(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
	* * * * * * *			
Chapter 101—General Air Quality Rules				
Subchapter A—General Rules				
Section 101.1	Definitions	01/23/06	11/10/10 [Insert *FR* page number where document begins].	
	* * * * * * *			
Subchapter F—Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities				
Division 1—Emissions Events				
Section 101.201	Emissions Event Reporting and Recordkeeping Requirements.	01/23/06	11/10/10 [Insert *FR* page number where document begins].	101.201(h) is not in the SIP.
Division 2—Maintenance, Startup, and Shutdown Activities				
Section 101.211	Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements.	01/23/06	11/10/10 [Insert *FR* page number where document begins].	101.211(f) is not in the SIP.
Division 3—Operational Requirements, Demonstrations, and Actions To Reduce Excessive Emissions				
Section 101.221	Operational Requirements	01/23/06	11/10/10 [Insert *FR* page number where document begins].	
Section 101.222	Demonstrations	01/23/06	11/10/10 [Insert *FR* page number where document begins].	The SIP does not include 101.222(h), 101.222 (i), and 101.222 (j). See section 52.2273(e).
Section 101.223	Actions to Reduce Excessive Emissions.	01/23/06	11/10/10 [Insert *FR* page number where document begins].	
	* * * * * * *			

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■ 3. Section 52.2273 is amended by adding a new paragraph (e) to read as follows:

§ 52.2273 Approval status.

* * * * *

(e) EPA is disapproving the Texas SIP revision submittals under 30 TAC Chapter 101—General Air Quality Rules as follows:

(1) Subchapter F—Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities, Division 1—Section 101.222 (Demonstrations): Sections 101.222(h), 101.222(i), and 101.222(j), adopted December 14, 2005, and submitted January 23, 2006.

[FR Doc. 2010–28135 Filed 11–9–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0740; FRL–9221–6]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 19, 2010 and concern particulate matter (PM) emissions from beef feedlots. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on December 10, 2010.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2008–0740 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, EPA Region IX, (415) 947–4115, *steckel.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On May 19, 2010 (75 FR 27975), EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	420	Beef Feedlots	10/10/06	08/24/07

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received one set of comments from Jose Luis Olmedo, Comite Civico Del Valle, and Jane Williams, Desert Citizens Against Pollution (collectively "commentors"); letter dated June 18, 2010 and received June 18, 2010. A copy of the video referenced in the letter was separately provided on the same day.

In addition, several letters were received after the comment period from local business owners in support of approving Rule 420; letters dated July 27, 2010 thru August 2, 2010 and received August 2, 2010. We do not address these letters below because: (1) They were submitted significantly after the comment deadline; (2) they do not request change to our proposal; and (3) they do not provide new information helpful to address the comments listed above.

The comments and our responses are summarized below.

Comment #1: There is a lack of documentation to substantiate the District's claim that beef feedlots are a *de minimis* source based on a purported 50% emissions reduction that is assumed in 2002. This 50% reduction assumption is not adequately explained, verified or supported with background data.

Response #1: Our proposed action (75 FR 27976) and the associated TSD (pages 2–3) both refer to two ICAPCD analyses as the basis for the District's claim that beef feedlots are a *de minimis* source of PM–10. The TSD specifically references page 15 of Environ's "Draft Final Technical Memorandum Regulation VIII BACM Analysis" (October 2005); and page III.A–2 [1] of Environ's "2009 Imperial County State Implementation Plan for Particulate Matter Less Than 10 Microns in Aerodynamic Diameter" (August 11, 2009). These documents in turn reference CARB's inventory analysis to support the 50% reduction assumption.

In response to this comment, ICAPCD provided additional clarification on the 50% assumption.[2] Specifically, ICAPCD reiterates that the 50% assumption was developed through CARB's normal review procedure for inventories, and clarifies that it relies on three studies: (1) USEPA, Fugitive Dust Document and Technical Information Document for Best Available Control Measures, EPA–450/2–92–004, September 1992; Sections 3.3.3 and 3.4.2; (2) Western Regional Air Partnership (WRAP), WRAP Fugitive Dust Handbook, September 2006, Table 9–4; and (3) E.H. Pechan & Associates, Inc., Documentation Report, Version 4.1, Pechan Report No. 06.05.003/9011.002, May 2006; Section III, p. 645. We generally defer to District and CARB analysis on most emission inventory details, and we have no obvious basis to question this particular assumption at this time. However, if Imperial continues to exceed the PM–10 standard in the future despite implementation of BACM on all sources identified as significant, it would be appropriate to subject inventory assumptions for *de minimis* sources such as this to more scrutiny.

Comment #2: How does the tons per day analysis provided by the District relate to the 5 μg/m^3 standard set forth in 59 FR 41998 (August 16, 1994).

Response #2: 2–3% of Imperial County's annual PM–10 inventory is calculated to result in a 5 μg/m^3 contribution, which equates to about 6–8 ton/day emissions. See 75 FR 39371 (July 8, 2010).

Comment #3: ICAPCD Rule 420 relies on the permitting scheme in ICAPCD Rule 217, but Rule 217 has not been approved by EPA. How do Rule 217, 420 and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4570 interrelate?

