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 Department of Homeland Security Management Directive 5100.1 and 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 under the Instruction 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 (32)(e) of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:


2. Add § 117.317(l) to read as follows:

§ 117.317 Okeechobee Waterway.

(1) Wilson Pigott Bridge, Olga, Florida.

(1) The draw of the Wilson Pigott Bridge in Olga will open a single-leaf on signal with a double-leaf available with a three-hour notice to the bridge tender. In addition, the bridge will be closed to navigation for an eight-hour period; the exact times and date of the bridge closure will be published in the Local Notice to Mariners and Broadcast Notice to Mariners.

(2) Effective Dates. This paragraph (l) is effective from 6 a.m. on October 7, 2008, through 6 p.m. on February 28, 2009.


R.S. Branham,
Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E8–23602 Filed 10–6–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan, Motor Vehicle Emissions Budgets, and Revised 2002 Base Year Emissions Inventory; Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Texas State Implementation Plan (SIP) to meet the Reasonable Further Progress (RFP) requirements of the Clean Air Act (CAA) for the Dallas/Fort Worth (DFW) moderate 1997 8-hour ozone nonattainment area. EPA is also approving the RFP motor vehicle emissions budgets (MVEBs) and a revised 2002 Base Year Emissions Inventory for the DFW moderate 1997 8-hour ozone nonattainment area. EPA is approving the SIP revision because it satisfies the RFP, RFP transportation conformity and Emissions Inventory requirements for 1997 8-hour ozone nonattainment areas classified as moderate and demonstrates further progress in reducing ozone precursors. EPA is approving the revision pursuant to section 110 and part D of the CAA and EPA’s regulations.

DATES: This direct final rule will be effective December 8, 2008 without further notice unless EPA receives relevant adverse comments by November 6, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0525, by one of the following methods:

• Follow the online instructions for submitting comments.
• E-mail: Mr. Guy Donaldson at donaldson.guy@epa.gov. Please also send a copy by e-mail to the person listed in the FOR FURTHER INFORMATION CONTACT section below.
• Fax: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7242.
• Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Hand or Courier Delivery: Mr. Guy Donaldson, 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, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2007–0525. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The http://www.regulations.gov Web site is an “anonymous access” system, 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 http://www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket 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.
EPA promulgated, on July 18, 1997, a revised 8-hour ozone standard of 0.08 parts per million (ppm), which is more protective than the previous 1-hour ozone standard (62 FR 38855). On April 30, 2004, EPA published designations and classifications for the revised 1997 8-hour ozone standard (69 FR 23858); Ellis, Johnson, Kaufman, Parker, and Rockwall Counties (the five new counties) were added to the DFW ozone nonattainment area; and the area was classified as a moderate nonattainment area. The DFW 1997 8-hour ozone nonattainment area therefore consists of nine counties. Collin, Dallas, Denton, and Tarrant counties (the four core counties) were initially classified as a moderate nonattainment area under the 1-hour ozone standard with an attainment date no later than November 15, 1996 (November 6, 1991, 56 FR 56694). The area did not attain the 1-hour standard by that outside 1996 deadline, and was reclassified as a serious 1-hour ozone nonattainment area with an attainment date no later than November 15, 1999 (February 18, 1998, 63 FR 8128). On November 29, 2005 (70 FR 71612), as revised on June 8, 2007 (72 FR 38855).
VerDate Aug<31>2005 18:31 Oct 06, 2008 Jkt 217001 PO 00000 Frm 00043 Fmt 4700 Sfmt 4700 E:\FR\FM\07OCR1.SGM 07OCR1

and NO
the state will reduce emissions of VOCs
moderate, to submit an emissions
nonattainment area that is classified as
a state, for each 1997 8-hour ozone
maximum attainment date of June 15,
1997 8-hour ozone regulations 2 require
Appeals.

pending before the D.C. Circuit Court of
Litigation on the Phase 2 Rule is
plan for the 1997 8-hour ozone NAAQS.

