

provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected the approach that would maximize net benefits. Based on the analysis that follows, the Departments believe that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

**Intergovernmental Review:** Some of the programs affected by this proposed priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

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Dated: March 24, 2014.

**Arne Duncan,**

*Secretary of Education.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 51

[EPA-HQ-OAR-2013-0775; FRL-9906-73-OAR]

RIN 2060-AR92

#### **Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds—Exclusion of 2-amino-2-methyl-1-propanol (AMP)**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to revise the regulatory definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA). This direct final action adds 2-amino-2-methyl-1-propanol (also known as AMP; CAS number 124-68-5) to the list of compounds excluded from the regulatory definition of VOCs on the basis that this compound makes a negligible contribution to tropospheric ozone formation.

**DATES:** This rule is effective June 25, 2014 without further notice, unless the EPA receives adverse comment on this action by May 27, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0775, by one of the following methods:

- Follow the on-line instructions for submitting comments: [www.regulations.gov](http://www.regulations.gov).
- Email: [a-and-r-Docket@epamail.epa.gov](mailto:a-and-r-Docket@epamail.epa.gov), Attention Docket ID No. EPA-HQ-OAR-2013-0775.

- Fax: 202-566-9744, Attention Docket ID No. EPA-HQ-OAR-2013-0775.

- Mail: Docket ID No. EPA-HQ-OAR-2013-0775, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

- Hand Delivery: EPA Docket Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., William Jefferson Clinton, West Building Room: 3334, Mail Code: 28221T, Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2013-0775. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2013-0775. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov), or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Docket ID No. EPA-HQ-OAR-2013-0775, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., William Jefferson Clinton West Building, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Souad Benromdhane, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Mail Code C539-07, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (919) 541-4359; fax number: (919) 541-5315; email address: [benromdhane.souad@epa.gov](mailto:benromdhane.souad@epa.gov).

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## I. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This action revises the EPA's regulatory definition of VOCs for purposes of preparing SIPs to attain the NAAQS for ozone under title I of the CAA. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to make this revision to the regulatory definition of VOCs if adverse comments are received on the parallel proposal or this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

## II. Does this action apply to me?

Entities potentially affected by this direct final rule include, but are not necessarily limited to, state and local air pollution control agencies that adopt and implement regulations to control air emissions of VOCs; and industries manufacturing and/or using pigments in water-based coatings, additives in metalworking fluids and in food contact paper, neutralizers in personal care products, and intermediates in chemical synthesis.

## III. Background

### A. The EPA's VOC Exemption Policy

Tropospheric ozone, commonly known as smog, is formed when VOCs and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, the EPA and state governments limit the amount of VOCs that can be released into the atmosphere. The VOCs are those organic compounds of carbon which form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity. That is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly or form less ozone; therefore, changes in their emissions have limited effects on local or regional ozone pollution episodes. It has been the EPA's policy that organic compounds

with a negligible level of reactivity should be excluded from the regulatory definition of VOCs so as to focus VOCs control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists compounds that it has determined to be negligibly reactive in its regulations as being excluded from the regulatory definition of VOCs. (40 CFR 51.100(s)).

The CAA requires the regulation of VOCs for various purposes. Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of "VOC," and hence what compounds shall be treated as VOCs for regulatory purposes. The policy of excluding negligibly reactive compounds from the regulatory definition of VOCs 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 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 from the regulatory definition of VOCs. Compounds that are more reactive than ethane continue to be considered VOCs for regulatory purposes and therefore are subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

The EPA has used three different metrics to compare the reactivity of a specific compound to that of ethane: (i) The reaction rate constant (known as  $k_{OH}$ ) with the hydroxyl radical (OH); (ii) the maximum incremental reactivity (MIR) on a reactivity per unit mass basis; and (iii) the MIR expressed on a reactivity per mole basis. Differences between these three metrics are discussed below.

