

interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

#### *B. Do the rules meet the EPA's evaluation criteria?*

These rules are consistent with CAA requirements and relevant guidance regarding enforceability. More specifically, the revisions to the definitions rules with respect to the list of "exempt compounds" that are excluded from the districts' definitions of "volatile organic compounds" are consistent with the definition of "volatile organic compounds" in 40 CFR 51.100(s). The deletions of certain GHG-related provisions from certain definitions rules are acceptable in light of recent court decisions involving GHG permitting. With respect to the rescission request for BCAQMD Rule 102, we find that the May 23, 2018 SIP submittal does not include sufficient public process documentation to approve the request; however, approval of amended BCAQMD Rule 101, which we propose herein, will have the effect of superseding BCAQMD Rule 102 in the applicable SIP because the two remaining definitions from Rule 102 will be incorporated into Rule 101 if we finalize the action as proposed. The TSDs have more information on our evaluation.

#### *C. The EPA Recommendations to Further Improve the Rules*

The TSDs include recommendations for the next time the local agencies modify their rules.

#### *D. Public Comment and Proposed Action*

Pursuant to section 110(k)(3) of the Act, the EPA proposes to fully approve

the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until August 5, 2020. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

### III. Incorporation by Reference

In this rule, the 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, the EPA is proposing to incorporate by reference the BCAQMD's, the EDAQMD's, the MDAQMD's, the SDCAPCD's and the VCAPCD's rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 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 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 23, 2020.

**John Buserud,**

*Regional Administrator, Region IX.*

[FR Doc. 2020-13998 Filed 7-2-20; 8:45 am]

**BILLING CODE 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 August 5, 2020.

**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](mailto: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 NO<sub>x</sub> 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*.<sup>1</sup> 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.<sup>2</sup> 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.

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; HCF<sub>2</sub>OCF<sub>2</sub>H (HFE-134); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236cal2); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-338pcc13); HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (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](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).

**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

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

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

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 (Pub L. 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.*

[FR Doc. 2020-14093 Filed 7-2-20; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R03-OAR-2020-0197; FRL-10011-11-Region 3]

#### Air Plan Approval; West Virginia; 1997 8-Hour Ozone Standard Second Maintenance Plan for the West Virginia Portion of the Parkersburg-Marietta, WV-OH Area Comprising Wood County

**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 West Virginia. This revision pertains to the West Virginia Department of Environmental Protection's (WVDEP) plan for maintaining the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the West Virginia portion of the Parkersburg-Marietta, WV-OH area (Parkersburg Area), comprising Wood County. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before August 5, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2020-0197 at <https://www.regulations.gov>, or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted 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). 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Gregory Becoat, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2036. Mr. Becoat can also be reached via electronic mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 10, 2019, WVDEP submitted a revision to the West Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS through June 7, 2027, in accordance with CAA section 175A.<sup>1</sup>

#### I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),<sup>2</sup> EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower

<sup>1</sup> In its December 10, 2019 submittal, the State consistently refers to the Parkersburg Area, rather than referring to the West Virginia portion of the Parkersburg-Marietta, WV-OH area. While the state's terminology is technically incorrect, it is clear that what the State refers to as the Parkersburg Area is identical to the West Virginia portion of the Parkersburg-Marietta, WV-OH area designated by EPA pursuant to the 1997 8-Hour ozone NAAQS. See 40 CFR 81.349.

<sup>2</sup> In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).