



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2015-0621; FRL-9962-57-Region 9]**

### **Revisions to the California State Implementation Plan; Imperial County Air Pollution Control District; Stationary Sources Permits**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing action on revisions to the Imperial County Air Pollution Control District (ICAPCD or District) portion of the California State Implementation Plan (SIP). We are finalizing full approval of two rules. Both rules update and revise the District's New Source Review (NSR) permitting program for new and modified sources of air pollution. We are also finalizing a technical correction to a previous action that will remove one rule from the SIP.

**DATES:** This rule will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2015-0621. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although it may be listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 form. Publicly available docket materials are available

through <http://www.regulations.gov>, or please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Thien Khoi Nguyen, EPA Region IX, (415) 947-4120, [nguyen.thien@epa.gov](mailto:nguyen.thien@epa.gov).

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

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## **DEFINITIONS**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The word or initials *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials *CARB* mean or refer to the California Air Resources Board.
- (iii) The initials *CFR* mean or refer to Code of Federal Regulations.
- (iv) The initials or words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (v) The word or initials *ICAPCD* or *District* mean or refer to the Imperial County Air

Pollution Control District, the agency with jurisdiction over stationary sources within Imperial County.

- (vi) The initials *NSR* mean or refer to New Source Review.
- (vii) The initials *SIP* mean or refer to State Implementation Plan.

## I. Proposed Action

On December 19, 2016, the EPA proposed a full approval of two rules and a limited approval and limited disapproval (LA/LD) of one rule (as noted in Table 1) submitted by CARB for incorporation into the ICAPCD portion of the California SIP. 81 FR 91895. Table 1 also lists the dates the rules were adopted by ICAPCD and submitted by CARB, which is the governor's designee for California SIP submittals.

Table 1 – Submitted NSR Rules

Rule #	Rule Title	Adopted/Revised	Submitted	Proposed Action
204	Applications	9/14/99	05/26/00	Full Approval
206	Processing of Applications	10/22/13	02/10/14	Full Approval
207	New and Modified Stationary Source Review	10/22/13	1/21/14	LA/LD

The EPA proposed to approve Rules 204 and 206 as part of ICAPCD's NSR permitting program because we determined that these rules meet the statutory requirements for SIP revisions as specified in sections 110(1) and 193 of the CAA. Rules 204 and 206, together with Rule 207, satisfy the substantive statutory and regulatory requirements for a NSR permit program as contained in CAA section 110(a)(2)(c) and 40 CFR 51.160 - 51.164. We also proposed a limited approval and limited disapproval of Rule 207. We do not intend to finalize that proposed action. Instead, we intend to take a new rulemaking action to conditionally approve Rule 207 into the Imperial County portion of the California SIP. We also proposed to remove

Rule 103 (Exemptions) as a technical correction to a previous action approving Rule 202 (Exemptions) into the ICAPCD portion of the California SIP, which superseded and replaced Rule 103. 76 FR 26615 (May 9, 2011).

## **II. EPA Action**

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments. Therefore, as authorized by CAA section 110(k)(3) and 301(a), the EPA is finalizing approval of Rule 204 (Applications) and Rule 206 (Processing of Applications) into the ICAPCD portion of the California SIP. This action will incorporate the submitted rules into the SIP.

In this action we are also finalizing a technical correction to our previous action approving Rule 202 into the ICAPCD portion of the California SIP.<sup>1</sup> In that action, our approval of Rule 202 into the SIP superseded and replaced Rule 103, which EPA had previously approved on May 31, 1972 (37 FR 10832), but we failed to include the necessary regulatory text to effect this change. This final action includes the necessary regulatory text to remove Rule 103 from the California SIP. We did not seek public comment on this technical correction because public participation requirements were satisfied as part of our action approving Rule 202 into the SIP.

In the proposed action, we also proposed a limited approval and limited disapproval of Rule 207 (New and Modified Stationary Source Review). We do not intend to finalize that proposed action. Instead, we intend to take a new rulemaking action to conditionally approve Rule 207 into the Imperial County portion of the California SIP.

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<sup>1</sup> 76 FR 26615 (May 9, 2011).

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the ICAPCD rules listed in Table 1 of this document. The EPA has made, and will continue to make, these rules generally available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the U.S. Environmental Protection Agency, Region IX (Air -3), 75 Hawthorne Street, San Francisco, CA, 94105-3901.

### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

#### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

#### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

#### *D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after the date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New source review, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 19, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 -- [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart F – California**

2. Section 52.220 is amended by adding paragraphs (b)(14)(ii), (c)(279)(i)(A)(15) and (16), and (c)(442)(i)(A)(4) to read as follows:

**§52.220 Identification of plan-in part.**

\* \* \* \* \*

(b) \* \* \*

(14) \* \* \*

(ii) Previously approved on May 31, 1972 in paragraph (b)(14) of this section and now deleted with replacement in paragraph (c)(351)(i)(A)(4) of this section, Rule 103.

\* \* \* \* \*

(c) \* \* \*

(279) \* \* \*

(i) \* \* \*

(A) \* \* \*

(15) Rule 204, “Applications,” revised on September 14, 1999.

(16) Previously approved on January 3, 2007 in paragraph (c)(279)(i)(A)(14) of this section and now deleted with replacement in paragraph (c)(442)(i)(A)(4) of this section, Rule 206.

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(442) \* \* \*

(i) \* \* \*

(A) \* \* \*

(4) Rule 206, "Processing of Applications," revised on October 22, 2013.

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[FR Doc. 2017-12235 Filed: 6/13/2017 8:45 am; Publication Date: 6/14/2017]