

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary § 165.T13–019 is added to read as follows:

§ 165.T13–019 Temporary Safety Zone; Port of Cascade Locks Fireworks Display, Columbia River, Cascade Locks, Oregon.

(a) **Location.** The following area is a safety zone: the navigable waters of the Columbia River in the vicinity of Port Marine Park in Cascade Locks, Oregon,

bounded by a 400' radius from the fallout area centered on land at point 45°39'56" N, 121°53' 47" W.

(b) **Regulations.** In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) **Effective dates.** This regulation is effective from 11:30 p.m. (PST) on December 31, 2004, to 12:30 a.m. (PST) on January 1, 2005.

Dated: December 17, 2004.

Paul D. Jewell,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 04–28552 Filed 12–30–04; 8:45 am]

BILLING CODE 4910–75–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2004–TX–0003; FRL–7856–7]

Approval and Promulgation of Implementation Plans; Texas; Victoria County Maintenance Plan Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the Texas Commission on Environmental Quality (TCEQ) on February 18, 2003, concerning the Victoria County 1-hour ozone maintenance area. This SIP revision satisfies the Clean Air Act requirement as amended in 1990 for the second 10-year update to the Victoria County 1-hour ozone maintenance area.

DATES: This rule is effective on March 4, 2005 without further notice, unless EPA receives adverse comment by February 2, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Materials in EDocket (RME) ID No. R06–OAR–2004–TX–0003, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://docket.epa.gov/edocket/>. Regional Materials in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the

system, select "quick search," then key in the appropriate RME Docket identification number. Follow the online instructions for submitting comments.

- EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6comment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at diggs.thomas@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R06–OAR–2004–TX–0003. EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Materials in EDocket (RME), regulations.gov or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Materials in EDocket (RME) index at <http://docket.epa.gov/rempub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in the official file, which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Peggy Wade, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address wade.peggy@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we" "us" or "our" is used, we mean the EPA.

Outline

- I. Background
- II. Analysis of the State's Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

On March 3, 1978, under the 1977 Clean Air Act (CAA) amendments, Victoria County, Texas, was designated a nonattainment area because it did not meet the National Ambient Air Quality Standards (NAAQS) for ozone (43 FR 8962). As required by the CAA, the state of Texas submitted a State Implementation Plan (SIP) to the EPA in 1979. This SIP outlined control measures to bring the area into attainment for the ozone NAAQS. This SIP was approved by EPA in two actions, one in 1980 and another in 1984. An additional SIP revision for Victoria County was submitted to EPA on November 12, 1992. This submission revised the air monitoring, reporting and recordkeeping requirements and was approved by EPA on March 7, 1995 (60 FR 12348).

On July 27, 1994, Texas submitted a request to redesignate Victoria County to attainment. At the same time, Texas submitted the required ozone monitoring data and a maintenance plan to ensure the area would remain in attainment for ozone for a period of 10 years. The maintenance plan submitted by Texas followed EPA guidance for limited maintenance areas, which provides relief for ozone areas that have design values less than 85% of the applicable standard. In this case, the applicable standard is the 1-hour ozone standard of 0.12 parts per million (ppm). At the time of the redesignation request, the design value for Victoria County was 0.100 ppm, well below the 85% threshold of 0.106 ppm. EPA approved Texas's request, and Victoria County was redesignated to attainment on March 7, 1995, with an effective date of May 8, 1995 (60 FR 12453).

Section 175A(b) of the CAA as amended in 1990 requires the state to submit a subsequent maintenance plan to EPA eight years after designation to attainment. This SIP revision satisfies this CAA requirement for the Victoria County 1-hour ozone maintenance area.

II. Analysis of the State's Submittal

On February 18, 2003, the Texas Commission on Environmental Quality (TCEQ) submitted a revision to the SIP for Victoria County. This revision provides the second 10-year update to the maintenance plan for the area, as required by the section 175A(b) of the CAA. The purpose of this plan is to ensure continued maintenance of the NAAQS for 1-hour ozone in Victoria County by demonstrating that future emissions of the ozone precursor pollutants, nitrogen oxides (NO_x) and volatile organic compounds (VOCs) are

expected to remain at or below attainment year emission levels.

This revision is a continuation of an existing maintenance plan and no new control strategies specifically for Victoria County have been incorporated. However, since approval of the existing plan, which occurred in March of 1995, TCEQ has implemented several regional air quality measures which will provide improved control of air pollution in Victoria County. These measures include the following elements, among others: (1) Implementation of Stage I vapor recovery which serves to reduce VOC emissions from gas stations as the gasoline storage tanks are refilled, (2) enacting specific requirements for the permitting or shutdown of previously grandfathered facilities such as pipelines, small stationary sources and electric generating facilities, (3) required reductions in NO_x emission rates from larger point sources such as electric utility boilers and gas turbines and (4) implementation of control requirements for non-road, large spark-ignition engines, beginning with model year 2004, that match California standards. The purpose of these regional measures is to reduce background levels of ozone in order to facilitate compliance with the ozone standard in nonattainment, maintenance and near-nonattainment areas, including Victoria County.

