

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” 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).

National Technology Transfer Advancement Act

In reviewing state submissions, 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state 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.

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: December 10, 2012.

Susan Hedman,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0762; FRL–9762–7]

Approval and Promulgation of Implementation Plans; Tennessee: Knox County Supplemental Motor Vehicle Emissions Budget Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve, through parallel processing, a draft revision to the Tennessee State Implementation Plan (SIP), submitted to EPA on October 12, 2012, by the State

of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC). Tennessee’s October 12, 2012, draft SIP revision includes changes to the maintenance plan for the Knox County 1-hour ozone area submitted on August 26, 1992, and approved by EPA on September 27, 1993, and a subsequent SIP revision approved by EPA on August 5, 1997. The Knox County 1-hour ozone area was comprised of Knox County in its entirety. The October 12, 2012, draft revision proposes to increase the safety margin allocated to motor vehicle emissions budgets (MVEB) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for Knox County to account for changes in the emissions model and vehicle miles traveled (VMT) projection model. EPA is proposing approval of this draft SIP revision pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before January 17, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0762 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email:* R4-RDS@epa.gov.

3. *Fax:* (404) 562–9019.

4. *Mail:* “EPA–R04–OAR–2012–0762.” 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:* Lynora Benjamin, 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.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation 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. Kelly

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I. Parallel Processing

Consistent with EPA regulations found at 40 CFR Part 51, Appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before going out for public comment. EPA reviews this proposed state action, and prepares a notice of proposed rulemaking. EPA’s notice of proposed rulemaking is published in the **Federal Register** during the same time frame that the state is holding its public process. The state and EPA then provide for concurrent public comment periods on both the state action and federal action.

If the revision that is finally adopted and submitted by the state is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and if necessary and appropriate, issue another notice of proposed rulemaking. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On October 12, 2012, the State of Tennessee, through TDEC submitted a request for parallel processing of a draft SIP revision that the State had already taken through public comment. TDEC requested parallel processing so that EPA could begin to take action on its draft SIP revision in advance of the State’s submission of the final SIP revision. As stated above, the final rulemaking action by EPA will occur only after the SIP revision has been: (1) Adopted by Tennessee, (2) submitted formally to EPA for incorporation into the SIP; and (3) evaluated by EPA, including any changes made by the State after the October 12, 2012, draft was submitted to EPA.

II. Background

The Knox County, Tennessee, 1-hour ozone attainment and maintenance area is comprised of only Knox County in its

entirety in Tennessee (hereafter referred to as the “Knox County Area” or “Area”). Knox County Area was originally designated as marginal nonattainment for the 1-hour ozone national ambient air quality standards (NAAQS) on November 6, 1991 (56 FR 56694).¹ Knox County was redesignated as attainment for the 1-hour ozone NAAQS on September 27, 1993 (58 FR 50271). In this approval, was a 10-year air quality maintenance plan covering the years 1994–2004.

A subsequent revision to the Knox County Area maintenance plan was approved by EPA on August 5, 1997, that established MVEB for transportation conformity purposes. That plan satisfied the CAA requirement for a 10-year update of the Knox County 1-hour ozone maintenance plan. Changes included revisions to the emissions inventory for both on-road and off-road mobile sources using the latest at that time, EPA approved mobile emissions and NONROAD models. New emissions data for both the new base year (attainment year) and the projected years (2004 and 2014) were calculated. The plan updated the 2004 MVEB and

provided for a new MVEB for the year 2014. EPA is now proposing to approve Tennessee’s October 12, 2012, revision to the safety margin for the previously approved MVEB.

III. EPA’s Analysis of Tennessee’s SIP Revision

As discussed above, on October 12, 2012, the State of Tennessee, through TDEC, submitted a SIP revision to revise the MVEB for Knox County in the Knox County 1-hour ozone maintenance plan to increase the safety margin as a result of new emissions model, VMT projection models, and other emission model input data. The MVEB (expressed in tons per day (tpd)) that are being updated through today’s action were originally approved by EPA on September 27, 1993, updated on August 5, 1997, and are outlined in the table below.

TABLE 1—ORIGINAL MVEB FOR KNOX COUNTY FOR 2004 NO_x

| | | |
|-----------------------|-----------|-----------|
| NO _x | 29.24 tpd | 22.12 tpd |
| VOC | 33.89 tpd | 31.71 tpd |

TDEC is currently allocating portions of the available safety margin² to the MVEB to account for new emissions models, VMT projections models, as well as changes to future vehicle mix assumptions, that influence the emission estimations. TDEC has now decided to allocate a majority of the safety margin available to the MVEB. Specifically, 7.97 tpd of the available VOC safety margin (15.94) is allocated to the 2004 MVEB, and 11.61 tpd for the available 2014 MVEB (23.22). Additionally, 2.79 tpd of the available NO_x safety margin are allocated to the 2004 MVEB and 18.43 tpd for the 2014 MVEB. The remaining safety margin for VOC for 2004 is 7.97 tpd and for 2014 is 11.61 tpd. As a result, there will be no safety margin remaining for NO_x for 2004 and 2014.

The following tables provide the adjusted VOC and NO_x emissions data, for the 2004 base attainment year inventories, as well as the projected VOC and NO_x emissions inventory 2014.

