

**§ 585.2 Who may appeal?**

(a) Appeals of notices of violation, proposed civil fine assessments, orders of temporary closure, proposals to remove certificates of self-regulation, and late fee notifications and assessments may only be brought by the tribe or the recipient that is the subject of the action.

(b) Appeals of the Chair's decision to void or modify a management contract after approval may only be brought by a party to the management contract.

**§ 585.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self regulation, and notices of late fees and late fee assessments?**

Within 30 days after the Chair serves his or her action or decision, or the Commission serves notice of its intent to remove a certificate of self-regulation, the appellant must file a notice of appeal with the Commission. The notice of appeal must reference the action or decision from which the appeal is taken and shall include a written waiver of the right to an oral hearing before a presiding official and an election to have the matter determined by the Commission solely on the basis of written submissions. Unless the Commission has extended the time for filing an appeal brief pursuant to § 580.4(f) of this subchapter, the appeal brief must be filed within 30 days of service of the record pursuant to § 585.6. The appeal brief shall state succinctly the relief sought and the supporting ground(s) therefor, and may include supporting documentation.

**§ 585.4 Are motions permitted?**

(a) Motions for extension of time under § 580.4(f) of this subchapter, motions to supplement the record under § 581.5 of this subchapter, motions to intervene under § 585.5, and motions for reconsideration under § 581.6 of this subchapter, are permitted. All other motions may be considered at the discretion of the Commission.

(b) The Chair shall not, either individually or through counsel, file or respond to motions.

**§ 585.5 How do I file a motion to intervene?**

(a) An entity or individual, whether acting on his or her own behalf or as an agent of another entity, not permitted to appeal, may be permitted to participate as a party to a pending appeal if the Commission finds that:

(1) The final decision could directly and adversely affect it or the class it represents;

(2) The individual or entity may contribute materially to the disposition of the proceedings;

(3) The individual's or entity's interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) A tribe with jurisdiction over the lands on which there is a gaming operation that is the subject of a proceeding under this part may intervene as a matter of right if the tribe is not already a party.

(c) A motion to intervene shall be submitted to the Commission within 10 days of the notice of appeal. The motion shall be filed with the Commission and served on each person who has been made a party at the time of filing. The motion shall succinctly state:

(1) The moving party's interest in the proceeding;

(2) How his or her participation as a party will contribute materially to the disposition of the proceeding;

(3) Who will appear for the moving party;

(4) The issues on which the moving party seeks to participate; and

(5) Whether the moving party seeks to present witness affidavits.

(d) Objections to the motion must be filed by any party within 10 days after service of the motion.

(e) A reply brief to the brief in opposition may be filed within 5 days of service of the brief in opposition.

(f) When motions to intervene are made by individuals or groups with common interests, the Commission may request all such movants to designate a single representative, or the Commission may recognize one or more movants.

(g) The Commission shall give each movant and party written notice of the decision on the motion. For each motion granted, the Commission shall provide a brief statement of the reason(s) for the decision. If the motion is denied, the Commission shall briefly state the ground(s) for denial. The Commission may allow the movant to participate as *amicus curiae*, if appropriate.

**§ 585.6 When will I receive a copy of the record on which the Chair relied?**

Within 10 days of the filing of a notice of appeal, or as soon thereafter as practicable, the record will be transmitted to the appellant.

**§ 585.7 When will the Commission issue its decision?**

(a) The Commission shall issue its decision within 90 days: After it receives the appeal brief; or its ruling on a request for intervention, if applicable; or after the conclusion of briefing by the parties, whichever comes later, unless the subject of the appeal is whether to dissolve or make permanent a temporary closure order issued under § 573.4 of this chapter, in which case, the Commission shall issue its decision within 30 days of conclusion of briefing by the parties.

(b) The Commission shall serve the final decision upon the appellants.

Dated: September 18, 2012, Washington, DC.