This SIP revision also updates the monitoring data for Victoria County. Air quality monitoring is the method by which continued attainment of the NAAQS is demonstrated. TCEQ commits to keep the current Victoria area air monitors active for the duration of the second 10-year maintenance period. The current system consists of two monitors; one (CAMS 87) is in the City of Victoria and the other (CAMS 602, a private monitor meeting 40 CFR part 58 Quality Assurance requirements), which has been operational since July 19, 2000, is located southeast of the City of Victoria. The current 1-hour ozone design value for Victoria County, based on 2001-2003 data from the CAMS 87 monitor, is 0.094 ppm, which remains less than 85% of the 1-hour ozone NAAQS of 0.12 ppm. The design value from the private CAMS 602 monitor, based on 2001-2003 data, is 0.090 ppm. Also, Victoria was designated attainment for the new, more protective 8-hour ozone standard on April 15, 2004 (69 FR 23858, published on April 30, 2004). The 8-hour ozone NAAQS is 0.08 ppm (62 FR 38856). The 8-hour ozone design value is 0.078 ppm at the CAMS 87 monitor, based on 2001-2003 data. The CAMS 602 monitor has a design value of 0.073 ppm for 2001-2003 data.

Section 175A of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. With this submission, TCEQ is revising the contingency measures and contingency trigger levels in the existing SIP for Victoria County. The contingency indicator will remain the ambient air quality monitoring data, taken from the most recent three years of monitoring data. The triggering mechanism has been adjusted from that contained in the existing SIP. Three basic trigger levels are specified for the activation of contingency measures. They are as follows:

(a) A monitor shows one exceedance of the NAAQS during a three-year period;

(b) A monitor shows two or three exceedances of the NAAQS during a three-year period; or

(c) A monitor shows the fourth exceedance, and therefore a violation, of the NAAQS during a three-year period.

These trigger levels are appropriate in that they require action to be taken with a single exceedance of the NAAQS. This will assist the area in implementing measures that may lessen future exceedances and potentially avoid a violation of the NAAQS.

The activation of contingency measures in the submitted maintenance plan revision are associated with specific triggers. In the existing plan, implementation of Stage I vapor recovery systems is an approved contingency measure. However, this measure has been implemented regionally by TCEQ and is thus already in effect in Victoria County and is no longer appropriate as a contingency measure in the maintenance plan. This SIP revision removes Stage I vapor recovery as a contingency measure for Victoria County. The contingency measures adopted by TCEQ for Victoria County include the following:

(a) Upon one exceedance of the NAAQS at either air quality monitor within a three-year period, the City of Victoria and the Metropolitan Planning Organization will establish a formal ozone advisory committee with the intended purpose of managing an ozone abatement program during the ozone season;

(b) Upon two exceedances of the NAAQS within a three-year period, the ozone advisory committee will implement a voluntary program with industry to reschedule, revise or curtail activities on ozone advisory days, and;

(c) Upon a violation of the NAAQS (*i.e.*, four exceedances during a three-

year period), TCEQ will submit to EPA a full maintenance plan in accordance with the CAA and EPA guidance.

This SIP submission also serves to update the emissions inventory for Victoria County. In the existing SIP, the base year or attainment year inventory is for 1992. Texas has updated the inventory to be consistent with reported and estimated emissions for 1996. The choice of 1996 as a new base year is acceptable because the area was in attainment in 1996, with a design value of 0.98 ppm. The 1996 emission inventory for area, point, nonroad mobile, onroad mobile and biogenic sources is provided in the following table.

	VOC (tons per day)	NO _x (tons per day)
Point	2.91	20.18
Area	9.09	2.81
Nonroad Mobile ..	4.74	6.56
Onroad Mobile ..	5.89	8.72
Biogenic	161.11	3.41
Total	183.74	41.68

III. Final Action

EPA is approving the second 10-year update to the Victoria County 1-hour ozone maintenance plan.

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Clean Air Act and EPA regulations, and is consistent with EPA policy. Therefore, we are approving the request of TCEQ to revise the SIP for the Victoria County 1-hour ozone maintenance area.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on March 4, 2005 without further notice unless we receive adverse comment by February 2, 2005. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the

remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of

the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 4, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental

relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 17, 2004.

Richard E. Greene,
Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

■ 2. In § 52.2270, the table in paragraph (e) entitled “EPA approved nonregulatory provisions and quasi-regulatory measures” is amended by adding one new entry to the end of the table to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
Second 10-year maintenance plan for Victoria County.	Victoria	02/05/03	01/03/05 [Insert <i>FR</i> page number where document begins].	*

■ 3. Section 52.2275, Control strategy and regulations: Ozone, paragraph (e) is revised to read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

* * * * *

(e) Approval—The Texas Commission on Environmental Quality (TCEQ) submitted a revision to the Texas SIP on February 18, 2003, concerning the Victoria County 1-hour ozone maintenance plan. This SIP revision was adopted by TCEQ on February 5, 2003. This SIP revision satisfies the Clean Air Act requirement, as amended in 1990, for the second 10-year update to the Victoria County 1-hour ozone maintenance area.

[FR Doc. 04-28700 Filed 12-30-04; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 00-167; FCC 04-221]

Broadcast Services; Children's Television; Cable Operators

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document resolves a number of issues regarding the obligation of television broadcasters to protect and serve children in their audience. The document addresses matters related to two areas: the obligation of television broadcast licensees to provide educational and informational programming for children and the requirement that television broadcast licensees protect children from excessive and inappropriate commercial messages. The Commission goal is to provide television

broadcasters with guidance regarding their obligation to serve children as we transition from an analog to a digital television environment, and to improve our children's programming rules and policies.

DATES: 47 CFR 73.670(a), (b) and (c) and Note 2, 47 CFR 73.673, and 47 CFR 76.225(b) and (c) are effective February 1, 2005. 47 CFR 73.670, Note 1; 47 CFR 73.671 (c)(6), (c)(7), (d), (e), and (f) and Note 2; and 47 CFR 76.225 (d) and Note 1 are effective January 1, 2006. 47 CFR 73.671(c)(5) and 47 CFR 73.3526(e)(11)(iii) contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FCC will publish a document announcing the effective date for these sections.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, (202) 418-2120.