Radiation, entitled "Part D New Source Review (part D NSR) Requirements for Areas Redesignating to Attainment' (NSR memo), EPA amended one aspect of the redesignation guidance by removing the requirement that an area have an approved NSR program prior to the area requesting redesignation to attainment. The NSR memo explained that EPA now believes that a de minimis exception to the requirement of section 107(d)(3)(E) for an approved part D NSR program is justifiable in certain cases where the adoption and full approval of a part D NSR program as a prerequisite to redesignation would not be of significant environmental value. Once an area has been redesignated to attainment, a part D NSR program must be replaced by the Prevention of Significant Deterioration (PSD) program. Victoria County's maintenance plan demonstrates maintenance without the use of the NSR program; therefore, EPA does not require the part D NSR program to be approved prior to approval of this redesignation request. Please see the TSD for a copy of the NSR

Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity").

Section 176 further provides that the

conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the implementation of title I informed the State that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both

transportation and general conformity

designated nonattainment or subject to

a maintenance plan approved under

provisions in the SIP for areas

CAA section 175A.

Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Texas was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Texas was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Texas submitted its transportation conformity rules to EPA on November 6, 1994. The State's general conformity rules were submitted to EPA on November 22, 1994. As these requirements did not come due until after the submission date of the redesignation request, these conformity rule submissions need not be approved prior to taking action on this redesignation request.

The EPA recently published additional guidance on maintenance plans and their applicability to conformity issues in a memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas," (limited maintenance plan memo) from Sally L. Shaver, Director, Air Quality Strategies & Standards Division, on November 16, 1994. This limited maintenance plan memo discusses maintenance requirements for certain areas petitioning for redesignation to attainment. Nonclassifiable ozone nonattainment areas with design values less than 85% of the exceedance level of the ozone standard are no longer required to project emissions over the

maintenance period. The Federal transportation conformity rule (58 FR 62188) and the Federal general conformity rule (58 FR 63214) apply to areas operating under maintenance plans. Under either rule, one means by which a maintenance area can demonstrate conformity for Federal projects is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Based on guidance discussed in the limited maintenance plan memo. emissions inventories in areas that qualify for the limited maintenance plan approach are not required to be projected over the life of the maintenance plan. EPA feels it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the NAAQS would occur. Emissions budgets in limited maintenance plan areas would be treated as essentially not constraining emissions growth, and would not need to be capped for the maintenance

period. In these cases, Federal projects subject to conformity determinations could be considered to satisfy the "budget test" of the Federal conformity rules.

(3) Fully Approved SIP

The EPA finds that, upon approval of the Texas RACT Catch-up and Victoria County Fix-up SIP revisions, the State of Texas will have a fully approved SIP for Victoria County.

(4) Permanent and Enforceable Measures

Under the CAA, EPA approved Texas' SIP control strategy for the Victoria County nonattainment area, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in Victoria County. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch for gasoline in Victoria County, will not be lifted upon redesignation. These programs will counteract emissions growth as the county experiences economic growth over the life of the maintenance plan.

The State adopted VOC rules such as degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solventusing rules for graphic arts, and miscellaneous industrial source rules such as for cutback asphalt. The applicable RACT rules will also remain in place in Victoria County. In addition, the State permits program, the PSD permits program, and the Federal Operating Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

(5) Fully Approved Maintenance Plan Under Section 175A

In today's document, EPA is approving the State's maintenance plan for Victoria County because EPA finds that the TNRCC's submittal meets the requirements of section 175A. Thus, the Victoria County nonattainment area will have a fully approved maintenance plan in accordance with section 175A as of the effective date of this redesignation. Section 175A of the CAA sets forth the elements of a maintenance plan for