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ADOPTION SECTION

ENVIRONMENTAL PROTECTION

AIR QUALITY, ENERGY, AND SUSTAINABILITY

DIVISION OF AIR QUALITY

Notice of Administrative Correction

Reporting and State-of-the-Art Thresholds for Hazardous Air Pollutants, Toxic

Substances, and New Jersey Hazardous Air Pollutants; Ethylene Glycol

N.J.A.C. 7:27-17.9

Effective Date: August 15, 2022.

Take notice that the Department of Environmental Protection (Department) is correcting an error in Table 3A at N.J.A.C. 7:27-17.9, Reporting and state-of-the-art thresholds for hazardous air pollutants, toxic substances, and New Jersey Hazardous Air Pollutants. The table contains reporting and state-of-the-art (SOTA) thresholds for hazardous air pollutants (HAPs) and New Jersey hazardous air pollutants (NJHAPs) that are not toxic substances (TXS). Table 3A, as amended effective April 4, 2022 (54 N.J.R. 560(a)), inadvertently omits ethylene glycol from the list of air contaminants. The Department is correcting the omission.

By definition, a hazardous air pollutant or HAP is an air contaminant listed in or pursuant to 42 U.S.C. § 7412(b). N.J.A.C. 7:27-17.1. The U.S. Congress identifies ethylene glycol as a HAP at 42 U.S.C. § 7412(b). New Jersey, as a state acting in accordance with a permit program pursuant to the Federal Clean Air Act, must enforce the Federal standards, including the U.S. Environmental Protection Agency's National Emissions Standards for HAPs (known as NESHAPS). Among the rules that the Department uses to enforce the Federal standards is

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N.J.A.C. 7:27-17, Control and Prohibition of Air Pollution by Toxic Substances and Hazardous Air Pollutants.

In its March 1, 2021, proposal of amendments to the Air Pollution Control rules at N.J.A.C. 7:27-17, 53 N.J.R. 317(a), the Department described the relevant amendments to the tables at N.J.A.C. 7:27-17.9.

Existing N.J.A.C. 7:27-17.9, Table 2, provides a reporting threshold (lbs/yr) and a SOTA threshold for the 185 Federally recognized HAPs that the Department regulates. For HAPs that are also toxic substances, existing N.J.A.C. 7:27-17.9(a)2 identifies an additional reporting threshold of 0.01 pounds per hour. The Department proposes to divide existing N.J.A.C. 7:27-17.9, Table 2 into Tables 3A and 3B. Proposed Table 3A provides a SOTA threshold and the single pounds per year reporting threshold for the HAPs and the proposed new NJHAPs that are not toxic substances. Proposed new Table 3B provides the SOTA threshold and the pounds per hour and pounds per year reporting thresholds for the HAPs and the proposed new NJHAPs that are toxic substances.

53 N.J.R. at 321.

The Department then specifically identified each of the air contaminants that would move to new Table 3B. 53 N.J.R. at 322. The remaining Federally regulated air contaminants in then-existing N.J.A.C. 7:27-17.9 Table 2, including ethylene glycol, were to remain unchanged in new Table 3A. In fact, then-existing Table 2 was simply renamed Table 3A and its heading amended

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to identify the table as not containing toxic substances, the toxic substances were moved to new Table 3B, and new NJHAPs that are not toxic substances were added. 53 N.J.R. at 339.

Among the air contaminants in then-existing N.J.A.C. 7:27-17.9 Table 2 was ethylene glycol, with a CAS number of 107211, a reporting threshold of 2,000 pounds per year (lbs/yr), and a SOTA threshold of 10,000 lbs/yr. The Department inadvertently bracketed ethylene glycol within a block of toxic substances to be moved to new Table 3B (53 N.J.R. at 339). As ethylene glycol is a HAP, but not a toxic substance, the Department correctly did not list ethylene glycol among the air contaminants to be moved to the new table (53 N.J.R. at 321), and correctly did not include it among the toxic substances in new Table 3B (53 N.J.R. at 339). Ethylene glycol should have remained in new N.J.A.C. 7:27-17.9 Table 3A.

Full text of the correction follows (additions indicated in boldface **thus**):

SUBCHAPTER 17. CONTROL AND PROHIBITION OF AIR POLLUTION BY TOXIC
SUBSTANCES AND HAZARDOUS AIR POLLUTANTS

7:27-17.9 Reporting and state-of-the-art thresholds for hazardous air pollutants, toxic substances,
and New Jersey Hazardous Air Pollutants

(a)-(b) (No change.)

TABLE 3A

Reporting and SOTA Thresholds (HAPs and NJHAPs that are not TXS)

(Potential to emit)

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CAS	Air Contaminant	Reporting	SOTA
Number		Threshold	Threshold
		(lbs/yr)	(lbs/yr)
<hr/>			
...			
107211	Ethylene glycol	2,000	10,000
...			

TABLE 3B

Reporting and SOTA Thresholds (HAPs and NJHAPs that are TXS)

(Potential to emit)

(No change.)