



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0095; FRL-10010-99-Region 4]

Air Plan Approval; Kentucky: Revisions to Jefferson County VOC Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a SIP revision to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky (Commonwealth), through the Energy and Environment Cabinet (Cabinet) on September 5, 2019. The revision was submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (LMAPCD) and makes changes to the definition of “volatile organic compound” (VOC). EPA is proposing to approve the changes amending the definition of VOC because the Commonwealth has demonstrated that the changes are consistent with the Clean Air Act (CAA or Act).

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-2020-0095 <http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, 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. Ms. Bell can be reached by phone at (404) 562-9088 or via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides 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 NOx that can be released into the atmosphere. VOC are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) that form ozone through atmospheric photochemical reactions. VOC have different levels of reactivity; they do not react at the same speed or form ozone to the same extent.

Section 302(s) of the CAA specifies that EPA has the authority to define the meaning of

“VOC,” and hence, what compounds shall be treated as VOC for regulatory purposes. It is EPA’s policy 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 determines whether a given carbon compound has “negligible” reactivity by comparing the compound’s reactivity to the reactivity of ethane. 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.

II. Analysis of State’s Submittal

EPA is proposing to approve the Commonwealth’s SIP revision which amends the definition of “Volatile organic compound (VOC)” at Section 1.84 in LMAPCD Regulation 1.02, *Definitions*.¹ This SIP revision removes an enumerated list of negligibly reactive compounds and incorporates by reference the list of negligibly reactive compounds in the definition of VOC at 40 CFR 51.100(s)(1) as of July 1, 2018, into a new subsection 1.84.1 to ensure that the definition of VOC for the Jefferson County portion of the Commonwealth’s SIP is consistent with the most recent version of the federal definition.² As a result of this incorporation by reference, the SIP revision adds exclusions to the definition of VOC that were not previously in the Jefferson County portion of the Commonwealth’s SIP.

¹ On September 5, 2019, the Commonwealth submitted other SIP revisions which will be addressed in separate actions.

² EPA approved revisions to the Jefferson County portion of the Kentucky SIP on July 25, 2019. *See* 84 FR 35828.

This incorporation by reference has the effect of adding the following compounds to the list of negligibly reactive compounds: trans-1,3,3,3-tetrafluoropropene; HCF₂OCF₂H(HFE-134); HCF₂OCF₂OCF₂H (HFE-236cal2); HCF₂OCF₂CF₂H (HFE-338pcc13); HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; 2-amino-2-methyl-1-propanol; 1,1,2,2-Tetrafluoro -1-(2,2,2-trifluoroethoxy) ethane; cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z). These compounds are excluded from the VOC definition on the basis that each of these compounds make a negligible contribution to tropospheric ozone formation. 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 EPA has found the chemicals listed in 40 CFR 51.100(s)(1) to be negligibly reactive. This SIP revision also adds a new subsection 1.84.2 that includes instructions on how to access copies of the Code of Federal Regulations (CFR).

III. 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 LMAPCD Regulation 1.02, *Definitions*, Section 1.84, state-effective June 19, 2019, to revise the definition of “Volatile organic compound (VOC)” by referencing the federal list of negligibly reactive compounds and including instructions on how to access the CFR. EPA has made, and will continue to make, these materials generally available through 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).

IV. Proposed Action

EPA is proposing to approve the Commonwealth’s September 5, 2019 SIP revision that revises the definition of “Volatile organic compound (VOC)” at LMAPCD Regulation 1.02, *Definitions*, in the Jefferson County portion of the Kentucky SIP to be consistent with federal regulations and CAA requirements.

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. This 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 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).

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.

List of Subjects in 40 CFR Part 52

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

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

Dated: June 24, 2020.

Mary Walker,

Regional Administrator,

Region 4.

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