

taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

#### 12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### 13. Technical Standards

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

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 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 that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

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:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

- 2. Revise § 117.821(a)(4) to read as follows:

##### § 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

(a) \* \* \*

(4) S.R. 74 Bridge, mile 283.1, at Wrightsville Beach, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour; except that from 7 a.m. to 9 a.m. on the second Saturday of July of every year, from 7 a.m. to 11 a.m. on the third and fourth Saturday of September of every year, and from 7 a.m. to 10:30 a.m. on the last Saturday of October of every year or the first or second Saturday of November of every year, the draw need not open for vessels due to annual races.

\* \* \* \* \*

- 3. Revise § 117.822 to read as follows:

##### § 117.822 Cape Fear River.

The draw of the Cape Fear Memorial Bridge, mile 26.8, at Wilmington need not open for the passage of vessels from 7 a.m. to 9 a.m. on the second Saturday of July of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year to accommodate annual races.

- 4. Revise § 117.829(a)(4) to read as follows:

##### § 117.829 Northeast Cape Fear River.

(a) \* \* \*

(4) From 7 a.m. to 9 a.m. on the second Saturday of July of every year, from 12 p.m. to 11:59 p.m. on the last Saturday of October or the first or

second Saturday of November of every year, and from 7 a.m. to 11 a.m. on the first or second Sunday of November of every year, the draw need not open for vessels to accommodate annual races.

\* \* \* \* \*

Dated: August 8, 2012.

**Stephen H. Ratti,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 2012-20481 Filed 8-20-12; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2010-0153(a); FRL-9717-5]

### Approval and Promulgation of Implementation Plans; Tennessee; Knoxville; Fine Particulate Matter 2002 Base Year Emissions Inventory

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the 1997 annual fine particulate matter (PM<sub>2.5</sub>) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revision submitted by the State of Tennessee on April 4, 2008. The emissions inventory is part of Tennessee's April 4, 2008, attainment demonstration SIP revision that was submitted to meet the section 172(c) Clean Air Act (CAA or Act) requirements related to the Knoxville nonattainment area for the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS), hereafter referred to as "the Knoxville Area" or "Area." The Knoxville nonattainment area is comprised of Anderson, Blount, Knox and Loudon Counties in their entirety and a portion of Roane County that includes the Tennessee Valley Authority's Kingston Fossil Plant. This action is being taken pursuant to section 110 of the CAA.

**DATES:** This direct final rule is effective on October 22, 2012 without further notice, unless EPA receives relevant adverse comment by September 20, 2012. 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 ID No. EPA-R04-OAR-2010-0153, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.

2. *Email*: [R4-RDS@epa.gov](mailto:R4-RDS@epa.gov).

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2010-0153," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R04-OAR-2010-0153. 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](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 through [www.regulations.gov](http://www.regulations.gov) or email, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email 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. For additional information about EPA's public docket visit the EPA

Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Richard Wong, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background**

On July 18, 1997 (62 FR 36852), EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual PM<sub>2.5</sub> NAAQS based upon air quality monitoring data for calendar years 2001-2003. These designations became effective on April 5, 2005. The Knoxville Area was designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.343.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP revision under title I, part D of the CAA. This SIP revision must include, among other elements, a demonstration of how the NAAQS will be attained in

the nonattainment area as expeditiously as practicable, but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP revision to EPA. For the 1997 annual PM<sub>2.5</sub> NAAQS, these submittals were due April 5, 2008. See 40 CFR 51.1002(a).

On April 4, 2008, Tennessee submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS in the Knoxville Area. Subsequently, on June 6, 2012 (77 FR 33360), EPA proposed that the Knoxville Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS. The proposed determination of attainment is based upon quality-assured and certified ambient air monitoring data for the 2009-2011 period showing that the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. EPA did not receive any comments on the proposed determination and published the final determination on August 2, 2012 (77 FR 45954). In accordance with the final determination of attainment, the requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard are suspended, so long as the Area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 51.1004(c).

EPA notes that a final determination of attainment would not suspend the emissions inventory requirement found in CAA section 172(c)(3), which requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. In today's action, EPA is approving the emissions inventory portion of the attainment demonstration SIP revision submitted by Tennessee on April 4, 2008, as required by section 172(c)(3).

