

(JBAB); Bldg. 410/Door 123; 250 Murray Lane SW, Washington, DC 20509.

(c) *Who will decide your appeal?* (1) The Director or designee will act on all appeals under this section.

(2) We ordinarily will not adjudicate an appeal if the request becomes a matter of litigation.

(3) On receipt of any appeal involving classified information, the Director or designee must take appropriate action to ensure compliance with applicable classification rules.

(d) *When will we respond to your appeal?* The Director or designee will notify you of its appeal decision in writing within 30 days from the date it receives an appeal that meets the requirements of paragraph (b) of this section. We may extend the response time in unusual circumstances, such as the need to consult with another agency about a record or to retrieve a record shipped offsite for storage.

(e) *What will our response include?* The written response will include the Director or designee's determination whether to grant or deny your appeal in whole or in part, a brief explanation of the reasons for the determination, and information about the Privacy Act provisions for court review of the determination.

(1) *Appeals concerning access to records.* If your appeal concerns a request for access to records and the appeal is granted in whole or in part, we will make the records, if any, available to you.

(2) *Appeals concerning amendments.* If your appeal concerns amendment of a record, the response will describe any amendment made and advise you of your right to obtain a copy of the amended record. We will notify all persons, organizations or Federal agencies to which we previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended. Whenever the record is subsequently disclosed, the record will be disclosed as amended. If our response denies your request for an amendment to a record, we will advise you of your right to file a statement of disagreement under paragraph (f) of this section.

(f) *Statements of disagreement*—(1) *What is a statement of disagreement?* A statement of disagreement is a concise written statement in which you clearly identify each part of any record that you dispute and explain your reason(s) for disagreeing with our denial in whole or in part of your appeal requesting amendment.

(2) *How do I file a statement of disagreement?* You should mark both your letter and the envelope, or the

subject of your email, "Privacy Act Statement of Disagreement." To avoid mail delivery delays caused by heightened security, we strongly suggest that you email a statement of disagreement to foia@ondcp.eop.gov. Our mailing address is: SSDMD/RDS; ONDCP Office of General Counsel; Joint Base Anacostia-Bolling (JBAB); Bldg. 410/Door 123; 250 Murray Lane SW, Washington, DC 20509.

(3) *What will we do with your statement of disagreement?* We shall clearly note any portion of the record that is disputed and provide copies of the statement and, if we deem appropriate, copies of our statement that denied your request for an appeal for amendment, to persons or other agencies to whom the disputed record has been disclosed.

(g) *When appeal is required.* Under this section, you generally first must submit a timely administrative appeal, before seeking review of an adverse determination or denial request by a court.

§ 1401.24 What does it cost to get records under the Privacy Act?

(a) *Agreement to pay fees.* Your request is an agreement to pay fees. We consider your Privacy Act request as your agreement to pay all applicable fees unless you specify a limit on the amount of fees you agree to pay. We will not exceed the specified limit without your written agreement.

(b) *How do we calculate fees?* We will charge a fee for duplication of a record under the Privacy Act in the same way we charge for duplication of records under the FOIA in § 1401.11(c). There are no fees to search for or review records requested under the Privacy Act.

Michael J. Passante,
Acting General Counsel.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 63

**[201A2100DD/AAKC001030/
A0A501010.999900 253G]**

RIN 1076-AF53

Indian Child Protection and Family Violence Prevention; Minimum Standards of Character

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; confirmation.

SUMMARY: The Bureau of Indian Affairs (BIA) is confirming the interim final rule published on June 23, 2020, updating the minimum standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes or acted in a manner that placed others at risk, in accordance with the Indian Child Protection and Family Violence Prevention Act, as amended.

DATES: This final rule is effective on October 16, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, (202) 273-4680; elizabeth.appel@bia.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Rule

The Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. 3201 *et seq.*, requires the Secretary of the Interior to prescribe minimum standards of character for positions that involve duties and responsibilities involving regular contact with, or control over, Indian children. The Department of the Interior (Interior) prescribed the minimum standards of character in its regulations at 25 CFR 63.12 and 63.19. As a result, no applicant, volunteer, or employee of Interior may be placed in a position with regular contact with or control over Indian children if that person has been found guilty of, or entered a plea of *nolo contendere* or guilty to, certain offenses. Before 2000, the offenses listed in the regulation matched the offenses listed in the Act: Any offense under Federal, State, or Tribal law involving crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution, or crimes against persons.

In 2000, Congress updated the Act to clarify which types of offenses are disqualifying. *See* Public Law 106-568, revising 25 U.S.C. 3207(b). Specifically, the 2000 Act updated "any offense" with "any felonious offense, or any of two or more misdemeanor offenses," and added "offenses committed against children." This interim final rule would update Interior's regulations, at sections 63.12 and 63.19, to reflect the updated language of the Act and add a definition to define the phrase "offenses committed against children." The definition is the same as the Indian Health Service (IHS) definition of "offenses committed against children" in the regulations establishing minimum standards of character under the Indian Child Protection and Family Violence

Prevention Act for those working in the IHS. See 42 CFR 136.403. Using the same definition provides consistency in these standards across Federal agencies.

