

(5) Maps showing designated use areas are available at park headquarters.

(6) Use of an ice auger or power engine on any land surface or frozen water surface outside of designated use areas is prohibited without a permit.

Dated: March 18, 2005.

**Paul Hoffman,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05-6385 Filed 3-31-05; 8:45 am]

BILLING CODE 4312-97-P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1270

RIN 3095-AB40

#### Presidential Records Act Procedures

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

**SUMMARY:** In response to a petition for rulemaking, NARA is amending our rules concerning Presidential records to lengthen the time from 10 working days to 35 calendar days to appeal denial of access. This proposed rule will affect the public.

**DATES:** Effective May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Davis Heaps at (301) 837-1801.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in the October 1, 2004, *Federal Register* (69 FR 58875) for a 60-day public comment period. NARA notified several researcher organizations about the proposed rule. A copy of the proposed rule was also posted on the NARA Web site. NARA received three responses to the proposed rule from the public.

NARA proposed, in response to a petition for proposed rulemaking, to extend the timeframe in which a person may appeal the denial of a request for access to Presidential records made under the Presidential Records Act (PRA) (44 U.S.C. 2201-2207). Two public commenters agreed with the proposed regulation changes. One member of the public objected to NARA's proposed length of appeal time. The commenter said that a requester should be able to appeal NARA's letter of denial "within 35 working days after the requester receives written notification," not "within 35 calendar days of the date of NARA's denial letter" as NARA proposed.

We did not adopt that recommendation. The commenter argued that the proposed length in timeframe was unfair because the

delivery of NARA's denial letter could be considerably delayed. The commenter said that the appeal timeframe should continue to be based on when the requester receives the denial, not the date of NARA's denial letter.

NARA proposed the timeframe requested by the petitioners, which was based on the timeframe for appeals NARA permits under the provisions of the Freedom of Information Act (FOIA) (see 36 CFR 1250.72(a)) and the Privacy Act (PA) (see 36 CFR 1202.56(a)). The petition cited the following compelling reasons for requesting an extension to the length of time to file an appeal under the PRA:

- NARA's longer appeal timeframes for FOIA and PA denials;
- The disparity with the lengthy waits requesters have, only to learn of a denial of access; and,
- Extenuating circumstances that make it difficult for requesters to appeal in 10 days after receipt of NARA's denial. Among the latter are requesters being on vacation, business trips, and academic absences like visiting professorships and sabbaticals.

The petitioners' request is based on well-recognized and widely accepted practices in implementing the FOIA. NARA believes that this rule will be of assistance to requesters of Presidential records.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities because this rule applies to the public. This rule does not have any federalism implications. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

#### List of Subjects in 36 CFR Part 1270

Archives and records.

■ For the reasons set forth in the preamble, NARA amends part 1270 of title 36, Code of Federal Regulations, as follows:

#### PART 1270—PRESIDENTIAL RECORDS

■ 1. The authority citation for part 1270 is revised to read as follows:

**Authority:** 44 U.S.C. 2201-2207.

■ 2. Amend § 1270.42 by revising paragraphs (a), (b), and (d) to read as follows:

#### Subpart D—Access to Presidential Records

##### § 1270.42 Denial of access to public; right to appeal.

(a) Any person denied access to a Presidential record (hereinafter *the requester*) because of a determination that the record or a reasonable segregable portion of the record was properly restricted under 44 U.S.C. 2204(a), and not placed in the public domain by the former President or his agent, may file an administrative appeal with the appropriate Presidential library director at the address cited in part 1253 of this chapter.

(b) All appeals must be received by NARA within 35 calendar days of the date of NARA's denial letter.

\* \* \* \* \*

(d) Upon receipt of an appeal, the appropriate Presidential library director has 30 working days from the date an appeal is received to consider the appeal and respond in writing to the requester. The director's response must state whether or not the Presidential records requested are to be released and the basis for this determination. The director's decision to withhold release of Presidential records is final and not subject to judicial review.

Dated: March 25, 2005.

**Allen Weinstein,**

*Archivist of the United States.*

[FR Doc. 05-6410 Filed 3-31-05; 8:45 am]

BILLING CODE 7515-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2005-PA-0006; FRL-7893-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Individual Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC). These sources are located in Pennsylvania. EPA is

approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on May 31, 2005 without further notice, unless EPA receives adverse written comment by May 2, 2005. 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:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-PA-0006 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *Agency Web site:* <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail:* [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

D. *Mail:* R03-OAR-2005-PA-0006, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. R03-OAR-2005-PA-0006. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be

automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:**

LaKeshia Robertson, (215) 814-2113, or by e-mail at [robertson.lakeshia@epa.gov](mailto:robertson.lakeshia@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO<sub>x</sub> sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document

issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources.

The Pennsylvania SIP already has approved RACT regulations and requirements for all sources and source categories covered by the CTGs. The Pennsylvania SIP also has approved regulations to require major sources of NO<sub>x</sub> and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. These regulations are commonly termed the "generic RACT regulations". A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead establishes procedures for imposing case-by-case RACT determinations. The Commonwealth's SIP-approved generic RACT regulations consist of the procedures PADEP uses to establish and impose RACT for subject sources of VOC and NO<sub>x</sub>. Pursuant to the SIP-approved generic RACT rules, PADEP imposes RACT on each subject source in an enforceable document, usually a Plan Approval (PA) or Operating Permit (OP). The Commonwealth then submits these PAs and OPs to EPA for approval as source-specific SIP revisions.

