hazardous chemical could be involved in a potential release'' modifies only the immediately-preceding ''separate vessels,'' making the entire phrase parallel to the free-standing phrase ''any group of vessels which are interconnected.'' Thus, there is no additional requirement on OSHA to show the potentiality of a release with respect to interconnected (as opposed to separate) vessels. Rather, the PSM standard presumes that all aspects of a physically connected process can be expected to participate in a catastrophic release.

Second, it is clear that, in revising the ''process'' definition to encompass the ''on-site movement'' of HHCs and the twin concepts of inter-connectedness and co-location, OSHA intended that definition to bear most of the weight of defining the scope of the standard. As originally drafted, the ''process'' definition not only did not have these clarifications, but ''onsite in one location'' appeared only in the subsection on flammable liquids and gases, and not in the subsection on Appendix A toxic substances. There is no obvious explanation why this was so. As noted, the phrase was intended to signal that it was not necessary to aggregate all sources of a chemical within, or beyond, the employer's facility. The final standard clarified and more precisely stated this intent and made clear that the same principles applied to both listed and flammable chemicals.

The phrase in the final standard continues to carry its original NPRM meaning of setting a geographic boundary (''on site'') and, within that boundary, a site-specific parameter (''in one location''). But after the definition of ''process'' was changed in the final rule to include explicit language clarifying that a ''single process'' includes ''any group of vessels which are interconnected or separate vessels which are located such that a highly hazardous chemical could be involved in a potential release,'' the limitation placed on application of the standard to flammable liquids and gases denoted by the related phrase ''on site in one location'' no longer carries the independent weight it had before OSHA clarified the intended meaning of ''process.'' As previously stated, however, it continues to serve a separate purpose by operating to exclude coverage where the HHC threshold would be met only if all amounts in interconnected or co-located vessels were aggregated but some of the amounts needed to meet the threshold quantity are outside of the perimeter of the employer's facility.

E. The Response to the Motiva Decision

In the Motiva decision, the Review Commission appropriately left to the Secretary the task of interpreting ''on site in one location'' as it appears in the PSM standard, rather than doing so as an initial matter on its own. This Notice accomplishes that function. The interpretation set forth here is supported by the language, history and purposes of the standard and is consistent with the position adopted by EPA. In the absence of an agency interpretation, the Review Commission had focused on another guide to regulatory intent, the canon of construction that says that all the words of a statute (or regulation) should be assumed to have their own meaning, and suggested that ''on site in one location'' therefore has a meaning wholly apart from process. Regardless of the strength of this canon, the Secretary has satisfied it here by interpreting ''on site in one location'' to limit coverage to vessels within contiguous areas controlled by an employer or group of affiliated employers.

More fundamentally, the Secretary agrees that canons of construction can be useful guides to regulatory intent. They are guides only, however, and should not be mechanically applied in the face of stronger indicia of intent. The flip side of the canon referred to above is the rule that the words of a standard (or regulation) should not be given meaning at the expense of rendering other words meaningless. Accordingly, the courts have put aside the general rule against redundancy in statutes if applying the rule would be counter to legislative intent. *See Gutierrez* v. *Ada,* 528 U.S. 250, 258 (2000) (''rule against redundancy does not necessarily have the strength to turn a tide of good cause to come out the other way''); *Morton* v. *United Parcel Service, Inc.,* 272 F.3d 1249, 1258 (9th Cir. 2001) (rule of redundancy not followed when intent of statute clear); *Mayer* v. *Spanel Intern. LTD.,* 51 F.3d 670, 674 (7th Cir. 1995) (every enacted word need not carry independent force absent strong evidence that at the time of enactment the words were understood as equivalents). In this case, the general statutory canon against redundancy cannot be given controlling weight given the clear intent of OSHA, in the final rule, and the stakeholders, through their comments, during the regulatory process. To do otherwise, in the Secretary's judgment, would render meaningless the most important revision affecting coverage that came out of the rulemaking process, namely the explicit inclusion of the twin concepts of interconnection and co-location in the definition of ''process'' and the clear intent that those concepts would determine coverage under the standard.

Moreover, it is simply linguistically inescapable that there is overlap and redundancy among the terms of the standard. *Motiva* involved the interplay between ''on site in one location'' and the ''interconnected'' prong of the definition of ''process,'' but the other prong of that definition refers to vessels that are so ''located'' to create a risk of catastrophic release. Similarly, the appearance of ''highly hazardous chemical'' in the definition of ''process'' and in the application provision, and the reference back to the application section in the HHC definition, creates an unavoidable redundancy. So too here, the Secretary cannot reasonably interpret ''on site in one location'' in a way that has no overlap with ''process.'' Instead, consistent with how courts generally apply the canons of construction, she has settled on an interpretation of the term ''on site in one location'' that conforms as much as possible to the ordinary meaning of the words and to the standard's overall language, history, and purposes.

Signature

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 1st day of June, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–10918 Filed 6–6–07; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0386; FRL–8321–7]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the Texas State Implementation Plan Regarding a Negative Declaration for the Synthetic Organic Chemical Manufacturing Industry Batch Processing Source Category in El Paso County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Section 172(c)(1) of the Clean Air Act (CAA) requires areas that are not

attaining a National Ambient Air Quality Standard (NAAQS) to reduce emissions from existing sources by adopting, at a minimum, reasonably available control technology (RACT). EPA has established source categories for which RACT must be implemented. If no major sources of volatile organic compound (VOC) emissions in a particular source category exist in a nonattainment area, a State may submit a negative declaration for that category. Texas submitted a State Implementation Plan (SIP) revision which included negative declarations for certain source categories in the El Paso 1-hour ozone standard nonattainment area. EPA previously approved the State's declaration that no major sources existed for 9 source categories in the El Paso area. In the approval EPA neglected to approve the negative declaration for the synthetic organic chemical manufacturing industry (SOCMI) batch processing category in the El Paso area. EPA is approving this negative declaration for the El Paso 1-hour ozone standard nonattainment area.

