



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2016-0318; FRL-9956-25-Region 9]

#### Approval of California Air Plan Revisions, Imperial County Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) and particulate matter (PM) from large confined animal facilities (LCAFs). We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0318 at <http://www.regulations.gov>, or via email to [Steckel.Andrew@epa.gov](mailto:Steckel.Andrew@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the 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. The 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Nancy Levin, EPA Region IX, (415) 972 3848, [levin.nancy@epa.gov](mailto:levin.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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**I. The State's Submittal**

A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Amended	Submitted
ICAPCD	217	Large Confined Animal Facilities (LCAF) Permits Required	02/09/2016	04/21/2016
ICAPCD	101	Definitions	02/09/2016	04/21/2016
ICAPCD	202	Exemptions	02/09/2016	04/21/2016

On May 18, 2016, the EPA determined that the submittal for ICAPCD Rules 217, 101 and 202 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these rules?*

There are no previous versions of Rule 217 in the SIP, although the ICAPCD adopted an earlier version of Rule 217 on October 10, 2006, and CARB submitted it to us on August 24, 2007. CARB withdrew this version of Rule 217 on May 17, 2011. We approved earlier versions of Rules 101 and 202 into the SIP on October 2, 2014 (79 FR 59433) and May 9, 2011 (76 FR

26615), respectively. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. *What is the purpose of the submitted rules or rule revisions?*

VOCs contribute to the production of ground-level ozone, smog and PM, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions. These rules also help to control ammonia, which contributes to PM formation.

Rule 217 is designed to limit VOC and ammonia emissions from LCAFs, including dairies, beef feedlots, poultry houses, swine facilities and other confined animal facilities. The rule applies to operations at or above certain size thresholds specified in the rule.<sup>1</sup> These operations must obtain an ICAPCD permit, submit an emissions mitigation plan and implement mitigation measures. Rule 217 lists mitigation measure requirements for each type of LCAF. The measures are grouped into categories.<sup>2</sup> The LCAF owner/operator must implement the

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<sup>1</sup> Table 1 of Rule 217 provides large confined animal facility (LCAF) thresholds for each type of livestock for which the rule applies. For example, the beef feedlot LCAF threshold is 3,500 beef cattle, the dairy LCAF threshold is 500 milking cows, and the poultry LCAF threshold is 400,000 chickens or ducks.

<sup>2</sup> For example, the mitigation measure requirements for beef feedlots are grouped into the following categories: A. Feed, B. Silage, C. Housing, D. Solid Manure/Separated Solids, E. Liquid Manure and F. Land Application.

requirements within each category.<sup>3</sup> Rules 101 – Definitions, and 202 – Exemptions, were revised to be consistent with the LCAF thresholds for dairy cows, chicken and ducks established in Rule 217.

The EPA’s technical support document (TSD) has more information about these rules.

## **II. The EPA’s Evaluation and Action**

### *A. How is the EPA evaluating the rules?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not 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).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document, and for each non-CTG major source of VOCs in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2)). The ICAPCD regulates sources in an ozone nonattainment area classified as moderate for the 1997 and the 2008 8-hour ozone standards (40 CFR 81.305). Therefore, we are evaluating whether this rule implements RACT-level controls for this area source category. Rules 101 and 202 support the requirements in Rule 217 but do not contain emission limitations directly, so we are not evaluating them for rule stringency.

Generally, SIP rules must also implement Reasonably Available Control Measures

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<sup>3</sup> For example, Rule 217 Table 2.1 (C. Housing) states “An owner/operator of a beef feedlot CAF shall implement mitigation measures 1,2,3, and 4 and at least one (1) additional mitigation measure in each of the animal housing structures (e.g. each corral, etc.):” and lists the mitigation measures below, numbered 1-7.

(RACM), including RACT, in moderate PM<sub>2.5</sub> nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C)). The ICAPCD regulates sources in a PM<sub>2.5</sub> nonattainment area classified as moderate for the 2006 24-hour and the 2012 annual standards. (40 CFR 81.305). RACM evaluations are generally performed in context of a broader implementation plan. Therefore, we are not proposing to determine whether this rule fulfills RACM requirements at this time, although we did evaluate Rule 217 with respect to RACT-level controls in the TSD.

Guidance and policy documents that we use 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).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).

B. *Do the rules meet the evaluation criteria?*

We believe these rules are consistent with CAA requirements and relevant guidance

regarding enforceability, RACT and SIP revisions. The TSD has more information on our evaluation.

C. *EPA recommendations to further improve the rules*

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because we believe they fulfill all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that 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 ICAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through [www.regulations.gov](http://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, 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 21, 2016.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.