satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

* * * * *

■ 5. Section 1.33 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

* * * * *

Dated: January 17, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–906 Filed 1–22–07; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2006–0386; FRL–8272–5]

Approval and Promulgation of Implementation Plans; Texas; El Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 20, 2006, the Texas Commission on Environmental Quality (TCEQ) submitted a State Implementation Plan (SIP) revision to request redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). This submittal also included a CO maintenance plan for the El Paso area and associated Motor Vehicle Emission Budgets (MVEBs). The maintenance plan was developed to ensure continued attainment of the CO NAAQS for a period of 10 years from the effective date of EPA approval of redesignation to attainment. In this action, EPA is approving the El Paso CO redesignation request and the maintenance plan with its associated MVEBs as satisfying the requirements of the Federal Clean Air Act (CAA) as amended in 1990.

DATES: This rule is effective on March 26, 2007 without further notice, unless EPA receives relevant adverse comment by February 22, 2007.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2006–0386, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for 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 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 only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2006–0386. 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 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 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: 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., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy 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 8:30am and 4:30pm 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: Jeffrey Riley, Air Planning Section, (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–8542; fax number 214–665–7263; e-mail address *riley.jeffrey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'' ''us'' or ''our'' is used, we mean the EPA.

Table of Contents

I. Background

Under the 1990 Federal Clean Air Act (CAA) Amendments, El Paso was designated and classified as a moderate nonattainment area for CO because it did not meet the 8-hour CO NAAQS for this criteria pollutant (56 FR 56694). El Paso's classification as a moderate nonattainment area under sections 107(d)(4)(A) and 186(a) of the CAA imposed a schedule for attainment of the CO NAAQS by December 31, 1995.

The El Paso nonattainment area has unique considerations for CO attainment planning due to airshed contributions from Ciudad Juarez, Mexico. Section 179B of the 1990 CAA Amendments contains provisions for CO nonattainment areas affected by emissions emanating from outside the United States. Under CAA Section 179B, the EPA shall approve a SIP for the El Paso nonattainment area if the TCEQ establishes to the EPA's satisfaction that implementation of the plan would achieve timely attainment of the NAAQS but for emissions emanating from Ciudad Juarez. This provision prevents El Paso County from being reclassified to a higher level of nonattainment should monitors continue to record CO concentrations in excess of the NAAQS.

To meet the CAA attainment schedule of December 31, 1995, Texas submitted an initial revision to the SIP for the El Paso CO moderate nonattainment area in a letter dated September 27, 1995. This submittal, as well as a February 1998 supplemental submittal, included air quality modeling demonstrating that El Paso would attain the CO NAAQS by December 31, 1995, but for emissions emanating outside of the United States from Mexico. The EPA approved a revision to the Texas SIP submitted to show attainment of the 8-hour CO NAAQS in the El Paso CO nonattainment area under Section 179B provisions, as well as approving the El Paso area's CO emissions budget and a CO contingency measure requirement. The State submitted the revisions to satisfy Section 179B and Part D requirements of the CAA. This approval was published July 2, 2003 (68 FR 39457) and became effective September 2, 2003. TCEQ also submitted all the requirements for the moderate area classification and EPA approved them. See further discussion in Section II.B.2.

On January 20, 2006, the State of Texas submitted a revision to the SIP which consists of a request for redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO NAAQS, as well as an 8-hour CO maintenance plan to ensure that El Paso County remains in attainment of the 8-hour CO NAAQS.

In this action, we are approving a change in the legal designation of the El Paso area from nonattainment for CO to attainment, in addition to approving the maintenance plan that is designed to keep the area in attainment for CO until 2015. Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. The State of Texas has incorporated a CO maintenance plan into this submittal to satisfy the requirement of a fully approved maintenance plan for the area.

