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**SUPPLEMENTARY INFORMATION:** The Greenpoint Avenue Bridge, across Newtown Creek at mile 1.3, at New York, has a vertical clearance in the closed position of 26 feet at mean high water and 31 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.801(g)(1).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the regulations to facilitate the completion of scheduled bridge rehabilitation maintenance previously authorized for two six-week closures from July 5, 2010 through August 13, 2010, and from August 30, 2010, through October 8, 2010. The first six-week closure was not implemented due to materials not being fabricated in time. The second six-week closure was implemented but unfinished work remains to be completed. This temporary deviation will allow the work to be completed within a one-week bridge closure period.

Under this temporary deviation the Greenpoint Avenue Bridge may remain in the closed position from October 26, 2010 through November 1, 2010. Vessels that can pass under the bridge in the closed position may do so at any time.

Waterway users were advised of the requested bridge closures and offered no objection.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 28, 2010.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2010-25497 Filed 10-8-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2007-0228-201038; FRL-9212-6]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Tennessee: Knoxville; Determination of Attaining Data for the 1997 8-Hour Ozone Standards

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

**ACTION:** Final rule.

**SUMMARY:** On February 19, 2010, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request to EPA to make a determination that the Knoxville, Tennessee nonattainment area for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) has attained these standards based on quality assured, quality controlled monitoring data from 2007 through 2009. The Knoxville 1997 8-hour ozone nonattainment area is comprised of Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties in their entirety, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park (hereafter referred to as "the Knoxville Area"). In this action, EPA is taking final action to determine that the Knoxville Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality assured, quality controlled, and certified ambient air monitoring data for the years 2007-2009 showing that the Knoxville Area has monitored attainment of the 1997 8-hour ozone NAAQS. This final action is consistent with the CAA, and EPA policy and guidance.

**DATES:** *Effective Date:* This final rule is effective on October 12, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R04-OAR-2007-0228. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (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 through

<http://www.regulations.gov> or in hard copy for public inspection during normal business hours 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.

**FOR FURTHER INFORMATION CONTACT:** 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. Mr. Dansby-Sparks may be reached by phone at (404) 562-9187 or via electronic mail at [dansby-sparks.royce@epa.gov](mailto:dansby-sparks.royce@epa.gov).

#### SUPPLEMENTARY INFORMATION:

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is EPA's final action?
- IV. What is the effective date?
- V. What are the statutory and executive order reviews?

#### I. What action is EPA taking?

EPA is determining that the Knoxville Area (comprised of Anderson, Blount, Jefferson, Knox, Loudon, and Sevier Counties in their entirety, and the portion of Cocke County that falls within the boundary of the Great Smoky Mountains National Park) has attained data for the 1997 8-hour ozone NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Knoxville Area has monitored attainment of the 1997 8-hour ozone NAAQS based on the 2007-2009 data.

Other specific requirements of the determination and the rationale for EPA's final action are explained in the notice of proposed rulemaking (NPR) published on August 3, 2010 (75 FR 45568) and will not be restated here. The comment period closed on September 2, 2010. No comments, adverse or otherwise, were received in response to the NPR.

#### II. What is the effect of this action?

This final action, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit attainment demonstrations, associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS as long as this Area continues to meet the 1997 8-hour ozone NAAQS. Finalizing this action does not

constitute a redesignation of the Knoxville Area to attainment for the 1997 8-hour ozone NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor does it involve a determination that the Area has met all requirements for a redesignation.

### III. What is EPA's final action?

EPA is determining that the Knoxville Area has attaining data for the 1997 8-hour ozone NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that the Knoxville Area has monitored attainment of the 1997 8-hour ozone NAAQS during the period 2007–2009. This final action, in accordance with 40 CFR 51.918, will suspend the requirements for this Area to submit attainment demonstrations, associated RACM, RFP plans, contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS as long as the Area continues to meet the 1997 8-hour ozone NAAQS.

### IV. What is the effective date?

An expedited effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rule actions may become effective less than 30 days after publication if the rule “grants or recognizes an exemption or relieves a restriction” and section 5 U.S.C. 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.” EPA finds that there is good cause for this approval to become effective upon publication.

Approval of a clean data determination relieves the obligation for the State of Tennessee to submit for the Knoxville Area an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other SIP-related planning requirements to attainment of the 1997 8-hour ozone NAAQS provided the Area does not monitor any violations of the ozone standard. The relief from these obligations is sufficient reason to allow an expedited effective date of the rule under 5 U.S.C. 553(d)(1). In addition, Tennessee's relief from these obligations provides good cause to make this rule effective immediately upon publication, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to

adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule relieves obligations rather than imposes obligations, affected parties, such as the State of Tennessee and the Knox County Department of Air Quality Management, do not need time to adjust and prepare before the rule takes effect.

### V. What are statutory and executive order reviews?

Under the CAA, the Administrator is required to approve a SIP submission or State request 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 or state requests, 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 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 December 13, 2010. 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, pertaining to the determination of attaining data for the 1997 8-hour ozone standard for the Knoxville Area, 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, Ozone, Volatile organic compounds.

Dated: September 27, 2010.

