



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2024-0174; FRL-12570-01-R4]

#### Air Plan Approval; Alabama; Administrative Corrections and VOC Definition

**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 Alabama, through the Alabama Department of Environmental Management (ADEM) on December 20, 2023. The revision modifies the State’s air quality regulations as incorporated into the SIP by changing the definition of “volatile organic compounds” (VOC) to be consistent with Federal regulations. The revision also addresses typographical errors and increases clarity and consistency with EPA’s definitions and Alabama’s Legislative Services Agency requirements.

**DATES:** 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-R04-OAR-2024-0174 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8773. Mr. Freund can also be reached via electronic mail at [freund.weston@epa.gov](mailto:freund.weston@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. EPA's Analysis of Alabama's Submittal**

*A. Chapter No. 335-3-1, General Provisions*

Tropospheric ozone occurs when VOC and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, EPA and State governments implement rules to limit the amount of certain VOC and NO<sub>x</sub> that can be released into the atmosphere. VOC have different levels of reactivity; they do not react at the same speed or do not form ozone to the same extent. Section 302(s) of the Clean Air Act (CAA or Act) specifies that EPA has the authority to define the meaning of "VOC" and, hence, what compounds shall be treated as VOC for regulatory purposes.

EPA determines whether a given carbon compound has "negligible" reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA's longstanding policy is that compounds of carbon with negligible reactivity need not be regulated to reduce ozone and should be excluded from the regulatory definition of VOC. *See* 42 FR 35314 (July 8, 1977), 70 FR 54046 (September 13, 2005). 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. EPA last approved the aforementioned compounds

listed in Alabama Administrative Code Rule 335-3-1-.02(1)(gggg) “*Volatile Organic Compounds (VOC)*” on September 21, 2020. *See* 85 FR 59192.

EPA is proposing to approve the change to the Alabama SIP submitted by the State of Alabama through a letter dated December 20, 2023, that revises the definition of VOC by adding “trans- 1,1,1,4,4,4 hexafluorobut-2-ene (HFO-1336mzz(E))” to the list of organic compounds that are not considered VOCs. This is done in accordance with EPA’s revision of its VOC definition at 40 CFR 51.100(s) on February 8, 2023. *See* 88 FR 8226. EPA proposes to find that this change to the SIP will not interfere with attainment or maintenance of any national ambient air quality standards, reasonable further progress, or any other applicable requirement of the CAA, consistent with CAA section 110(l), because EPA has found this chemical to be negligibly reactive.

*B. Chapter No. 335-3-5, Control of Sulfur Compound Emissions*

Alabama Administrative Code Rules 335-3-5-.06 through 335-3-5-.36, were initially approved into the Alabama SIP on August 31, 2016. *See* 81 FR 59869. That rulemaking approved Alabama’s Transport Rule (TR) sulfur dioxide (SO<sub>2</sub>) Group 2 Trading Program requiring Alabama EGUs to participate in new Cross-State Air Pollution Rule (CSAPR) State trading programs for annual SO<sub>2</sub> emissions integrated with the CSAPR Federal trading programs, replacing the corresponding Federal implementation plan (FIP) requirements.

The December 20, 2023, submittal removes the text “(1) General”, “(1)”, or “General” from the beginning of the following rules to be in line with Alabama’s Legislative Services Agency requirements: 335-3-5-.10, *TR SO<sub>2</sub> Trading Program – Computation of Time*; 335-3-5-.11, *Administrative Appeal Procedures*; 335-3-5-.14, *Authorization of Designated Representative and Alternate Designated Representative*; 335-3-5-.15, *Responsibilities of Designated Representative and Alternate Designated Representative*; 335-3-5-.16, *Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source*; 335-3-5-.17, *Certificate of Representation*; 335-3-5-.19,

*Delegation by Designated Representative and Alternate Designated Representative; 335-3-5-.22, Recordation of TR SO<sub>2</sub> Allowance Allocations and Auction Results; 335-3-5-.23, Submission of TR SO<sub>2</sub> Allowance Transfers; 335-3-5-.24, Recordation of TR SO<sub>2</sub> Allowance Transfers; 335-3-5-.25, Compliance with TR SO<sub>2</sub> Emissions Limitation; 335-3-5-.26, Compliance with TR SO<sub>2</sub> Assurance Provisions; 335-3-5-.28, Account Error; 335-3-5-.29, Administrator's Action on Submissions; 335-3-5-.33, Monitoring System Out-of-Control Periods; 335-3-5-.34, Notifications Concerning Monitoring; 335-3-5-.35, Recordkeeping and Reporting; and 335-3-5-.36, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.*

EPA proposes to find that these changes to the SIP will not interfere with attainment or maintenance of any national ambient air quality standard, reasonable further progress, or any other applicable requirement of the CAA, consistent with CAA section 110(l), because they are administrative in nature.

