

§ 52.1770 Identification of plan.

(c) \* \* \*

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TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Subchapter 2D Air Pollution Control Requirements</b>				
<b>Section .2000 Transportation Conformity</b>				
Sect .2001 .....	Purpose, Scope and Applicability.	11/10/2005	8/16/2017, [Insert first page of publication].	
*	*	*	*	*

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[FR Doc. 2017-17251 Filed 8-15-17; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2017-0436; FRL-9966-38-Region 4]

**Air Plan Approval; AL; VOC Definitions and Particulate Emissions**

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

**ACTION:** Direct final rule.

**SUMMARY:** On May 19, 2017, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted changes to the Alabama State Implementation Plan (SIP). The Environmental Protection Agency (EPA) is taking direct final action to approve the submission. Specifically, the revision pertains to definitional changes, including the modification of the definition of “volatile organic compounds” (VOCs), correction of a typographical error, and removal of control of particulate emissions and opacity limits. EPA is taking direct final action to approve the SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective October 16, 2017 without further notice, unless EPA receives adverse comment by September 15, 2017. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0436 at <https://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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In this rulemaking, EPA is approving changes to the Alabama SIP, submitted by the State on May 19, 2017. The submission revises ADEM Rule 335-3-1-.02—*Definitions* and Rule 335-3-4-

.08—*Wood Waste Boilers*. This rulemaking revises the definition of VOCs, corrects a typographical error and removes particulate emission and opacity limits for Talladega County.

**II. EPA’s Analysis of Alabama’s SIP Revision**

*A. Rule 335-3-1-.02—Definitions*

Tropospheric ozone, commonly known as smog, occurs when VOCs and nitrogen oxides (NO<sub>x</sub>) react with sunlight in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOCs and NO<sub>x</sub> that can be released into the atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate) that participate in atmospheric photochemical reactions. Different VOCs have different levels of reactivity; they do not react at the same speed or form ozone to the same extent.

EPA determines whether a given carbon compound has “negligible” reactivity by comparing the compound’s reactivity to the reactivity of ethane. It has been EPA’s policy that compounds of carbon with negligible reactivity need not be regulated to reduce ozone. *See* 42 FR 35314, July 8, 1977. 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.

On November 29, 2004,<sup>1</sup> and August 1, 2016,<sup>2</sup> EPA issued final rules revising the definition of VOCs by adding new compounds (tertiary butyl acetate (or t-Butyl acetate) and 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxyl) ethane) to the list of those that considered to be negligibly reactive compounds, and on February 25, 2016 (81 FR 9339), EPA issued a final rule removing recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-Butyl acetate. The State's May 19, 2017, SIP revision adds these compounds to the list of negligibly reactive compounds under ADEM Rule 335-3-1-.02 subpart (gggg). The SIP revision also removes the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements requirement for t-Butyl acetate. Additionally, the submittal makes a typographical correction under subpart (gggg)(iii). EPA proposes to approve these revisions because they are consistent with the definition of VOC at 40 CFR 51.100(s).

The State's addition of exemptions from the definition of VOCs and removal of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for t-butyl acetate are approvable under section 110(l) because it reflects changes to Federal regulations based on findings that the exempted compounds are negligibly reactive. The typographical error correction makes ministerial changes for consistency.

#### *B. Rule 335-3-4-.08—Wood Waste Boilers*

Rule 335-3-4-.08—*Wood Waste Boilers* was adopted into the Alabama SIP on April 23, 1974 (39 FR 14338), to provide emission limits based on available control technologies and included a 0.30 grain per dry standard cubic foot (gr/dscf) emissions limit for boilers burning a combination of wood waste and fossil fuels. On November 24, 1981 (46 FR 57484), EPA finalized a SIP revision allowing pulp mills to operate boilers that burn only wood waste in Talladega County. This change allowed a particulate matter emissions concentration of 0.45 gr/dscf when burning wood waste alone (but total emissions would remain the same provided boilers operate on a reduced

rate). On July 11, 1986 (51 FR 25198), EPA approved a revision adding a new paragraph 3 at Rule 335-3-4-.08 that relaxed the allowable emission limit to 0.60 gr/dscf for wood waste boiler sources that operate up to 300 million British thermal unit per hour and tightened allowable emissions for other types of sources in Talladega County. Compliance with the emission limit was determined by an annual stack test. Additionally, an opacity limit of 76 percent was established and would be measured by a transmissometer.

