

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.368-2 is amended by adding paragraph (l)(2)(iv) to read as follows:

§ 1.368-2 Definition of terms.

* * * * *

[The text of this proposed amendment to § 1.368-2(l)(2)(iv) is the same as the text of § 1.368-2T(l)(2)(iv) published elsewhere in this issue of the **Federal Register**].

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7-3533 Filed 2-28-07; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[EPA-HQ-OAR-2003-0090; FRL-8282-8]

RIN 2060-AO05

Final Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to extend the deferred effective date of the air quality designation for the Denver Early Action Compact (EAC) from July 1, 2007 to April 15, 2008. Early Action Compact areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) requires. On November 29, 2006, EPA extended the deferred effective date for the Denver EAC area from December 31, 2006, to July 1, 2007. In the same rulemaking, EPA also extended the deferred effective date for 13 other EAC areas from December 31, 2006 to April 15, 2008. In the November 29, 2006, final rulemaking, EPA noted that there were issues with Denver's EAC that

would need to be addressed before EPA would extend their deferral until April 15, 2008.

DATES: Comments must be received on or before April 2, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0090, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* A-and-R-Docket@epa.gov.
- *Fax:* (202) 566-1741.
- *Mail:* Docket EPA-HQ-OAR-2003-0090, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, Northwest, Washington, DC 20460. Please include two copies.
- *Hand Delivery:* Deliver your comments to: Air Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2003-0090. 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 Docket ID No. EPA-HQ-OAR-2003-0090. The 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is 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 <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 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. For further information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Driscoll, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-04, Research Triangle Park, NC 27711, phone number (919) 541-1051 or by e-mail at: driscoll.barbara@epa.gov or Mr. David Cole, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304-05, Research Triangle Park, NC 27711, phone number (919) 541-5565 or by e-mail at: cole.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies only to the Denver Early Action Compact (EAC) area.

B. What Should I Consider as I Prepare My Comment for EPA?

1. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

characters, any form of encryption, and be free of any defects or viruses. For further information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

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contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Also, send an additional copy clearly marked as above not only to the Air docket but to: Roberto Morales, c/o OAQPS Document Control Officer, (C339-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2004-0014.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. How Is This Notice Organized?

The information presented in this preamble is organized as follows:

Outline

- I. General Information
 - A. Does This Action Apply to Me?
 - B. What Should I Consider as I Prepare My Comments for EPA?
 - C. How Is This Notice Organized?
- II. What Is the Purpose of This Document?
- III. What Action Has EPA Taken to Date for Early Action Compact Areas?
- IV. What Progress Has the Denver Early Action Compact Area Made?
- V. What Is This Proposed Action for the Denver Early Action Compact Area?
- VI. What Is EPA's Schedule for Taking Further Action for Early Action Compact Areas and Specifically for the Denver Early Action Compact Area?
- VII. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act

- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

II. What Is the Purpose of This Document?

The purpose of this document is to propose extending the deferred effective date of the 8-hour ozone nonattainment designation for the Denver EAC area from July 1, 2007 to April 15, 2008.

III. What Action Has EPA Taken to Date for Early Action Compact Areas?

This section discusses EPA's actions to date with respect to deferring the effective date of nonattainment designations for certain areas of the country that are participating in the EAC program. The EPA's April 30, 2004 air quality designation rule (69 FR 23858) provides a description of the compact approach, the requirements for areas participating in the program and the impacts of the program on those areas.

On December 31, 2002, we entered into compacts with 33 communities. To receive the first deferral, these EAC areas agreed to reduce ground-level ozone pollution earlier than the CAA would require. The EPA agreed to provide an initial deferral of the nonattainment designations for those EAC areas that did not meet the 8-hour ozone National Ambient Air Quality Standards (NAAQS) as of April 30, 2004, and to provide subsequent deferrals contingent on performance vis-à-vis certain milestones. On December 16, 2003 (68 FR 70108), we published our proposed rule to defer until September 30, 2005, the effective date of designation for EAC areas that did not meet the 8-hour ozone NAAQS. Fourteen of the 33 compact areas did not meet the 8-hour ozone NAAQS.

Our final designation rule published April 30, 2004 (69 FR 23858), as amended June 18, 2004 (69 FR 34080), included the following actions for compact areas: deferred the effective date of nonattainment designation for 14 compact areas until September 30, 2005; detailed the progress compact areas had made toward completing their milestones; described the actions/

milestones required for compact areas in order to remain eligible for a deferred effective date for a nonattainment designation; detailed EPA's schedule for taking further action to determine whether to further defer the effective date of nonattainment designations; and described the consequences for compact areas that do not meet a milestone.

