

**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 January 9, 2017.

**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 No.	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

<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 (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.

<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.

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 January 9, 2017. 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 (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 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.*

[FR Doc. 2016–29594 Filed 12–8–16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA–HQ–OAR–2012–0522; FRL–9956–00–OAR]

RIN 2060–AT14

#### Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review

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

**ACTION:** Reconsideration; proposed rule.

**SUMMARY:** This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories. The proposed amendments are in response to two petitions for reconsideration filed by industry stakeholders on the rule revisions to NESHAP for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories that were promulgated on August 19, 2015 (80 FR 50386) (hereafter the “August 2015 Final Rule”). We are proposing to revise the compliance date by which affected sources must include emissions from oxidation reactors when determining compliance with the total fluoride (TF) emission limits for superphosphoric acid (SPA) process lines. We are also proposing to add a new option, and clarify an existing option, to the monitoring requirements for low-energy absorbers. In addition, we are proposing to revise the

compliance date for the monitoring requirements for low-energy absorbers.

**DATES:** *Comments.* Comments must be received on or before January 23, 2017.

*Public Hearing.* If anyone contacts the EPA requesting to speak at a public hearing by December 14, 2016, we will hold a public hearing on December 27, 2016 on the EPA campus at 109 T.W. Alexander Drive, Research Triangle Park, North Carolina.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0522, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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>.

*Instructions.* Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0522. The EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/dockets>.

*Docket.* The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2012–0522. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC. 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 EPA Docket Center is (202) 566–1742.

*Public Hearing.* A public hearing will be held, if requested by December 14, 2016, to accept oral comments on this proposed action. If a hearing is requested, it will be held at the EPA’s North Carolina campus located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. The hearing, if requested, will begin at 10:00 a.m. (local time) and will continue until the earlier of 5:00 p.m. or 1 hour after the last registered speaker has spoken. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Ms. Pamela Garrett at (919) 541–7966 or by email at [garrett.pamela@epa.gov](mailto:garrett.pamela@epa.gov). The last day to pre-register to speak at a hearing, if one is held, will be December 22, 2016. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. Please note that registration requests received before the