(C) You may only use one crab pot, which may be of any size, to take king crab.

(D) You may take king crab only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after State open commercial fishing seasons for red king crab, blue king crab, or Tanner crab in the location.

(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally qualified subsistence users.

(v) In the subsistence taking of Tanner crab:

(A) You may not use more than five crab pots to take Tanner crab.

(B) You may not take Tanner crab in waters 25 fathoms or greater in depth during the 14 days immediately before the opening of a State commercial king or Tanner crab fishing season in the location.

(C) The daily harvest and possession limit per person is 12 male crabs with a shell width 5½ inches or greater.

(5) *Alaska Peninsula—Aleutian Islands Area.*

(i) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed State commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit must specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(ii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(iii) In the subsistence taking of king crab:

(A) The daily harvest and possession limit is six male crabs per person; only crabs with a shell width of 6½ inches or greater may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period must have all bait and bait containers removed and all doors secured fully open;

(C) You may take crabs only from June 1 through January 31.

(iv) The daily harvest and possession limit is 12 male Tanner crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(6) *Bering Sea Area.*

(i) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots, and ring net.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit must specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) In waters south of 60° North latitude, the daily harvest and possession limit is 12 male Dungeness crabs per person.

(iv) In the subsistence taking of king crab:

(A) In waters south of 60° North latitude, the daily harvest and possession limit is six male crabs per person.

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period must have all bait and bait containers removed and all doors secured fully open.

(C) In waters south of 60° North latitude, you may take crab only from June 1 through January 31.

(D) In the Norton Sound Section of the Northern District, you must have a subsistence permit.

(v) In waters south of 60° North latitude, the daily harvest and possession limit is 12 male Tanner crabs.

Dated: February 15, 2011.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

Dated: February 11, 2011.

Steve Kessler,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2011–5174 Filed 3–7–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2010–0666–201052; FRL–9277–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Knoxville 1997 8-Hour Ozone Nonattainment Area to Attainment for the 1997 8-Hour Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on July 14, 2010, and amended on September 9, 2010, from the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), Air Pollution Control Division, to redesignate the Knoxville, Tennessee 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The Knoxville, Tennessee 1997 8-hour ozone nonattainment area comprises Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties in their entireties, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park (hereinafter referred to as the "Knoxville Area" or "Area"). EPA's approval of the redesignation request is based on the determination that the State of Tennessee has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act), including the determination that the Knoxville Area has attained the 1997 8-hour ozone NAAQS. Additionally, EPA is approving a revision to the Tennessee State Implementation Plan (SIP) to include the 1997 8-hour ozone maintenance plan for the Knoxville Area that contains the new 2024 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC). This action also approves the emissions inventory submitted with the maintenance plan. As part of this final action, EPA considered the adverse comments received; a response to comments is included in this final action.

DATES: *Effective Date:* This rule will be effective March 8, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0666. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although

listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information 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 through *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: Jane Spann or Royce Dansby-Sparks, 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. Jane Spann may be reached by phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.* Royce Dansby-Sparks may be reached by phone at (404) 562–9187 or via electronic mail at *dansby-sparks.royce@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for the actions?

On July 14, 2010, the State of Tennessee, through TDEC, submitted a request to redesignate the Knoxville Area to attainment for the 1997 8-hour ozone NAAQS, and for EPA approval of the Tennessee SIP revision containing a maintenance plan for the Area. In an action published on October 7, 2010 (75 FR 62026), EPA proposed approval of Tennessee's plan for maintaining the 1997 8-hour ozone NAAQS, including the emissions inventory submitted pursuant to CAA section 172(c)(3); and the NO_x and VOC MVEBs for the Knoxville Area contained in the maintenance plan. At that time, EPA also proposed to approve the redesignation of the Knoxville Area to attainment. Additional background for today's action is set forth in EPA's October 7, 2010, proposal.

The MVEBs included in the maintenance plan are as follows:

TABLE 1—KNOXVILLE AREA VOC AND NO_X MVEBS

[Summer season tons per day (tpd)]

	2024
NO_X	36.32
VOC	25.19

In its October 7, 2010 proposed action, EPA noted that the adequacy public comment period on these MVEBs (as contained in Tennessee's submittal) began on June 15, 2010, and closed on July 15, 2010. No comments were received during the public comment period. Thus, EPA deemed the new MVEBs for the Knoxville Area adequate for the purposes of transportation conformity on September 15, 2010 (75 FR 55977).

As stated in the October 7, 2010, proposal, this redesignation addresses the Knoxville Area's status solely with respect to the 1997 8-hour ozone NAAQS, for which designations were finalized on April 30, 2004 (69 FR 23857).