In the April 2004 action, we also discussed three compact areas which did not meet the March 31, 2004 milestone; Knoxville, Memphis, and Chattanooga, Tennessee. Knoxville and Memphis were designated nonattainment effective June 15, 2004. Chattanooga was later determined to have met the March 31, 2004 milestone, and we deferred the designation date until September 30, 2005 (69 FR 34080). This brought the number of participating compact areas to 31. Since then, two additional areas, Haywood and Putnam Counties, Tennessee have withdrawn from the program leaving the participating number of compact areas at 29.

On August 29, 2005, we published a final rule extending the deferred effective date of designation from September 30, 2005, to December 31, 2006, for the same 14 compact areas. In order to receive this second deferral, EAC areas needed to submit a State Implementation Plan with locally adopted measures and a modeled attainment demonstration by December 31, 2004. The EPA approved the State Implementation Plan (SIP) revisions as meeting the EAC Protocol and EPA's EAC regulations at 40 CFR 81.300, and these approvals were the basis for extending the deferred effective date until December 31, 2006. Information on local measures, SIP submittals and background on the EAC program may be found on EPA's Web site at <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

On November 29, 2006, we published a final rule extending the deferred effective date of designation for 13 EAC areas from December 31, 2006 to April 15, 2008, and for the Denver EAC area until July 1, 2007. All compact areas were required to submit two progress reports, one by December 30, 2005, and the other by June 30, 2006. In these progress reports, the States provided information on progress towards implementing local control measures that were incorporated in their SIPs. Each of the EAC areas submitted the required progress reports and these reports are available at <http://www.epa.gov/ttn/naaqs/ozone/eac/>. Issues were noted by the State of Colorado with the Denver EAC area regarding emissions from oil and gas exploration and production condensate

tanks. In a report and action plan submitted by the State of Colorado to EPA, dated June 2, 2006, the State provided information that indicated volatile organic compound (VOC) emissions from oil and gas operations within the Denver EAC area were higher than had been estimated in the attainment demonstration modeling. In response to this issue, the State of Colorado initiated public rulemaking activities to amend Colorado's Regulation No. 7 to require additional emissions reductions from oil and gas exploration and production condensate tanks to achieve the level of reductions relied on in the EPA-approved modeled attainment demonstration. However, an issue arose because the State's rulemaking efforts before the Colorado Air Quality Commission (AQCC) in the latter part of 2006 would not be completed before EPA needed to publish a final rule for the last deferral of the effective date of the nonattainment designations for all of the EAC areas (see 71 FR 69022, November 29, 2006).

Based on the above information, EPA decided to defer the effective date of the nonattainment designation for the Denver EAC area only until July 1, 2007. This decision was designed to accommodate the necessary State rulemaking activities and to also ensure that continued progress was made on the Regulation No. 7 rulemaking actions as they proceeded before the AQCC and State Legislature. In our November 29, 2006 final rulemaking, we detailed a timeline for subsequent rulemaking action for the Denver EAC area which is discussed below.

IV. What Progress Has the Denver Early Action Compact Area Made?

On December 31, 2006, the State of Colorado submitted their progress report for the Denver EAC area to EPA indicating that progress had been made in several areas. On September 21, 2006 the Colorado Department of Public Health and Environment's (CDPHE) Air Pollution Control Division (APCD) presented proposed revisions to Colorado's Regulation No. 7, before the Colorado AQCC, for a more stringent regulatory scheme to control VOC's from oil and gas exploration and production condensate tanks located in the Denver EAC area. These proposed revisions to Section XII of Regulation No. 7 were amended and adopted by the AQCC on December 17, 2006 along with associated revisions to the EPA-approved Denver EAC Ozone Action Plan. These AQCC rulemaking actions will achieve the required VOC emissions reductions from the oil and

gas exploration and production condensate tanks that are located within the Denver EAC area boundary. In addition, the State continues working with all parties to reduce emissions of ozone and its precursors.

The EPA's proposed deferral of the effective date of the nonattainment designation of the Denver EAC area to April 15, 2008, is based upon the actions of the AQCC on December 17, 2006 to approve revisions to Colorado's Regulation No. 7 and also in consideration of the review of those AQCC-approved revisions, from January 15, 2007 to February 15, 2007, by the Colorado State Legislature. In view of Colorado's Legislative process for reviewing SIP revisions, we note that as of February 15, 2007 the State Legislature did not object or seek further review of the December 17, 2006 actions of the AQCC. Based on the above, we were advised by the State on February 16, 2007, that the December 17, 2006 actions of the AQCC to adopt changes to its Regulation No. 7 are, therefore, directed by State statute to be submitted to EPA for final approval and incorporation into the State Implementation Plan. We also note that before we take final action on the proposed deferral, we will consider any additional actions of the State, as well as comments received.

