

Washington, DC 20231; or by facsimile to (703) 308-6459, marked to the attention of Charles Pearson.

**SUPPLEMENTARY INFORMATION:** The Office published a final rule in the **Federal Register** of March 22, 2001 (66 FR 16004), entitled "Revision of Patent Cooperation Treaty Application Procedure." This document corrects errors in §§ 1.494(c)(2), 1.495(c)(2), and 1.497(a)(1).

Specifically, §§ 1.494(c)(2) and 1.495(c)(2) as revised in the above final rule inadvertently omitted the provisions that:

The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 [or 30] months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 [or 30] months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

Section 1.497(a)(1) as revised in the above final rule inadvertently omitted the section symbols before the reference to §§ 1.66 or 1.68.

In rule FR Doc. 01-7132, published on March 22, 2001 (66 FR 16004), make the following corrections:

1. On page 16006, in the second column, in § 1.494, in paragraph (c)(2), add the following sentences to the end thereof:

**§ 1.494 Entering the national stage in the United States of America as a designated office.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

\* \* \* \* \*

2. On page 16006, in the third column, in § 1.495, in paragraph (c)(2), add the following sentences to the end thereof:

**§ 1.495 Entering the national stage in the United States of America as an elected office.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

\* \* \* \* \*

#### 1.497 [Corrected]

3. On page 16006, in the third column, in § 1.497, in paragraph (a)(1), line 2, correct "either 1.66 or 1.68" to read "either §§ 1.66 or 1.68".

Dated: May 15, 2001.

**Nicholas P. Godici,**

*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

[FR Doc. 01-12764 Filed 5-21-01; 8:45 am]

**BILLING CODE 3510-16-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD116-3067a; FRL-6979-6]

### Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Repeal of Petroleum Refinery Regulations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on a revision to the State of Maryland State Implementation Plan (SIP) submitted on January 4, 2001 by the Maryland Department of the Environment (MDE). This revision repeals the requirements for petroleum refineries in the State of Maryland. There are no petroleum refineries located in the State of Maryland. EPA is approving this SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 23, 2001 without further notice, unless EPA receives adverse written comment by June 21, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air

Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814-2034 at the EPA Region III address above, or by e-mail at wentworth.ellen@epa.gov.

#### SUPPLEMENTARY INFORMATION:

#### I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

- A. What Action Is EPA Taking Today?
- B. Why is EPA Taking This Action?
- C. Why Is the Request Approvable?
- D. What Is the Process for EPA Approval of This Action?

#### A. What Action Is EPA Taking Today?

EPA is approving a revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision repeals Regulation .04, Petroleum Refineries, under Maryland's Code of Maryland Administrative Regulations (COMAR) 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. At one time there was the possibility of a petroleum refinery being constructed in the State of Maryland which would have required regulation under COMAR 26.11.11.04, and under Maryland's SIP. However, a facility was never constructed, and at the present time there are no petroleum refineries located in Maryland.

#### B. Why Is EPA Taking This Action?

EPA is approving this SIP revision at the request of MDE. Since there are no petroleum refineries located in the State of Maryland, Maryland repealed its petroleum refinery regulation, COMAR 26.11.11.04, Petroleum Refineries, under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants. Because there are no oil refineries in the State of Maryland, EPA is approving the SIP revision to amend

COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

### C. Why is the Request Approvable?

As stated previously, there are no petroleum refineries located in Maryland. Therefore, a regulation to control such sources is not necessary. If a new petroleum refinery were to move in to Maryland, it would be subject to New Source Performance Standards (NSPS), New Source Review (NSR), Prevention of Significant Deterioration requirements (PSD), Maximum Achievable Control Technology (MACT) standards, as well as Maryland's Toxic Air Pollutants (TAPs) regulations. Therefore, EPA finds the Maryland request approvable.

### D. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This rule will be effective on July 23, 2001 without further notice unless EPA receives adverse comment by June 21, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. 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.

## II. Final Action

EPA is approving the revision to the State of Maryland SIP which was submitted on January 4, 2001 by MDE. This revision amends COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants to repeal Regulation 26.11.11.04, Petroleum Refineries.

## III. What Are the Administrative Requirements?

### A. General Requirements

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. 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 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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation,

and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

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 July 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving the repeal of Regulation 26.11.11.04, Petroleum Refineries under COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants 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, Ozone, Reporting and recordkeeping requirements.

Dated: May 1, 2000

**William C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR 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.

### **Subpart V—Maryland**

2. Section 52.1070 is amended by adding paragraphs (c)(161) to read as follows:

#### **§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(161) Revisions to the State of Maryland Regulations pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries, submitted on January 4, 2001, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of January 4, 2001, from the Maryland Department of the Environment transmitting amendments to COMAR 26.11.11 to repeal Regulation 26.11.11.04, Petroleum Refineries.

(B) Amendments to COMAR 26.11.11, Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plants, repealing Regulation 26.11.11.04, Petroleum Refineries, effective October 5, 1998.

(ii) Additional Material. Remainder of the January 4, 2001 submittal pertaining to the repeal of COMAR 26.11.11.04, Petroleum Refineries.

[FR Doc. 01-12712 Filed 5-21-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[CA 169-0238; FRL-6980-4]**

#### **Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on January 10, 2001 and concerns volatile organic compound (VOC) emissions from soil decontamination operations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approve a local rule that regulates these emission sources and directs California to correct rule deficiencies.

**EFFECTIVE DATE:** This rule is effective on June 21, 2001.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

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

Ventura County APCD, 669 County Square Dr., 2nd Fl., Ventura, CA 93003-5417

**FOR FURTHER INFORMATION CONTACT:** Ed Addison, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1160.

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA.

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

On January 10, 2001, 66 FR 1927, EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD .....	74.29	Soil Decontamination Operations .....	10/10/95	03/26/96

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

(Section C.4) This section provides for case-by-case exemptions by the Director from the 0.08 lb/hr allowable emission rate for vapor extraction or bioremediation, if the operator can demonstrate compliance with VCAPCD Rule 51, Nuisance. This exemption is deficient because it does not specify replicable criteria for an exemption nor require equivalent emissions reduction for an exempted source.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

## **II. Public Comments and EPA Responses**

EPA provided for a 30-day public comment period on January 10, 2001 in 66 FR 1927. EPA received the following verbal comments on the proposed rulemaking during the comment period from Bernard Bigham of the Chesapeake Environmental Group.

*Comment 1:* VCAPCD 74.29 does little to reduce VOC emissions. Under the exemption in paragraph (C)(3)(f), it is estimated that 200,000 tons/year of contaminated soil is excavated and trucked to landfills, and VOCs volatilize during transport and when soil is used as landfill daily cover. There is currently no rule other than VCAPCD 74.17 that controls VOC loss in contaminated soil transport to landfills. VCAPCD should remove paragraph (C)(3)(f), or Rule 74.17 should be revised to establish soil handling procedures and specify test methods that

adequately evaluate and control VOC loading of landfills. The commenter points, for example, to Bay Area Air Quality Management District Rule 8-40.

*Response:* We discussed this comment with VCAPCD staff, who explained that Alternate Daily Cover (ADC) soil is only exempt under (C)(3)(f) if it meets the test in Definition (G)(2), which states limits by weight ppm VOC as referenced in (F)(2) test methods. We agree that this does establish some control on emissions from ADC, but recommend that the rule be clarified by stating these requirements in paragraph (B) or (C)(3)(f), and by clearly referencing the appropriate test methods in this requirement.

We also recommend that the rule be revised to reference the other District protocols for safe handling and transport of contaminated soil to safe disposal.