

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER S-09-003

Relating to Approval of Amendments to the 2007 Ozone Plan for the
San Joaquin Valley to Extend the Rule Adoption Schedule for
Organic Waste Operations

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, ARB is responsible for the preparation of the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (the "Act"; 42 U.S.C. section 7401 et seq.), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, section 41650 of the Health and Safety Code requires ARB to approve the nonattainment plan approved by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, ARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in sections 39002, 39500, and part 5 (commencing with section 43000) of the Health and Safety Code, and for ensuring that the districts meet their responsibilities under the Act;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Executive Officer as the Board deems appropriate;

WHEREAS, the local air districts have primary responsibility for the control of air pollution from nonvehicular sources and for adopting control measures, rules, and regulations to attain the NAAQS within their boundaries;

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) was established as a unified air pollution control district to be responsible for carrying out these responsibilities in the San Joaquin Valley Air Basin;

WHEREAS, the San Joaquin Valley Air Basin includes Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and western Kern Counties;

WHEREAS, following a public hearing on April 30, 2007, the District adopted the 2007 Ozone Plan to fulfill the applicable requirements of the Act for extreme ozone nonattainment areas;

WHEREAS, on November 16, 2007, ARB submitted the 2007 Ozone Plan to U.S. EPA as a SIP Revision;

WHEREAS, the District Stationary Source Regulatory Implementation Schedule in 2007 Ozone Plan included a commitment to reactive organic gas emissions from organic waste operations, identified in the 2007 Ozone Plan as Measure S-GOV-5, with emission reductions from these operations to be realized beginning in 2012;

WHEREAS, the District began development of local Rule 4566 entitled "Organic Waste Operations" to satisfy the SIP commitment for green waste composting operations;

WHEREAS, during development of new Rule 4566, the District staff identified additional technical data that is needed to accurately assess emissions and evaluate emission control techniques applicable to organic waste operations; the District has initiated a research field study to collect the necessary data, which will take one year to complete;

WHEREAS, on December 18, 2008, the District approved the Amendment to 2007 Ozone Plan to Extend the Rule Adoption Schedule for Organic Waste Operations (Amendment), which extends the completion date for the regulatory development needed to satisfy green waste composting emission reduction commitment from the first calendar quarter of 2009 until the fourth calendar quarter of 2010, while the aforementioned field study is conducted;

WHEREAS, federal law set forth in section 110(l) of the Act and title 40, Code of Federal Regulations (CFR), section 51.102 requires that one or more public hearings, preceded by at least 30 days notice and opportunity for public review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

WHEREAS, the Amendment was available for public review and comment for at least 30 days, and a noticed public hearing was conducted in Fresno and

videoconferenced to Bakersfield and Modesto prior to District consideration of the plan, as required by the Act and U.S. EPA regulations;

WHEREAS, the District determined that the rule adoption schedule for new Rule 4566 is not a "project" under CEQA and will have no possible significant adverse effect on the environment, and that therefore the proposed action is not subject to the requirements of CEQA;

WHEREAS, the District transmitted the Amendment to the 2007 Ozone Plan to Extend the Rule Adoption Schedule for Organic Waste Operations to the Air Resources Board (ARB) on January 8, 2009 and requested that ARB submit the Amendment to the U.S. Environmental Protection Agency as a revision to the SIP; and

WHEREAS, the Executive Officer finds that:

1. The Amendment does not impact the District's emission reduction commitment, in terms of timing or magnitude, for organic waste operations;
2. The Amendment does not impact the Reasonable Further Progress or Attainment demonstrations included in the 2007 Ozone Plan;

NOW, THEREFORE, IT IS ORDERED, that the Executive Officer hereby adopts the Amendment to the 2007 Ozone Plan to Extend the Rule Adoption Schedule for Organic Waste Operations as a revision to the California SIP and directs that the Amendment to the 2007 Ozone Plan be submitted to the U.S. EPA as a revision to the California SIP.

BE IT FURTHER ORDERED, that ARB certifies, pursuant to 40 CFR 51.102, that the Amendment being submitted as a SIP revision was adopted after notice and public hearing as required by 40 CFR 51.102.

Executed at Sacramento, California this 24th day of April, 2009.


James N. Goldstone
Executive Officer