The  $k_{OH}$  is the reaction rate constant of the compound with the OH radical in the air. This reaction is typically the first step in a series of chemical reactions by which a compound breaks down in the air and participates in the ozone-forming process. If this step is slow, the compound will likely not form

ozone at a very fast rate. The  $k_{OH}$  values have long been used by the EPA as a metric of photochemical reactivity and ozone-forming activity, and they have been the basis for most of the EPA's previous exemptions of negligibly reactive compounds from the regulatory definition of VOCs. The  $k_{OH}$  metric is inherently a molar-based comparison, i.e., it measures the rate at which molecules react.

The MIR, both by mole and by mass, is a more recently developed metric of photochemical reactivity derived from a computer-based photochemical model. This metric considers the complete ozone forming activity of a compound on a single day, not merely the first reaction step. Further explanation of the MIR metric can be found in Carter, 1994.

The MIR values for compounds are typically expressed as grams of ozone formed per gram of VOC (mass basis), but they may also be expressed as grams of ozone formed per mole of VOC (molar basis). For comparing the reactivities of two compounds, using the molar-based MIR values considers an equal number of molecules of the two compounds. Alternatively, using the mass-based MIR values compares an equal mass of the two compounds, which will involve different numbers of molecules, depending on the relative molecular weights. The molar-based MIR comparison is consistent with the original smog chamber experiments that underlie the original selection of ethane as the threshold compound, in that these experiments compared equal molar concentrations of individual VOCs. It is also consistent with previous reactivity determinations based on  $k_{OH}$  values, which are inherently molar-based. By contrast, the mass-based MIR comparison is more consistent with how MIR values and other reactivity metrics have been applied in reactivity-based emission limits, such as the national VOC emissions standards for aerosol coatings (40 CFR part 59 subpart E). Many other VOCs regulations contain limits based upon a weight of VOC per volume of product, such as the EPA's regulations for limiting VOC emissions from architectural coatings (40 CFR part 59 subpart D). However, the fact that regulations are structured to measure VOC content by weight for ease of implementation and enforcement does not necessarily control whether VOC exemption decisions should be made on a weight basis as well.

The choice of the molar basis versus the mass basis for the ethane comparison can be significant. In some cases, a compound might be considered less reactive than ethane under the mass

basis but not under the molar basis. For compounds with molecular weights higher than that of ethane, use of the mass basis results in more VOCs being classified as less reactive than ethane than use of the molar basis.

The EPA has considered the choice between a molar or mass basis for the comparison to ethane in past rulemakings and guidance. In the Interim Guidance, the EPA stated:

[A] comparison to ethane on a mass basis strikes the right balance between a threshold that is low enough to capture compounds that significantly affect ozone concentrations and a threshold that is high enough to exempt some compounds that may usefully substitute for more highly reactive compounds.

When reviewing compounds that have been suggested for VOC-exempt status, EPA will continue to compare them to ethane using  $k_{OH}$  expressed on a molar basis and MIR values expressed on a mass basis.

The EPA's 2005 Interim Guidance also noted that concerns have sometimes been raised about the potential impact of a VOC exemption on environmental endpoints other than ozone concentrations, including fine particle formation, air toxics exposures, stratospheric ozone depletion and climate change. The EPA has recognized, however, that there are existing regulatory and non-regulatory programs that are specifically designed to address these issues, and the EPA continues to believe in general that the impacts of VOC exemptions on environmental endpoints other than ozone formation will be adequately addressed by these programs. The VOC exemption policy is intended to facilitate attainment of the ozone NAAQS. As such, in general, VOC exemption decisions will continue to be based solely on consideration of a compound's contribution to ozone formation. However, if EPA determines that a particular VOC exemption is likely to result in a significant increase in the use of a compound and that the increased use would pose a significant risk to human health or the environment that would not be addressed adequately by existing programs or policies, the EPA reserves the right to exercise its judgment in deciding whether to grant an exemption.

#### *B. Petition To List AMP as an Exempt Compound*

Dow Chemical Company submitted a petition to the EPA on October 12, 2012, requesting that 2-amino-2-methyl-1-propanol (also known as AMP; CAS number 124-68-5) be exempted from the regulatory definition of VOCs based on its low reactivity relative to ethane.

