



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0626; FRL-9989-13-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Delaware; Revisions to the Regulatory Definition of Volatile Organic Compounds**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision formally submitted by the State of Delaware. This revision pertains to amendments made to the definition of “volatile organic compound” (VOC) in the Delaware Administrative Code to conform with EPA’s regulatory definition of VOC. The EPA found that certain compounds have a negligible photochemical reactivity and therefore has exempted them from the regulatory definition of VOC in several rulemaking actions, as discussed below. This revision to the Delaware SIP requested the exemption of these compounds from the regulatory definition of VOC to match the actions EPA has taken. The revision also requested minor changes to the format of some of the chemical formulas for VOCs that are already excluded from the definition of VOC in the Delaware SIP. EPA is approving these revisions to update the definition of VOC in the Delaware SIP under 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-R03-OAR-2018-0626 at <http://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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, please contact the person identified in the “For Further Information Contact” section. For 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: Elizabeth Gaige, (215) 814-5676, or by e-mail at gaige.elizabeth@epa.gov.

SUPPLEMENTARY INFORMATION: On May 25, 2018, the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC), formally submitted a SIP revision requesting that the definition of VOC in the Delaware SIP be updated to conform to several EPA rulemakings that exempted compounds from the regulatory definition of VOC in 40 CFR 51.100(s). The May 25, 2018 SIP revision requested that the definition of VOC in the

Delaware SIP be updated to add the following compounds to the list of compounds excluded from the definition of VOC: t-butyl acetate (also known as tertiary butyl acetate or TBAC), HFE-7000 (1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane), HFE-7500 [3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane], HFC-227ea (1,1,1,2,3,3,3-heptafluoropropane), methyl formate, HFE-7300 (1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane), propylene carbonate and dimethyl carbonate. These compounds were excluded from the regulatory definition of VOC in 40 CFR 51.100(s) by EPA in several rulemakings, which are discussed in more detail later in this notice of proposed rulemaking (NPRM). Delaware's May 25, 2018 SIP revision also requested minor changes to the format of some of the chemical formulas for VOCs that are already excluded from the definition of VOC in the Delaware SIP.¹

I. Background

VOCs are organic compounds of carbon that, in the presence of sunlight, react with sources of oxygen molecules, such as nitrogen oxides (NO_x) and carbon monoxide (CO), 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. Outdoor emissions of VOCs are regulated by EPA primarily to prevent the formation of ozone.

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

¹ The SIP revision requests that the format of the chemical formulas for the following compounds be revised to incorporate subscripts: 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃), 2-(difluoromethoxy methyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃), 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅), and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅).

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 EPA has the authority to define the meaning of VOC and what compounds shall be treated as VOCs for regulatory purposes. It is 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. 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 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 EPA as negligibly reactive can be found at 40 CFR 51.100(s).

On September 30, 1999, EPA proposed to revise the regulatory definition of VOC in 40 CFR 51.100(s) 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, EPA's 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 VOC (69 FR 69290, November 29, 2004) (2004 Final Rule).²

On November 29, 2004 (69 FR 69290), EPA promulgated a final rule revising the regulatory definition of VOC in 40 CFR 51.100(s) to add HFE-7000, HFE-7500, HFC 227ea, and methyl formate to the list of compounds excluded from EPA's regulatory definition of VOC. On January 18, 2007 (72 FR 2193) and January 21, 2009 (74 FR 3437) EPA promulgated additional final rules revising the regulatory definition of VOC in 40 CFR 51.100(s) to add HFE-7300, propylene carbonate and dimethyl carbonate, to the list of compounds excluded from the regulatory definition of VOC. These actions were based on EPA's consideration of the compounds' negligible reactivity and low contribution to ozone as well as the low likelihood of risk to human health or the environment. EPA's rationale for these actions is explained in more detail in the final rules for these actions.

