission received the same comment letter from: Citizens for a Clean Environment; Citizens Opposed to Power Plants (COPPs) for Clean Air; KIDS for Clean Air (KIDS); Multi-County Coalition; Robertson County: Our Land Our Lives (Our Land Our Lives); Sustainable Energy and Economic Development (SEED) Coalition; and Texans Protecting Our Water, Environment and Resources (TPOWER).

**RESPONSE TO COMMENTS**

Citizens for a Clean Environment, COPPs, KIDS, Multi-County Coalition, Our Land Our Lives, SEED, and TPOWER requested that the Texas Commission on Environmental Quality (TCEQ) extend the public comment period to allow time to comment on the emissions inventory (EI) used in the Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area (Victoria County 1997 Eight-Hour Ozone Maintenance Plan) submitted to the United States Environmental Protection Agency (EPA) in March 2007. The commenters stated that the EI used in the Victoria County 1997 Eight-Hour Ozone Maintenance Plan was not made available by the March 1, 2010, close of comment period.

**The Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area EI was adopted and submitted to the EPA in 2007. No changes to the EI were proposed as part of this SIP revision, which only pertains to changes in the contingency measures portion of the maintenance plan, and is therefore beyond the scope of this SIP revision.**

**The request for the EI was made February 23, 2010, and staff supplied the EI on March 3, 2010. The commission did not extend the public comment period based on this request, and has made no changes in response to this request.**

Citizens for a Clean Environment, COPPs, KIDS, Multi-County Coalition, Our Land Our Lives, SEED, and TPOWER observed that contingency measure trigger levels are not practically enforceable, stating that contingency measures triggered upon 82 parts per billion (ppb), 83 ppb, and a violation at 85 ppb of the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS) fail to meet federal standards for "expeditiously implemented" because the contingency measure will be implemented no later than 24 months after the TCEQ's notification that the county has monitored above the relevant trigger. Additionally, the commenters stated that contingency measures triggered upon a design value at or above 82 ppb will not be developed or implemented until 30 days after notification by the TCEQ that the contingency measure will be required, and there is no specific schedule, procedure or time limit for the TCEQ to act upon any of the triggers.

**The TCEQ has met every requirement as described in EPA guidance<sup>1</sup>. EPA guidance states that contingency measure schedules for adoption and implementation should be as expeditiously as possible but no later than 24 months.**

**EPA guidance requires triggers upon a monitored violation of the 1997 eight-hour ozone standard. The SIP revision contains three early triggers that are designed to promptly correct an increase in Victoria County's design value prior to an actual violation, as well as the required trigger upon a violation of the NAAQS. The Victoria County ozone design value continues to trend downward. The Victoria County design value for 2007, 2008, and 2009 is 65 ppb.**

**The TCEQ disagrees with the commenters' interpretation of the implementation of contingency upon 82 ppb. The language in the SIP revision specifies that the program will be developed and available *within* 30 days after notification by the TCEQ, not until 30 days after notification. The commission has made no changes in response to this request.**

Citizens for a Clean Environment, COPPs, KIDS, Multi-County Coalition, Our Land Our Lives, SEED, and TPOWER stated that the contingency measures still fail to ensure that citizens are not exposed to unhealthy levels of air pollution because all triggers prior to a violation of the 1997 eight-hour ozone standard are voluntary, and therefore provide no assurances that the 1997 NAAQS will not be violated.

The commenters stated that during TCEQ's Prevention of Significant Deterioration (PSD) permitting review, the TCEQ had taken the position that potential ozone emission impacts from proposed PSD major sources are reviewed "through the SIP development process rather than through individual permitting actions." The commenters stated that the TCEQ must consider these types of emissions during the Contingency Plan Revision to the 1997 Eight-Hour Ozone Maintenance Plan for the Victoria County Ozone Attainment Area (Victoria County Contingency Plan SIP Revision) development process.

The commenters stated that precursor emissions from sources in nearby counties can contribute to ozone problems in Victoria County, and cited three point sources that have new PSD permits or are in the PSD application process. The commenters stated that these sources will increase ozone precursor emissions during the maintenance period.

Additionally, the commenters suggest using a contingency measure trigger based on emission levels.

**The TCEQ disagrees with the commenters' assertion that the maintenance plan contingency measures must provide assurance that the ozone NAAQS will never be violated. Contingency measures are meant to correct a violation, not prevent its occurrence. However, though not required under federal rules, the Victoria County maintenance plan contains early contingency triggers that could avoid a violation. Two of the three early triggers are agreements with the City of Victoria and local businesses. This relationship will continue to benefit both the Victoria area and the local air quality.**

**The attachment provided by the commenters did not include the text quoted by the commenters. The TCEQ reviews potential ozone impacts from PSD major sources through the SIP process when projections of future emissions are necessary. Individual permit actions may also address potential ozone effects. In fact, the TCEQ response referenced in the attachment indicates that an ozone analysis was performed for the application in question. This SIP revision applies only to changes to the Contingency Plan portion of the Victoria County 1997 Eight-Hour Ozone Maintenance Plan. No changes to emission**

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

projections were proposed in this revision. Therefore, the issue of proposed point source emissions is outside the scope of this revision. The commission refers the commenter to the maintenance plan submittal to EPA adopted March 7, 2007. That plan addresses future emissions, including point sources, for Victoria County as part of the ozone maintenance demonstration.

In accordance with EPA guidance, contingency measures are triggered upon monitored data expressed in terms of a design value. Using proposed emission levels for a particular point source located outside the plan area, as suggested by the commenter, is not appropriate as a contingency trigger, because it is not based on actual monitoring of the airshed. Potential emissions of precursor pollutants outside Victoria County will not necessarily equate to a violation or an early trigger of the ozone NAAQS. The previously submitted maintenance plan and the present contingency measure revision include an emission inventory, monitoring data, growth estimates, a demonstration of maintenance of the 1997 eight-hour ozone NAAQS, and measures to avoid or correct a potential violation.

The commission determines that the Victoria County 1997 Eight-Hour Ozone Maintenance Plan along with the Victoria County Contingency Plan SIP Revision meet all FCAA requirements for demonstrating maintenance of the 1997 eight-hour ozone NAAQS in Victoria County. The commission has made no changes in response to this request.

Citizens for a Clean Environment, COPPs, KIDS, Multi-County Coalition, Our Land Our Lives, SEED, and TPOWER stated that the TCEQ must comply “with all court decisions issued after TCEQ’s initial adoption of the SIP revision concerning ozone NAAQS or the adoption of EPA’s phase I and II implementation rules and any guidance.”

As stated above, the TCEQ previously submitted a maintenance plan in March 2007, and with the current revision to Chapter 5: Contingency Plan, all federal SIP requirements are satisfied consistent with the relevant guidance. The commission is unaware of - nor did the commenters mention - any court decision that specifically changes maintenance plan requirements affecting the ability of the EPA to approve the Victoria County Contingency Plan SIP Revision.