

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**37 CFR Part 1**

**RIN 0651-AB61**

**[Docket No.: 2003-P-021]**

**January 2004 Revision of Patent Cooperation Treaty Application Procedure**

**AGENCY:** United States Patent and Trademark Office, Commerce.  
**ACTION:** Final rule and correction to final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) published a final rule in the **Federal Register** of October 20, 2003, revising the rules of practice in patent cases to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that will take effect on January 1, 2004. This document corrects three errors in that final rule, and also corrects an additional error in the rules of practice in patent cases relating to PCT procedure.

**EFFECTIVE DATE:** January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Richard R. Cole, Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (703) 305-6639, or by facsimile at (703) 308-6459.

**SUPPLEMENTARY INFORMATION:** During the September-October 2002 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on January 1, 2004. The Office published a final rule in the **Federal Register** of October 20, 2003 (68 FR 59881), entitled "January 2004 Revision of Patent Cooperation Treaty Application Procedure," revising the rules of practice in patent cases in title 37 of the Code of Federal Regulations (CFR) to conform them to the amendments to the PCT Regulations that will take effect on January 1, 2004. This document corrects errors to §§ 1.14, 1.421, and 1.431 in that final rule. This document also corrects an additional error in § 1.14 relating to PCT procedure.

**Discussion of Specific Rules**

*Section 1.14:* Section 1.14(g)(1)(ii) is corrected to change "International Search Authority" to "International Searching Authority". Section 1.14(g)(5) is amended to change "paragraphs (a)(1)(i) through (a)(1)(vi) and (i)(3) of

this section" to "paragraphs (a)(1)(i) through (a)(1)(vi) and (g)(3) of this section" for consistency with the changes to § 1.14 in the rule making *Changes to Implement Electronic Maintenance of Official Patent Application Records*, 68 FR 38611 (June 30, 2003), 1272 *Off. Gaz. Pat. Office* 197 (July 29, 2003) (final rule).

*Section 1.421:* Section 1.421(a)(2) is amended to correct "a fee amount equivalent to that required by § 1.445(a)(5)" to "a fee amount equivalent to that required by § 1.445(a)(4)" for consistency with § 1.445 as amended in the final rule being corrected by this document.

*Section 1.431:* Section 1.431(c)(2) is corrected to change "the 25% of the international filing fee" to "fifty percent of the international filing fee" for consistency with the change to PCT Rule 16bis.2(b) that was adopted during the September-October 2003 meeting of the WIPO Governing Bodies and that enters into force on January 1, 2004.

■ In rule FR Doc. 03-26338, published on October 20, 2003, make the following corrections and 37 CFR part 1 is amended as follows:

**§ 1.14 [Corrected]**

■ 1. On page 59886, in the third column, § 1.14, paragraph (g)(1)(ii), line 8, correct "International Search Authority" to read "International Searching Authority".

**§ 1.431 [Corrected]**

■ 2. On page 59887, in the third column, § 1.431, paragraph (c)(2), line 2, correct "the 25%" to read "fifty percent".

**PART 1—RULES OF PRACTICE IN PATENT CASES**

■ 3. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2).

■ 4. Section 1.14 is amended by revising paragraph (g)(5) to read as follows:

**§ 1.14 Patent applications preserved in confidence.**

\* \* \* \* \*

(g) \* \* \*

(5) Access to international application files under paragraphs (a)(1)(i) through (a)(1)(vi) and (g)(3) of this section will not be permitted with respect to the Examination Copy in accordance with PCT Article 38.

\* \* \* \* \*

■ 5. Section 1.421 is amended by revising paragraph (a)(2) to read as follows:

**§ 1.421 Applicant for international application.**

(a) \* \* \*

(2) Has no residence or nationality indicated, applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(4), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office (see also § 1.412(c)(6)).

\* \* \* \* \*

Dated: November 24, 2003.

**James E. Rogan,**  
*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 03-30150 Filed 12-3-03; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[CA 291-0424a; FRL-7590-7]**

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from adhesives and sealants. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on February 2, 2004, without further notice, unless EPA receives adverse comments by January 5, 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 document (TSD), 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.

Ventura County Air Pollution Control District, 669 County Square Drive, 2nd Floor, Ventura, CA 93003.

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:** Yvonne Fong, EPA Region IX, (415) 947-4117, [fong.yvonne@epa.gov](mailto:fong.yvonne@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 Rule Did the State Submit?**

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD .....	74.20	Adhesives and sealants .....	09/09/03	09/19/03

On October 15, 2003, a submittal of VCAPCD Rule 74.20 was 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 This Rule?**

We approved a version of VCAPCD Rule 74.20 into the SIP on April 26, 2002 (67 FR 20645). The VCAPCD adopted revisions to the SIP-approved version of Rule 74.20 on September 9, 2003 and CARB submitted them to us on September 19, 2003.

**C. What Is the Purpose of the Rule Revisions?**

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. This rule limits emissions of VOCs resulting from the application of adhesives and sealants.

This rule was also submitted to correct deficiencies we cited in an April 26, 2002 (67 FR 20645) final rulemaking for a previous version of this rule and to stay the potential imposition of section 179 sanctions associated with that final rulemaking. The TSD has more information about this rule.

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

**A. How Is EPA Evaluating the Rule?**

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). VCAPCD regulates an

ozone nonattainment area (see 40 CFR part 81), so VCAPCD Rule 74.20 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).
4. "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants," CARB, December 1998.

We also evaluated this rule to determine whether it corrects the deficiencies cited in our April 26, 2002 (67 FR 20645) final rulemaking on a previous versions of this rule. Our limited disapproval of this earlier version noted that two provisions of VCAPCD Rule 74.20 conflicted with section 110 and part D of the Act. Rule 74.20 contained VOC content limits that did not meet RACT as well as an inappropriate test method. The TSD has more information on our evaluation.

**B. Does the Rule Meet the Evaluation Criteria?**

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. We also conclude that the problematic provisions which were

found in an earlier version of this rule and which was the basis for our April 26, 2002 final limited disapproval have been corrected. 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 rule because we believe it fulfills 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 January 5, 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 February 2, 2004. This will incorporate this rule into the federally enforceable SIP and will terminate all CAA section 179 and 110(c) sanction and FIP implications associated with our limited disapproval action on a previous version of this rule.

**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 February 2, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 2003.

**Keith Takata,**

*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)(318) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \* \* \*  
(318) Amended regulation for the following APCD was submitted on September 19, 2003, by the Governor's designee.

(i) Incorporation by reference.  
(A) Ventura County Air Pollution Control District.

(1) Rule 74.20, adopted on September 9, 2003.

\* \* \* \* \*

[FR Doc. 03-30169 Filed 12-3-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 291-0424; FRL-7590-6]

### Interim Final Determination To Stay Sanctions, Ventura County Air Pollution Control District

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

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay imposition of sanctions based on a proposed approval of revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern VCAPCD Rule 74.20.

**DATES:** This interim final determination is effective on December 4, 2003. However, comments will be accepted until January 5, 2004.

**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 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 rule revisions, EPA's technical support document (TSD), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted rule revisions by appointment at the following locations: Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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