**Tracie L. Stevens,**  
*Chairwoman.*

**Steffani A. Cochran,**  
*Vice-Chairwoman.*

**Daniel J. Little,**  
*Commissioner.*

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**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 17****RIN 2900-AO26****Exempting In-Home Video Telehealth From Copayments**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Department of Veterans Affairs (VA) published a direct final rule amending its regulation that governs VA services that are not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the regulation exempted in-home video telehealth care from having any required copayment. VA received no significant adverse comments concerning this rule or its companion substantially identical proposed rule published on the same date. This document confirms that the direct final rule became effective on May 7, 2012. In a companion document in this issue of the **Federal Register**, we are withdrawing as unnecessary the proposed rule.

**DATES:** *Effective Date:* This final rule is effective May 7, 2012.

**FOR FURTHER INFORMATION CONTACT:** Kristin J. Cunningham, Director Business Policy, Chief Business Office, Department of Veterans Affairs, 810

Vermont Ave. NW., Washington, DC 20420; (202) 461-1599. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In a direct final rule published in the **Federal Register** on March 6, 2012, 77 FR 13195, VA amended 38 CFR 17.108 to eliminate copayments for in-home video telehealth. VA published a companion substantially identical proposed rule at 77 FR 13236 on the same date to serve as a proposal for the provisions in the direct final rule in case adverse comments were received. The direct final rule and proposed rule each provided a 30-day comment period that ended on April 5, 2012. No adverse comments were received. Two comments that supported the rulemaking were received from members of the general public.

Under the direct final rule procedures that were described in 77 FR 13195 and 77 FR 13236, the direct final rule became effective on May 7, 2012, because no significant adverse comments were received within the comment period. In a companion document in this issue of the **Federal Register**, VA is withdrawing the proposed rulemaking, RIN 2900-AO27, published at 77 FR 13236, as unnecessary.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 18, 2012, for publication.

Dated: September 19, 2012.

**Robert C. McFetridge,**

*Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-0847; FRL-9731-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control Technique Guidelines for Plastic Parts, Metal Furniture, Large Appliances, and Miscellaneous Metal Parts

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to the Delaware State Implementation Plan (SIP) submitted by the State of Delaware through the Delaware Department of Natural Resources and Environmental Control (DNREC). The revisions amend Delaware's regulation for the Control of Volatile Organic Compounds (VOC) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: Plastic Parts, Metal Furniture, Large Appliances, and Miscellaneous Metal Parts. EPA is approving this SIP revision to meet the requirements to implement reasonably available control technology (RACT) controls on emission sources covered by EPA's CTGs in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on October 25, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0847. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection 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 Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by email at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

On July 13, 2012 (77 FR 41337), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that amends Regulation No. 1124, Control of Volatile Organic Compounds, sections 2.0 "Definitions," 12.0 "Surface Coating of Plastic Parts," 19.0 "Coating of Metal Furniture," 20.0 "Coating of Large Appliances," and 22.0 "Coating of Miscellaneous Metal Parts," to incorporate the requirements of EPA's CTGs. CTGs are documents issued by EPA that provide guidance to states concerning what types of controls could constitute RACT for VOC from various sources, including the coating of plastic parts, metal furniture, large appliances, and miscellaneous metal parts. EPA requires all ozone nonattainment areas to update regulations for emission sources covered in an EPA CTG and to submit the regulations to EPA for approval as SIP revisions. These amendments will reduce the VOC content of currently regulated coatings, regulate additional coating categories, require the use of coating application equipment that provides for high transfer efficiency, and require that clean-up solvent emissions be included in regulatory applicability determinations. EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on April 1, 2010 and March 9, 2012.

### II. Summary of SIP Revision

The SIP revision consists of the following revisions to Delaware's Regulation No. 1124: (1) Amendments to section 2.0—Definitions, which adds definitions; (2) amendments to section 12.0—Surface Coating of Plastic Parts, which establishes applicability for every owner or operator of any plastic parts or products coating units, adds, revises, and deletes definitions, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (3) amendments to section 19.0—Coating of Metal Furniture, which establishes applicability to every owner or operator of any metal furniture coating unit, revises a definition, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (4) amendments to section 20.0—Coating of Large Appliances, which establishes