Response #3: ICAPCD Rule 420 sections A and B reference requirements in Rule 217, which have not been approved by EPA into the SIP. However, the substantive requirements of Rule 420 do not rely on Rule 217 and are enforceable independent of Rule 217. Specifically, Rule 420 section A requires all Large Confined Animal Facilities (LCAF, defined in ICAPCD Rule 101) to acquire and maintain a LCAF permit. Rule 420 section B further requires all facilities that apply for an LCAF permit to have a dust control plan (DCP) which describes compliance with the substantive requirements of Rule 420 in paragraphs B.1 and B.2.

SJVUAPCD Rule 4570 limits emissions of volatile organic compounds (VOC) from LCAFs in SJVUAPCD, and is analogous to ICAPCD Rule 217. ICAPCD Rule 420 and Rule 217 are related in that they both impose air pollution controls on LCAFs in Imperial County. Many of the controls will differ, however, because Rule 420 is designed to limit PM emissions while Rule 217 targets VOC emissions. SJVUAPCD Rule 4570 and ICAPCD Rule 420 are less directly related as they address both different geographic areas and different pollutants.

Comment #4: There should be an established maximum inch of manure stockpile in feedlot pens and a standardized method of dust control with an enforceable menu or list of applicable options.

Response #4: We agree that the rule could be improved by more specific and standardized requirements. However, we have no basis to require such improvements without determining that additional emission reductions are needed for BACM, attainment or other CAA requirements. However, particularly if Imperial continues to exceed the PM–10 standard despite implementation of BACM on all sources identified as significant, Rule 420 improvements that ICAPCD should consider include:

a. Applying control requirements to smaller sources. South Coast Air Quality Management District (SCAQMD) Rule 1127(j)(1), for example, only exempts farms with fewer than 50 cows from analogous requirements.

b. Restructuring sections A, B and C to more clearly establish control requirements independent of Rule 217

[1] Printed in error as III–2.

[2] Provided by e-mail from Reyes Romero, ICAPCD, to Christine Vineyard, EPA, October 5, 2010.

permit requirements. This is consistent with the structure of most or all other ICAPCD prohibitory rules.

c. Establishing more specific control requirements in section B regarding manure moisture and disposal such as, for example, described in SCAQMD Rule 1127.

d. Further restricting the APCO discretion provided in section D.

e. Clarifying sampling procedures in section E.2. to reflect ICAPCD's inspection procedures which we understand to be that ten (10) random samples are taken throughout each selected corral. Those ten random samples are then averaged to determine compliance.

Comment #5: The commentors question whether ICAPCD is adequately enforcing Rule 420, and reference the video identified in the letter. They ask if there are other enforcement mechanisms that EPA can consider as BACM such as random inspections, increased funding or verification of the District's enforcement program.

Response #5: According to ICAPCD, the video shows land that was formerly part of a LCAF subject to ICAPCD Rule 420, but that has not operated at this location since the winter of 2009 due to heavy rains and flooding. ICAPCD also stated that the Imperial County Environmental Health Department and the Regional Water Control Board have investigated this site as a potential health issue.

Regarding enforcement mechanisms, ICAPCD staff explained that ICAPCD permits issued to all cattle feedlots contain conditions to ensure that required Rule 420 mitigation measures are fully enforced. ICAPCD also explained that all permitted sources are routinely inspected (including unannounced inspections at least annually and in response to citizen complaints) to determine compliance with Rule 420 and other regulations.[3]

Like all air quality agencies, Imperial is required to periodically inspect all major stationary sources within its jurisdiction and reports the results of those inspections to EPA's national data system, AIRS/AFS, which is publically available. We have included a report generated from AIRS/AFS in the docket for this action which shows the inspections and enforcement actions taken by ICAPCD for the past ten years.[4]

III. EPA Action

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

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 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 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
- Will not have disproportionately high and adverse human health or environmental effects on minority, low-income or Tribal populations because it maintains or increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population as described in Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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. 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 25, 2010.

Jared Blumenfeld,

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 paragraph (c)(351)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(351) * * *

(i) * * *

(A) * * *

[3] *Id.*

[4] EPA AIRS Facility Subsystem Quick Look Report generated October 4, 2010.

(*2*) Rule 420, "Beef Feedlots," adopted on October 10, 2006.

* * * * *

[FR Doc. 2010–28257 Filed 11–9–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0781; FRL–8850–3]

Flumioxazin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of flumioxazin in or on the commodity fish, freshwater. Valent U.S.A. Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 10, 2010. Objections and requests for hearings must be received on or before January 10, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (*see* also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0781. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* 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 in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn V. Montague, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–1243; e-mail address: *montague.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0781 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 10, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2008–0781, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of December 3, 2008 (73 FR 73640) (FRL–8390–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7438) by Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the herbicide flumioxazin, 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3(2H)-dione and its metabolites APF (3-oxo-4-prop-2-ynyl-6-amino-7-fluoro-3,4-dihydro-1,4-benzoxazin) and 482–HA (N-(7-fluoro-3,4-dihydro-3-oxo-4-prop-2-ynyl-2H-1,4-benzoxazin-6-yl)cyclohex-1-ene-1-carboxamide-2-carboxylic acid) in or on commodity fish, freshwater at 1.5 parts per million (ppm). That notice referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA