

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Congressional Review Act*

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. EPA will submit a report containing this rule 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. section 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 May 21, 2004. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 6, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Title 40 of the Code of Federal Regulations, chapter I, part 52, 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.*

■ 2. Section 52.770 is amended by adding paragraph (c)(164) to read as follows:

#### **§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(164) On June 13, 2003, and as supplemented on October 3, 2003,

Indiana submitted a State Implementation Plan (SIP) revision for the control of emissions of particulate matter (PM<sub>10</sub>) in the state of Indiana. Revisions to 326 IAC 6–1–10.1 and 326 IAC 6–1–10.2 amend the PM<sub>10</sub> emission limits at U.S. Steel-Gary Works and U.S. Steel-Gary Coke Operations, located in Lake County, Indiana, and should result in decreased PM<sub>10</sub> emissions of approximately 350 tons per year.

(i) Incorporation by reference. The following sections of the Indiana Administrative Code are incorporated by reference.

(A) Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 10.1: Lake County PM<sub>10</sub> emission requirements. Filed with the Secretary of State on August 6, 2003 and effective on September 5, 2003. Published at Indiana Register, Volume 27, Number 1, October 1, 2003 (27 IR 61).

(B) Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 10.2: Lake County PM<sub>10</sub> coke battery emission requirements. Filed with the Secretary of State on August 6, 2003 and effective on September 5, 2003. Published at Indiana Register, Volume 27, Number 1, October 1, 2003 (27 IR 85).

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[CA287–0428a; FRL–7628–3]**

#### **Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and ammonia emissions from composting and related activities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on May 21, 2004 without further notice, unless EPA receives adverse comments by April 21, 2004. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and,

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

#### **FOR FURTHER INFORMATION CONTACT:**

Jerald S. Wamsley, EPA Region IX, at either (415) 947–4111, or [wamsley.jerry@epa.gov](mailto:wamsley.jerry@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 we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD .....	1133	Composting and Related Operations—General Administrative Requirements.	01/10/03	06/05/03
SCAQMD .....	1133.1	Chipping and Grinding Activities .....	01/10/03	06/05/03
SCAQMD .....	1133.2	Emission Reductions from Co-Composting Operations .....	01/10/03	06/05/03

On July 18, 2003, EPA found these rule submittals met the completeness criteria in 40 CFR part 51, appendix V. These criteria must be met before formal EPA review can begin.

#### *B. Are There Other Versions of These Rules?*

There are no previous versions of Rules 1133, 1133.1 and 1133.2 in the SIP.

#### *C. What Is the Purpose of the Submitted Rules?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Also, ammonia combines with other compounds, usually oxides of nitrogen, to form particulate matter. Section 110(a) of the CAA requires states to submit regulations that control VOC and particulate matter emissions.

Rule 1133 is an administrative rule that requires composting, chipping, and/or grinding facilities to register with the District. These facilities provide information such as types and amounts of feedstocks produced, and a description of the processes used at the facility. This information is updated annually. Rule 1133 includes the following provisions:

- Purpose and applicability;
- definitions of terms used within the rule;
- registration requirements;
- registration process;
- fees; and,
- exemptions from the rule.

Rule 1133.1 establishes holding or processing time requirements for green waste and food waste chipping and grinding activities. The rule's objective is to prevent inadvertent decomposition caused by stockpiling of composting waste for extended time periods. Rule 1133.1 includes the following provisions:

- Purpose and applicability;
- definitions of terms used within the rule;
- emission reduction requirements;
- registration process;
- fees; and,
- exemptions from the rule.

Rule 1133.2 establishes control requirements for new and existing co-

composting operations. Facilities may comply with the rule via two options. First, a facility can enclose and forced air aerate its compost curing operations; then, it directs all volatile organic compound (VOC) and ammonia emissions to an emission control device that reduces emissions by 80 percent. In the second option, as part of a compliance plan review process, a new co-composting facility may use any combination of composting methods and emission controls, such as add-on control devices, process controls, or best management practices, to meet an 80 percent emission reduction. Existing facilities may use a similar process to meet a 70 emission reduction requirement. All compliance options require source testing to verify compliance with the rule's requirements. SCAQMD's Rule 1133.2 includes the following provisions:

- Purpose and applicability;
- definitions of terms used within the rule;
- emission reduction requirements;
- compliance plan requirements;
- compliance schedules;
- test methods and protocols for determining compliance;
- recordkeeping requirements;
- plan fees; and,
- exemptions from the rule.

The TSD has 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 major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rules 1133, 1133.1, and 1133.2 must fulfill RACT.

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

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

### *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 TSD has more information on our evaluation.

### *C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by April 21, 2004, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on May 21, 2004. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211,

“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 May 21, 2004. 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, Ammonia, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 15, 2004.

**Laura Yoshii,**

*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 paragraph (c)(316)(i)(D) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(316) \* \* \*

(i) \* \* \*

(D) South Coast Air Quality Management District.

(1) Rule 1133 adopted on January 10, 2003; Rule 1133.1 adopted on January 10, 2003; and, Rule 1133.2 adopted on January 10, 2003.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R01-OAR-2004-ME-0001; A-1-FRL-7625-3]

### Approval and Promulgation of Air Quality Implementation Plans; Maine; Approval of State Implementation Plan Revision to PM10 PSD Increments

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes maximum allowable increases in particulate matter concentration for the prevention of significant deterioration (PSD) program, where particulate matter is measured as particulates with a mean aerodynamic diameter of 10 microns or less (“PM10”), rather than as total suspended particulates (TSP).

**DATES:** This direct final rule will be effective May 21, 2004, unless EPA receives adverse comments by April 21, 2004. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**, informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Dan Brown, Acting Unit Manager, Air Permits, Toxics, and Indoor Air Programs, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114-2023. Comments also may be submitted electronically or through hand delivery/courier; please follow the detailed instructions described in part (I)(B)(1)(i) through (iv) of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Ian D. Cohen, Air Permits, Toxics, and