In this final rulemaking, EPA is also noting minor corrections that the State of Tennessee made on September 2, 2010, and September 9, 2010, to amend its July 14, 2010, submittal. The changes reflect minor corrections to total values in several data tables for data consistency throughout the submittal. In addition, area source emissions inventory information for Knox County that was inadvertently omitted in the original submittal was added to Appendix A. The corrected submittal can be found in the docket EPA–R04–OAR–2010–0666 on the *http://www.regulations.gov* Web site. EPA's proposed action, published on October 7, 2010 (75 FR 62026), and today's final action, are not affected by these minor corrections. EPA is also noting a typographical error in the October 7, 2010, proposed rule. The last entry in Table 8 on page 62039 of the proposed rule should read "Non-road mobile source total (MLA)" instead of "Non-road mobile source total," to distinguish the 2007 commercial marine vessels, locomotives and aircraft emissions from other non-road emission sources. *See* 75 FR 62039. EPA does not believe this minor typographical error affected the ability of the public to comment on this action because the actual inventory numbers were accurate and the public was provided with sufficient information to comment on the proposed actions.

EPA reviewed ozone monitoring data from ambient ozone monitoring stations in the Knoxville Area for the ozone seasons from 2007–2009. These data have been quality-assured and are recorded in Air Quality System (AQS). The fourth-highest 8-hour ozone average for 2007, 2008, and 2009, and the 3-year average of these values (*i.e.,* design values), are summarized in Table 2 of this final rulemaking. Preliminary monitoring data for the 2010 ozone season indicate that the Area is not violating the 1997 ozone NAAQS based on data from 2008–2010. These preliminary data are available in the Docket for today's action although it is not yet certified.

TABLE 2—DESIGN VALUE CONCENTRATIONS FOR THE KNOXVILLE 8-HOUR OZONE AREA

[Parts per million, ppm]

County	Site name	Monitor ID	Eight-hour design values (ppm)			
			2005–2007	2006–2008	2007–2009	2008–2010 **
Anderson	Freels Bend Study Area	470010101–1	0.080	0.077	0.072	0.070
Blount	Look Rock, GSMNP	470090101–1	0.086	0.085	0.079	0.077
	Cades Cove, GSMNP	470090102–1	0.070	0.072	0.069	0.069
Jefferson	1188 Lost Creek Road	470890002–1	0.084	0.081	0.076	0.074
Knox	9315 Rutledge Pike	470930021–1	0.081	0.081	0.077	0.071
	4625 Mildred Drive	470931020–1	0.088	0.088	0.082	0.076
Loudon	1703 Roberts Road	47105109–1	0.085	0.082	0.077	0.073

TABLE 2—DESIGN VALUE CONCENTRATIONS FOR THE KNOXVILLE 8-HOUR OZONE AREA—Continued

[Parts per million, ppm]

County	Site name	Monitor ID	Eight-hour design values (ppm)			
			2005–2007	2006–2008	2007–2009	2008–2010 **
Sevier	Cove Mountain, GSMNP	47155101–1	0.082	0.082	0.079	0.076

** Based on preliminary data as of November 7, 2010 (this data comprises the 2010 ozone season). The actual design value cannot be calculated until the data is quality assured and formally submitted to EPA sometime in mid-2011.

II. What are the actions EPA is taking?

In today's rulemaking, EPA is approving: (1) Tennessee's emissions inventory which was submitted pursuant to CAA section 172(c)(3); (2) Tennessee's 1997 8-hour ozone maintenance plan for the Knoxville Area, including MVEB's (such approval being one of the CAA criteria for redesignation to attainment status); and, (3) Tennessee's redesignation request to change the legal designation of the Knoxville Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. The maintenance plan is designed to demonstrate that the Knoxville Area will continue to attain the 1997 8-hour ozone NAAQS through 2024. EPA's approval of the redesignation request is based on EPA's determination that the Knoxville Area meets the criteria for redesignation set forth in CAA, sections 107(d)(3)(E) and 175A, including EPA's determination that the Knoxville Area has attained the 1997 8-hour ozone NAAQS. EPA's analyses of Tennessee's redesignation request, emissions inventory, and maintenance plan are described in detail in the October 7, 2010, proposed rule (75 FR 62026).

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2024 MVEBs for NO_X and VOC for the Knoxville Area. In this action, EPA is approving these NO_X and VOC MVEBs for the purposes of transportation conformity. For regional emission analysis years that involve the year 2024 and beyond, the applicable budgets (for the purpose of conducting transportation conformity analyses) are the new 2024 MVEBs.

III. Why is EPA taking these actions?

EPA has determined that the Knoxville Area has attained the 1997 8-hour ozone NAAQS and has also determined that all other criteria for the redesignation of the Knoxville Area from nonattainment to attainment of the 1997 8-hour ozone NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the Knoxville Area have an approved plan demonstrating maintenance of the 1997 8-hour ozone NAAQS. EPA is also taking final action to approve the maintenance plan for the Knoxville Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. In addition, EPA is approving the emissions inventory as meeting the requirements of section 172(c)(3) of the CAA. Finally, EPA is approving the new NO_X and VOC MVEBs for 2024 as contained in Tennessee's maintenance plan for the Knoxville Area because these MVEBs are consistent with maintenance of the 1997 ozone standard in the Knoxville Area. The detailed rationale for EPA's findings and actions are set forth in the proposed rulemaking and in other discussion in this final rulemaking. EPA received multiple comments from one commenter (hereafter referred to as the "Commenter") which were generally adverse. The comments are summarized and responded to below.