to submit a reasonable further progress
under subpart 2, such as the DFW area,
the requirements for areas classified
milestones. The decision does not affect
failure to meet RFP and attainment
penalties, and contingency plans for
NAAQS; new source review, section 185
no longer require certain programs as
that allowed areas to revise their SIPs to
under Subpart 1 in lieu of Subpart 2 and
of the Phase 1 Rule that provide for
implementation of the 8-hour
31727), EPA published the Phase 2 final
rule for implementation of the 8-hour
standard that addressed, among other
things, the RFP control and planning
obligations as they apply to areas
designated nonattainment for the 1997
8-hour ozone NAAQS. In the Phase 1
Rule, RFP was defined in section
51.900(p) as meaning for the purposes of
the 1997 8-hour NAAQS, the progress
reductions required under section
172(c)(2) and section 182(b)(1) and
(c)(2)(B) and (c)(2)(C) of the CAA. In
section 51.900(q), rate of progress (ROP)
was defined as meaning for purposes of
the 1-hour NAAQS, the progress
reductions required under section
172(c)(2) and section 182(b)(1) and
(c)(2)(B) and (c)(2)(C) of the CAA (see 69
FR 23997).

On December 22, 2006, the U.S. Court
of Appeals for the District of Columbia
Circuit vacated EPA’s Phase 1 Rule in
South Coast Air Quality Management
Dist. v. EPA, 472 F.3d 882 (D.C. Cir.
2006). On June 8, 2007, in response to
several petitions for rehearing, the court
modified the scope of vacatur of the
Phase 1 Rule. See 489 F.3d 1245 (D.C.
Cir. 2007), cert. denied, 128 S.Ct. 1065
(2008). The court vacated those portions
of the Phase 1 Rule that provide for
regulation of the 1997 8-hour ozone
NAAQS in some nonattainment areas
under Subpart 1 in lieu of Subpart 2 and
that allowed areas to revise their SIPs to
no longer require certain programs as
they applied for purposes of the 1-hour
NAAQS; new source review, section 185
penalties, and contingency plans for
failure to meet RFP and attainment
milestones. This decision does not affect
the requirements for areas classified
under subpart 2, such as the DFW area,
to submit a reasonable further progress
plan for the 1997 8-hour ozone NAAQS.
Litigation on the Phase 2 Rule is
pending before the D.C. Circuit Court of
Appeals.

Section 182 of the CAA and EPA’s
1997 8-hour ozone regulations 2 require
a state, for each 1997 8-hour ozone
nonattainment area that is classified as
moderate, to submit an emissions
inventory and a RFP plan to show how
the state will reduce emissions of VOCs
and NOX. The DFW moderate 1997 8-
hour ozone nonattainment area has a
maximum attainment date of June 15,
2010, that is beyond five years after
designation. In addition, the four core
counties in the DFW moderate area have
an approved 15% VOC Rate of Progress
plan under the 1-hour ozone standard

For a moderate area with an
attainment date of more than five years
after designation, the RFP plan must
obtain a 15% reduction in ozone
precursor emissions for the first six
years after the baseline year (2002
through 2008). If such a moderate area
also contains a portion of the area with
an approved 15% VOC Rate of Progress
plan under the 1-hour ozone standard,
states are allowed to treat the area as
two parts, each with a separate RFP
target. (Rate of Progress refers to
reasonable further progress for the 1-
hour ozone standard.) For the part with
an approved 15% VOC Rate of Progress
plan under the 1-hour ozone standard,
states can use reductions from VOC,
NOX, or a combination of the two and
the RFP plan must demonstrate RFP for
a total of 15% emission reductions for
the first six years due to the moderate
classification. See 40 CFR
51.910(a)(1)(ii)(A), which refers to
section 51.910(b)(2). For the part
without an approved 1-hour ozone 15% 
VOC Rate of Progress plan, states must
obtain VOC reductions totaling 15% for
the first six years. These VOC
reductions can be obtained from the part
of the area with an approved 1-hour
VOC Rate of Progress plan. However,
VOC reductions from the four core
counties relied upon in the five new
counties’ RFP plan (1) must be after the
baseline year and meet the other criteria
for credibility under section 182(b)(1)
of the Act, (2) not have been relied upon
in the nine counties. On May 13, 2005
Texas submitted the 2002 base year
inventory to EPA as part of a SIP
revision for the DFW 8-hour ozone
nonattainment area. EPA reviewed the 2002
base year inventory and determined that
it was developed in accordance with
EPA guidelines. A Federal Register
Notice approving the 2002 base year
inventory was published on August 15,
2005 (73 FR 47835).