*C. Chapter No. 335-3-8, Nitrogen Oxides Emissions*

EPA initially approved ADEM Administrative Code Rules 335-3-8-.07 through 335-3-5-.38 into the Alabama SIP on August 31, 2016. *See* 81 FR 59869. These rules pertain to Alabama's TR nitrogen oxides (NO<sub>x</sub>) Annual Trading Program requiring Alabama Electricity Generating Units (EGUs) to participate in new CSAPR State trading programs for annual NO<sub>x</sub> emissions integrated with the CSAPR Federal trading programs, replacing the corresponding FIP requirements. The December 20, 2023, submittal removes the text "(1) General", "(1)", or "General" from the beginning of the following rules to be in line with Alabama's Legislative Services Agency requirements: 335-3-8-.11, *TR NO<sub>x</sub> Annual Trading Program – Computation of Time*, 335-3-8-.12 *Administrative Appeal Procedures*, 335-3-8-.16, *Authorization of Designated Representative and Alternate Designated Representative*; 335-3-8-.17, *Responsibilities of Designated Representative and Alternate Designated Representative*; 335-3-8-.18 *Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators*; 335-3-8-.19, *Certificate of*

*Representation; 335-3-8-.21, Delegation by Designated Representative and Alternate Designated Representative; 335-3-8-.24, Recordation of TR NOx Annual Allowance Allocations and Auction Results; 335-3-8-.25, Submission of TR NOx Annual Allowance Transfers; 335-3-8-.26, Recordation of TR NOx Annual Allowance Transfers; 335-3-8-.27, Compliance with TR NOx Annual Emissions Limitation; 335-3-8-.28, Compliance with TR NOx Annual Assurance Provisions; 335-3-8-.30, Account Error; 335-3-8-.31, Administrator's Action on Submissions, 335-3-8-.35, Monitoring System Out-of-Control Periods; 335-3-8-.36, Notifications Concerning Monitoring; 335-3-8-.37, Recordkeeping and Reporting; and 335-3-8-.38, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.*

EPA initially approved ADEM Administrative Code Rules 335-3-8-.39 through 335-3-8-.70 on October 6, 2017. *See* 82 FR 46674. These rules pertain to Alabama's TR NOx Ozone Season Trading Program requiring Alabama EGUs to participate in new CSAPR State trading programs for ozone season NO<sub>x</sub> emissions integrated with the CSAPR Federal trading programs, replacing the corresponding FIP requirements. The December 20, 2023, submittal removes the text "(1) General", "(1)", or "General" from the beginning of the following rules to be in line with Alabama's Legislative Services Agency requirements: 335-3-8-.43, *TR NOx Ozone Season Group 2 Trading Program - Computation of Time*; 335-3-8-.44, *Administrative Appeal Procedures*; 335-3-8-.48, *Authorization of Designated Representative and Alternate Designated Representative*; 335-3-8-.49, *Responsibilities of Designated Representative and Alternate Designated Representative*; 335-3-8-.50, *Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source*; 335-3-8-.51, *Certificate of Representation*; 335-3-8-.53, *Delegation by Designated Representative and Alternate Designated Representative*; 335-3-8-.56, *Recordation of TR NOx Ozone Season Group 2 Allowance Allocations and Auction Results*; 335-3-8-.57, *Submission of TR NOx Ozone Season Group 2 Allowance Transfers*; 335-3-8-.58, *Recordation of TR NOx Ozone Season Group 2 Allowance Transfers*; 335-3-8-.59, *Compliance with TR NOx Ozone*

*Season Group 2 Emissions Limitation; 335-3-8-.60, Compliance with TR NOx Ozone Season Group 2 Assurance Provisions; 335-3-8-.62, TR NOx Ozone Season Group 2 Trading Program – Account Error; 335-3-8-.63, TR NOx Ozone Season Group 2 Trading Program - Administrator's Action on Submissions; 335-3-8-.67, Monitoring System Out-of-Control Periods; 335-3-8-.68, Notifications Concerning Monitoring; 335-3-8-.69, Recordkeeping and Reporting; and 335-3-8-.70, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.*

EPA initially approved Alabama Administrative Code Rule 335-3-8-.71, “*NOx Budget Program*,” on July 7, 2021. *See* 86 FR 35610. This rule reestablished enforceable limits on ozone season NOx mass emissions for certain sources as required by EPA’s NOx SIP Call regulations. In Rule 335-3-8-.71, the text “[New Rule]” is removed from the title line, to be consistent with Alabama’s Legislative Services Agency requirements.

EPA proposes to find that these changes to the SIP will not interfere with attainment or maintenance of any national ambient air quality standard, reasonable further progress, or any other applicable requirement of the CAA, consistent with CAA section 110(l), because they are administrative in nature.

