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6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2019-0681; FRL-10006-86-Region 2]

#### **Approval and Promulgation of Implementation Plans; New Jersey; Revisions to Emissions Reporting Requirements**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of New Jersey. This proposed revision requests to remove from the SIP the recordkeeping, emission reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate (TBAC) as a volatile organic compound (VOC). The proposed revision is consistent with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R02-OAR-2019-0681, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information 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. The 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ysabel Banon, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3382, or by email at [banon.ysabel@epa.gov](mailto:banon.ysabel@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 29, 2017, the State of New Jersey through the Department of Environmental Protection (NJDEP), formally submitted a proposed revision to the New Jersey SIP which repeals New Jersey Administrative Code (NJAC) 7:27-34, “TBAC Emission Reporting.”

## **I. Background**

TBAC is a VOC that is used as a solvent in coating operations, and may be found in products, such as paints, inks, and adhesives. VOCs are organic compounds of carbon that, in the presence of sunlight, react with sources of oxygen molecules, such as nitrogen oxides (NO<sub>x</sub>), in the atmosphere to produce tropospheric ozone, commonly known as smog. Common sources that may emit VOCs include paints, coatings, housekeeping and maintenance products, and building and furnishing materials.

VOCs have different levels of volatility, depending on the compound, and react at different rates

to produce varying amounts of ozone. VOCs that are non-reactive or of negligible reactivity to form ozone react slowly and/or form less ozone; therefore, reducing their emissions has limited effects on local or regional ozone pollution. Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of VOC and thus what compounds shall be treated as VOCs for regulatory purposes.

It is the EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory definition of VOC in order to focus control efforts on compounds that significantly affect ozone concentrations. The EPA uses the reactivity of ethane as the threshold for determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and, therefore, suitable for exemption by the EPA from the regulatory definition of VOC. The policy of excluding negligibly reactive compounds from the regulatory definition of VOC was first laid out in the "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977) and was supplemented subsequently with the "Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans" (70 FR 54046, September 13, 2005). The regulatory definition of VOC as well as a list of compounds that are designated by the EPA as negligibly reactive can be found at 40 CFR 51.100(s)(1).

On September 30, 1999, EPA proposed to revise the regulatory definition of VOC in 40 CFR 51.100(s)(1) to exclude TBAC as a VOC. 64 FR 52731. In most cases, when a negligibly reactive VOC is exempted from the definition of VOC, emissions of that compound are no

longer recorded, collected, or reported to states or the EPA as part of VOC emissions. However, the EPA's November 29, 2004 final rule excluded TBAC from the definition of VOC for purposes of VOC emissions limitations or VOC content requirements but continued to define TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOCs. 69 FR 69298 (November 29, 2004).

On February 25, 2016, the EPA revised the regulatory definition of VOC under 40 CFR 51.100(s)(1) to remove TBAC's recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements. 81 FR 9339. Accordingly, on October 24, 2017, the NJDEP repealed N.J.A.C. 7:27-34 which includes TBAC emissions reporting requirements within the State of New Jersey.

## **II. Summary of the SIP Revision and the EPA's Analysis**

In order to conform with the EPA's current regulatory requirements for TBAC in the February 25, 2016 final rule, New Jersey is now requesting that NJAC 7:27-34, "TBAC Emissions Reporting," consisting of TBAC's recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements, be removed from the SIP.

The EPA has already made the determination that TBAC is "negligible reactive" and therefore has low contribution to ozone as well as a low likelihood of risk to human health or the environment, and removed the recordkeeping, emission reporting, photochemical dispersion modeling, and inventory requirements for TBAC. 69 FR 69298 (November 29, 2004), 81 FR

9339 (February 25, 2016).

The EPA is proposing to approve the removal of the recordkeeping, emission reporting, photochemical dispersion modeling, and inventory requirements for TBAC from the New Jersey SIP. This proposed SIP revision will not interfere with attainment of any national ambient air quality standard (NAAQS), reasonable further progress, or any other requirement of the CAA, including section 110(l), and is consistent with the EPA's February 25, 2016 final rule. 81 FR 9339.

### **III. Proposed Action**

Based on a review of the submitted material, the EPA is proposing to approve the removal from New Jersey SIP of NJAC 7:27-34, "TBAC Emissions Reporting," which includes recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC. Therefore, the EPA is proposing to approve New Jersey's SIP revision, which was submitted on November 29, 2017. The EPA is soliciting public comments on the issues discussed in this rulemaking action. These comments will be considered before taking final action.

### **IV. Incorporation by Reference**

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described above in section III, the EPA is proposing to remove NJAC 7:27-34, "TBAC Emissions Reporting," from the New Jersey State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking action, pertaining to TBAC, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

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

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

Dated: May 22, 2020.

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Peter Lopez,

Regional Administrator,

Region 2.

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