II. EPA's Evaluation of the El Paso Redesignation Request and Maintenance Plan

We have reviewed the El Paso CO redesignation request and maintenance plan and believe that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

(a) Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. The area is designated attainment for the 1-hour CO NAAQS and designated nonattainment for the 8-hour CO NAAQS. As described in 40 CFR 50.8, the 8-hour CO NAAQS for carbon monoxide is 9 parts per million (ppm), (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the 8-hour CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an

area to be in attainment if each of the 8-hour CO ambient air quality monitors in the area doesn't have more than one exceedance of the 8-hour CO standard over a one-year period. If any monitor in the area's CO monitoring network records more than one exceedance of the 8-hour CO standard during a one-year calendar period, then the area is in violation of the 8-hour CO NAAQS. In addition, our interpretation of the CAA and EPA national policy [1] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must also continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

The State of Texas' CO redesignation request for the El Paso area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Chapter 3, Table 3–1 of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1999 through 2005 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the El Paso nonattainment area. We have evaluated the ambient air quality data and have determined that the El Paso area has not violated the 8-hour CO standard and continues to demonstrate attainment. The El Paso nonattainment area has quality-assured data showing no violations of the 8-hour CO NAAQS for the most recent consecutive two-calendar-year period (2004 and 2005). Therefore, we believe the El Paso area has met the first component for redesignation: Demonstration of attainment of the CO NAAQS. We note too that the State of Texas has also committed, in the maintenance plan, to continue the necessary operation of the CO monitoring network in compliance with 40 CFR Part 58.

(b) Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

1. CAA Section 110 Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. On July 2, 2003, we approved the El Paso CO element revisions to Texas's SIP as meeting the requirements of section 110(a)(2) of the CAA (see 68 FR 39457).

2. Part D Requirements

Before the El Paso ''moderate'' CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 3 of Part D contains specific provisions for ''moderate'' CO nonattainment areas. The relevant subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (see 57 FR 13529 to 13532, April 16, 1992) provides EPA's interpretations of the CAA requirements for ''moderate'' CO areas such as El Paso with CO design values that are less than or equal to 12.7 ppm. The General Preamble (see 57 FR 13530, *et seq.*) provides that the applicable requirements of CAA section 172 are: 172(c)(3) (emissions inventory), 172(c)(5) (new source review permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures). Regarding the requirements of sections 172(c)(3) (inventory) and 172(c)(9) (contingency measures), please refer to our discussion below of sections 187(a)(1) and 187(a)(3), which are the more specific provisions of subpart 3 of Part D of the CAA.

It is also worth noting that we interpreted the requirements of sections 172(c)(2) (reasonable further progress—RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Texas has an approved NSR program (see 60 FR 49781, September 27, 1995) that meets the requirements of CAA section 172(c)(5). For the CAA section 172(c)(7) provisions (compliance with the CAA section 110(a)(2) Air Quality Monitoring Requirements), our interpretations are presented in the General Preamble (57 FR 13535). CO nonattainment areas are to meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA. Information concerning CO monitoring in Texas is included in the Annual Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Texas' annual network reviews and have agreed that the El Paso network remains adequate.

In Chapter 5, Section 5.4 of the maintenance plan, the State commits to the continued operation of the existing CO monitoring network according to applicable Federal regulations and guidelines (40 CFR part 58).

The relevant subpart 3 provisions were created when the CAA was amended on November 15, 1990. The new CAA requirements for ''moderate'' CO areas, such as El Paso, required that the SIP be revised to include a 1990 base year emissions inventory (CAA section 187(a)(1)), contingency provisions (CAA section 187(a)(3)), corrections to existing motor vehicle inspection and maintenance (I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), and the implementation of an oxygenated fuels program (CAA section 211(m)(1)). Sections 187(a)(2), (6), and (7) do not apply to the El Paso area because its design value was below 12.7 ppm at the time of classification. How the State met these requirements and our approvals, are described below:

[1] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing requests to Redesignate areas to Attainment.''

A. 1990 base year emissions inventory (CAA section 187(a)(1)): EPA approved an emissions inventory on September 12, 1994 (see 59 FR 46766).

B. Contingency provisions (CAA section 187(a)(3)): EPA approved the use of 46 tons per day in incremental CO reduction credits from the Texas low-enhanced vehicle inspection and maintenance program, as fulfillment of the State's CO attainment contingency measure requirement for the El Paso nonattainment area under section 172(c)(9) on July 2, 2003 (see 68 FR 39457).