**II. Analysis of the State's Submittal**

As discussed above, section 172(c)(3) of the CAA requires nonattainment areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such areas. Tennessee selected 2002 as the base year for the emissions inventory per 40 CFR 51.1008(b). Emissions contained in Tennessee's April 4, 2008, SIP revision cover the general source categories of point sources, non-road mobile sources, area sources, and on-

road mobile sources of direct and precursor emissions of PM<sub>2.5</sub>. The precursor emissions included in the 2002 Knoxville Area emissions inventory include nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>). A detailed discussion of the emissions inventory development can be found in Appendix H of the Tennessee submittal. The table below provides a summary of the annual 2002 emissions of NO<sub>x</sub>, SO<sub>2</sub> and direct PM<sub>2.5</sub> included in the Tennessee submittal.

#### 2002 ANNUAL EMISSIONS FOR THE KNOXVILLE AREA

[Tons per year]

County	Point sources		
	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>
Anderson .....	17,253	44,692	2,075
Blount .....	387	4,264	1,684
Knox .....	2,183	1,303	471
Loudon .....	2,309	4,221	412
Roane * .....	25,679	77,571	3,217
Non-road sources			
Anderson .....	1,128	69	55
Blount .....	1,301	127	115
Knox .....	4,845	425	312
Loudon .....	1,231	111	62
Roane * .....	17	2	1
Area sources			
Anderson .....	252	271	501
Blount .....	164	59	718
Knox .....	175	39	445
Loudon .....	57	18	334
Roane * .....	2	2	5
Mobile sources			
Anderson .....	3,267	111	46
Blount .....	2,720	119	41
Knox .....	19,059	682	284
Loudon .....	4,273	120	60
Roane * .....	235	11	3

\*Nonattainment portion of Roane County only.

The 172(c)(3) emissions inventory was developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, nonroad mobile, area, and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also are used in the attainment demonstration modeling inventory. Such was the case in the development of the 2002 base year emissions inventory that was submitted in Tennessee's attainment demonstration SIP for the Knoxville Area. The 2002 base year emissions inventory was

based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the VISTAS states (i.e., Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia) to the EPA 2002 National Emissions Inventory. Several iterations of the VISTAS 2002 inventories were developed through the VISTAS project for the different emission source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP revision. The VISTAS and Tennessee emissions inventory data were developed according to current EPA emissions inventory guidance titled "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS)" (August 2005) and "Clean Air Fine Particle Implementation Rule" (72 FR 20586, April 25, 2007) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 172(c)(3) and the implementing regulations.

EPA has reviewed the 2002 base year emissions inventory from Tennessee and determined that it is adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement. Further, EPA has determined that the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emissions inventories.

### III. Final Action

EPA is taking direct final action to approve the 2002 base year emissions inventory portion of the attainment demonstration SIP revision submitted by the State of Tennessee on April 4, 2008. EPA determined that this action is consistent with section 110 of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial revision and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision

should adverse comment be filed. This rule will be effective on October 22, 2012 without further notice unless the Agency receives adverse comment by September 20, 2012. If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised this rule will be effective on October 22, 2012 and no further action will be taken on the proposed rule.

### IV. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 CAA; 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 final 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2012. 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 dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 7, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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 RR—Tennessee

- 2. Section 52.2220(e) is amended by adding a new entry for “Knoxville; 1997 Annual Fine Particulate Matter 2002 Base Year Emissions Inventory” at the end of the table to read as follows:

### § 52.2220 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

## EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Knoxville; 1997 Annual Fine Particulate Matter 2002 Base Year Emissions Inventory.	Anderson, Blount, Knox, and Loudon Counties, and the portion of Roane County that falls within the census block that includes the Tennessee Valley Authority's Kingston Fossil Plant.	04/04/2008	08/21/2012 [Insert citation of publication].	

[FR Doc. 2012–20393 Filed 8–20–12; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 580

[Docket No. NHTSA–2011–0152; Notice 2]

### Petition for Approval of Alternate Odometer Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA).

**ACTION:** Notice of final determination.

**SUMMARY:** The State of New York (“New York”) has petitioned for approval of alternate odometer requirements. New York’s petition, as amended, is granted.

**DATES:** *Effective Date:* September 20, 2012.

**ADDRESSES:** New York’s petition and comments are available for public inspection at the Docket Management Facility of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

**FOR FURTHER INFORMATION CONTACT:** Marie Choi, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (Telephone: 202–366–1738) (Fax: 202–366–3820).

**SUPPLEMENTARY INFORMATION:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the

comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketInfo.dot.gov>. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also review the docket at the address listed above.

## I. Introduction

Federal odometer law, which is largely based on the Motor Vehicle Information and Cost Savings Act of 1972 (Cost Savings Act)<sup>1</sup> and Truth in Mileage Act of 1986, as amended

<sup>1</sup> Sec. 401–413, Public Law 92–513, 86 Stat. 961–963.