However, since that revision was
submitted to EPA, more accurate data
became available and improved
calculation methods have been
developed. Because of these changes,
the RFP SIP revision updates emissions
data for the base year 2002. EPA has
determined that the inventory was
developed in accordance with EPA
guidance on emission inventory
preparation, and that the revised 2002
Base Year Emissions Inventory is
approvable. Table 1 lists the Emissions
Inventory for the DFW area. For more
detail on how emissions inventories
were estimated, see the Technical
Support Document.

A. Texas Has an Approvable Base Year
Emissions Inventory

CAA sections 172(c)(3) and 182(a)(1)
require an inventory of actual emissions
from all sources of relevant pollutants
in the nonattainment area. EPA strongly
recommended using 2002 as the base
year emissions inventory. Texas has
developed a 2002 Base Year Inventory
for the DFW nonattainment area. The
2002 Base Year Inventory includes all
point, area, non-road mobile, and on-
road mobile source emissions in all of
the nine counties. On May 13, 2005
Texas submitted the 2002 base year
inventory to EPA as part of a SIP
revision for the DFW 8-hour ozone
nonattainment area. EPA reviewed the 2002
base year inventory and determined that
it was developed in accordance with
EPA guidelines. A Federal Register
Notice approving the 2002 base year
inventory was published on August 15,
2005 (73 FR 47835).

However, since that revision was
submitted to EPA, more accurate data
came available and improved
calculation methods have been
developed. Because of these changes,
the RFP SIP revision updates emissions
data for the base year 2002. EPA has
determined that the inventory was
developed in accordance with EPA
guidance on emission inventory
preparation, and that the revised 2002
Base Year Emissions Inventory is
approvable. Table 1 lists the Emissions
Inventory for the DFW area. For more
detail on how emissions inventories
were estimated, see the Technical
Support Document.

2Reasonable further progress regulations are at 40
CFR 51.910, and emissions inventory regulations
are at 40 CFR 51.915.
nonattainment area (40 CFR 51.910(a)(1)(iii)(B)(1)).

**TABLE 2—CALCULATION OF DFW REQUIRED NO\textsubscript{X} TARGET LEVEL OF EMISSIONS FOR THE FOUR CORE COUNTIES WITH AN APPROVED VOC 15% 1-HOUR OZONE RATE OF PROGRESS PLAN**

<table>
<thead>
<tr>
<th>Description</th>
<th>NO\textsubscript{X} 4 core counties (tons/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. 2002 Base Year Inventory</td>
<td>482.74</td>
</tr>
<tr>
<td>b. Excluded Emission Reductions</td>
<td>26.52</td>
</tr>
<tr>
<td>c. Adjusted Base Year Inventory (a–b)</td>
<td>456.22</td>
</tr>
<tr>
<td>d. 15% Reductions (c × 0.15)</td>
<td>68.43</td>
</tr>
<tr>
<td>e. 2008 Target (c–d)</td>
<td>387.79</td>
</tr>
</tbody>
</table>

**TABLE 3—CALCULATION OF DFW VOC TARGET LEVELS OF EMISSIONS IN TONS PER DAY FOR PORTION WITHOUT AN APPROVED VOC RATE OF PROGRESS PLAN**

<table>
<thead>
<tr>
<th>Description</th>
<th>VOC (5 new counties)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. 2002 Emission Inventory</td>
<td>69.32</td>
</tr>
<tr>
<td>b. Non-creditable Reductions</td>
<td>1.93</td>
</tr>
<tr>
<td>c. 2002 Adjusted to 2008 (a–b)</td>
<td>67.39</td>
</tr>
<tr>
<td>d. 15% Reductions (c × 0.15)</td>
<td>10.11</td>
</tr>
<tr>
<td>e. 2008 Target (c–d)</td>
<td>57.28</td>
</tr>
</tbody>
</table>

### B. Adjusted Base Year Inventory and 2008 RFP Target Levels

The 2002 base year emissions inventory referenced above is also known as the “base year inventory,” and is the starting point for calculating RFP. Next, section 182(b)(2)(C) explains that the baseline from which emission reductions are calculated should be determined as outlined pursuant to CAA section 182(b)(1)(B). Section 182(b)(1)(B) and 40 CFR 51.910 require that the base year inventory must be adjusted to exclude certain emissions specified in CAA section 182(b)(1)(D). This requires that the baseline exclude emission reductions due to Federal Motor Vehicle Control Programs (FMVCP) promulgated by the Administrator by January 1, 1990, and emission reductions due to the regulation of Reid Vapor Pressure promulgated by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990. These measures are not creditable.