C. Corrections to the El Paso basic I/M program (CAA section 187(a)(4)): EPA approved the Texas Motorist Choice (TMC) I/M Program (which includes El Paso) on November 14, 2001 (see 66 FR 57261).

D. Periodic emissions inventories (CAA section 187(a)(5)): The State submitted an initial revision to the SIP for the El Paso CO moderate nonattainment area in a letter dated September 27, 1995. This submittal, as well as a February 1998 supplemental submittal contained a commitment to submit emission inventory updates. TCEQ continues to submit the Periodic Emissions Inventory (PEI) every three years.

E. Oxygenated fuels program implementation (CAA section 211(m)): EPA approved the El Paso oxygenated fuels program on September 12, 1994 (see 59 FR 46766).

(c) Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k). As noted above, EPA previously approved SIP revisions for the El Paso CO nonattainment area that were required by the 1990 amendments to the CAA. In this action, we are also approving the maintenance plan proposed by the State, and the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan). Thus, with this final rule to approve the El Paso redesignation request and maintenance plan, we will have fully approved the El Paso CO element of the SIP under section 110(k) of the CAA.

(d) Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. The CO emissions reductions for El Paso, that are further described in Sections 3.5 and 5.3.3 of the El Paso maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), an oxygenated fuels program, and a motor vehicle inspection and maintenance (I/M) program.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as El Paso. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

As stated in Section 5.3.3 of the maintenance plan, significant additional emission reductions were realized from El Paso's basic I/M program. The program requires annual inspections of vehicles at independent inspection stations. We note that further improvements to the El Paso area's basic I/M program, to meet the requirements of EPA's November 5, 1992 (57 FR 52950) I/M rule, and upgrading the I/M program to meet the requirements for a low-enhanced program, were approved by us into the SIP on November 14, 2001 (68 FR 39457).

Oxygenated fuels are gasolines that are blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. TAC Title 30, Chapter 114, Section 114.100, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the El Paso nonattainment area. This rule requires all El Paso area gas stations to sell fuels containing a 2.7% minimum oxygen content (by weight) during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

We have evaluated the various State and Federal control measures, and believe that the improvement in air quality in the El Paso nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e) Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992 (hereafter the September 4, 1992 Calcagni Memorandum).

In this **Federal Register** action, EPA is approving the maintenance plan for the El Paso CO nonattainment area because we believe, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with our interpretations of the CAA, as reflected in the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the State's January 20, 2006, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble (see 57 FR 13498, April 16, 1992) and the September 4, 1992, Calcagni Memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration.

For the El Paso area, the State selected the emissions inventory approach for demonstrating maintenance of the CO NAAQS; however, the State also conducted ''hot spot'' CO modeling to demonstrate that CO exceedances are not currently occurring at a potential hot spot and will not occur at such locations in the future. The maintenance plan submitted by the TCEQ on January 20, 2006, includes comprehensive inventories of CO emissions for the El Paso area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 2002 as the year from which to develop the attainment year inventory and included interim-year projections out to 2015. More detailed descriptions of the 2002 attainment year inventory and the projected inventories are documented in the maintenance plan in Chapter 2. Summary emission figures from the 2002 attainment year, the interim projected years, and the final maintenance year of 2015 are provided in Table 1 below.

TABLE 1.—EL PASO COUNTY CO EMISSIONS FOR 2002–2015 (TPD)

	2002	2005	2011	2015
Point Source	4.67	4.42	4.78	5.03
Area Source	16.42	16.80	17.61	18.17
Nonroad Mobile	45.90	48.71	55.23	59.18
Onroad Mobile	360.34	325.50	245.16	232.02
Total	427.33	385.43	322.78	314.40

As presented in Chapter 3, Table 3–1 of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1999 through 2004 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the El Paso nonattainment area. To further demonstrate maintenance of the CO NAAQS, the TCEQ agreed to additional ''hot spot'' modeling as requested by EPA on the basis of EPA's Office of Air Quality Planning and Standards' (OAQPS) September 30, 1994 Ozone/Carbon Monoxide Redesignations Reference Document. The modeling was done specifically to address two concerns—the El Paso CO monitoring network has a limited number of sites, and therefore may not have identified all the hot spots in the El Paso area; and in the future, urban growth may increase mobile emissions enough to cause exceedances of the NAAQS.