The petitioner indicated that AMP may be used in a variety of applications including in industries involved in the manufacture or use of pigments in water-based coatings, as an additive in metalworking fluids, in food contact paper, as a neutralizer in personal care products, and as an intermediate in chemical synthesis.

To support its petition, Dow Chemical referenced several documents, including a technical report on the maximum incremental reactivity of AMP (Carter, 2012) and two peer-reviewed journal articles on its reaction rates. According to these documents, the reactivity of AMP is 0.25 gm  $O_3$ /gm AMP in the maximum incremental reactivity (MIR) scale. The reactivity rate is slightly less than that of ethane, 0.28 gm  $O_3$ /gm ethane, the compound that the EPA has used for comparison to define "negligible" ozone reactivity for the purpose of exempting compounds from the regulatory definition of VOCs. The rate constant for the gas-phase reaction of OH radicals with AMP, ( $k_{OH}$ ) has been measured to be  $2.8 \times 10^{-11}$  cm<sup>3</sup>/molecule-sec at ~300 K (Harris and Pitts, 1983), giving it a relatively short lifetime in the atmosphere and thus reducing its ability to contribute to ozone formation. Under the conventional assumption of OH concentration of  $3 \times 10^6$  molecules/cm<sup>3</sup>, AMP would decay exponentially with a mean lifetime of about 4 hours (Carter, 2008). Based on the measured reactivity rate of AMP (Harris and Pitts, 1983), AMP has a larger  $k_{OH}$  than ethane (ethane =  $2.4 \times 10^{-13}$ ) and therefore it is initially more reactive than ethane, but as explained in detail in Carter, 2008, AMP's first reaction primarily terminates radicals rather than cycling them and therefore generally reduces ozone. With regard to stratospheric ozone depletion, the petitioner stated that the ozone depletion potential of AMP is insignificant based on the expected possible initial reactions described in Carter 2008 and the general theory supporting the estimated mechanisms discussed in Carter 2012. Given that AMP has a relatively short atmospheric lifetime, and because it does not contain chlorine or bromine, it is not expected to contribute to the depletion of the stratospheric ozone layer.

#### **IV. The EPA's Assessment of the Petition**

The EPA is taking direct final action to approve the petition for exemption of AMP from the regulatory definition of VOCs. This action is consistent with the 2005 Interim Guidance based on comparison of the three reactivity

metric values for AMP to the corresponding values for ethane. As a short-lived substance, there is no evidence that AMP would have a substantial climate impact: AMP meets the Interim Guidance criteria for no significant risks in terms of environmental endpoints other than ozone formation. Information on these topics is given in the following sections.

#### A. Contribution to Tropospheric Ozone

The reaction rate of AMP for reaction with OH radical ( $k_{OH}$ ) has been measured to be  $2.8 \times 10^{-11}$  cm<sup>3</sup>/molecule-sec (Harris and Pitts, 1983); other reactions with ozone and nitrate radical were negligibly small. The corresponding reaction rate of ethane with OH is  $2.4 \times 10^{-13}$  cm<sup>3</sup>/molecule-sec (Atkinson et al., 2006).

The overall atmospheric reactivity of AMP was studied in an experimental

smog chamber, and the chemical mechanism derived from this study was used to model the complete formation of ozone for an entire single day under realistic atmospheric conditions (Carter, 2012). Using the standard 39-city array of input conditions, Carter calculated a MIR value of 0.25 g O<sub>3</sub>/g VOC for AMP for “averaged conditions,” versus 0.28 g O<sub>3</sub>/g VOC for ethane.

Table 1 presents the three reactivity metrics for AMP as they compare to ethane.