The result (after the adjustment) is the “adjusted base year inventory.” The required RFP 15% reduction is calculated by multiplying the adjusted base year inventory by 0.15. This figure is subtracted from the adjusted base year inventory, resulting in the target level of emissions for the milestone year (2008). Tables 2 and 3 feature summaries of the adjusted base year inventories (row c), required 15% reductions (row d), and 2008 target level of emissions (row e), as described above.

Texas has based the 15% plan on NO\textsubscript{X} reductions for the four core counties, and VOC reductions for the five new counties, which do not have an approved 15% 1-hour ozone Rate of Progress Plan. To meet the RFP requirement, Texas’ plan must provide at least 68.43 tons per day (tpd) reductions in NO\textsubscript{X} emissions in the four core counties, and 10.11 tpd reductions in VOC for the five new counties. The VOC reductions may come from anywhere within the 8-hour progress plan.

### C. The 2008 Projected Emissions Inventories and How the Total Required 15% Reductions Are Achieved in the Four Core Counties and the Five New Counties

Next, section 182(b)(1)(A) requires that States need to provide sufficient control measures in their RFP plans to offset any emissions growth. To do this the State must estimate the amount of growth that will occur between 2002 and the end of 2008. The State uses population and economic forecasts to estimate how emissions will change in the future. Generally, the State followed our standard guidelines in estimating the growth in emissions. EPA’s MOBILE 6.2.03 was used to develop the 2008 non-road inventory. For more detail on how emissions growth was estimated, see the TSD. Texas terms the projections of growth as the RFP 2008 Uncontrolled Inventories.

Texas then estimates the projected emission reductions from the control measures in place between 2002 and the end of 2008 and applies these to the RFP 2008 Uncontrolled Inventories; the results are the RFP 2008 Controlled Inventories. The total amount of VOC and NO\textsubscript{X} emissions in the RFP 2008 Controlled Inventories must be equal to or less than the 2008 target inventories (listed at row e in Tables 2 and 3, above). The RFP plan relies on a number of state and federal control measures intended to reduce NO\textsubscript{X} and VOC emissions. The control measures address emissions from point, area, mobile non-road, and mobile on-road sources.

The majority of point source reductions are from the addition of NO\textsubscript{X} controls at electric generating units in the four core counties and VOC controls on surface coating sources in the five new counties. Area source VOC reductions for the five new counties include (1) surface coating controls for automobile refinishing, factory finished wood, wood furniture, metal cans, metal coils, and machinery and equipment, (2) the State’s Stage I program, and (3) the State’s portable fuel container rule. The four core counties did not rely upon any area source NO\textsubscript{X} reductions.

The mobile non-road emission reductions for the four core counties were a result of implementing federal measures, including the Tier I and II Locomotive NO\textsubscript{X} standards, the heavy-duty non-road engines standards, the Tier 1, 2, and 3 non-road diesel engines standards, the small non-road SI engines Phase II standards, and the large non-road SI and recreational marine standards. The five counties relied upon the following federal measures for the
Mobile non-road emission reductions: the new non-road SI engines standards, the heavy-duty non-road engines standards, the Tier 1, 2, and 3 non-road diesel engines standards, the small non-road SI engines Phase II standards, the large non-road SI and recreational marine standards, and non-road RFG. For all of the counties, emissions from locomotives, aircraft and support equipment, and commercial marine vessels were calculated outside of the NONROAD 5 model using EPA approved methodologies. EPA finds that the State’s projected emissions and emission reductions for these three non-road mobile sources are acceptable.

Reductions in mobile on-road emission reductions for the four core counties resulted from fleet turnover due to Tier 1 and Tier 2 of the FMVCP, the Federal RFG, the Federal NLEV, the 2007 Heavy Duty Diesel FMVCP, and the State’s I/M Program. The mobile on-road emission reductions for the five counties were from fleet turnover due to Tier 1 and Tier 2 of the FMVCP, surplus VOC emission reductions in the four core counties from the Tier 1 FMVCP, the Federal NLEV, the 2007 Heavy Duty Diesel FMVCP, and the State’s I/M Program. Each of the State measures relied upon in this plan have been approved in separate actions. See the TSD for more details.