The May 19, 2017, SIP revision removes paragraph 3, applicable only to sources in Talladega County, because the type of source no longer exists in the County or anywhere else in the State. Moreover, if such a source were to begin operating in the future, it would be subject to more stringent requirements under Rule 335-3-4-.08 paragraph 2.

EPA believes that these changes to the regulatory portion of the SIP are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs. Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The State's removal of emissions and opacity requirements for Talladega County is an approvable change under section 110(l) because, should these sources start operating, they would fall under more stringent rules in the SIP.

#### **III. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Rule 335-3-1-.02—*Definitions* and Rule 335-3-4-.08—*Wood Waste Boilers*, effective June 9, 2017. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>3</sup> EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA

<sup>3</sup> 62 FR 27968 (May 22, 1997).

Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **IV. Final Action**

EPA is taking direct final action to approve portions of Alabama's May 19, 2017, submission submitted by the State of Alabama through ADEM. The submission revises Rule 335-3-1-.02—*Definitions* and Rule 335-3-4-.08—*Wood Waste Boilers*.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 16, 2017 without further notice unless the Agency receives adverse comments by September 15, 2017.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 16, 2017 and no further action will be taken on the proposed rule.

#### **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. 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 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);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

<sup>1</sup> In EPA's November 29, 2004, final rulemaking, the Agency adds tertiary butyl acetate to the list of excluded compounds from the definition of VOCs. See 69 FR 69298.

<sup>2</sup> In EPA's August 1, 2016, final rulemaking, the Agency adds 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxyl) ethane to the list of excluded compounds from the definition of VOCs. See 81 FR 20330.

- 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.

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. EPA will submit a report containing this action 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).

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 appropriate circuit by October 16, 2017. Filing a petition for reconsideration by the Administrator of this final rule 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 may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section

of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**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.

Dated: August 7, 2017.

**V. Anne Heard,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:

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

**Subpart B—Alabama**

- 2. Section 52.50(c) is amended by revising the entries for “Section 335–3–1–.02” and “Section 335–3–4–.08” to read as follows:

**§ 52.50 Identification of plan.**

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(c) \* \* \*

**EPA APPROVED ALABAMA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Chapter No. 335–3–1 General Provision</b>				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 335–3–1–.02	Definitions	6/9/2017	8/16/2017; [Insert citation of publication].	
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<b>Chapter 335–3–4 Control of Particulate Emissions</b>				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 335–3–4–.08	Wood Waste Boilers	6/9/2017	8/16/2017; [Insert citation of publication].	
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[FR Doc. 2017-17231 Filed 8-15-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2016-0286; FRL-9964-40]

### Prothioconazole; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of

prothioconazole in or on Sunflower subgroup 20B at 0.2 parts per million (ppm). Bayer CropScience requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 16, 2017. Objections and requests for hearings must be received on or before October 16, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0286, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. 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 OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Goodis, P.E., Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfrNotices@epa.gov](mailto:RDfrNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or

pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

###### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-id?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-id?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

###### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2016-0286 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 16, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0286, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

##### II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 20, 2016 (81 FR 47150) (FRL-9948-45), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announced the filing of a pesticide petition (PP 6E8469) by Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This petition requested that 40 CFR 180.626 be amended by establishing tolerances for residues of prothioconazole in or on imported commodities in the sunflower subgroup 20B at 0.2 ppm. This document referenced a summary of a petition prepared by Bayer CropScience, the registrant, which are available in the docket, <http://www.regulations.gov>. No comments were received in response to the notice of filing.

##### III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data