



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2019-0056; FRL-9996-19-Region 9]

#### Approval of California Air Plan Revisions;

#### Imperial County Air Pollution Control District; Stationary Source Permits

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Imperial County Air Pollution Control District (ICAPCD or District) portion of the California State Implementation Plan (SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution. We are approving a local rule under the Clean Air Act (CAA or the Act).

**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 ID No. EPA-R09-OAR-2019-0056. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although 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 <https://www.regulations.gov>, or please contact the person identified in the **FOR**

**FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** T. Khoi Nguyen, EPA Region IX, (415) 947-4120, *nguyen.thien@epa.gov*. 75 Hawthorne Street (AIR-3-1), San Francisco, California 94105.

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

## Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### **I. Proposed Action**

On March 22, 2019, the EPA proposed an approval of Rule 207 - New and Modified Stationary Source Review, as noted in Table 1, submitted by the California Air Resources Board (CARB) for incorporation into the ICAPCD portion of the California SIP. 84 FR 10753. Table 1 also lists the dates the rule was adopted by the ICAPCD and submitted by CARB, which is the governor’s designee for California SIP submittals. On February 22, 2019, the EPA determined that the submittal for ICAPCD Rule 207 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
ICAPCD	207	New and Modified Stationary Source Review <sup>1</sup>	9/11/18	10/5/18

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<sup>1</sup> Except subsections C.1.c, C.2.a, C.2.b, D.1.g, and D.3.b, which were not submitted to the EPA by the state for consideration for inclusion in the SIP

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. The rule was amended by the District to correct a deficiency identified by the EPA on September 5, 2017 in a previous version of the rule amended October 22, 2013. 82 FR 41895. The deficiency identified by the EPA in our September 5, 2017 action was that Rule 207 did not regulate ammonia as a PM<sub>2.5</sub> precursor. We are now approving Rule 207 as amended by the District on September 11, 2018 because it satisfies all of the statutory and regulatory requirements for a nonattainment NSR permit program as set forth in the applicable provisions of part D of title I of the Act (sections 172, 173 and 182(a)) and in 40 CFR 51.165 and 40 CFR 51.307 and now satisfies the requirements in 40 CFR 51.165(a)(13) for the regulation of PM<sub>2.5</sub> precursors as it pertains to ammonia. Our proposed action contains more information on the rule and our evaluation.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments. However, the comments were either not adverse or irrelevant to the proposed action. The comments have been added to the docket for this action and are accessible at <https://www.regulations.gov>.

## **III. EPA Action**

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

## **IV. 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 described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through <https://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).

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

Under the CAA, the EPA 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, as appropriate, disproportionate human health or environmental effects, using practicable 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).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, 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 CAA section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 24, 2019.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

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

**PART 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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 (c)(490)(i)(A)(2) and (c)(522) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(490) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Previously approved on September 5, 2017 in paragraph (c)(490)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(522)(i)(A)(1) of this section, Rule 207 revised on April 24, 2014.

\* \* \* \* \*

(522) The following amended regulations were submitted on October 5, 2018 by the Governor’s designee.

(i) Incorporation by reference. (A) Imperial County Air Pollution Control District.

(1) Rule 207, “New and Modified Stationary Source Review,” except subsections C.1.c, C.2.a, C.2.b, D.1.g, and D.3.b, revised on September 11, 2018.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]