This rule also includes an explanation of whether a conviction, or plea of *nolo contendere* or guilty, should be considered if there has been a pardon, expungement, set aside, or other court order of the conviction or plea. As the IHS regulation provides, this rule provides that all convictions or pleas of *nolo contendere* or guilty should be considered in making a determination unless a pardon, expungement, set aside or other court order reaches the plea of guilty, plea of *nolo contendere*, or the finding of guilt. See 42 CFR 136.407. Including this contingency also provides consistency in the standards across Federal agencies.

With this regulatory update, the list of offenses includes any felonious offense or any two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution, or crimes against persons, or any offenses committed against children. Practically, what this rule means is that an individual with a single misdemeanor offense involving certain crimes is no longer prohibited from holding positions for which that individual is otherwise qualified. This rule remedies an overly broad prohibition, as determined by Congress in the 2000 amendments. This rule also means that an individual with offenses against children would be prohibited from holding positions involving regular contact with, or control over, Indian children, regardless of that individual's qualifications.

II. Interim Final Rule and Comments

BIA published an interim final rule on June 23, 2020. 85 FR 37562. BIA received one written comment submission on the interim final rule. That comment was from a Tribe and expressed strong support for the rule and stated that it will have a significant beneficial impact. BIA will also consider the Tribe's recommendation for additional future revisions or guidance to provide Tribes with greater discretion in hiring decisions and enhance Tribal sovereignty.

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules.

The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order also directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. BIA developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive

Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. This rule was evaluated under the Interior's consultation policy pursuant to the criteria in Executive Order 13175. The Interior has determined this regulation does not require consultation because it is merely updating discrete provisions of the regulation to match controlling statutory law.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. BIA may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature (for further information, see 43 CFR 46.210(i)). BIA

has also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 25 CFR Part 63

Child welfare, Domestic violence, Employment, Grant programs-Indians, Grant programs-social programs, Indians.

■ The interim final rule amending 25 CFR part 63 which was published at 85 FR 37562 on June 23, 2020, is adopted as final without change.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–21535 Filed 10–15–20; 8:45 am]

BILLING CODE 4337–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0686; FRL–10014–39–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for individual major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this action, EPA is only approving source-specific (also referred to as "case-by-case") RACT determinations for 19 major sources. These RACT evaluations were submitted to meet RACT requirements

for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA) and EPA's implementing regulations.

DATES: This final rule is effective on November 16, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0686. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Bertram, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5273. Ms. Bertram can also be reached via electronic mail at bertram.emily@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 20, 2020, EPA published a notice of proposed rulemaking (NPRM). 85 FR 16021. In the NPRM, EPA proposed approval of case-by-case RACT determinations for 19 sources in Pennsylvania for the 1997 and 2008 8-hour ozone NAAQS. The case-by-case RACT determinations for these 19 sources were included in SIP revisions submitted by PADEP on August 14, 2017, November 21, 2017, April 26, 2018, June 26, 2018, and October 29, 2018.

Under certain circumstances, states are required to submit SIP revisions to address RACT requirements for major sources of NO_x and VOC or any source category for which EPA has promulgated control technique guidelines (CTG) for each ozone NAAQS. Which NO_x and VOC sources in Pennsylvania are considered "major," and therefore to be addressed for RACT revisions, is dependent on the location of each source within the Commonwealth. Sources located in

nonattainment areas would be subject to the "major source" definitions established under the CAA based on their classification. In the case of Pennsylvania, sources located in any areas outside of moderate or above nonattainment areas, as part of the Ozone Transport Region (OTR), are subject to source thresholds of 50 tons per year (tpy). CAA section 184(b).

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO_x RACT requirements for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, Additional RACT Requirements for Major Sources of NO_x and VOCs (the "presumptive" RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_x and VOC control measures in 25 Pa. Code 129.92–95, Stationary Sources of NO_x and VOCs, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_x sources. The requirements of the RACT I rule remain approved into Pennsylvania's SIP and sources are obligated to follow them.¹ On September 26, 2017, PADEP submitted a supplemental SIP, dated September 22, 2017, which committed to address various deficiencies identified by EPA in their May 16, 2016 "presumptive" RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on the commitments PADEP made in its September 22, 2017 supplemental SIP. 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval, specifically May 9, 2020. The SIP revisions addressed in this rule are part of PADEP's efforts to meet the conditions of its supplemental SIP and EPA's conditional approval of the RACT II Rule.

¹ The RACT I Rule was approved by EPA into the Pennsylvania SIP on March 23, 1998. 63 FR 13789.