



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0100; FRL-11790-01-R09]

Air Quality Plans; California; San Diego County Air Pollution Control District; Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a permitting rule which provides specific permit exemptions for sources otherwise requiring a permit, submitted as a revision to the San Diego County Air Pollution Control (APCD or “District”) portion of the California State Implementation Plan (SIP). The proposed revisions would expand an existing provision that exempts tub grinders and trommel screens that process green material from permit requirements to include horizontal grinders and the processing of mixtures of green material and food material. The revisions also add a definition for “food material.” This action is being taken pursuant to the Clean Air Act (CAA or “Act”) and its implementing regulations. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0100 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the

official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<http://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Camille Cassar, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105 or by email at cassar.camille@epa.gov.

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

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates it was amended by the District and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Rule #	Rule Title	Amended Date	Submitted Date
11	Exemptions From Rule 10 Permit Requirements	10/13/2022	05/11/2023

On November 11, 2023, the submittal for Rule 11 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

The SIP-approved version of the submitted rule is identified in Table 2.

TABLE 2 – SIP APPROVED RULE

Rule #	Rule Title	SIP Approval Date	Federal Register Citation
11	Exemptions from Rule 10 Permit Requirements	09/28/2022	87 FR 58729

If the EPA finalizes the action proposed herein, this rule will be replaced in the SIP by the submitted rule listed in Table 1.

C. What is the purpose of the submitted rule revision?

The rule revision expands the exemption for tub grinders and trommel screens processing green material to include horizontal grinders and the processing of mixtures of green material and food material. A definition of the term “food material” has also been added to the rule.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

Under 40 CFR 51.160(e), a permit program must identify the types and sizes of facilities, buildings, structures, or installations that will be subject to review. A new source review (NSR) permitting program may exempt some new sources or modifications that are inconsequential to attainment or maintenance of the national ambient air quality standards (NAAQS), considering local air quality concerns.

Section 110(l) of the Act prohibits the EPA from approving SIP revisions that would

interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and public hearing before adopting a SIP revision.

B. Does the rule meet the evaluation criteria?

Subsection (d)(10)(v) of Rule 11 currently exempts tub grinders and trommel screens processing green material from permit requirements. As a result of a recent California organic waste landfill diversion mandate, State of California Senate Bill (SB)1383, San Diego County residents and businesses are now recycling food material along with yard waste. Consequently, composting facilities are now receiving, and processing, green material mixed with food material. Additionally, due to technological advancements, tub grinders are being replaced with more efficient horizontal grinders that are safer to operate. The rule revisions expand the existing exemption to include horizontal grinders and the processing of mixtures of green material and food material. A definition of the term “food material” has also been added to the rule.

The emissions from tub grinders and horizontal grinders are related to the throughput of materials; therefore horizontal grinders do not produce emissions that are measurably different from those from a tub grinder. Therefore, we find this expanded exemption provision acceptable. The definition for the term “food material” is clear and provides clarification of the type of materials that can be processed in the exempt equipment. Therefore, we find this new definition acceptable.

The submitted rule complies with the substantive and procedural requirements of CAA section 110(l). With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rule, we find that the District has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to

submittal of this SIP revision and has satisfied the procedural requirements under CAA section 110(l).

With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of the submitted rule would not interfere with the area's ability to attain or maintain the NAAQS or with any other applicable requirements of the CAA. Similarly, we find that the submitted rule is approvable under section 193 of the Act because it does not modify any control requirement in effect before November 15, 1990, without ensuring equivalent or greater emission reductions.

For the reasons stated above and explained further in our technical support document, we find that the submitted San Diego County APCD Rule 11 satisfies the applicable CAA and regulatory requirements for nonattainment NSR permit programs at 40 CFR 51.160 through 51.165 and other applicable requirements.

C. Proposed action and public comment

As authorized in section 110(k)(3) of the Act, the EPA is proposing approval of San Diego County APCD Rule 11. We are proposing this action based on our determination that the submitted rule satisfies the applicable statutory and regulatory provisions governing regulation of stationary sources at 40 CFR 51.160 through 51.165. In support of our proposed action, we have concluded that our approval would comply with sections 110(l) and 193 of the Act because the amended rule will not interfere with continued attainment of the NAAQS in San Diego County and does not relax control technology and offset requirements.

We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the *Federal Register*]**. If finalized, this action would incorporate the submitted rule into the SIP and our action would be codified through revisions to 40 CFR 52.220, "Identification of plan—in part."

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that

includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference San Diego County APCD Rule 11, “Exemptions From Rule 10 Permit Requirements,” amended October 13, 2022, which provides specific permit exemptions for sources otherwise requiring a permit. The EPA has made, and will continue to make, these materials 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).

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, the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and 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.

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 rules do 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action.

Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

Dated: **April 22, 2024.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

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