The TCEQ performed CO modeling at a heavily utilized intersection to demonstrate that CO exceedances are not currently occurring at a potential hot spot and will not occur at that location in the future. A modeling protocol detailing hotspot selection, proposed model usage, and data analysis was submitted by the State on February 17, 2005, and was approved by EPA via a letter dated March 30, 2005. The modeling protocol and approach taken are detailed in Chapter 4 of the maintenance plan. As shown in Table 4–2 of the maintenance plan, the current (base) case hot spot analysis predicted a maximum 8-hour CO concentration of 7.8 ppm, and the 2015 future case analysis predicted a maximum 8-hour CO concentration of 2.2 ppm. Both of these values are below the 9 ppm NAAQS, and demonstrate current and projected compliance with the CO standard. A more detailed evaluation by EPA of this hot spot analysis is provided in the TSD.

2. Demonstration of Maintenance—Projected Inventories

As we noted above, total CO emissions were projected forward by the State for the years 2005, 2011, and 2015. We note the State's approach for developing the projected inventories follows EPA guidance on projected emissions and we believe they are acceptable.[2] The projected inventories show that CO emissions are not estimated to exceed the 2002 attainment level during the time period 2002 through 2015 and, therefore, the El Paso area has satisfactorily demonstrated maintenance. The year 2005 was selected as the year of designation of attainment for the 8-hour CO NAAQS, so the final projection year, 2015, was intended to represent the last year of the 10-year maintenance plan. The year 2011 was selected as an interim year for conformity determination. These projected inventories were developed using EPA-approved technologies and methodologies. No new control strategies for point and area sources were relied upon in the projected inventories. CO emission reductions anticipated from EPA's national rule for the Spark Ignition Small Engine Rule, Phase 1, were relied upon as a new control strategy for Nonroad sources. TCEQ relied upon emissions reductions anticipated from existing control strategies: FMVCP, Texas Oxygenated Fuel SIP, and the Texas I/M Program. Please see the TSD for more information on EPA's review and evaluation of the State's methodologies, modeling, inputs, etc., for developing the projected emissions inventories.

3. Monitoring Network and Verification of Continued Attainment

The TCEQ commits to maintain an appropriate air monitoring network for the El Paso area throughout the 10-year maintenance period. As required by 40 CFR Part 58.20(d), TCEQ will consult with EPA in annual review of the air monitoring network to determine the

[2] ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas'', signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

adequacy of the CO monitoring network, whether or not additional monitoring is needed, and if/when monitor sites can be discontinued. The TCEQ also commits to adhere to data quality requirements as specified in 40 CFR Part 58 Quality Assurance Requirements.

Texas commits to track the progress of the maintenance plan by continuing to periodically update the emissions inventory (EI). It will compare the updated EIs against the projected 2005, 2011 and 2015 EIs.

TCEQ also commits to continuing all the applicable control strategies, i.e., the measures approved into the El Paso SIP. For example, these measures include the Federal Motor Vehicle Control Program (FMVCP), an oxygenated fuels program, and a motor vehicle inspection and maintenance (I/M) program.

Based on the above, we are approving these commitments as satisfying the relevant requirements and we note that his final rulemaking approval will render the State's commitments federally enforceable.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. In the January 20, 2006 submittal, Texas specifies the contingency trigger as a violation of the 8-hour CO standard base upon air quality monitoring data from the El Paso monitoring network. In the event that a monitored violation of the 8-hour CO standard occurs in any portion of the maintenance area, the State will first analyze the data to determine if the violation was caused by actions outside TCEQ's jurisdiction (e.g., emissions from Mexico or another state) or within its jurisdiction. If the violation was caused by actions outside TCEQ's jurisdiction, TCEQ will notify the EPA. If TCEQ determines the violation was caused by actions within TCEQ's jurisdiction, TCEQ commits to adopt and implement the identified contingency measures as expeditiously as practicable, but no later than 18 months.