**Gwendolyn Keyes Fleming**,  
Regional Administrator, Region 4.

■ Accordingly, 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 52.2235 is amended by adding paragraph (c) to read as follows:

**§ 52.2235 Control strategy: Ozone.**

\* \* \* \* \*

(c) Determination of Attaining Data. EPA has determined, as of October 12, 2010 the Knoxville, Tennessee nonattainment area has attaining data for the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standards for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

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**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 389**

[Docket No. MARAD-2008-0045]

RIN 2133-AB67

**Determination of Availability of Coastwise-Qualified Vessels for the Transportation of Platform Jackets**

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Final rule.

**SUMMARY:** The Maritime Administration (MARAD) is publishing this final rule to establish regulations governing administrative determinations of availability of coastwise-qualified vessels to be used in the transportation and, if needed, launch or installation of offshore oil drilling or production platform jackets in specified projects only. MARAD views this as a special, technical adjustment that does not indicate a change in MARAD's full support for other requirements of the coastwise laws.

Specifically, this final rulemaking implements provisions of Public Law 108-293 (2004) (the Act) which requires the Secretary of Transportation, acting through the Maritime Administrator, to adopt procedures to maximize use of coastwise-qualified vessels, but would permit the use of non-coastwise-qualified (foreign) launch barges if it is determined that coastwise-qualified vessels are not available.

**DATES:** This final rule will be effective November 12, 2010.

**ADDRESSES:** For access to the docket to read background documents, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Murray A. Bloom, Chief, Division of Maritime Programs, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; Ph. (202) 366-5320, fax: (202) 366-3511; or e-mail [murray.bloom@dot.gov](mailto:murray.bloom@dot.gov).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was published on August 15, 2005 (70 FR 47771). Three years later an interim final rule was published on May 29, 2008 (73 FR 30783).

**Public Comments Discussion**

In the Interim Final Rule published on May 29, 2008, MARAD offered the public the opportunity to submit comments, which were due by July 28, 2008. Based on consideration of comments received, MARAD made changes incorporated into this final rule.

MARAD received three sets of comments on the Interim Final Rule from three entities. A summary of the comments received and MARAD's responses follows:

*Item #1:* Two commenters noted that the enabling legislation provided that launch barge work can be conducted by any coastwise-qualified vessel, not exclusively coastwise-qualified launch barges.

*Maritime Administration:* MARAD changed the final rule to reflect that a coastwise-qualified vessel may meet the definition of a launch barge even if it is not capable of launching a platform jacket or needs the assistance of other coastwise-qualified vessels in the installation of a platform jacket.

*Item #2:* Two commenters pointed out that the Interim Final Rule contained no incentive for a project owner to search in good faith for available coastwise-qualified services.

*Maritime Administration:* The rule has been amended to require a good faith search for a coastwise-qualified vessel. Refusal to attempt to obtain coastwise-qualified vessel services will result in an application being disapproved.

*Item #3:* One commenter noted that the Interim Final Rule contained no transition period to implement the 21-month application process and recommended an interim transition period that would require companies with offshore projects to make their intentions known at an early time.

*Maritime Administration:* MARAD did not amend the regulation to

specifically provide for a transition period to implement the 21-month application process or provide an interim transition period. MARAD does not believe a change to the regulation with regard to a transition period is required, as the Interim Final Rule already provides the agency with the flexibility to adjust due dates on a case-by-case basis. *Please see* Section 389.4 Application and fee, paragraph (2), specifically, "(2) MARAD reserves the right to waive or reduce or extend the time requirements based upon its evaluation of any national emergency or other situation."

*Item #4:* MARAD also received comments requesting that: (a) The 21-month advance-notice period be ruled unrealistic, (b) offshore contractors and foreign vessel owners, in addition to platform owners and operators, should be allowed to apply for waivers, (c) the time period for which a waiver is valid should be extended to project completion instead of being limited to 120 days, and (d) that it be clarified that MARAD has the authority to approve an incomplete application for "good cause" in certain circumstances.

*Maritime Administration:* The issues addressed in items (a) and (b) have been discussed and reviewed in previous comment periods. In response to item (c), the Interim Final Rule already allows MARAD to extend a waiver granted for good cause, which the agency finds satisfactory. Regarding item (d), because the Interim Final Rule allows for flexibility in the application of deadlines and waiver time periods, and because MARAD may give the applicant an opportunity to redress any deficiencies in its application, there is enough flexibility to effectively administer the application process under the public law. Therefore, no rule changes were made based on the comments noted above.

Section 27 of the Merchant Marine Act of 1920, commonly known as the Jones Act (46 U.S.C. 55102), requires, with a few exceptions, that all cargo transported in the coastwise trade be carried on ships that are U.S.-owned and U.S.-built. In 1988 the Jones Act was amended to allow for the use of foreign-built platform jacket launch barges in the coastwise trade if no U.S.-built vessels were found to be available. Subsequently, Section 417 of the Coast Guard and Maritime Transportation Act of 2004, Public Law 108-293 (the Act), codified at 46 U.S.C. 55108, directed the Secretary of Transportation to establish procedures to issue determinations as to whether suitable U.S.-built vessels are available for use in transportation and, if needed, launch or installation of