

## PROCESSES AUTHORIZED FOR THE TREATMENT OF WINE, JUICE, AND DISTILLING MATERIAL—Continued

Processes	Use	Reference or limitation
* * *	* * *	* *
Metal reducing matrix sheet processing .....	To reduce the level of metals such as copper and iron in wine.	(1) The active ingredient, polyvinylimidazol, must not constitute more than 40% by weight of the sheet. (2) Use of the sheet must not significantly alter the color of the wine.
Nanofiltration .....	To reduce the level of volatile acidity in wine (used with ion exchange).	This process must use permeable membranes which are selective for molecules not greater than 150 molecular weight with transmembrane pressures of 250 psi or less.
Osmotic transport <sup>1</sup> .....	For alcohol reduction .....	(1) Use must not alter the vinous character of the wine (2) None of the stripping solution may migrate into the wine.
* * *	* * *	* *
Sulfide reducing matrix sheet processing .....	To reduce the level of sulfides in wine .....	(1) The active ingredient, polyvinylimidazol, must not constitute more than 40% by weight of the sheet. (2) Use of the sheet must not significantly alter the color of the wine.
* * *	* * *	* *

Signed: October 1, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: October 22, 2004.

**Timothy E. Skud,**  
Deputy Assistant Secretary (Tax, Trade, and  
Tariff Policy).

[FR Doc. 04-25739 Filed 11-18-04; 8:45 am]

BILLING CODE 4810-31-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA-295-0470a; FRL-7834-2]

### Revisions to the California State Implementation Plan, Great Basin and Ventura County Air Pollution Control Districts

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Great Basin Air Pollution Control District (GBAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that are administrative and address changes for clarity and consistency.

**DATES:** This rule is effective on January 18, 2005 without further notice, unless EPA receives adverse comments by December 20, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final 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.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514-3537.

Ventura County Air Pollution Control District, 669 County Square Dr., 2nd Fl., Ventura, CA 93003-5417.

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:**  
Cynthia G. Allen, EPA Region IX, (415) 947-4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@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 No.	Rule title	Adopted	Submitted
GBAPCD .....	101	Definitions .....	09/24/03	11/04/03
VCAPCD .....	2	Definitions .....	04/13/04	07/19/04

On December 23, 2003 (GBAPCD) and August 10, 2004 (VCAPCD), these rule submittals were found 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 These Rules?*

We approved versions of these rules into the SIP on the dates listed: GBAPCD Rule 101, April 13, 1982 and VCAPCD Rule 2, June 28, 1999.

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

Great Basin Rule 101 is amended by adding a set of open burning definitions to comply with the legal requirements imposed on the District. The rule is also amended by adding two new definitions for Emergency Generators and Water Pumps, and Owner/Operator.

Ventura County Rule 2 is amended by defining various terms that are used in multiple rules. The rule is also being amended by deleting some definitions that are no longer used in any of the District's rules.

The TSD has more information about these rules.

## **II. EPA's Evaluation and Action**

#### *A. How Is EPA Evaluating the Revisions?*

These rules describe administrative provisions and definitions that support emission controls found in other local agency requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we used to help evaluate enforceability requirements consistently includes the Bluebook ("Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988) and the Little Bluebook ("Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001).

#### *B. Do the Rules Meet the Evaluation Criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability 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 December 20, 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 January 18, 2005. 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 (Pub. L. 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 January 18, 2005.

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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 5, 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 paragraphs (c)(321)(i)(C) and (c)(332)(i)(B) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(321) \* \* \*

(i) \* \* \*

(C) Great Basin Air Pollution Control District.

(1) Rule 101, adopted on September 24, 2003.

\* \* \* \* \*

(332) \* \* \*

(i) \* \* \*

(B) Ventura County Air Pollution Control District.

(1) Rule 2, adopted on October 22, 1968, and amended on April 13, 2004.

[FR Doc. 04-25625 Filed 11-18-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 268

[RCRA-2004-0009; FRL-7839-3]

#### Land Disposal Restrictions: Site-Specific Treatment Standard Variance for Selenium Waste for Chemical Waste Management, Chemical Services, LLC

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is today granting a site-specific treatment standard variance from the Land Disposal Restrictions (LDR) treatment standards for a selenium-bearing hazardous waste generated by the glass manufacturing industry. EPA is granting this variance because the chemical properties of the waste differ significantly from those of the waste used to establish the current LDR treatment standard for selenium (5.7 mg/L, as measured by the Toxicity Characteristic Leaching Procedure (TCLP)), and the petition has adequately demonstrated that the waste cannot be treated to meet this treatment standard.

EPA is granting this variance to CWM Chemical Services LLC (CWM (Model City, NY)) to stabilize a selenium-bearing hazardous waste generated by Guardian Industries Corp. (Guardian) at their RCRA permitted facility in Model City, New York. With promulgation of this final rule, CWM may treat the Guardian waste to an alternate treatment standard of 28 mg/L, as measured by the TCLP. CWM (Model City, NY) may dispose of the treated waste in a RCRA Subtitle C landfill, provided they meet the applicable LDR treatment standard for any other hazardous constituents in the waste.

EPA is also modifying the existing alternative treatment standard for the Guardian selenium waste that EPA had previously granted to Heritage Environmental Services LLC (69 FR 6567, February 11, 2004) to be consistent with the levels that CWM has demonstrated as best demonstrated

achievable technology (BDAT) for this selenium waste.

**DATES:** This final rule is effective on January 3, 2005 without further notice, unless EPA receives adverse comment by December 20, 2004. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. RCRA-2004-0009. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Correspondence to the docket should be addressed to: EPA Docket Center, OSWER Docket (5305T), 1200 Pennsylvania Ave NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Call Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For more detailed information on specific aspects of this rulemaking, contact Juan Parra at (703) 308-0478 or [parra.juan@epa.gov](mailto:parra.juan@epa.gov), Office of Solid Waste (MC 5302 W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

EPA is publishing this rule without prior proposal because we view it as a noncontroversial action. We anticipate no significant adverse comments, because, to our knowledge, no new treatment options have become available to treat this high-concentration selenium waste more effectively. Having said this, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that could serve as a proposal to grant a site-specific treatment standard variance to CWM (Model City, NY), if significant adverse comments are filed. See the **SUPPLEMENTARY INFORMATION** section in that notice on how to submit comments.

This direct final rule will be effective on January 3, 2005 without further notice unless we receive adverse comment on the proposed rule by December 20, 2004. If we receive adverse comment on the direct final rule, we will withdraw the direct final action and the treatment standard variance for CWM (Model City, NY). We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action.