## **II. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is proposing to incorporate by reference Alabama Administrative Code Rule 335-3-1-.02, *Definitions*; Rules 335-3-5-.10, *TR SO<sub>2</sub> Trading Program – Computation of Time*; 335-3-5-.11, *Administrative Appeal Procedures*; 335-3-5-.14, *Authorization of Designated Representative and Alternate Designated Representative*; 335-3-5-.15, *Responsibilities of Designated Representative and Alternate Designated Representative*; 335-3-5-.16, *Changing Designated Representative and Alternate Designated Representative*; *Changes in Owners and Operators*; *Changes in Units at the Source*; 335-3-5-.17, *Certificate of Representation*; 335-3-5-.19, *Delegation by Designated Representative and Alternate*

*Designated Representative; 335-3-5-.22, Recordation of TR SO<sub>2</sub> Allowance Allocations and Auction Results; 335-3-5-.23, Submission of TR SO<sub>2</sub> Allowance Transfers; 335-3-5-.24, Recordation of TR SO<sub>2</sub> Allowance Transfers; 335-3-5-.25, Compliance with TR SO<sub>2</sub> Emissions Limitation; 335-3-5-.26, Compliance with TR SO<sub>2</sub> Assurance Provisions; 335-3-5-.28, Account Error; 335-3-5-.29, Administrator's Action on Submissions; 335-3-5-.33, Monitoring System Out-of-Control Periods; 335-3-5-.34, Notifications Concerning Monitoring; 335-3-5-.35, Recordkeeping and Reporting; and 335-3-5-.36, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements; and Rules 335-3-8-.11, TR NO<sub>x</sub> Annual Trading Program – Computation of Time, 335-3-8-.12 Administrative Appeal Procedures, 335-3-8-.16, Authorization of Designated Representative and Alternate Designated Representative; 335-3-8-.17, Responsibilities of Designated Representative and Alternate Designated Representative; 335-3-8-.18 Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source; 335-3-8-.19, Certificate of Representation; 335-3-8-.21, Delegation by Designated Representative and Alternate Designated Representative; 335-3-8-.24, Recordation of TR NO<sub>x</sub> Annual Allowance Allocations and Auction Results; 335-3-8-.25, Submission of TR NO<sub>x</sub> Annual Allowance Transfers; 335-3-8-.26, Recordation of TR NO<sub>x</sub> Annual Allowance Transfers; 335-3-8-.27, Compliance with TR NO<sub>x</sub> Annual Emissions Limitation; 335-3-8-.28, Compliance with TR NO<sub>x</sub> Annual Assurance Provisions; 335-3-8-.30, Account Error; 335-3-8-.31, Administrator's Action on Submissions, 335-3-8-.35, Monitoring System Out-of-Control Periods; 335-3-8-.36, Notifications Concerning Monitoring; 335-3-8-.37, Recordkeeping and Reporting; 335-3-8-.38, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements; 335-3-8-.43, TR NO<sub>x</sub> Ozone Season Group 2 Trading Program - Computation of Time; 335-3-8-.44, Administrative Appeal Procedures; 335-3-8-.48, Authorization of Designated Representative and Alternate Designated Representative; 335-3-8-.49, Responsibilities of Designated Representative and Alternate Designated Representative; 335-3-8-.50, Changing Designated Representative and Alternate*

*Designated Representative; Changes in Owners and Operators; Changes in Units at the Source; 335-3-8-.51, Certificate of Representation; 335-3-8-.53, Delegation by Designated Representative and Alternate Designated Representative; 335-3-8-.56, Recordation of TR NOx Ozone Season Group 2 Allowance Allocations and Auction Results; 335-3-8-.57, Submission of TR NOx Ozone Season Group 2 Allowance Transfers; 335-3-8-.58, Recordation of TR NOx Ozone Season Group 2 Allowance Transfers; 335-3-8-.59, Compliance with TR NOx Ozone Season Group 2 Emissions Limitation; 335-3-8-.60, Compliance with TR NOx Ozone Season Group 2 Assurance Provisions; 335-3-8-.62, TR NOx Ozone Season Group 2 Trading Program – Account Error; 335-3-8-.63, TR NOx Ozone Season Group 2 Trading Program - Administrator's Action on Submissions; 335-3-8-.67, Monitoring System Out-of-Control Periods; 335-3-8-.68, Notifications Concerning Monitoring; 335-3-8-.69, Recordkeeping and Reporting; 335-3-8-.70, Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements; and 335-3-8-.71, NOx Budget Program, State effective February 12, 2024, which address typographical errors and increase clarity and consistency with EPA’s definitions and Alabama’s Legislative Services Agency requirements. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).*

### **III. Proposed Action**

EPA is proposing to approve Alabama’s December 20, 2023, SIP revision consisting of the aforementioned changes to Chapter No. 335-3-1, *General Provisions*; Chapter No. 335-3-5, *Control of Sulfur Compound Emissions*; and Chapter No. 335-3-8, *Nitrogen Oxides Emissions* because they are consistent with CAA requirements. Thus, EPA is proposing to incorporate these changes into Alabama’s SIP.

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

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, 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 proposed 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 21, 2025.

**Jeanne Gettle,**  
*Acting Regional Administrator,*  
*Region 4.*

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