



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0252; FRL-9737-1]

Revisions to the California State Implementation Plan, San Joaquin Valley United Air Pollution Control District (SJVUAPCD) and South Coast Air Quality Management District (SCAQMD).

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the SJVUAPCD and SCAQMD portion of the California State Implementation Plan (SIP).

This action was proposed in the Federal Register on June 21, 2012 and concerns 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 (CAA or the Act).

**DATES:** These rules will be effective on [Insert date 30 days from the date of publication in the Federal Register].

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2012-0252 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at

<http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (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:** Robert Marinaro, EPA Region IX, (415) 972-3019, [marinaro.robert@epa.gov](mailto:marinaro.robert@epa.gov).

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

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#### **I. Proposed Action**

On June 21, 2012 (77 FR 37359), EPA proposed to approve the following rules into the California SIP.

Local Agency	Rule #	Rule Title	Adopted	Submitted
SCAQMD	1133.1	Chipping and Grinding Activities	07/08/11	11/18/11
SCAQMD	1133.3	Emission Reductions from Greenwaste Composting Operations	07/08/11	11/18/11
SJVUAPCD	4566	Organic Material Composting Operations	8/18/11	11/18/11

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules 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 two comments from the following parties.

1. Dan Noble and Paul Ryan, Association of Compost Producers and Inland Empire Disposal Association (ACP/IEDA); letter dated July 23, 2012 and received July 23, 2012.
2. Caroll Mortensen, Department of Resources Recycling and Recovery (CalRecycle); letter dated July 14, 2012 and received July 17, 2012.

The comments and our responses are summarized below.

**Comment #1:** ACP/IEDA recommend that prior to the development of food waste emission factors for composting, that harmonized, consistent, and uniform food waste definitions be developed and implemented in regulations across air quality, water quality, and integrated waste management agencies in the State of California.

**Response #1:** This comment does not address the basis or conclusion of EPA's proposed action. However, EPA supports the current efforts of CalRecycle and the California State Water Resources Control Board to define "food waste" in a consistent manner to reduce inconsistencies between various state permitting and regulatory programs. More information can be found at <http://www.calrecycle.ca.gov/laws/Rulemaking/Compost/default.htm>

**Comment #2:** ACP/IEDA recommend that federal, State, and local agencies develop and incorporate standard food waste emission factors in rules and regulations to more accurately characterize both reactive and non-reactive ozone forming volatile organic compound (VOC) emissions from greenwaste composting that contains food material.

**Response #2:** No response is needed as the comment does not address the basis or conclusion of EPA's proposed action. However, we believe that additional research that would better characterize VOC emissions from food waste would be helpful.

**Comment #3:** In general, ACP/IEDA supports the EPA recommendations to further improve both SCAQMD and SJVUAPCD rules.

**Response #3:** No response needed.

**Comment #4:** CalRecycle, in general, supports EPA's proposed action on the SCAQMD and SJVUAPCD composting rules.

**Response #4:** No response needed.

**Comment #5:** CalRecycle requests that EPA allow and direct air quality regulators to provide more flexibility when considering new regulations on low-reactivity sources of VOCs, such as composting, especially when those sources have other environmental benefits. CalRecycle explains this recommendation further and includes citation to a supportive UC Davis study.

**Response #5:** This comment does not address the basis or conclusion of EPA's proposed action. However, we agree that well-managed composting may provide environmental benefits, including diverting material from landfills that could produce methane.<sup>1</sup> Using compost can also help regenerate poor soils, clean up contaminated soils, and prevent erosion and silting on embankments parallel to creeks, lakes and rivers. Using compost can also reduce the need for fertilizer and pesticides.

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<sup>1</sup> Reducing Greenhouse Gas Emissions through Recycling and Composting, U.S. EPA Region 10, May 2011, [http://www.epa.gov/region10/pdf/climate/wccmmf/Reducing\\_GHGs\\_through\\_Recycling\\_and\\_Composting.pdf](http://www.epa.gov/region10/pdf/climate/wccmmf/Reducing_GHGs_through_Recycling_and_Composting.pdf)

We also note that EPA's interim guidance on the controls of VOC in ozone state implementation plans (70 FR 54046, September 13, 2005) already encourages states with persistent ozone nonattainment problems to consider recent scientific information on VOC reactivity and how it may be incorporated into the development of ozone control measures. EPA also believes that mass-based VOC regulations continue to provide significant ozone reduction benefits and should not be discounted unless and until they are replaced by programs that achieve the same or greater benefits.

**Comment #6:** CalRecycle recommends that the EPA clarify and support the creation of offsets for the implementation of mitigation measures, such as aerated static piles and anaerobic digesters, that may reduce VOCs beyond what is required by existing rules.

**Response #6:** This comment does not address the basis or conclusion of EPA's proposed action. However, EPA is working with our state and local partners to ensure that Clean Air Act permitting requirements, including offset requirements, are appropriately applied to the composting industry.

**Comment #7:** CalRecycle requests that EPA consider VOC reactivity when evaluating and updating ozone emission inventories.

**Response #7:** The comment does not address the basis or conclusion of EPA's proposed action. Also see the response to Comment #5.

**Comment #8:** CalRecycle recommends that the EPA support research to test emissions from green materials directly applied to farmland. It considers direct land application to be a likely outlet for organic materials if composting is restricted or made more expensive by air quality rules. The commenter notes that CalRecycle and the UC Davis School of Civil and Environmental Engineering submitted a research proposal for this concept to EPA in 2011.

**Response #8:** The comment does not address the basis or conclusion of EPA's proposed action. However, EPA believes that additional research would be helpful. We think it is important to better quantify the environmental impacts of composting, especially VOC emission factors related to food waste. We also think it is important to better quantify the environmental benefits of composting, including being able to better describe how VOC emissions from composting compare with VOC emissions of other management options, such as direct application to land or landfilling. EPA does not have research funding readily available for these purposes, but we can participate in discussions with organizations that may have funding to help prioritize research needs.

**Comment #9:** CalRecycle recommends that the EPA support research to quantify water savings associated with compost use.

**Response #9:** The comment does not address the basis or conclusion of EPA's proposed action. However, as stated in our response to

comment #8, we encourage research that would allow better quantification of the environmental benefits of composting.

### **III. EPA Action**

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

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 from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this

final rule does not affect the finality of this action 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, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: September 13, 2012

Jared Blumenfeld,  
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) (416) (i) (A) (2) and (i) (B) to read as follows:

§52.220 Identification of plan.

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(c) \* \* \*

(416) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 4566, "Organic Material Composting Operations," adopted on August 18, 2011.

(B) South Coast Air Quality Management District.

(1) Rule 1133.1, "Chipping and Grinding Activities," amended on

July 8, 2011.

(2) Rule 1133.3, "Emission Reductions from Greenwaste Composting Operations," adopted on July 8, 2011.

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