IV. Response to Comments

EPA received one set of comments on the October 7, 2010, proposed approval to redesignate the Knoxville Area to attainment for the 1997 8-hour ozone NAAQS.[1] The comments focused on provisions in the Tennessee SIP regarding start-up, shutdown and malfunction emissions (sometimes referred to as SSM or excess emissions) that were not changed as part of the redesignation request and maintenance plan SIP submittal. The comments focused on provisions that the Commenter believes are "inextricably linked" to the redesignation, and as a result, the Commenter concludes that these provisions "have the potential to undermine the Knoxville Area's maintenance of the 1997 NAAQS for ozone."

The provisions of the Official Compilation Rules & Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.) identified by the Commenter, and a summary of the comments, are as follows. Some of the comments address the same State or Local provisions, but each comment is summarized individually.

First, the Commenter identified Tenn. Comp. R. & Regs. Rule 1200–3–20–.07(1) and (3). The Commenter believes that these provisions should be changed "to clarify that all excess emissions are violations regardless of cause" and notwithstanding any discretionary decision made by Tennessee regarding whether the violation is "excused." The Commenter believes the "excuse" language included in the above-cited provisions is "sufficiently ambiguous that it should be revised." The Commenter also raised concerns with the discretion afforded to the Technical Secretary to determine whether excess emissions are "violations" and that such a determination might negatively affect EPA or a citizen in pursuing enforcement of such excess emissions as violations.

Second, the Commenter again identified Tenn. Comp. R. & Regs. Rule 1200–3–20–.07, further elaborating on the discretionary determination that the Technical Secretary could make regarding excess emissions and whether such emissions are violations. The Commenter stated that "the SIP contains no regulatory standard whatsoever that defines how the Technical Secretary's discretion should be exercised." The Commenter identifies five criteria enumerated in a February 15, 1983, Memorandum from Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation (EPA) to Regional Administrators, Regions I–X, regarding *Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions* (1983 Bennett Memorandum). The Commenter explains that Tennessee's rules do not address criteria four and five identified by EPA in the 1983 Bennett Memorandum. The discussion in the comments suggests that all five criteria may be met by the Tennessee rules; however, this hinges on Tennessee's interpretation and implementation of its rules. Thus, the Commenter appears concerned that if the rules were interpreted or implemented in a certain

[1] A full set of the comments is provided in the docket for this rulemaking.

way, the rules may not be consistent with the 1993 Bennett Memorandum.

Third, the Commenter identified Tenn. Comp. R. & Regs. Rules 1200–3–5–.02(1) and 1200–3–20–.07(1) regarding visible emissions and raised concerns that these rules "create an exception for visible emissions levels." The Commenter explained that when these provisions are "incorporated into a permit, this rule operates as a blanket exemption for opacity violations." The comment also raises a concern about discretion on the part of the Technical Secretary to exempt a facility's excess emissions and states that these provisions are "automatic exemptions" that the Commenter does not agree are consistent with EPA's interpretation of the CAA. The Commenter explained that Tenn. Comp. R. & Regs. Rule 1200–3–5–.07(1) must be amended so that excess visible emissions due to startup and shutdown are subject to enforcement and that Rule 1200–3–5–.02(1) should be eliminated entirely because the exceptions provided in that rule are "entirely inconsistent" with EPA's interpretation of the CAA.

Fourth, the Commenter identified Tenn. Comp. R. & Regs. Rule 1200–3–20–.06 as ambiguous about whether scheduled shutdown of air pollution control equipment is an excuse for excess emissions. The Commenter recommended that this provision be amended to clarify that scheduled maintenance is not an excuse for excess emissions unless the owner or operator can prove that better scheduling for maintenance and better operation and maintenance practices could not have prevented the violation. The Commenter cited to the 1983 Bennett Memorandum for support for this comment.

Fifth, the Commenter identified Tenn. Comp. R. & Regs. Rule 1200–3–20–.03 as a concern because it provides exceptions to the notification provisions regarding excess emissions. The Commenter explained that all owners/operators should be required to give notice for all excess emissions and Rule 1200–3–20–.03 should be amended to require such notice.

Sixth, the Commenter identified provisions in the Knox County Air Pollution Control Regulations (Knox Co Regulations) that raise concerns. The identified provisions are Knox Co Regulations 32.1(C) and 34.1(A) and (C). With regard to 32.1(C), the Commenter explained that this regulation should clarify the effect of an administrative determination on the capacity of citizens to bring a citizen suit on the same issue. With regard to 34.1(A) and (C), the Commenter explained that this regulation should state that advance notice and reports of excess emissions do not excuse such emissions.