As a result, for NOX the target level of emissions is 387.79 tpd, and the 2008 projected inventory after RFP reductions are applied is 374.09 tpd. For VOC, the target level of emissions is 57.28 tpd, and the 2008 projected inventory after RFP reductions are applied is 54.72 tpd. As illustrated in Table 4, for both pollutants the 2008 projection inventory is less than the target level of emissions. Therefore, the control measures included in the 2008 projection inventory are adequate to meet the 15% RFP requirement.

<table>
<thead>
<tr>
<th>Description</th>
<th>NOX (tons/day) 4 core counties</th>
<th>NOX (tons/day) 5 new counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Adjusted Base Year Inventory (from Tables 2 and 3)</td>
<td>456.22</td>
<td>67.39</td>
</tr>
<tr>
<td>b. 3% Needed for Contingency (a × 0.03)</td>
<td>13.69</td>
<td>2.02</td>
</tr>
<tr>
<td>c. Excess Reductions Used for Contingency</td>
<td>13.70</td>
<td>2.56</td>
</tr>
<tr>
<td>d. Contingency Met?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

TABLE 4—SUMMARY OF RFP DEMONSTRATION FOR DFW

<table>
<thead>
<tr>
<th>Inventory</th>
<th>NOX (tons/day) 4 core counties</th>
<th>VOC (tons/day) 5 new counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008 Target</td>
<td>387.79</td>
<td>57.28</td>
</tr>
<tr>
<td>2008 Uncontrolled Emissions</td>
<td>651.85</td>
<td>90.02</td>
</tr>
<tr>
<td>2008 RFP Emission Reductions</td>
<td>277.76</td>
<td>*35.30</td>
</tr>
<tr>
<td>2008 Projected Emissions after RFP Reductions</td>
<td>374.09</td>
<td>54.72</td>
</tr>
<tr>
<td>RFP Met?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

VOC reductions from the Federal Motor Vehicle Control Program in the 4 core counties were used to help meet the RFP emission reduction target for the 5 new counties.

D. The Reasonable Further Progress Plan Includes Acceptable RFP Contingency Measures

The 1997 8-hour ozone RFP plan for a moderate nonattainment area must include contingency measures, which are additional controls to be implemented if the area fails to make reasonable further progress. Contingency measures are intended to achieve reductions over and beyond those relied on in the RFP demonstration and could include federal and state measures already scheduled for implementation. The CAA does not preclude a state from implementing such measures before they are triggered. EPA interprets the CAA to require sufficient contingency measures in the RFP submittal, so that upon implementation of such measures, additional emission reductions of up to 3% of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved between the milestone year of 2008 and the next calendar year, i.e., 2009.

Texas used federal and state measures currently being implemented to meet the contingency measure requirement for the DFW RFP SIP. These measures, which are the same measures used for RFP, provide reductions that are in excess of those needed for RFP. As shown in Table 5, in both the four core counties and the five new counties, the excess reductions are greater than 3% of the adjusted base year inventories. Therefore these reductions are sufficient as contingency measures.

TABLE 5—RFP CONTINGENCY MEASURE DEMONSTRATION FOR DFW RFP SIP

<table>
<thead>
<tr>
<th>Description</th>
<th>NOX 4 core counties (tons/day)</th>
<th>NOX 5 new counties (tons/day)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Adjusted Base Year Inventory (from Tables 2 and 3)</td>
<td>456.22</td>
<td>67.39</td>
</tr>
<tr>
<td>b. 3% Needed for Contingency (a × 0.03)</td>
<td>13.69</td>
<td>2.02</td>
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<tr>
<td>c. Excess Reductions Used for Contingency</td>
<td>13.70</td>
<td>2.56</td>
</tr>
<tr>
<td>d. Contingency Met?</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