On August 30, 2004, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for three sources of VOC. The Commonwealth's submittals consist of PAs and OPs which impose VOC RACT requirements for each source.

**II. Summary of the SIP Revisions**

Copies of the actual PAs and OPs imposing RACT and PADEP's evaluation memoranda are included in the electronic and hard copy docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. The table below identifies the sources and the individual PAs and OPs which are the subject of this rulemaking.

PENNSYLVANIA—VOC AND NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

| Source                    | County        | Plan approval (PA #)<br>operating permit<br>(OP #) | Source type  | "Major<br>source"<br>pollutant |
|---------------------------|---------------|--|--|--------------------------------|
| Salem Tube, Inc .....     | Mercer .....  | OP 43-142 .....                                    | Five Reheat Furnaces and Trichloroethylene Dipping Tank.   | VOC                            |
| SGL Carbon Corporation    | Elk .....     | OP 24-131 .....                                    | Flame Grids, Furnaces, and Special Impregnation (resin).   | VOC                            |
| Dominion Trans, Inc. .... | Clinton ..... | 18-00006 .....                                     | Four Salt Heaters, Natural Gas Boiler, Two Hot Water Heaters, Two Space Heaters, and Three Superior Boilers. | VOC                            |

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

### III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC RACT for three major of sources. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 31, 2005 without further notice unless EPA receives adverse comment by May 2, 2005. 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.

### IV. Statutory and Executive Order Reviews

#### 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. 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.*).

#### 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for three named sources.

*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 May 31, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for three sources in the Commonwealth of Pennsylvania 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 24, 2005.

**Donald S. Welsh,**  
*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 NN—Pennsylvania**

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Salem Tube, Inc., SGL Carbon Corporation, and Dominion Trans, Inc. at the end of the table to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

| Name of source               | Permit No.    | County        | State effective date   | EPA approval date                                       | Additional explanation/<br>§ 52.2063 citation |
|------------------------------|---------------|---------------|------------------------|---|---|
| SGL Carbon Corporation ..... | OP 24-131 ..  | Elk .....     | 5/12/95; 5/31/95 ..... | 4/1/05, [Insert page number where the document begins]. | 52.2020(d)(1)(e).                             |
| Salem Tube, Inc. ....        | OP 43-142 ..  | Mercer .....  | 2/16/99 .....          | 4/1/05, [Insert page number where the document begins]. | 52.2020(d)(1)(e).                             |
| Dominion Trans, Inc .....    | 18-0006 ..... | Clinton ..... | 6/15/99; 9/29/03 ..... | 4/1/05, [Insert page number where the document begins]. | 52.2020(d)(1)(e).                             |

\* \* \* \* \*  
[FR Doc. 05-6378 Filed 3-31-05; 8:45 am]  
BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 403, 405, 410, 411, 414, 418, 424, 484, and 486**

[CMS-1429-F2]

RIN 0938-AM90

**Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005: Correcting Amendment**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 15, 2004 entitled "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005."

**DATES:** *Effective Date:* This rule is effective January 1, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Diane Milstead, (410) 786-3355.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In FR Doc. 04-24758 of November 15, 2004 (69 FR 66236), there were a number of technical errors that we are identifying and correcting in the "Correction of Errors" section of this correcting amendment. Additionally, there are various revisions to Addenda B, C and F.

*Discussion of Addenda B, C and F*

In Addenda B and C, we assigned incorrect status indicators to the following CPT and HCPCS codes: Page 66429 for CPT codes 0066T and 0074T, page 66502 for CPT code 36415, page 66504 for CPT code 37195, pages 66682 and 66688 for HCPCS code G0363. We also assigned incorrect global periods for the following CPT and HCPCS codes: Page 66539 for CPT code 54150; pages 66638 and 66687 for CPT codes 91034, 91034-26, 91034-TC, 91035, 91035-26, 91035-TC, 91037, 91037-26, 91037-TC, 91038 91038-26, 91038-TC, 91040, 91040-26, 91040-TC; and pages 66682 and 66688 for G0350, G0354 and G0358. These corrections are reflected in section II.C.1 of this correcting amendment.

The short descriptors for the following HCPCS codes were listed incorrectly on page 66681: G0324, G0325, G0326 and G0327. The corrected descriptors are shown in section II.C.1 of this correcting amendment.

Incorrect practice expense relative value units (RVUs) were shown for the following CPT codes: Pages 66546 and 66685 for CPT code 58356; page 66557 for CPT codes 62367 and 62368; page 66614 for CPT code 77418; pages 66627 and 66686 for CPT codes 78811-26, 78812-26, 78813-26, 78814-26, 78815-26 and 78816-26; page 66629 for CPT code 88125 and 88125-TC; pages 66633 and 66687 for CPT codes 88367, 88367-TC, 88368, 88368-TC and 89220; and page 66666 for CPT code 96567. The corrected RVUS are shown in section II.C.2 of this correcting amendment.

On page 66666, we inadvertently included work and malpractice RVUs for acupuncture services, CPT codes 97810, 97811, 97813 and 97814 and there services are not covered by Medicare. We typically do not publish RVUs for services that Medicare does not cover. Instead, we list these services with "0.00's" in the RVU columns. This correction is reflected in section II.C.2 of this correcting amendment.

The following HCPCS codes were discussed on page 66308 of the rule but were inadvertently omitted from page