Seventh, the Commenter submitted two comments on what was described as rule changes made by Tennessee that had been submitted to EPA as SIP revisions. The main focus of the comments appears to be that, "the inclusion of overly-broad SSM provisions in the SIP undermines the integrity of the State's emissions forecast and can threaten NAAQS compliance." As a result, the Commenter suggests that EPA should condition any redesignation of the Knoxville Area on Tennessee's modification of its regulations as outlined in the comment letter.

EPA's Response. As a point of clarification, the issue before EPA in the current rulemaking action is a redesignation for Knoxville to attainment for the 8-hour ozone standard—including the maintenance plan. The SIP provisions identified above and in Commenter's letter are not currently being proposed for revision as part of the redesignation submittal. Thus, EPA's review here is limited to whether the already approved provisions affect any the requirements for redesignation in a manner that would preclude EPA from approving the redesignation request. Because the rules cited by the Commenter are not pending before EPA and/or are not the subject of this rulemaking action, EPA did not undertake a full SIP review of the individual provisions. It has long been established that EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the September 4, 1992, John Calcagni memorandum; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)) plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25413, 25426 (May 12, 2003).

There are two main rules identified by the Commenter. Tenn. Comp. R. & Regs. Rule 1200–3–20 is a rule entitled, "Limits on Emissions Due to Malfunctions, Start-Ups and Shutdowns." The other rule, Tenn. Comp. R. & Regs. Rule 1200–3–5 is part of Tennessee's visible emissions rules. Rule 1200–3–20 was first approved into the SIP in 1980 with a revision in 1982. Rule 1200–3–5 was first approved into the SIP in 1972 and has undergone numerous revisions, with the most recent occurring in 1997. As noted above, the Commenter has also identified Knox Co. Regulations 32.1(C) and 34.1(A) and (C). These rules were initially incorporated into the SIP in 1972 and subsequently revised in the late 1980s. In the context of today's rulemaking, the Commenter appears to suggest that the cited State and County rules may impact maintenance of the 1997 8-hour ozone NAAQS due to flaws in the emissions forecasts because of possible future actions by Tennessee to excuse excess emissions as violations.

Following EPA's receipt of the comments, EPA contacted Tennessee and Knox County, requesting their interpretations of their respective rules per the issues identified by the Commenter. On November 18, 2010, Tennessee responded to EPA explaining that:

> Tennessee considers all excess emissions events, including events for which the Technical Secretary elects not to pursue enforcement action, to be violations of the Tennessee Air Pollution Control Regulations and the Tennessee Air Quality Act. No provision in Chapter 20 prohibits the Technical Secretary from taking enforcement action for excess emissions (including excess emissions resulting from startup, shutdown, and malfunction events), and paragraph 1200–3–20–.09 of the SIP specifically states that no provision in Chapter 20 shall limit the authority of the Technical Secretary to enforce the SIP or the obligation of an air contaminant source to attain and maintain the NAAQS. Tennessee notes that EPA's enforcement authorities are established pursuant to CAA [section] 113, and a decision by the Technical Secretary to excuse a violation does not limit EPA's authority to take enforcement action for violations of the Act. Similarly, the authority of citizens to enforce the requirements of the Act pursuant to CAA [section] 304 is not limited by the Technical Secretary's decision.

Letter from Barry Stephens, Director, Division of Air Pollution Control to Gwen Keyes Fleming, Regional Administrator, November 18, 2010. This letter affirms that Tennessee does not provide for any "blanket exemptions" for emissions. Further, Tennessee does not construe its rules to limit either EPA or citizen enforcement regardless of a decision by the State pursuant to its own enforcement discretion.

With regard to Knox County, a letter was provided from Lynne A. Liddington, Director of Air Quality Management to Gwen Keyes Fleming, Regional Administrator, on November 22, 2010. In that letter, Knox County first clarified the rules that are currently in effect in Knox County. The rules currently in effect in Knox County are not the SIP-approved rules, which are the rules that are Federally enforceable; the Commenter focused on the SIP-approved rules (which are the Federally-enforceable rules). Knox County's response is still relevant here because Knox County addresses two key

concerns of the Commenter—excuse of violations by the County and citizen rights to pursue such violations. Knox County cited to Regulation 34.8, which states, "Nothing in this section shall be construed to allow the air contaminant source to violate the ambient air quality standards nor limit the authority of the Director and/or board to institute actions under other sections of these regulations." The letter further underscored that EPA and citizen enforcement of the CAA is guaranteed by the CAA itself. Specifically, Knox County stated, "EPA is granted oversight and enforcement abilities through the Clean Air Act (CAA) Section 113 and no decision by the [Knox County Air Quality Management] Director limits EPA's authority to take enforcement action for violations of the CAA. The authority of citizens to bring enforcement suits is guaranteed by CAA Section 304."

The letters from the State and County confirm EPA's interpretation of the SIP, *i.e.,* that a determination of a State or County official regarding whether to pursue a violation of a SIP requirement, does not excuse that violation as a "violation," and would not affect EPA's or a citizen's right to enforce such a violation.[2] EPA further notes, despite the fact that these rules have been approved into the SIP for many years, that the Commenter cites to no cases in which a court has interpreted these rules as a bar to EPA or citizen enforcement. For these reasons, EPA disagrees with the Commenter that these provisions may impact the enforceability of the emission reductions relied on in the maintenance plan.

