



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0245; FRL-9955-60-Region 9]

Approval of California Air Plan Revisions, Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) and particulate matter (PM) from confined animal facilities (CAFs). We are proposing to approve a local rule 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-2016-0245 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at 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.

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

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I. The State's Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resourced Board (CARB).

TABLE 1 - SUBMITTED RULE

| Local Agency | Rule # | Rule Title | Adopted | Submitted |
|--------------|--------|---|----------|------------|
| YSAQMD | 11.2 | Confined Animal Facilities Permit Program | 06/14/06 | 10/05/2006 |

On October 24, 2006, the EPA determined that the submittal for YSAQMD Rule 11.2 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 this rule?*

There are no previous versions of Rule 11.2 in the SIP.

C. *What is the purpose of the submitted rule?*

VOCs help produce 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_{2.5}) and PM equal to or less than 10 microns in diameter (PM₁₀), 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. This rule prohibits any person from operating a CAF without first obtaining a “CAF Permit” from the YSAQMD Air Pollution Control Officer (APCO). The rule defines a CAF as a “facility where animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial purposes and primarily fed by means other than grazing.”¹ The rule exempts a CAF from permit requirements if it does not meet the definition of a large CAF (LCAF).² The rule defines a LCAF as a CAF that meets or exceeds a threshold of 1,000 milking cows per dairy, 3,500 beef cattle per beef feedlot, 7,500 “other cattle”³ per facility, 100,000 turkeys per facility, 650,000 chickens per facility or 3,000 swine per facility.⁴ The permit application must contain an emissions mitigation plan that implements best available retrofit control technology (BARCT) for existing CAFs and best available control technology (BACT) for new facilities, as applicable. The rule does not include specific measures that the CAF may or must use to implement BARCT or BACT. The EPA’s technical support document (TSD) has more information about this rule.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

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

¹ See YSAQMD Rule 11.2, section 206 “Confined Animal Facility (CAF).”

² See YSAQMD Rule 11.2, sections 103 “Exemptions” and 211 “Large Confined Animal Facility.” All CAFs must comply with section 502 “Number of Animals – Exemption Demonstration,” which requires the owner or operator of any CAF that exceeds 50 percent of the large CAF (LCAF) threshold to maintain records demonstrating that the CAF meets the exemption criteria of the rule. Rule 11.2 also exempts a CAF if it is subject to YSAQMD Rule 3.8 “Federal Operating Permits.” See Rule 11.2 section 103.

³ “Other Cattle” includes heifers and calves.

⁴ See YSAQMD Rule 11.2, section 211. This section also includes LCAF thresholds for sheep, lamb or goat CAFs (15,000 head), horse CAFs (2,500 head), duck CAFs (650,000 head), and CAFs for any other type of livestock not listed (30,000 head).

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).

Guidance and policy documents that we use to evaluate enforceability and revision/relaxation requirements for the applicable criteria pollutants include the following:

1. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the “Bluebook,” revised January 11, 1990).
2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the “Little Bluebook”).

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions. The submitted rule strengthens the SIP by establishing a permit program for CAFs and by prohibiting any person from operating a CAF without first obtaining a CAF permit from the APCO. The CAF permit application must include an emissions mitigation plan. The TSD has more information on our evaluation.

C. EPA recommendations to further improve the rule

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

D. Public comment and proposed action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because we believe it fulfills 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 this rule 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 YSAQMD rule as described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through 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 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 14, 2016.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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