

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule merely extends the current regulatory schedule for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 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. section 804(2). This rule will become effective on December 1, 2008.

List of Subjects in 40 CFR Part 3

Environmental protection, Conflict of interests, Electronic records, Electronic reporting requirements, Electronic reports, Intergovernmental relations.

Dated: October 10, 2008.

Stephen L. Johnson,
Administrator.

■ Therefore, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 3—ELECTRONIC REPORTING

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

Authority: 7 U.S.C. 136 to 136y; 15 U.S.C. 2601 to 2692; 33 U.S.C. 1251 to 1387; 33 U.S.C. 1401 to 1445; 33 U.S.C. 2701 to 2761; 42 U.S.C. 300f to 300j-26; 42 U.S.C. 4852d; 42 U.S.C. 6901-6992k; 42 U.S.C. 7401 to 7671q; 42 U.S.C. 9601 to 9675; 42 U.S.C. 11001 to 11050; 15 U.S.C. 7001; 44 U.S.C. 3504 to 3506.

Subpart D—Electronic Reporting Under EPA-Authorized State, Tribe, and Local Programs

■ 2. Section 3.1000 is amended by revising paragraph (a)(3) to read as follows:

§ 3.1000 How does a state, tribe, or local government revise or modify its authorized program to allow electronic reporting?

(a) * * *

(3) *Programs already receiving electronic documents under an authorized program:* A state, tribe, or local government with an existing electronic document receiving system for an authorized program must submit an application to revise or modify such authorized program in compliance with paragraph (a)(1) of this section no later than January 13, 2010. On a case-by-case basis, this deadline may be extended by the Administrator, upon request of the state, tribe, or local government, where the Administrator determines that the state, tribe, or local government needs additional time to make legislative or regulatory changes in order to meet the requirements of this part.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R10-OAR-2008-0498; FRL-8729-3]

Announcement of the Delegation of Partial Administrative Authority for Implementation Plan for the Coeur d'Alene Reservation to the Coeur d'Alene Tribe

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This action announces that on August 26, 2008, EPA Region 10, and the Coeur d'Alene Tribe, entered into a Partial Delegation of Administrative

Authority to carry out certain day-to-day activities associated with implementation of the Federal Implementation Plan for the Coeur d'Alene Reservation (Coeur d'Alene FIP). A note of this partial delegation is being added to the Coeur d'Alene FIP.

DATES: This rule is effective October 17, 2008. The partial delegation of administrative authority was effective August 26, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2008-0130. The delegation agreement and other docket materials are available electronically at EPA's electronic public docket and comment system, found at <http://www.regulations.gov> or in hard copy from Steve Body, Office of Air Waste and Toxics, AWT-107, EPA Region 10, Suite 900, 1200 Sixth Avenue, Seattle, WA 98101, or via e-mail at body.steve@epa.gov. Additional information may also be obtained from the Coeur d'Alene Tribe by contacting Les Higgins, Coeur d'Alene Tribe, P.O. Box 408, Plummer, Idaho, 83851-9703 or via e-mail at lhiggins@cdatribe-nsn.gov.

All documents in the electronic docket are listed in the <http://www.regulations.gov> index. 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 <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT:

Steve Body at telephone number (206) 553-0782, e-mail address: body.steve@epa.gov, or the EPA Region 10 address.

SUPPLEMENTARY INFORMATION: The purpose of this action is to announce that on August 26, 2008, EPA Region 10, delegated partial administrative authority for implementation of certain provisions of the Coeur d'Alene FIP to the Coeur d'Alene Tribe. See 40 CFR part 49, subpart M, §§ 9921 through 9930, as authorized by 40 CFR 49.122 of the Federal Air Rules for Reservations (FARR), 40 CFR part 49, subpart C.

I. Authority To Delegate

Federal regulation 40 CFR 49.122 provides EPA authority to delegate to

Indian Tribes partial administrative authority to implement provisions of the Federal Air Rules for Reservations (FARR), 40 CFR part 49, subpart C. Tribes must submit a request to the Regional Administrator that meets the requirements of 40 CFR 49.122.

II. Request for Delegation

On October 4, 2007, Chief J. Allen, Chairman of the Coeur d'Alene Tribal Council submitted to the Regional Administrator a request for delegation of certain provision of the Coeur d'Alene FIP. That request included all the information and demonstrations required by the FARR for delegation. A copy of all documentation is on file at EPA Region 10, Seattle, Washington (see ADDRESSES above).

The Coeur d'Alene Tribe requested delegation for the following provisions; 40 CFR 49.9930 (b) Rule for limiting visible emissions, 40 CFR 49.9930 (g) General rule for open burning, and 40 CFR 49.9930 (i) Rule for air pollution episodes.