The State will analyze one or more of the following contingency measures to reattain the standard:

- Vehicle idling restrictions.
- Improved vehicle I/M.
- Improved traffic control measures.

The maintenance plan indicates that the State may evaluate other potential strategies to address any future violations in the most appropriate and effective manner possible. Based on the above, we find that the contingency measures provided in the State's El Paso CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Texas has committed to submit a revised maintenance plan eight years after our approval of the redesignation. This provision for revising the maintenance plan is contained in Chapter 5, Section 5.1 of the El Paso CO maintenance plan.

The maintenance plan adequately addresses the five basic components of a maintenance plan. EPA believes that the 8-hour CO maintenance plan SIP revision submitted by the State of Texas for the El Paso area meets the requirements of Section 175A of the CAA. For more information, please refer to our Technical Support Document.

III. EPA's Evaluation of the Transportation Conformity Requirements

Table 2 documents the motor vehicle emissions budgets (MVEBs) for the El Paso CO nonattainment area that have been established by this CO redesignation request. The MVEB is that portion of the total allowable emissions defined in the SIP revision allocated to on-road mobile sources for a certain date for meeting the purpose of the SIP, in this case maintaining compliance with the NAAQS in the nonattainment or maintenance area. EPA's conformity rule (40 CFR part 51, subpart T and part 93, subpart A) requires that transportation plans, programs and projects in nonattainment or maintenance areas conform to the SIP. The motor vehicle emissions budget is one mechanism EPA has identified for demonstrating conformity. Upon the effective date of this SIP approval, all future transportation improvement programs and long range transportation plans for the El Paso area will have to show conformity to the budgets in this plan; previous budgets approved or found adequate will no longer be applicable.

TABLE 2.—EL PASO CO MVEB FOR 2002–2015 (TPD)

Year	MVEB
2002	29.66
2011	18.56
2015	16.63

Our analysis indicates that the above figures are consistent with maintenance of the CO NAAQS throughout the maintenance period. In accordance with EPA's adequacy process, these MVEBs were posted on EPA's adequacy Web site for public notice on May 4, 2006 and were open for comment until June 5, 2006. No comments were received during this period. Therefore, we are finding as adequate and approving the 29.66 tpd for 2002 through 2010, 18.56 tpd for 2011 through 2014, and 16.63 tpd for 2015 and beyond, CO emissions budgets for the El Paso area. Budget modeling was developed for TCEQ under contract by the Texas Transportation Institute (TTI), utilizing El Paso travel model datasets developed by the El Paso Metropolitan Planning Organization. The modeling incorporated two onroad source control strategies that apply in the El Paso area: The El Paso Oxygenated Fuel Program, and the I/M program (both detailed in Chapter 5, Section 5.3.3 of the maintenance plan).

IV. Consideration of Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As stated above, the El Paso area has shown continuous attainment of the CO NAAQS since 1999 and has met the applicable Federal requirements for redesignation to attainment. The maintenance plan will not interfere with attainment or any other applicable requirement of the CAA. No control measures in the El Paso SIP are being removed.

V. Final Action

EPA is approving the redesignation of the El Paso area to attainment of the 8-hour CO NAAQS, as well as approving the El Paso area CO maintenance plan. We also are approving the associated MVEBs.

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.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if relevant adverse comments are received on this

direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We would address all public comments in a subsequent final rule based on the proposed rule. 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.

VI. 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 (Pub. L. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 26, 2007. 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 11, 2007.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR parts 52 and 81 are 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 second table in paragraph (e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding an entry at 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 submittal/ effective date	EPA approval date	Comments
* * * *	*	*	*	*
El Paso County Carbon Monoxide Maintenance Plan.	El Paso, TX	1/11/06	1/23/07 [Insert FR page number where document begins].	

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. Section 81.344 is amended by revising the Carbon Monoxide table entry for El Paso County to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—CARBON MONOXIDE

Designated area	Designation		Category/classification	
	Date [1]	Type	Date [1]	Type
El Paso, El Paso County	1/23/07	Attainment.		
* * * *	*		*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. E7–926 Filed 1–22–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.