TABLE 1—REACTIVITIES OF ETHANE AND AMP

| Compound     | $k_{OH}$<br>(cm <sup>3</sup> /molecule-sec) | Maximum incremental reactivity (MIR)<br>(g O <sub>3</sub> /mole VOC) | Maximum incremental reactivity (MIR)<br>(g O <sub>3</sub> /g VOC) |
|--------------|---------------------------------------------|----------------------------------------------------------------------|-------------------------------------------------------------------|
| Ethane ..... | $2.4 \times 10^{-13}$ .....                 | 8.4                                                                  | 0.28                                                              |
| AMP .....    | $2.8 \times 10^{-11}$ .....                 | 22.25                                                                | 0.25                                                              |

#### Notes:

1.  $k_{OH}$  value at 298 K for ethane is from Atkinson et al., 2006 (page 2636).
2.  $k_{OH}$  value at 300 K for AMP is from Harris and Pitts, 1983 (page 50).
3. Mass-based MIR value (g O<sub>3</sub>/g VOC) of ethane is from Carter, 2011.
4. Mass-based MIR value (g O<sub>3</sub>/g VOC) of AMP is from Carter, 2012.
5. Molar-based MIR (g O<sub>3</sub>/mole VOC) values were calculated from the mass-based MIR (g O<sub>3</sub>/g VOC) values using the number of moles per gram of the relevant organic compound.

From the data in Table 1, it can be seen that AMP has a higher  $k_{OH}$  value than ethane, meaning that it initially reacts more quickly in the atmosphere than ethane. Also, a molecule of AMP is more reactive than a molecule of ethane in terms of complete ozone forming activity as shown by the molar-based MIR (g O<sub>3</sub>/mole VOC) values. However, the nitrogen-centered radical in AMP scavenges radicals, primarily NO<sub>x</sub> and is expected to be inert according to Harris and Pitts, 1983. This is in line with the effects of AMP addition on ozone concentration reduction observed in the chamber experiments of Carter, 2008. The early reactivity of AMP is thus short lived, because the reaction pathway is terminated by the intermediate production of assumed inert nitramine. Unlike other VOCs, AMP is a base and might be lost to some degree by reaction with HNO<sub>3</sub>, forming non-volatile amine salts, reducing its availability in the gas phase for O<sub>3</sub> formation. As a result, one gram of AMP has a lower MIR value than one gram of ethane. Thus, under the 2005 Interim Guidance AMP is eligible to be exempted from the regulatory definition of VOCs, on the basis of the mass-based MIR.

#### B. Likelihood of Risk to Human Health or the Environment

Information in Dow Chemical Company's petition and its appendices

as well as the reference material indicates that AMP has low toxicity (Griffin 1990), no irritation or skin sensitization, and no detectable genotoxic activity in vitro or in vivo. AMP was subject to the Ames test, the mouse lymphoma assay and the mouse micronucleus test (Gudi, 1998; San and Clark, 1997; and Wagner 1996) and was found negative in these studies among several others. AMP has a toxicity profile amply documented in the appendices provided with the petition material and placed in the docket for this rulemaking. AMP also has a favorable toxicity profile supported by the Hazard Characterization Document dedicated to AMP published by EPA in March of 2012, titled “Screening-level Hazard Characterization of High Production Volume Chemicals—2-Amino-2-methyl-1-propanol (AMP) CASRN 124–68–5” under the High Production Volume (HPV) Challenge Program.<sup>1</sup>

In addition, AMP is a reasonably strong base and forms salts with acids. Therefore, in many formulations very little AMP will evaporate and will be available for atmospheric reaction due to its ionic or salt form. Therefore, exposure is low due to low volatility at room temperature. However, repeated inhalation of vapor or mist could cause

respiratory irritation. Burnett et al. (2009) reviewed safety data and found that AMP is safe to use in cosmetics after he performed several acute inhalation studies with AMP as well as with AMP in alcohol and propellant. The studies indicated that AMP is nontoxic by inhalation. The studies also tested other routes of exposure and found them to be nontoxic as well.