III. EPA Response to the Request for Delegation

EPA and the Coeur d'Alene Tribe signed the Delegation Agreement that specifies the provisions and authorities delegated. The Coeur d'Alene Tribe is delegated the following provisions: 40 CFR 49.9930 (b) Rule for limiting visible emissions, 40 CFR 49.9930 (g) General rule for open burning, and 40 CFR 49.9930 (i) Rule for air pollution episodes. In addition, the agreement delegates to the Tribe authority to investigate complaints and assist EPA in inspections. The Agreement also includes terms and conditions applicable to the delegation. A copy of the Agreement is kept at EPA Region 10 at the address above.

EPA solicited by letter, advice and insight from the State of Idaho, the State of Washington, Kootenai County, Benewah County, cities of St. Maries and Worley, and St. Joe National Forest on the Coeur d'Alene Tribe's request for delegation. In general the comments received supported delegation. Adverse comments were received from Kootenai and Benewah Counties. A response to those comments was prepared and is included in the docket for this action.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553 (b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause

for making today's rule final without prior proposal and opportunity for comment because EPA is merely informing the public of partial delegation of administrative authority to the Coeur d'Alene Tribe and making a technical amendment to the Code of Federal Regulations (CFR) by adding a note announcing the partial delegation. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

Moreover, since today's action does not create any new regulatory requirements, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3).

IV. 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 makes a technical amendment and gives notice of a partial delegation of administrative authority. 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.*). This rule 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).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless

the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the regulation. EPA has concluded that this rule may have tribal implications. EPA's action fulfills a requirement to publish a notice announcing partial delegation of administrative authority to the Coeur d'Alene Tribe and noting the partial delegation in the CFR. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule.

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 technical amendment merely notes that partial delegation of administrative authority to the Coeur d'Alene Tribe is in effect. 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.

This action does not involve technical standards; 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 December 16, 2008. 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 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 22, 2008.

Michelle Pirzadeh,

Acting Regional Administrator, Region 10.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 49—[AMENDED]

■ 1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart M—[Amended]

■ 2. Section 49.9930 is amended by adding a note to the end of the section to read as follows:

§ 49.9930 Federally-promulgated regulations and Federal implementation plans.

* * * * *

Note to § 49.9930: EPA entered into a Partial Delegation of Administrative Authority with the Coeur d'Alene Tribe on August 26, 2008 for the rules listed in paragraphs (b), (g), and (i) of this section.

[FR Doc. E8-24428 Filed 10-16-08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98-120; FCC 08-193]

Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission addresses the obligations of small cable systems, and grants them an exemption from the material degradation requirement to carry high definition broadcast signals under the Commission's rules. The Commission holds that cable systems that either have 2,500 or fewer subscribers and are not affiliated with a large cable operator, or have an activated channel capacity of 552 MHz or less, are exempt from the requirement to carry high definition versions of broadcast signals. This exemption will sunset three years after the conclusion of the digital television (DTV) Transition. The Commission notes that the signals of all must-carry stations must continue to be made viewable to all subscribers pursuant to the Commission's rules.

DATES: Effective November 17, 2008.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, please contact *Lyle Elder*, *Lyle.Elder@fcc.gov* of the Policy Division, Media Bureau, (202) 418-2120, or *Eloise Gore*, *Eloise.Gore@fcc.gov*, of the Media Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Fourth Report and Order in CS Docket No. 98-120, FCC 08-193, adopted August 20, 2008, and released September 4, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail

to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Summary of the Final Rule

I. Introduction

1. In the *Third Report and Order*, 73 FR 6043, February 1, 2008, and *Third Further Notice of Proposed Rulemaking*, 73 FR 6099, February 1, 2008, we established rules governing the viewability of broadcast signals, retained and reaffirmed the standard governing material degradation of broadcast signals, and sought comment on the effect of these rules on small cable systems, and other issues. In this *Fourth Report and Order*, we address the obligations of small cable systems, and grant them an exemption from the material degradation requirement to carry high definition (HD) broadcast signals under the Commission's rules, as discussed below.

2. We hold that cable systems that either have 2,500 or fewer subscribers and are not affiliated with a large cable operator, or have an activated channel capacity of 552 MHz or less, are exempt from the requirement to carry high definition versions of broadcast signals for three years following the digital television (DTV) Transition. We emphasize, however, that no exemption from the viewability requirements is necessary; nor, indeed, would it be appropriate. The mandatory carriage rules serve their purpose only when must-carry stations are viewable by all cable subscribers. We therefore remind cable operators that the signals of all must-carry stations must be made viewable to all subscribers pursuant to the Commission's rules, and acknowledge the continued pledges of cable industry commenters, including the operators of small systems, to ensure viewability.

II. Discussion

3. The Communications Act of 1934, as amended (the "Act"), at section 614(b)(4)(A), requires that cable operators carry broadcast signals "without material degradation," and, in particular, instructs the Commission to "adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal." In 2001, the *First Report and Order*, 66 FR 16533, March 26, 2001, in this docket