TABLE 2—KNOX COUNTY TOTAL VOLATILE ORGANIC COMPOUNDS EMISSIONS

| Year | Area | Non-road | Biogenic | Mobile | Point | Total | Available safety margin |
|------------|-------|----------|----------|--------|-------|--------|-------------------------|
| 1990 | 28.82 | 9.81 | 32.43 | 40.84 | 8.06 | 119.96 | |
| 1993 | 29.25 | 9.96 | 32.43 | 32.35 | 8.64 | 112.63 | |
| 2004 | 30.90 | 10.52 | 32.43 | 21.27 | 8.90 | 104.02 | 15.94 |
| 2010 | 31.84 | 10.84 | 32.43 | 13.93 | 9.76 | 98.80 | |
| 2014 | 32.48 | 11.06 | 32.43 | 19.51 | 10.26 | 96.74 | 23.22 |

TABLE 3—KNOX COUNTY TOTAL NITROGEN OXIDES EMISSIONS

| Year | Area | Non-Road | Biogenic | Mobile | Point | Total | Safety Margin |
|------------|------|----------|----------|--------|-------|-------|---------------|
| 1990 | 3.66 | 9.77 | 0 | 37.62 | 8.96 | 60.01 | |
| 1993 | 3.72 | 9.92 | 0 | 34.85 | 9.54 | 58.03 | |
| 2004 | 3.92 | 10.48 | 0 | 31.10 | 11.73 | 57.23 | 2.79 |
| 2010 | 4.04 | 10.79 | 0 | 19.99 | 12.53 | 47.35 | |
| 2014 | 4.13 | 11.01 | 0 | 13.27 | 13.17 | 41.58 | 18.43 |

¹ Subsequent to designating Knox County nonattainment for the 1-hour ozone NAAQS, EPA has since designated Knox County as part of the larger Knoxville nonattainment area for the 1997 8-hour ozone NAAQS (see 69 FR 23857, April 30, 2004) and the 2008 8-hour ozone NAAQS (see 77 FR 30160, May 21, 2012). This proposed action relates primarily to the MVEB established for Knox

County for the 1-hour ozone NAAQS, and does not relate to the MVEB approved for 1997 8-hour ozone NAAQS for the Knoxville Area, nor does it relate to any pending MVEB that may be contemplated for the Knoxville Area for the 2008 8-hour ozone NAAQS.

² A safety margin is the difference between the attainment level of emissions from all source

categories (i.e., point, area, and mobile) and the projected level of emissions from all source categories. The State may choose to allocate some of the safety margin to the MVEB, for transportation conformity purposes, so long as the total level of emissions from all source categories remains equal to or less than the attainment level of emissions.

TABLE 4—KNOX COUNTY NO_x MVEB [tpd]

| | 2004 | 2014 |
|---------------------------------------|-------|-------|
| NO_x Emissions | | |
| Base Emissions | 57.23 | 41.48 |
| Safety Margin Allocated to MVEB | 2.79 | 18.43 |
| NO _x Conformity MVEB | 36.68 | 50.14 |

TABLE 5—KNOX COUNTY VOC MVEB [tpd]

| | 2004 | 2014 |
|---------------------------------------|--------|-------|
| VOC Emissions | | |
| Base Emissions | 104.02 | 96.74 |
| Safety Margin Allocated to MVEB | 7.97 | 11.61 |
| VOC Conformity MVEB | 37.21 | 33.73 |

Taking into consideration the portion of the safety margin applied to the MVEB, the resulting difference between the attainment level of emissions from all sources and the projected level of emissions from all sources in the maintenance area, the area still attains the NAAQS and meets the maintenance requirements. The new safety margins, are listed below in Table 6.

TABLE 6—NEW SAFETY MARGINS FOR THE KNOX COUNTY

| Year | VOC tpd | NO _x tpd |
|------------|---------|---------------------|
| 2004 | 7.97 | 0 |
| 2014 | 11.61 | 0 |

As shown in Tables 2 and 3 above, VOC and NO_x total emissions in Knox County are projected to steadily decrease from 2004 to the maintenance year of 2014. This VOC and NO_x emission decrease demonstrates continued attainment/maintenance of the 1-hour ozone NAAQS for ten years from 2004 (the year the Area was effectively designated attainment for the 1-hour ozone NAAQS) as required by the CAA.

The revised MVEB that Tennessee submitted for the Knox County Area were developed with projected mobile source emissions derived using the MOBILE6 motor vehicle emissions model. This model was the most current model available at the time Tennessee was performing its analysis. However, EPA has now issued an updated motor vehicle emissions model known as Motor Vehicle Emission Simulator or MOVES. In its announcement of this model, EPA established a two-year grace

period for continued use of MOBILE6.2 in regional emissions analyses for transportation plan and transportation improvement programs (TIPs) conformity determinations (extending to March 2, 2012),³ after which states (other than California) must use MOVES in conformity determinations for TIPs. As stated above, MOBILE6.2 was the applicable mobile source emissions model that was available when the original SIP was submitted.

IV. Proposed Action

EPA is proposing to approve Tennessee's October 12, 2012, SIP revision concerning the Knox County 1-hour ozone maintenance plan and increasing the safety margin allocated to MVEB to account for changes in the emissions model and VMT projection model. This action, if finalized, would result in higher NO_x and VOC MVEB for transportation conformity purposes for Knox County, and would still be consistent with attainment for the 1-hour ozone NAAQS. EPA is proposing this action because it is consistent with the CAA and the transportation conformity requirements at 40 CFR 93.

V. 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 proposed 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 proposed 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

³ EPA previously extended the grace period to use MOVES for regional emissions analysis in conformity determinations to March 2, 2013 (77 FR 11394).

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 proposed 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.

List of Subjects in 40 CFR Part 52

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

Dated: December 7, 2012.

A. Stanley Meiburg,

Regional Administrator, Region 4.

[FR Doc. 2012-30358 Filed 12-17-12; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 11-69; Report No. 2970]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.