



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0436; FRL-9966-38-Region 4]

Air Plan Approval; AL; VOC Definitions and Particulate Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 19, 2017, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted changes to the Alabama State Implementation Plan (SIP). The Environmental Protection Agency (EPA) is taking direct final action to approve the submission. Specifically, the revision pertains to definitional changes, including the modification of the definition of “volatile organic compounds” (VOCs), correction of a typographical error, and removal of control of particulate emissions and opacity limits. EPA is taking direct final action to approve the SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective [**Insert date 60 days after publication in the Federal Register**] without further notice, unless EPA receives adverse comment by [**Insert date 30 days after publication in the Federal Register**]. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0436 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

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

SUPPLEMENTARY INFORMATION:

I. Background

In this rulemaking, EPA is approving changes to the Alabama SIP, submitted by the State on May 19, 2017. The submission revises ADEM Rule 335-3-1-.02 – *Definitions* and Rule 335-

3-4-.08 – *Wood Waste Boilers*. This rulemaking revises the definition of VOCs, corrects a typographical error and removes particulate emission and opacity limits for Talladega County.

II. EPA’s Analysis of Alabama’s SIP Revision

A. Rule 335-3-1-.02 – *Definitions*

Tropospheric ozone, commonly known as smog, occurs when VOCs and nitrogen oxides (NO_x) react with sunlight in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOCs and NO_x that can be released into the atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) that participate in atmospheric photochemical reactions. Different VOCs have different levels of reactivity; they do not react at the same speed or form ozone to the same extent.

EPA determines whether a given carbon compound has “negligible” reactivity by comparing the compound’s reactivity to the reactivity of ethane. It has been EPA’s policy that compounds of carbon with negligible reactivity need not be regulated to reduce ozone. *See* 42 FR 35314, July 8, 1977. EPA lists these compounds in its regulations at 40 CFR 51.100(s) and excludes them from the definition of VOC. The chemicals on this list are often called “negligibly reactive.” EPA may periodically revise the list of negligibly reactive compounds to add or delete compounds.

On November 29, 2004,¹ and August 1, 2016,² EPA issued final rules revising the definition of VOCs by adding new compounds (tertiary butyl acetate (or t-Butyl acetate) and

¹ In EPA’s November 29, 2004, final rulemaking, the Agency adds tertiary butyl acetate to the list of excluded compounds from the definition of VOCs. *See* 69 FR 69298.

1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxyl) ethane) to the list of those that considered to be negligibly reactive compounds, and on February 25, 2016 (81 FR 9339), EPA issued a final rule removing recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-Butyl acetate. The State's May 19, 2017, SIP revision adds these compounds to the list of negligibly reactive compounds under ADEM Rule 335-3-1-.02 subpart (gggg). The SIP revision also removes the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements requirement for t-Butyl acetate. Additionally, the submittal makes a typographical correction under subpart (gggg)(iii). EPA proposes to approve these revisions because they are consistent with the definition of VOC at 40 CFR 51.100(s).

The State's addition of exemptions from the definition of VOCs and removal of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate are approvable under section 110(l) because it reflects changes to Federal regulations based on findings that the exempted compounds are negligibly reactive. The typographical error correction makes ministerial changes for consistency.

B. Rule 335-3-4-.08 – Wood Waste Boilers

Rule 335-3-4-.08 – *Wood Waste Boilers* was adopted into the Alabama SIP on April 23, 1974 (39 FR 14338), to provide emission limits based on available control technologies and included a 0.30 grain per dry standard cubic foot (gr/dscf) emissions limit for boilers burning a combination of wood waste and fossil fuels. On November 24, 1981 (46 FR 57484), EPA finalized a SIP revision allowing pulp mills to operate boilers that burn only wood waste in Talladega County. This change allowed a particulate matter emissions concentration of 0.45

² In EPA's August 1, 2016, final rulemaking, the Agency adds 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxyl) ethane to the list of excluded compounds from the definition of VOCs. See 81 FR 20330.

gr/dscf when burning wood waste alone (but total emissions would remain the same provided boilers operate on a reduced rate). On July 11, 1986 (51 FR 25198), EPA approved a revision adding a new paragraph 3 at Rule 335-3-4-.08 that relaxed the allowable emission limit to 0.60 gr/dscf for wood waste boiler sources that operate up to 300 million British thermal unit per hour and tightened allowable emissions for other types of sources in Talladega County. Compliance with the emission limit was determined by an annual stack test. Additionally, an opacity limit of 76 percent was established and would be measured by a transmissometer.

The May 19, 2017, SIP revision removes paragraph 3, applicable only to sources in Talladega County, because the type of source no longer exists in the County or anywhere else in the State. Moreover, if such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335-3-4-.08 paragraph 2.

EPA believes that these changes to the regulatory portion of the SIP are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs. Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The State's removal of emissions and opacity requirements for Talladega County is an approvable change under section 110(l) because, should these sources start operating, they would fall under more stringent rules in the SIP.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of

Rule 335-3-1-.02 – *Definitions* and Rule 335-3-4-.08 – *Wood Waste Boilers*, effective June 9, 2017. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.³ EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Final Action

EPA is taking direct final action to approve portions of Alabama’s May 19, 2017, submission submitted by the State of Alabama through ADEM. The submission revises Rule 335-3-1-.02 – *Definitions* and Rule 335-3-4-.08 – *Wood Waste Boilers*.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received

³ 62 FR 27968 (May 22, 1997).

will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days after date of publication in the Federal Register] and no further action will be taken on the proposed rule.

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. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 [**Insert date 60 days after date of publication in the Federal Register**]. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 7, 2017.

V. Anne Heard,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart B—Alabama

2. Section 52.50(c) is amended by revising the entries for “Section 335-3-1-.02” and “Section 335-3-4-.08” to read as follows:

§52.50 Identification of plan.

* * * * *

(c) * * *

EPA Approved Alabama Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter No. 335-3-1 General Provision				
* *	* *	*	*	*
Section 335-3-1-.02	Definitions	6/9/2017	[Insert date of publication in <u>Federal Register</u>]; [Insert citation of publication]	
* *	* *	*	*	*
Chapter 335-3-4 Control of Particulate Emissions				
* *	* *	*	*	*

Section 335-3-4-.08	Wood Waste Boilers	6/9/2017	[Insert date of publication in <u>Federal Register</u>]; [Insert citation of publication]	
* *	* *	*	*	*

* * * * *

[FR Doc. 2017-17231 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]