



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0252; FRL-9687-4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) and the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from chipping and grinding activities, and composting operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATE: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2012-0252, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at 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 at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large

maps), 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: Nancy Levin, EPA Region IX, (415) 942-3848, levin.nancy@epa.gov.

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

submitted by the California Air Resources Board.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted or Amended	Submitted
SCAQMD	1133.1	Chipping and Grinding Activities	7-8-11	11-18-11
SCAQMD	1133.3	Emission Reductions from Greenwaste Composting Operations	7-8-11	11-18-11
SJVUAPCD	4566	Organic Material Composting Operations	8-18-11	11-18-11

On December 22, 2011, EPA determined that the submittal for SCAQMD and SJVUAPCD met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009, for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA section 182 RACT requirements for certain source categories, including organic material composting operations. See 77 FR 1417 (January 10, 2012). At that time, EPA had not yet made a RACT determination for this source category. Final approval of Rule 4566 would satisfy California's obligation to implement RACT under CAA section 182 for this source category for the 1-hour ozone and 1997 8-hour ozone NAAQS.

B. Are there other versions of these rules?

There are no previous versions of SCAQMD Rule 1133.3 and SJVUAPCD Rule 4456 in the SIP. We approved an earlier version of SCAQMD Rule 1133.1 into the SIP on July 21, 2004 (69 FR 43518).

C. What is the purpose of the submitted rules and rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The purpose of SCAQMD Rule 1133.1 is to prevent inadvertent decomposition associated with chipping and grinding activities, including stockpile operations. This rule applies to operators of chipping and grinding activities that produce materials other than active or finished compost, unless otherwise exempted. The purpose of SCAQMD Rule 1133.3 is to reduce fugitive emissions of VOCs and ammonia occurring during greenwaste composting operations. This rule applies to the operators of all new and existing greenwaste composting operations that produce active or finished compost from greenwaste by itself or greenwaste in combination with manure or foodwaste, unless otherwise exempted. The purpose of SJVUAPCD Rule 4566 is to limit emissions of VOC from composting operations, and it applies to composting facilities that compost and/or stockpile organic material.

EPA's technical support documents (TSD) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(1) and 193). The SCAQMD and SJVUAPCD regulate ozone nonattainment areas (see 40 CFR part 81) and the proposed regulations should be sufficiently stringent to implement RACT-level controls.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

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

3. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
4. "State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990," 57 FR 13498, April 16, 1992.
5. "Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard," 70 FR 71612, November 29, 2005.
6. "Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)" SJVUAPCD, April 16, 2009.
7. Letter from William T. Hartnett to Regional Air Division Directors, "RACT Qs & As - Reasonable Available Control Technology (RACT): Questions and Answers," EPA, May 18, 2006.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The rules' applicability and requirements are clearly stated. They contain test methods to demonstrate compliance. Alternative methods to meet compliance must be approved by EPA. Based on our analysis, EPA believes the proposed regulations are sufficiently stringent to implement RACT-level

controls. Given the lack of regulatory history regarding greenwaste composting, there is not sufficient precedent to clearly define additional RACT compost controls at this time. There are no prior versions of SCAQMD Rule 1133.3 and SJVUAPCD Rule 4566 in the SIP. Their inclusion would strengthen the SIP. There is a prior version of SCAQMD Rule 1133.1 in the SIP (69 FR 43518) July 21, 2004. Overall, the amended rule appears to be more stringent than the prior version. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules

We recommend that the compost emission factors be reviewed and adjusted as more data become available. The estimated greenwaste compost emission factors used for SCAQMD Rule 1133.3 and SJVUAPCD Rule 4566 rule are based on the average VOC/ton of between four and six facilities in California that had a relatively wide range of results (0.85 - 10.03 lbs-VOC/ton).¹ We further recommend that the local agencies develop and incorporate food waste emission factors to more accurately characterize the VOC emissions from greenwaste composting that contains food material. SJVUAPCD Rule 4566 sections 5.2.1.2, 5.2.2.2, and 5.2.3 allow APCO- and EPA-approved alternative mitigation measures that demonstrate at least 19%, 60%, or 80% reduction in VOC. However,

¹ Compost VOC Emission Factors, September 15, 2010. <http://valleyair.org/Workshops/postings/2010/9-22-10-rule4566/SJVAPCD%20Compost%20VOC%20EF%20Report%209-15-10.pdf> (SJVUACPD Workshop September 22, 2010)

these sections do not specify the test methods that will be used to demonstrate these VOC control efficiencies. EPA recommends that the next revision to SJVUAPCD Rule 4566 include the appropriate test methods and test protocol guidelines to determine percent VOC reduction (See, for example, South Coast Rule 1133.3). Finally, we recommend that, in order to determine compliance with the 5,000 tons per year foodwaste threshold and other percentage requirements, the SCAQMD add daily record-keeping requirements for each type of raw material received, including the the dates and amounts of the following: foodwaste received, greenwaste received, manure received, and their monthly totals.

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify the rules but are not currently the basis for rule disapproval.

D. Public comment and final action.

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. 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. 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, this proposed action 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Intergovernmental relations, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

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

Dated: May 25, 2012.

Jared Blumenfeld,
Regional Administrator,
Region IX.

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