Nonetheless, in response to concerns expressed by the Commenter that SSM emissions might affect the ability of the Area to maintain the NAAQS, EPA evaluated the application of these provisions to the largest relevant source in the Area—Tennessee Valley Authority's Bull Run facility—which is the source of approximately 76 percent of the NO_X emissions in the inventory. EPA's evaluation found that the facility includes SSM emissions as part of the emission information reported to EPA under the CAA title IV requirements (the Acid Rain program), and the associated obligations for monitoring. EPA reviewed some of the reported SSM events for that facility for 2007 (through the Clean Air Markets Division (CAMD) Web site), and concluded that the emission inventory submitted to EPA by Tennessee appears consistent with the CAMD data (*i.e.,* it appears that the emission inventory accounts for start SSM events at the Bull Run facility).[3] As a result, it appears that at least with regard to the largest NO_X source in the Knoxville Area, the emissions inventory includes SSM events such that the projections for future maintenance incorporate consideration of historic SSM. With this background, below are more specific responses to Commenter's concerns.

1. Tenn. Comp. R. & Regs. Rule 1200–3–20–.07(1) and (3)

Contrary to the Commenter's assertion, there is nothing in the plain text of the above-cited rules that provides any sort of blanket exemption. Rule 1200–3–20–.07(1) simply explains what reporting is required upon excess emissions events, and Rule 1200–3–20–.07(3) appears to limit the evidentiary effect of the excess emissions report for a company in defense of enforcement. Together, the plain text of the rules and the above-quoted explanation by Tennessee make clear that there is no blanket exemption for excess emissions included in Rule 1200–3–20–.07(1) and (3). Thus, EPA does not see a basis for Commenter's claim that these rules compromise the emissions levels relied on to demonstrate maintenance of the 1997 8-hour ozone NAAQS.

2. Tenn. Comp. R. & Regs. Rule 1200–3–20–.07(1) (Enforcement Discretion Issue)

The Commenter's focus here is on Rule 1200–3–20–.07(1) and specifically, the last phrase of the sentence that reads, "[t]he owner or operator of the violating source shall submit within twenty (20) days after receipt of the notice of violation the following data *to assist the Technical Secretary in deciding whether to excuse or proceed upon the violation*." (Emphasis added.) While EPA agrees that this language could be more clearly phrased, as explained above, the State interprets this language not to excuse excess emissions as violations, but rather to establish its use of enforcement discretion in pursuing the violation in terms of an enforcement action. Specifically, the November 18, 2010, letter provided by Tennessee makes clear that Tennessee considers all excess emissions to be violations, but highlights that the State has enforcement discretion. In terms of the discretion and the consideration of the five elements cited by the Commenter (from the 1983 Bennett Memorandum), the items requested by Tennessee in Rule 1200–2–20–.07(2) do touch on the elements identified by EPA in the 1983 Bennett Memorandum.[4] While the Tennessee rule does not include the precise language from EPA's Guidance Memoranda, information consistent with the criteria EPA identified in the 1983 Bennett Memorandum are available to the State because such information must be submitted by sources as part of the excess emissions reports required by Tennessee's rule. In the absence of information indicating that Tennessee has inappropriately excused excess emissions as violations, and/or sources utilizing affirmative defenses to enforcement actions that are inconsistent with EPA's Guidance, EPA does not agree that today's rulemaking and the maintenance emissions analysis is undermined by the above-cited language in the Tennessee SIP. While EPA believes that the Tennessee rules could be more clearly drafted, there is no information demonstrating that Tennessee interprets its rules in a way that is inconsistent with the CAA and thus EPA does not believe that the rules would undermine the maintenance demonstration submitted by the State.

3. Tenn. Comp. R. & Regs. Rule 1200–3–5–.02(1) and 1200–3–20–.07(1)

The Commenter's expressed concern focuses on the language in Rule 1200–3–5–.02(1) that states, "due allowance may be made for visible emissions in excess of that permitted in this chapter which are necessary or unavoidable due to routine startup and shutdown conditions." As an initial matter, EPA notes that the "due allowance" language of Rule 1200–3–5–.02(1) cited above is preceded by the phrase, "Consistent with the requirements of Chapter 1200–3–20." As discussed above, Tennessee's November 18, 2010, letter to EPA affirms that the State considers all excess emissions events to be violations and that no provision in Chapter 20 prohibits the Technical Secretary from taking enforcement action for excess emissions, including excess emissions resulting from SSM events. The

[2] Although EPA interprets the SIP in the same manner as indicated by the State and the County, EPA recognizes that the cited language is not as clear as would be ideal. EPA would encourage the State and County to clarify the language in any future revisions to these provisions of the SIP.

[3] EPA's analysis in this action is specific to the rulemaking at issue—the redesignation request for the Knoxville Area and the approval of the maintenance plan and other elements outlined in this final action.

[4] The Commenter appears focused on the 1983 Bennett Memorandum in the comments. Notably, this Memorandum should not be confused with other Memoranda issued by EPA, such as the September 20, 1999, Memorandum entitled, "State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," which focuses on related issues but also on a source's affirmative defense in response to an enforcement action.

Commenter states that "due allowance" is not defined, and therefore appears to believe that this provision results in an automatic exemption from compliance with underlying emission limits. While EPA agrees that the meaning of the language in Rule 1200–3–5–.02(1) is not clear based solely on the plain text, the Commenter has pointed to no evidence that the State has in fact interpreted this language to excuse sources from complying with emission limits during periods of startup and shutdown and EPA is not aware that the State has done so.

EPA notes that visible emissions are generally associated with particulate mass emissions, not ozone. In that context, however, the Commenter explains that nitrogen dioxide (NO_2), one of the components of visible emissions, is also a precursor for ground-level ozone. As noted above, the Commenter has not provided any evidence that the State has interpreted this provision in a manner that would undermine the 1997 ozone NAAQS maintenance plan and EPA does not have information indicating that Tennessee has acted to "excuse" such emissions under this provision. Furthermore, even if Tennessee were to interpret the provision in such a manner, there is no evidence that it might have a sufficient impact on emissions of NO_2 (or any other pollutant) that could impact ozone maintenance in the Knoxville Area.[5] Therefore, EPA has no reason to conclude that this provision will have an adverse effect on future maintenance.

4. Tenn. Comp. R. & Regs. Rule 1200–3–20–.06

Rule 1200–3–20–.06 requires advance notice of scheduled maintenance to the Technical Secretary. The Commenter appears to suggest that the above-referenced rule is vague because it is not clear whether giving advanced notice of maintenance is an excuse for excess emissions. EPA disagrees. This rule is simply a notification requirement and in the absence of regulatory language providing that such notification would exempt a source from compliance, EPA sees no support for the Commenter's concern. EPA supports the notification requirements—and notes that the more notifications that are required by the rules, the more transparency there is with regard to excess emissions. These types of notifications may support citizen and other enforcement of the SIP under the Act because without the notifications, citizens and others may not always have knowledge about the excess emissions. Therefore, EPA rejects the Commenter's contention, and concludes that this provision will have no adverse impact on continued maintenance after the Area is redesignated.

5. Tenn. Comp. R. & Regs. Rule 1200–3–20–.03

The Commenter asserts that this rule includes exceptions for required notifications for excess emissions and that it should be revised to eliminate the exceptions and require reporting for all excess emissions. The rule begins by stating that, "[w]hen any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in excess of the applicable emissions standards contained in these regulations, or of sufficient duration to cause damage to property or public health, the person responsible for such equipment shall promptly notify the Technical Secretary of such failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown." The rule also includes some limited exceptions to the notice provision, such as, "[v]iolations of the visible emission standard which occur for less than 20 minutes in one day [* * *] need not be reported." Further exceptions are also identified for certain emissions in attainment or unclassifiable areas. While the rule does provide for exceptions to certain notifications of malfunctions, EPA notes that the excuse from notification is not an excuse from compliance with the applicable emission limit. Thus, these notification exceptions do not undermine the current emissions inventories and projections. EPA notes that the rule cited above is one of general applicability and many times, individual permit conditions may require additional reporting. This is precisely the case with the largest NO_X emitter in the Area—TVA Bull Run (which must comply with the CAA title IV reporting requirements). While EPA believes it is possible that the rule could be clarified or improved; EPA does not agree that the rule undermines the maintenance plan for the 1997 8-hour ozone standard for the Knoxville Area or requires revision prior to the Area's final redesignation.

6. Knox County SIP Regulations

With respect to Knox County SIP regulations, the Commenter concedes that no provision "overtly creates excuses for excess emissions," but suggests some changes that the Commenter believes would improve the clarity of the regulations. While EPA agrees that there is language in the Knox County regulations that could be clarified, the Commenter has provided no support for the proposition that these regulations would undermine the ability of the Knoxville Area to maintain the 1997 ozone NAAQS in accordance with the submitted maintenance plan. In fact, the Commenter appears to admit such by recognizing that the rules do not excuse compliance for periods of excess emissions. EPA notes the following with regard to the specific Knox County regulations identified by the Commenter. With regard to the notification elements from Knox Co Regulation 34.1(A) and (C), EPA supports their requirement for notification of excess emissions. Knox County Rules 34.1(A) and (C) require advance notice of scheduled maintenance to the Director and notifications regarding facility breakdowns that cause violations, but they provide no exemption from standards. As set forth above, EPA believes that there is no basis for interpreting notice provisions as providing relief from compliance with emissions limitations in the absence—as is the case here—of any specific regulatory language providing such relief. Furthermore, EPA has no information indicating that Knox County has interpreted this regulation such that the notification was construed as an exemption. In fact, as was explained earlier, Knox County sent EPA a letter dated November 22, 2010, affirming that no decision by Knox County limits EPA or citizen authority to take enforcement action for violations of the CAA and that nothing in the County's rules shall be construed to allow an air contaminant source to violate the ambient air quality standards nor limit the authority of the Director and/or board to institute actions. The other Knox County rules cited by Commenter fall into the same category—the rules themselves contain no language suggesting that there is any automatic or blanket exemption for excess emission.

In terms of the Commenter's overall stated concern, the record and EPA's proposal provide further supporting information (75 FR 62026) regarding the

[5] As was noted earlier in this notice, TVA's Bull Run facility accounts for approximately 76.6 percent of the NO_X (which includes NO_2) emissions in this nonattainment area (pursuant to 2008 emissions estimates). Thus, it is the largest NO_X emitter in the Area. The NO_X emissions from Bull Run include excess emission events, consistent with Federal requirements. So in terms of NO_X, EPA does not see a basis for concern regarding the NO_X related emissions inventory data. As a result, the Commenter's point on NO_X in this context appears unsupported.

attainment and projected emission inventories. Specifically, in EPA's proposed approval of the redesignation and the associated maintenance plan, EPA explained its rationale for the approval of the maintenance plan and redesignation request based on the criteria required by the CAA, the implementing regulations, and EPA's longstanding guidance for redesignating areas from nonattainment to attainment. EPA evaluated the emissions reductions in association with the maintenance plan and fully considered whether it was reasonable to believe that these reductions are "permanent and enforceable" measures to support continued maintenance through the initial maintenance period.[6] The base year or "attainment level" emissions for the Knoxville Area as identified in the State's submission and EPA's proposed approval are 135.19 tpd for NO_X and 112.28 tpd for VOC. Also, as provided in Tables 3 and 4 in the proposed rule, through the end of the maintenance period (*i.e.,* 2024), emission reductions realized through Federal, State and local measures are projected to result in emission levels of 79.08 tpd for NO_X and 85.11 tpd for VOC. This indicates a 41.5 percent reduction in NO_X and a 24.2 percent reduction in VOC for the Knoxville Area beyond the levels that brought the Area into attainment for the 1997 8-hour ozone standards. Thus, EPA believes that its analysis of Knoxville's ability to maintain the 1997 8-hour ozone NAAQS is conservative and supported by the evidence provided.

TABLE 3—KNOXVILLE AREA NO_X EMISSIONS

[Summer season tpd]

Summary of NO_X emissions (tpd)								
Year	Point	Area	Onroad	Nonroad (excluding MLA)	Nonroad (MLA)	Total	Safety margin	Change from 2007 %
2007	42.69	2.07	71.83	13.16	5.44	135.19	.....	.....
2010	42.65	2.15	63.10	12.17	5.03	125.10	10.09	−7.5
2013	42.94	2.29	54.36	10.51	4.34	114.44	20.75	−15.3
2016	43.56	2.50	45.62	8.74	3.61	104.03	31.18	−23.0
2020	44.30	2.60	33.96	7.21	2.98	91.05	44.14	−32.7
2024	45.11	2.68	22.29	6.37	2.63	79.08	56.11	−41.5

Note: Emissions are for Anderson, Blount, Jefferson, Knox, Loudon, Sevier and onroad emissions for Cocke County. MLA = Commercial Marine Vessels, Locomotives and Aircraft.

TABLE 4—KNOXVILLE AREA VOC EMISSIONS

[Summer season in tpd]

Summary of VOC emissions (tpd)								
Year	Point	Area	Onroad	Nonroad (excluding MLA)	Nonroad (MLA)	Total	Safety margin	Change from 2007 %
2007	7.32	33.25	36.77	34.26	0.68	112.28		
2010	7.17	34.21	33.53	31.05	0.62	106.58	5.70	−5.1
2013	7.37	35.23	30.29	26.47	0.52	99.88	12.40	−11.0
2016	7.88	36.64	27.05	22.07	0.44	94.08	18.20	−16.2
2020	8.64	38.40	22.72	18.04	0.35	88.15	24.13	−21.5
2024	9.53	40.24	18.39	16.62	0.33	85.11	27.17	−24.2

Note: Emissions are for Anderson, Blount, Jefferson, Knox, Loudon, Sevier and onroad emissions for Cocke County. MLA = Commercial Marine Vessels, Locomotives and Aircraft.

On the first page of the comment letter, the Commenter states that "[w]hile emissions of [NO_X] and [VOCs] have not caused NAAQS violations during the past few years at the monitoring locations, the required 'permanent and enforceable' measures that constrain emissions in the future cannot guarantee maintenance in light of the SSM provisions in the SIP." In light of the Commenter's general reference to permanent and enforceable measures, the following provides general information regarding those measures in the SIP that support today's action.

The section of the proposed action entitled "Criteria (3)—The Air Quality Improvement in the Knoxville Area 1997 8-Hour Ozone NAAQS Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions," on pages 62034–62035 of EPA's October 7, 2010, proposed rulemaking, there is an explanation of the permanent and enforceable emission reductions that are anticipated in the Knoxville Area over the maintenance period.

For the reasons provided above, EPA does not agree that there is any reasonable basis for concluding that the provisions cited by the Commenter will affect the Area's ability to maintain the 1997 ozone NAAQS over the maintenance period, nor that they in any way undercut the maintenance plan

[6] Section 175A(a) requires that the initial maintenance plan submitted to support a redesignation demonstrate maintenance at least 10 years after EPA's approval. Section 175A(b) requires that this maintenance plan be updated 8 years after EPA approval to extend the original maintenance plan for an additional 10 year period.

that the State has submitted and EPA intends to approve. However, EPA notes that if for any reason the Area does experience a violation of the 1997 8-hour ozone NAAQS after redesignation, the contingency measures contained in the maintenance plan associated with this redesignation would require Tennessee to implement measures to correct the violation. This accords with Congress's judgment, as reflected in the CAA, that even an approved maintenance plan could not guarantee that a violation might not occur after redesignation. Congress thus required in section 175A for contingency measures to, at a minimum, help correct such violations. *See* the discussion of contingency measures in *Greenbaum* v. *EPA,* 370 F.3d 527 (6th Cir. 2004).

Moreover, as is discussed in the proposal, while a violation of the NAAQS is the ultimate trigger for implementation of contingency measures to correct the violation, other contingency measures contained in the maintenance plan for Knoxville provide for early action to prevent violation. For example, the maintenance plan includes a contingency measure to launch an investigation if emissions projections indicate that a violation of the 3-year design value may be imminent. Another set of contingency measures are triggered where emissions projections exceed expectations by greater than 10 percent under the specified metrics. Thus, in addition to providing for prompt correction of any violations that may occur, the maintenance plan/contingency measures include provisions to account for potential future changes to emissions other than what was forecast. *See* the Contingency Measures Section of EPA's October 7, 2010, proposed rulemaking at 75 FR 62037, for further information.

V. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties in their entireties, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is modifying the regulatory table in 40 CFR 81.343 to reflect a designation of attainment for these full and partial counties. EPA is also approving, as a revision to the Tennessee SIP, Tennessee's plan for maintaining the 1997 8-hour ozone NAAQS in the Knoxville Area through 2024. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 8-hour ozone NAAQS, and establishes NO_X and VOC MVEBs for 2024 for the Knoxville Area. Additionally, this action approves the emissions inventory for the Knoxville Area pursuant to section 172(c)(3) of the CAA.

VI. Final Action

After evaluating Tennessee's redesignation request and considering the comments on the proposed rule, EPA is taking final action to approve the redesignation and change the legal designation of Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties in their entireties, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park from nonattainment to attainment for the 1997 8-hour ozone NAAQS. Through this action, EPA is also approving into the Tennessee SIP, the 1997 8-hour ozone maintenance plan for the Knoxville Area, which includes the new NO_X MVEBs of 36.32 tpd and VOC MVEBs of 25.19 tpd for 2024. Additionally, EPA is approving the 2007 emissions inventory for the Knoxville Area pursuant to section 172(c)(3) of the CAA. In a previous action, EPA found the new Knoxville Area MVEBs adequate for the purposes of transportation conformity (75 FR 55977, September 15, 2010). Within 24 months from the effective date of EPA's adequacy finding for the MVEBs, the transportation partners are required to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e).

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of various requirements for the Knoxville Area. For these reasons, EPA finds good cause under 5 U.S. C. 553(d)(3) for this action to become effective on the date of publication of this action.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by State law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 these reasons, these actions:

- Are 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are 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,

• Do 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 May 9, 2011. 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

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: March 1, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

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 RR—Tennessee

■ 2. Section 52.2220(e) is amended by adding a new entry "8-Hour Ozone Maintenance Plan for the Knoxville, Tennessee Area" 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 nonattainment area	State effective date	EPA approval date	Explanation
* *	* *	*	*	*
8-Hour Ozone Maintenance Plan for the Knoxville, Tennessee Area.	Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park.	7/14/2010	3/8/2011 [Insert citation of publication].	For the 1997 8-hour ozone NAAQS.

PART 81—[AMENDED]

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

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

■ 4. In § 81.343, the table entitled "Tennessee—Ozone (8-Hour Standard)" is amended under by revising the entry for "Knoxville, TN" to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* *	* *	* *	*	*
Knoxville, TN:				
Anderson County	This action is effective 3/8/2011	Attainment		
Blount County	This action is effective 3/8/2011	Attainment		
Cocke County (part)	This action is effective 3/8/2011	Attainment		
(Great Smoky Mtn Park)				
Jefferson County	This action is effective 3/8/2011	Attainment		
Knox County	This action is effective 3/8/2011	Attainment		
Loudon County	This action is effective 3/8/2011	Attainment		
Sevier County	This action is effective 3/8/2011	Attainment		

TENNESSEE—OZONE (8-HOUR STANDARD)—Continued

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. 2011–5193 Filed 3–7–11; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8171]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.,* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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 rule involves no policies that have federalism implications under Executive Order 13132.

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the