AMP is not regulated as a hazardous air pollutant (HAP) under title I of the Clean Air Act. Also, it is not listed as a toxic chemical under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

The Toxic Substances Control Act (TSCA) requires the EPA to assess and prevent any unreasonable risks to human health and the environment before a new chemical substance is introduced into commerce. Section 5 of TSCA requires manufacturers and importers to notify the EPA before manufacturing or importing a new chemical substance. This premanufacture notice, or PMN, must be submitted at least 90 days prior to the manufacture (including import) of the chemical. Under the TSCA New Chemicals Program, the EPA then performs a risk assessment on the new chemical substance to determine whether an unreasonable risk may, or will, be presented by the expected manufacture, processing, distribution in commerce, use, and disposal of the new

<sup>1</sup> U.S. EPA. High Production Volume (HPV) Challenge Program; [http://www.epa.gov/chemrtk/hpvis/hazchar/124685 AMP\\_March\\_2012.pdf](http://www.epa.gov/chemrtk/hpvis/hazchar/124685 AMP_March_2012.pdf).

substance. AMP is TSCA compliant, but is not a new compound and did not undergo PMN review.

The Significant New Alternatives Policy (SNAP) program is the EPA's program to evaluate and regulate substitutes for ozone-depleting chemicals. In Section 612(c) of the CAA, the agency is authorized to identify and publish lists of acceptable and unacceptable substitutes for class I or class II ozone-depleting substances. AMP is not a substitute for any of the ozone-depleting chemicals, and it has not been evaluated under the SNAP program. For the reasons stated in section III, AMP does not contribute to the depletion of the stratospheric ozone layer.

### C. Climate Impacts

The EPA has previously exempted compounds with modest climate impacts from the regulatory definition of VOCs. Because AMP has a relatively short atmospheric lifetime (i.e., about 4 hours under the conventional assumption of a hydroxyl radical concentration of  $3 \times 10^6$  molecules/cm<sup>3</sup>), its direct contribution to global warming should be insignificant and thus any indirect contributions to global warming through interactions with ozone and methane chemistry should be of the order of or smaller than that of ethane (in addition to any conversion of carbon in AMP to carbon dioxide).

### D. Conclusion

In summary, the EPA finds that AMP is negligibly reactive with respect to its contribution to tropospheric ozone formation and thus may be exempted from EPA's definition of VOCs in 40 CFR section 51.100(s). We consider risks not related to tropospheric ozone associated with currently allowed uses of the chemical to be acceptable. AMP has not been the subject of any SNAP review. AMP's performance as a multifunctional neutralizer combined with its reduced ozone potential and favorable toxicity data makes this product a preferred one compared to more toxic chemicals used for the same purpose. In addition, there is no evidence that climate effects or other environmental impacts resulting from AMP emissions should disqualify AMP for exemption from the regulatory definition of VOCs based on the 2005 Interim Guidance criteria.

### V. Direct Final Action

The EPA is responding to the petition by revising its regulatory definition of VOCs at 40 CFR 51.100(s) to add AMP to the list of compounds that are exempt from the regulatory definition of VOCs

because they are negligibly reactive, on the basis that it is less reactive than ethane on a mass MIR basis. If an entity uses or produces any of this compound and is subject to EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone NAAQS, then this compound will not be counted as a VOC in determining whether these regulatory obligations have been met. This action may also affect whether this compound is considered a VOC for state regulatory purposes to reduce ozone formation if a state relies on the EPA's regulatory definition of VOCs. States are not obligated to exclude from control as a VOC those compounds that the EPA has found to be negligibly reactive. However, no state may take credit for controlling this compound in its ozone control strategy. For example, reduction in emissions for this compound will not be considered or counted in determining whether states have met rate of progress requirement for VOCs in SIPs for purpose of meeting the ozone NAAQS.

### VI. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

#### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). It does not contain any recordkeeping or reporting requirement.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this notice on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (2) A governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This direct final rule removes AMP from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound. We have therefore concluded that this direct final rule will relieve regulatory burden for all affected small entities.

#### D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This direct final rule removes AMP from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound.

#### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This direct final rule removes AMP from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound. Thus, Executive Order 13132 does not apply to this action.

#### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It would not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. This direct final rule removes AMP from the regulatory definition of VOCs and thereby relieves users from requirements to control emissions of the compound. Thus, Executive Order 13175 does not apply to this action.

#### G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. While this direct final rule is not subject to the Executive Order, the EPA has reason to believe that at higher concentrations ozone has a disproportionate effect on active children who play outdoors (62 FR 38856; 38859, July 18, 1997). The EPA has not identified any specific studies on whether or to what extent AMP may affect children's health.

#### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, "(66 FR 28355, May 22, 2001) because it is not a "significant energy action" under EO 12866.

#### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d), (15 U.S.C. 272

note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, the EPA has not considered the use of any voluntary consensus standards.

#### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it will not affect the level of protection provided to human health or the environment. This direct final rule removes AMP from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound.

#### K. Congressional Review Act

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. The EPA will submit a report containing this rule 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). This rule will be effective on June 25, 2014.

#### L. Judicial Review

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 District of Columbia Circuit Court within 60 days from the date the final action is published in the **Federal Register**. Filing a petition for review by the Administrator of this final action 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 must be filed, and shall not postpone the effectiveness of such action. Thus, any petitions for review of this action related to the exemption of AMP from the regulatory definition of VOCs must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

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#### List of Subjects in 40 CFR Part 51

Environmental protection,  
Administrative practice and procedure,  
Air pollution control, Ozone, Reporting  
and recordkeeping requirements,  
Volatile organic compounds.

Dated: March 21, 2014.

**Gina McCarthy,**  
*Administrator.*

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

#### PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

##### Subpart F—Procedural Requirements

- 1. The authority citation for Part 51, Subpart F, continues to read as follows:

**Authority:** 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

##### § 51.100—[Amended]

- 2. Section 51.100, paragraph (s)(1) introductory text, is amended by removing the words “and perfluorocarbon compounds which fall into these classes:” and adding in their

place the words “2-amino-2-methyl-1-propanol; and perfluorocarbon compounds which fall into these classes:”.

[FR Doc. 2014-06790 Filed 3-26-14; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R03-OAR-2013-0211; FRL-9908-46-Region-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised National Ambient Air Quality Standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The Commonwealth of Virginia has made a submittal addressing the infrastructure requirements for the 2008 ozone NAAQS.

**DATES:** This final rule is effective on April 28, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2013-0211. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for

public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Ellen Schmitt, (215) 814-5787, or by email at [schmitt.ellen@epa.gov](mailto:schmitt.ellen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Summary of SIP Revision

On July 2, 2013 (78 FR 39671), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia proposing approval of Virginia's July 23, 2012 submittal to satisfy several requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS. In the NPR, EPA proposed approval of the following infrastructure elements: Sections 110(a)(2)(A), (B), (C) (for enforcement and regulation of minor sources and minor modifications), (D)(i)(II) (for visibility protection), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (relating to consultation, public notification, and visibility protection requirements), (K), (L), and (M), or portions thereof. EPA is taking separate action on the portions of section 110(a)(2)(C), (D)(i)(II), and (J) as they relate to Virginia's prevention of significant deterioration (PSD) program and on section 110(a)(2)(E)(ii) as it relates to section 128 (State Boards). Virginia did not submit section 110(a)(2)(I) which pertains to the nonattainment requirements of part D, Title I of the CAA, since this element is not required to be submitted by the three year submission deadline of section 110(a)(1), and will be addressed in a separate process. Virginia also did not include a component to address section 110(a)(2)(D)(i)(I) as it is not required in accordance with the *EME Homer City* decision from the United States Court of Appeals for the District of Columbia Circuit, until EPA has defined a state's contribution to nonattainment or interference with maintenance in another state. *See EME Homer City Generation, LP v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), *cert. granted*, 133 U.S. 2857 (2013). Unless the *EME Homer City* decision is reversed or otherwise modified by the Supreme Court, states such as Virginia are not required to submit section 110(a)(2)(D)(i)(I) SIPs until the EPA has quantified their obligations under that section. Therefore, EPA is not acting on 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.