



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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CHRIS CHRISTIE  
*Governor*

BOB MARTIN  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

### ADMINISTRATIVE ORDER NO. 2016-12

WHEREAS, the Federal Clean Air Act requires the regulation of volatile organic compounds (VOCs), which contribute to the formation of ground-level ozone, commonly known as smog, exposure to which can cause serious respiratory illness; and

WHEREAS, section 302(s) of the Clean Air Act gives the United States Environmental Protection Agency (EPA) the authority to define the meaning of VOCs; and

WHEREAS, the EPA's regulations impose emissions limitations and content requirements, as well as recordkeeping, emissions reporting, and inventory requirements for VOCs; and

WHEREAS, it has been the EPA's policy that organic compounds with a negligible level of reactivity need not be regulated to reduce smog, and therefore at 40 CFR 51.100(s) the EPA excludes these compounds from the definition of VOCs; and

WHEREAS, on November 29, 2004, the EPA promulgated a final rule (69 Fed. Reg. 69298) that identified t-butyl acetate (TBAC) as "negligibly reactive"; and

WHEREAS, EPA's November 29, 2004, final rule modified the definition of VOCs to say that TBAC was not a VOC for purposes of VOC emissions limitations or VOC content requirements, but continued to be a VOC for purposes of all recordkeeping, emissions reporting, and inventory requirements which apply to VOCs because negligibly reactive compounds (such as TBAC) may contribute significantly to ozone formation if present in sufficient quantities, and because EPA was continuing to assess TBAC's long-term health risks; and

WHEREAS, the EPA's November 29, 2004 final rule directed states to implement the Federal TBAC recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements; and

WHEREAS, in order to conform to the EPA's November 29, 2004 final rule, in 2008 the New Jersey Department of Environmental Protection (Department) promulgated N.J.A.C. 7:27-34, TBAC Emissions Reporting, which requires any person within the State who manufactures TBAC or a product containing TBAC, and any person who manufactures a product containing TBAC for sale in the State to report in-State emissions of TBAC to the Department, and to maintain records related to such reports, which reporting and recordkeeping are part of New Jersey's State Implementation Plan under the Clean Air Act; and

WHEREAS, on February 25, 2016, the EPA promulgated a final rule (81 Fed. Reg. 9339) removing the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements for TBAC because the requirements were not achieving their primary

objective, which was to inform more accurate photochemical modeling, and because, given the completion of studies regarding the long-term health risks of TBAC, the continuation of the requirements did not appear relevant to any likely future determination about the health risks of TBAC; and

WHEREAS, the EPA's February 25, 2016 final rule allows state air pollution control agencies to no longer require entities to report emissions of TBAC; and

WHEREAS, the Department will initiate a rulemaking to amend the Air Pollution Control rules to repeal N.J.A.C. 7:27-34, TBAC Emissions Reporting, consistent with the EPA requirements; and

WHEREAS, in light of the EPA's February 25, 2016 final rule, until such time as the Department repeals N.J.A.C. 7:27-34, the requirements to report TBAC emissions and maintain records related to TBAC reporting would impose an unnecessary burden on persons within the State who manufacture TBAC or products containing TBAC, and persons who manufacture products containing TBAC for sale in the State.

NOW, THEREFORE, I, Bob Martin, Commissioner of the Department, do hereby ORDER and DIRECT as follows:

The Department's Divisions of Air Quality and Air Compliance and Enforcement shall exercise their enforcement discretion to allow in-State manufacturers of TBAC or products containing TBAC, and manufacturers of products containing TBAC for sale in the State to refrain from reporting TBAC emissions and maintaining records related to TBAC reporting as otherwise required under N.J.A.C. 7:27-34, TBAC Emissions Reporting. The Division of Air Compliance and Enforcement shall issue a Compliance Advisory Update to this effect as soon as practicable.

This Order shall take effect immediately.

Date: 12/22/2016

  
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Bob Martin  
Commissioner