V. What Is This Proposed Action for the Denver Early Action Compact Area?

The EPA has determined that sufficient progress has been made by the Denver EAC area in order to propose extending the deferral of the nonattainment designation from July 1, 2007, until April 15, 2008. Based on comments received on this proposal and the actions of the State Legislature, EPA will make a determination on finalizing this extension.

VI. What Is EPA's Schedule for Taking Further Action for Early Action Compact Areas and Specifically for the Denver Early Action Compact Area?

All EAC areas have one remaining milestone which is to demonstrate attainment with the 8-hour ozone NAAQS by December 31, 2007. No later than April 15, 2008, we will determine whether the compact areas that received a deferred effective date of April 15, 2008, attained the 8-hour ozone NAAQS by December 31, 2007, and met all compact milestones. If the area did not attain the standard, the nonattainment designation will take effect. If the compact area attained the standard, EPA will designate the area as attainment. Any compact area that did not attain the NAAQS and thus has an effective

nonattainment designation will be subject to the full planning requirements of title I, part D of the CAA, and the area will be required to submit a revised attainment demonstration SIP within 1 year of the effective date of designation. As described above, the Colorado Air Quality Control Commission has undertaken rulemaking to address shortfalls in VOC emissions reductions for the Denver EAC. These rule revisions are designed to achieve greater VOC emission reductions from the oil and gas industry. We note the rule revisions contain a compliance date of May 1, 2007, which is just before the beginning of the Colorado high ozone season.

As noted above, the Colorado Legislature considered these rule revisions from January 15, 2007 to February 15, 2007 and did not object or seek further review of the December 17, 2006 actions of the AQCC to approve these revisions to Colorado's Regulation No. 7. Therefore, pursuant to Colorado State statute and the State Legislative process for considering SIP revisions, as of February 16, 2007 these Regulation No. 7 revisions will be forwarded to the Governor for his submittal to EPA for our approval.

A likely schedule for EPA's subsequent rulemaking action for the deferral of the effective date of the designation of the Denver EAC area to April 15, 2008 is:

- April, 2007; EPA evaluates all public comments.
- May 1, 2007; EPA prepares a final rule and starts its internal concurrence process.
- On or about May 25, 2007; Signature on the final rule by the Administrator.
- June 1, 2007; Publication in the **Federal Register** of the final rule and that rule will have a 30-day effective date.

The above schedule will allow EPA appropriate time to complete a final deferral of the Denver EAC area nonattainment effective date to April 15, 2008, if EPA determines that is the appropriate action to take. As with the other EAC areas with a deferred nonattainment designation, if we extend the deferral of the Denver EAC area's nonattainment designation until April 15, 2008, the area will be designated nonattainment if it doesn't show attainment by December 31, 2007.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993) and is therefore not subject to review under the E.O.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This proposed rule does not require the collection of any information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a

city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Rather, this rule would extend the deferred effective date of the nonattainment designation for the Denver area to implement control measures and achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal

intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. In this proposed rule, EPA is deferring the effective date of nonattainment designations for certain areas that have entered into compacts with us. Thus, this proposed rulemaking is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the E.O. to include regulations that 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.”

This proposed rule does not have federalism implications. It will 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. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This proposed rule would not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, E.O. 13132 does not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 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.” This proposed rule does not have “Tribal implications” as specified in E.O. 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has

implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children From Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation.

This proposed rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under E.O. 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any VCS. The

EPA will encourage States that have compact areas to consider the use of such standards, where appropriate, in the development of their SIPs.

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

Executive Order 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.

The EPA has determined that this proposed 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.

The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C. 7501-7511f; 42 U.S.C. 7601(a)(1).

Dated: February 23, 2007.

Stephen L. Johnson,
Administrator.

[FR Doc. E7-3584 Filed 2-28-07; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 07-29; FCC 07-7]

Implementation of the Cable Television Consumer Protection and Competition Act of 1992 Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission initiates a review to determine whether the prohibition on exclusive programming contracts continues to be necessary to preserve and protect competition and diversity in the distribution of video programming. Previously, the Commission retained for five years, until October 5, 2007, the prohibition on exclusive contracts. The Commission provided that, during the year before the expiration of the current 5-year extension on October 5, 2007, a review would be undertaken to determine whether or not the exclusivity prohibition should sunset. The Commission also seeks comment on whether and how our procedures for resolving program access disputes under Section 628 should be modified.

DATES: Comments for this proceeding are due on or before April 2, 2007; reply comments are due on or before April 16, 2007.

ADDRESSES: You may submit comments, identified by MB Docket No. 07-29, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Karen Kosar, Karen.Kosar@fcc.gov of the Media Bureau, Policy Division, (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM of Proposed Rulemaking*, FCC 07-7, adopted on February 7, 2007, and released on February 20, 2007. 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/