II. Summary of SIP Revision and EPA Analysis

In order to conform with EPA's current regulatory definition of VOC in 40 CFR 51.100(s), Delaware amended the definition of VOC in 7 DE Admin. Code 1101 – *Definitions and Administrative Principles*, to add HFE-7000, HFE-7500, HFC 227ea, methyl formate, HFE-7300, propylene carbonate, and dimethyl carbonate to the list of compounds excluded from the regulatory definition of VOC. Delaware also amended the definition of VOC in 7 DE Admin. Code 1101 to exclude TBAC from the definition of VOC for the purposes of VOC emissions limitations or VOC content requirements, but continued to define TBAC as a VOC for purposes

² On February 25, 2016, EPA revised the regulatory definition of VOC under 40 CFR 51.100(s) to remove the recordkeeping and reporting requirements for TBAC (81 FR 9341). EPA's rationale for this action is explained in more detail in the final rule for that action. However, Delaware's May 25, 2018 SIP revision retains the recordkeeping and reporting requirements for TBAC as these updates were adopted August 14, 2009 and became effective September 10, 2009, which was prior to EPA's final rule removing the recordkeeping and reporting requirements for TBAC.

of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOC.³ Delaware also made minor formatting changes to some of the chemical formulas for VOCs that are already excluded from the definition of VOC in the Delaware SIP.¹ These revisions were adopted by Delaware on August 14, 2009 and were effective September 10, 2009. DNREC formally submitted these amendments to the regulatory definition of VOC as a SIP revision on May 25, 2018.

Delaware's amendments to the definition of VOC in 7 DE Admin. Code are in accordance with EPA's regulatory changes to the definition of VOC in 40 CFR 51.100(s) and are therefore approvable for the Delaware SIP in accordance with CAA section 110. Also, because EPA has made the determination that HFE-7000, HFE-7500, HFC 227ea, methyl formate, HFE-7300, propylene carbonate, dimethyl carbonate and TBAC are of negligible reactivity and therefore have low contributions to ozone as well as low likelihood of risk to human health or the environment, removing these chemicals from the definition of VOC in the Delaware SIP will not interfere with attainment of any NAAQS, reasonable further progress, or any other requirement of the CAA. Thus, the addition of these compounds to the list of compounds excluded from the regulatory definition of VOC is in accordance with CAA section 110(l).

III. Proposed Action

EPA is proposing to approve Delaware's May 25, 2018 SIP revision because it meets the requirements of CAA section 110. This revision updates the regulatory definition of VOC in the Delaware SIP to add HFE-7000, HFE-7500, HFC 227ea, methyl formate, HFE-7300, propylene

³ As stated previously, on February 25, 2016, EPA revised the regulatory definition of VOC under 40 CFR 51.100(s) to remove the recordkeeping and reporting requirements for TBAC (81 FR 9341). However, Delaware's May 25, 2018 SIP revision retains the recordkeeping and reporting requirements for TBAC as these updates were adopted August 14, 2009 and became effective September 10, 2009, which was prior to EPA's final rule removing the recordkeeping and reporting requirements for TBAC.

carbonate and dimethyl carbonate to the list of compounds excluded from the regulatory definition of VOC. The revision also updates the regulatory definition of VOC in the Delaware SIP to exclude TBAC from the definition of VOC for purposes of VOC emissions limitations or VOC content requirements, but continues to define TBAC as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOC. The revision also makes minor changes to the format of some of the chemical formulas for VOCs that are already excluded from the definition of VOC in the Delaware SIP.¹ EPA is soliciting public comment on the issues discussed in this document. These comments will be considered before taking final action.

IV. 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, EPA is proposing to incorporate by reference the updated definition of VOC in 7 DE Admin. Code 1101 – *Definitions and Administrative Principles*, which adds HFE-7000, HFE-7500, HFC 227ea, methyl formate, HFE-7300, propylene carbonate, dimethyl carbonate and TBAC to the list of compounds excluded from the regulatory definition of VOC, and makes minor formatting changes to the chemical formulas for several compounds already excluded from the definition of VOC in the Delaware SIP.⁴ EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

⁴ As stated previously, TBAC continues to be defined in Delaware’s regulations as a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOC. EPA expects that Delaware will amend its regulations in the near future to remove these remaining requirements now that EPA has removed these requirements from the Federal regulations.

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 CAA 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 that reason, this proposed 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 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 proposed rule, amending the definition of VOC in the Delaware SIP to conform with the regulatory definition of VOC in 40 CFR 51.100(s), 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 20, 2018.

Cosmo Servidio,
Regional Administrator,
Region III.

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