DATES: This rule is effective on August 6, 2007 without further notice, unless EPA receives relevant adverse comment by July 9, 2007. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0386, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- *E-mail:* Mr. Carl Young at *young.carl@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Carl Young, Acting Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Carl Young, Acting Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Carl Young, Acting Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2007–0386. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 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 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

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

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

FOR FURTHER INFORMATION CONTACT: 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.

Outline

I. What is the Background for this Action?

Section 172(c)(1) of the CAA requires SIPs for areas that are not attaining a NAAQS to provide, at a minimum, for such reductions in air emissions from existing sources in the areas as may be obtained through the adoption of reasonably available control measures including RACT. In our September 17, 1979 **Federal Register** notice (44 FR 53761) we define RACT as: ''The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economical feasibility.''

Under CAA section 182(b)(2) State SIPs must require RACT for major stationary sources of VOC emissions in ozone NAAQS nonattainment areas classified as moderate or higher. VOC emissions can react with sunlight and nitrogen oxides to form ground-level ozone. If no major sources of VOC emissions exist in a particular source category in an ozone nonattainment area, the State may submit a negative declaration for that category.

The El Paso area, consisting of El Paso County, Texas, was classified as a moderate nonattainment area for the 1-hour ozone NAAQS on November 6, 1991 (56 FR 56694). On January 10, 1996 Texas submitted a SIP revision

that included negative declarations for certain source categories in the El Paso 1-hour ozone standard nonattainment area. The area consists of El Paso County. We approved the State's declaration that no major sources existed for 9 source categories in the El Paso area on October 30, 1996 (61 FR 55894). In our approval we neglected to approve the negative declaration for the synthetic organic chemical manufacturing industry (SOCMI) batch processing category in the El Paso area. We reviewed data from the Texas Point Source Emissions Inventory to confirm that there were no major sources of VOC emissions from SOCMI batch processing facilities in El Paso County. Our approval of the State's negative declaration will correct our earlier failure to take action on the negative declaration submitted by Texas.

II. What Action is EPA Taking?

We are taking direct final action to approve a negative declaration submitted by Texas concerning the SOCMI batch processing category in the El Paso 1-hour ozone standard nonattainment area. Texas submitted the negative declaration on January 10, 1996. It states that in the El Paso area there are no major stationary sources of VOC emissions for the SOCMI batch processing category. We have evaluated the State's submittal and have determined that it meets the applicable requirements of the CAA and EPA air quality regulations. We are approving the negative declaration pursuant to section 110 and part D of the CAA.

We are also making ministerial corrections to the table in 40 CFR 52.2270(e) to reflect our earlier approval of negative declarations submitted by Texas.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on August 6, 2007 without further notice unless we receive relevant adverse comment by July 9, 2007. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Final Action

We are approving a SIP revision submitted by Texas which states that there are no major stationary sources of VOC emissions for the SOCMI batch processing category in the El Paso 1-hour ozone standard nonattainment area. Texas submitted this negative declaration on January 10, 1996. We are also making ministerial corrections to the table in 40 CFR 52.2270(e) to reflect our earlier approval of negative declarations submitted by Texas.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, 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. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Because this rule merely approves a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 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. section 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. section 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 August 6, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 21, 2007.

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 paragraph (e) entitled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding entries for ''VOC RACT Negative Declarations'' and ''VOC RACT Negative Declaration for SOCMI Batch Processing Source Category'' immediately after the entry ''Revision to Permitting Regulations and Board Orders No. 85–07, 87–09, 87–17, 88–08, 89–06, 90–05, 91–10, 92–06, 92–18, and 93–17'' 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
* *	* *	*	*	*
VOC RACT Negative Declarations	Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, Houston/Galveston.	1/10/96	10/30/96, 61 FR 55894.	Ref 52.2299(c)(103).
VOC RACT Negative Declaration for SOCMI Batch Processing Source Category.	El Paso	1/10/96	6/7/07 [Insert *FR* page number where document begins].	
* *	* *	*	*	*

* * * * *

[FR Doc. E7–10764 Filed 6–6–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7703]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule; removal.

SUMMARY: The Federal Emergency Management Agency (FEMA) removes the interim change in flood elevation determination published at 72 FR 271 on January 4, 2007 for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community Number 240027.

EFFECTIVE DATE: This rule is effective June 7, 2007.

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

SUPPLEMENTARY INFORMATION: On October 19, 2006, FEMA issued a Letter of Map Revision (LOMR) revising the Unincorporated areas of Frederick County, Maryland Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM), Case No. 06–03–B384P. In addition, the October 19, 2006 LOMR proposed base flood elevations along Ballenger Creek and Tributary No. 117 through a statutory 90-day appeal period and established an effective date of February 15, 2007. During the 90-day appeal period, FEMA received an appeal submitted by a property owner located within the revised area. After further investigation, it was found that the aforementioned flooding sources had been revised for the countywide map revision for Frederick County, Maryland, currently scheduled to go into effect in September 2007. When comparing the LOMR modeling to the countywide restudy, it was determined that the modeling for the countrywide restudy more accurately represented existing conditions. Therefore, the LOMR has been rescinded to eliminate the potential of incorrect flood insurance determinations along the revised flooding sources.

Accordingly, the interim change in flood elevation determination published at 72 FR 271 on January 4, 2007 for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community No. 240027, is hereby removed.

This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA voluntarily publishes flood elevation determinations for notice and comment, however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA. If APA applicability is contested, however, FEMA asserts, for the reasons stated above, that it has good cause to issue this removal immediately, and