E. The RFP Milestone 2008 Motor Vehicle Emissions Budget (MVEB) Are Approvable

The 1997 8-hour ozone RFP plan must include MVEBs for transportation conformity purposes. Texas submitted its RFP MVEBs for VOCs and NOX. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, delay reaching reasonable further progress milestones, or delay timely attainment of the NAAQS. A MVEB is the maximum amount of emissions allowed in the SIP for on-road motor vehicles. The MVEB is the mechanism to determine if the future transportation plans conform to the SIP. The MVEB establishes an emissions ceiling for the regional transportation network. The DFW RFP SIP contains VOC and NOX MVEBs for the RFP milestone year 2008. The emissions budget for VOC is 119.81 tpd, and the NOX emissions budget is 249.33 tpd. On-road emissions must be shown in future transportation plans to be less than the MVEB for 2008 and subsequent years. The VOC and NOX RFP emissions budgets are acceptable.
because when added to the other components of the 2008 emissions inventory (including non-road, stationary source, and area source emissions) the total level of emissions is below the 2008 RFP emissions target level. We found the RFP MVEBs (also termed transportation conformity budgets) adequate and on June 28, 2007, the availability of these budgets was posted on our website for the purpose of soliciting public comments. The comment period closed on July 30, 2007, and we received no comments. On March 21, 2008, we published the Notice of Adequacy Determination for these RFP MVEBs (73 FR 15152). Once determined adequate, these RFP budgets must be used in future DFW transportation conformity determinations. The adequacy determination represents a preliminary finding by EPA of the acceptability of the MVEB. Today we are finding the MVEBs are fully consistent with RFP, and the RFP plan is fully approvable, as it sets the allowable on-road mobile emissions the DFW area can produce and continue to demonstrate RFP.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 December 8, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental Relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: September 26, 2008.

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. The second table in § 52.2270(e), the table entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding two new entries to the end of the table for “Reasonable Further Progress Plan”, for the Dallas/Fort Worth, TX area. The addition reads as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *
SUMMARY: Pursuant to Section 183(e)(3)(C) of the Clean Air Act, EPA has determined that control techniques guidelines will be substantially as effective as national regulations in reducing emissions of volatile organic compounds in ozone national ambient air quality standard nonattainment areas from the following five Group IV product categories: miscellaneous metal products coatings, plastic parts coatings, auto and light-duty truck assembly coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. Based on this determination, EPA is issuing control techniques guidelines in lieu of national regulations for these product categories. These control techniques guidelines will provide guidance to the States concerning EPA’s recommendations for reasonably available control technology-level controls for these product categories. EPA further takes final action to list the five Group IV consumer and commercial product categories addressed in this notice pursuant to CAA Section 183(e).

DATES: This final action is effective on October 7, 2008.

ADDRESSES: EPA has established the following dockets for these actions: Consumer and Commercial Products, Group IV—Determination to Issue Control Techniques Guidelines in Lieu of Regulations, Docket No. EPA–HQ–OAR–2008–0411; Consumer and Commercial Products—Miscellaneous Metal and Plastic Parts Coatings, Docket No. EPA–HQ–OAR–2008–0412; Consumer and Commercial Products—Auto and Light-Duty Truck Assembly Coatings, Docket No. EPA–HQ–OAR–2008–0413; Consumer and Commercial Products—Fiberglass Boat Manufacturing Materials, Docket No. EPA–HQ–OAR–2008–0414; and Consumer and Commercial Products—Miscellaneous Industrial Adhesives, Docket No. EPA–HQ–OAR–2008–0460. All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning the Clean Air Act (CAA) Section 183(e) consumer and commercial products program, contact Mr. Bruce Moore, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460, fax number: (919) 541–3470, e-mail address: moore.bruc@epa.gov. For further information on technical issues concerning the determination and control techniques guidelines (CTG) documents for miscellaneous metal and plastic parts coatings, or for fiberglass boat manufacturing materials, contact: Ms. Kaye Whitfield, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2509, fax number: (919) 541–3470, e-mail address: whitfield.kaye@epa.gov. For further information on technical issues concerning the determination and CTG for auto and light-duty truck assembly coatings or the revision of the Automobile Topcoat Protocol, contact: Mr. Dave Salman, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0850, fax number: (919) 541–3470, e-mail address: salman.dave@epa.gov. For further information on technical issues concerning the determination and CTG for miscellaneous industrial adhesives, contact: Ms. Martha Smith, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2421, fax number: (919) 541–3470, e-mail address: smith.martha@epa.gov.

SUPPLEMENTARY INFORMATION: