

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add new temporary zone § 165.T11-169 to read as follows:

§ 165.T11-169 Safety zone; Rockets Over the River; Bullhead City, Arizona

(a) *Location.* The limits of the safety zone are as follows: all navigable waters within 1200 feet of the Arizona State Land Base firing site in approximate position 35°09.15' N, 114°34.07' W.

(b) *Enforcement Period.* This section will be enforced from 8:30 p.m. to 10:30 p.m. on July 4, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative*, means any

commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: May 27, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E9-13774 Filed 6-11-09; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72, 73, 74, 77, and 78

[EPA-HQ-OAR-2008-0774; FRL-8917-6]

RIN 2060-AP35

Rulemaking To Reaffirm the Promulgation of Revisions of the Acid Rain Program Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is reaffirming the promulgation of certain revisions of the Acid Rain Program rules. These revisions have been in effect since mid-2006. Most of them are crucial to the ongoing operation of the Acid Rain Program, and the rest of them streamline and clarify requirements of the program, which has achieved significant, cost-effective reductions in sulfur dioxide (SO₂) emissions from utility sources since its commencement in 1995. These rule revisions were finalized in the **Federal Register** notices that also finalized the Clean Air

Interstate Rule (CAIR) and the final Federal Implementation Plans for CAIR (CAIR FIPs). On July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision vacating and remanding CAIR and the CAIR FIPs. On December 23, 2008, in response to petitions for rehearing, the Court modified its July 11, 2008 decision and remanded CAIR and the CAIR FIPs but without a vacatur. These revisions to the Acid Rain Program rules were not addressed by, or involved in any of the issues raised by, any parties in the proceeding or the Court. EPA believes it is reasonable to view these revisions as unaffected by the Court's decision. However, EPA is treating the Court's remand as covering these revisions and, in response to the remand, is finalizing the rule reaffirming—pursuant to its authority under Title IV of the Clean Air Act (CAA) and CAA section 301—the promulgation of these revisions on their merits and in order to remove any uncertainty about their regulatory status. With this action, the existing Acid Rain regulations continue in effect,

and the Acid Rain Program continues to operate, unchanged and uninterrupted.

DATES: The effective date of this action is August 11, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID EPA-HQ-OAR-2008-0774 (which includes by reference the dockets for CAIR and the CAIR FIPs, i.e., Docket ID Nos. EPA-HQ-OAR-2003-0053 and EPA-HQ-OAR-2004-0076). All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. 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 either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket, EPA West Building, Room 3334, 1301

Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, Clean Air Markets Division, U.S. Environmental Protection Agency, Clean Air Markets Division, Mailcode: 6204J, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 343-9151, e-mail at alpern.dwight@epa.gov. Electronic copies of this document can be accessed through the EPA Web site at: <http://epa.gov/airmarkets>.

SUPPLEMENTARY INFORMATION:
Regulated Entities. Entities regulated by this action primarily are fossil fuel-fired boilers, turbines, and combined cycle units that serve generators that produce electricity for sale or cogenerate electricity for sale and steam. Regulated categories and entities include:

Category	NAICS code	Examples of potentially regulated industries
Industry	221112 and others	Electric service providers.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities, of which EPA is now aware, that could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability provisions in §§ 72.6, 72.7, and 72.8 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Administrative Procedures Used in This Action. This notice finalizes the promulgation of certain revisions, of the Acid Rain Program rules, that were previously promulgated and have been in effect since mid-2006 and withdraws the interim final rule (73 FR 75983 and 75959, December 15, 2008) reaffirming the promulgation of these same revisions. On December 15, 2008, EPA published in the **Federal Register** parallel notices of proposed and direct final rules reaffirming the promulgation of the non-CAIR- and non-CAIR-FIP-

related Acid Rain Program rule revisions that were originally finalized in the **Federal Register** notices that also finalized CAIR and CAIR FIPs. 73 FR 75954 and 75983, December 15, 2008. As explained in the proposed and direct final notices, those notices provided interested persons an opportunity for public hearing and comment on the rule revisions until January 29, 2009. EPA explained that, if it received any adverse comment on the direct final notice, that notice would be withdrawn, no further opportunity for public comment would be provided, and a final rule would be issued based on the proposed notice and responding to all comments. The interim final rule would continue in effect until December 15, 2009 unless it was withdrawn on an earlier date by the direct final rule or (if the direct final rule itself was withdrawn) the final rule addressing these rule revisions. Therefore, following the receipt of an adverse comment, EPA withdrew the direct final notice (74 FR 13124, March 26, 2009).

Outline. The following outline is provided to aid in locating information in this preamble.

- I. Acid Rain Rule Revisions Whose Promulgation Is Reaffirmed
- II. 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
- K. Congressional Review Act

I. Acid Rain Rule Revisions Whose Promulgation Is Reaffirmed

The Acid Rain Program rule revisions whose promulgation EPA is reaffirming in this final rule are described in detail in section III of the preamble of the interim final rule (73 FR 75963-66), which also explains the merits of the revisions. The revisions are non-CAIR- and non-CAIR-FIP-related Acid Rain Program rule revisions that were originally finalized in the **Federal**

Register notices that also finalized CAIR and the CAIR FIPs. As explained in the interim final notice, the revisions have been in effect since mid-2006, most of them are crucial to the ongoing operation of the Acid Rain Program, and the rest of them streamline and clarify requirements of the program.

On July 11, 2008 (before promulgation of EPA's interim final and proposed notices), the U.S. Court of Appeals for the District of Columbia Circuit had issued a decision vacating and remanding CAIR and the CAIR FIPs. On December 23, 2008 (after interim final and proposed notices were promulgated but before the end of the comment period on the direct final notice), the Court modified its July 11, 2008 decision in response to petitions for rehearing and remanded CAIR and the CAIR FIPs but without a vacatur. These revisions to the Acid Rain Program rules were not addressed by, or involved in any of the issues raised by, any parties in the proceeding or the Court. EPA believes it is reasonable to view these revisions as unaffected by the Court's decision. However, EPA is treating the Court's remand as covering these revisions and, in response to the remand, is finalizing its reaffirmation—pursuant to its authority under Title IV of the Clean Air Act (CAA) and CAA section 301—of the promulgation of these revisions for the reasons set forth in the interim final rule preamble (73 FR 75963–66) and in order to remove any uncertainty about their regulatory status.¹

EPA received only one comment on these revisions during the comment period for the direct final rule affirming the promulgation of the revisions. The comment, which was submitted on December 15, 2008, objected to finalization of any rules until the new administration could review them. The comment raised no substantive issues concerning any of the revisions at issue here. Having completed the requested review, EPA concludes that the promulgation of these revisions should be reaffirmed on their merits as set forth in the interim final rule (73 FR 75963–66). Further, in light of such final reaffirmation, EPA is withdrawing the

interim final rule as of the effective date of this final rule. With this action, the existing Acid Rain regulations continue in effect, and the Acid Rain Program continues to operate, unchanged and uninterrupted.

II. 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 12866 (58 FR 51735 (October 4, 1993)) and is therefore not subject to review under the Executive Order. In this action, EPA is simply reaffirming the promulgation of Acid Rain Program rule revisions that were previously issued and are currently in effect and have been since mid-2006.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued, does not change the existing requirements in 40 CFR Parts 72, 73, 74, 77, and 78, and thus does not change the existing information collection burden. Moreover, EPA maintains that the effect of these revisions when they were first promulgated was, if anything, to reduce somewhat the information collection burden on regulated sources, *e.g.*, by requiring compliance with the allowance-holding requirement at a source, rather than unit, level (thereby removing the need to transfer allowances among units at the same source) and by making other changes to the rules in place when the rule revisions were originally promulgated (such as removing the requirement for submission of an annual compliance certification report). In addition, the Office of Management and Budget (OMB) previously approved the information collection requirements in the existing rules under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0258. 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 (5 U.S.C. 601, *et seq.*) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that 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 today's rule on small entities, small entity is defined as: (1) A small business as defined by the SBA's 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 rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives “which minimize any significant economic impact of the rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule does not change the existing Acid Rain Program rules and thus the economic impact of those rules on small entities. The rule simply reaffirms the promulgation of existing Acid Rain Program rule revisions that have been in effect since mid-2006. Moreover, the effect of these revisions when they were first promulgated was, if anything, to reduce somewhat the economic impact of the then-existing rules on all regulated sources and thus on small entities that might be, or own, regulated sources. For example, by requiring compliance on a source, rather than a unit, basis, the revisions reduced the potential for excess emissions penalties due to an inadvertent error, *e.g.*, in the owner's distribution of allowances among the units at a source that would cause one unit to have more than enough allowances to cover emissions and another unit to not have enough allowances to cover emission. As a further example, the revisions removed some requirements (*e.g.*, the required submission of an annual compliance certification report) and thereby removed some costs of compliance for all regulated sources.

¹ As noted above, the Court's disposition of CAIR and the CAIR FIPs changed—from remand with vacatur to remand without vacatur—after EPA proposed and explained the reaffirmation in the interim final and proposed notices but before the end of the comment period on the direct final notice. Moreover, the final reaffirmation in this action still is in response to a remand and based on the revisions' merits set forth in the interim final rule. EPA therefore maintains that, despite the Court's modification of its decision, the public has had a full opportunity to comment on the reaffirmation.

We received no comment on any potential impacts of the rule on small entities or on any issues related to such impacts.

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 one 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.

This rule does not change the existing Acid Rain Program rules and therefore does not result in any additional expenditures to State, local, and tribal governments or to the private sector. The rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, the effect of these revisions when they were first promulgated was, if anything, to reduce somewhat the expenditures of State, local, and tribal governments and the private sector under the then-existing

Acid Rain Program rules. For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255 (Aug. 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 Executive Order 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 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. This rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, when first promulgated, these revisions did not have substantial direct effects on States, the relationship between the national government and the States, or the distribution of power and responsibilities. Thus, Executive Order 13132 does not apply to this 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 (Nov. 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 rule does not have tribal implications, as specified in Executive Order 13175. This rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, when first promulgated, these revisions did not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, entitled “Protection of Children From Environmental Health Risks and Safety Risks” (62 FR 19885 (Apr. 23, 1997)), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a 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. EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation.

This rule is not subject to the Executive Order because it is not a significant regulatory action under Executive Order 12866 and is not based on health or safety risks. This rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, when first promulgated, these revisions implemented certain requirements of the Acid Rain Program that were not based on health or safety risks.

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

This rule is not subject to Executive Order 13211, entitled “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 Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards 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 voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, when first promulgated, these revisions did not address the use of any technical standards. Thus, this rule is not subject to the NTTAA.

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. EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not change the level of protection provided to human health or the environment, but simply reaffirms the promulgation of Acid Rain Program rule revisions that were previously issued and that are still in effect and have been since mid-2006. Moreover, when first promulgated, these revisions did not change the level of protection provided to human health or the environment.

K. Congressional Review Act

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). This rule will be effective on August 11, 2009 without further notice.

List of Subjects in 40 CFR Parts 72, 73, 74, 77, and 78

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Electric utilities, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 5, 2009.

Lisa P. Jackson,
Administrator.

[FR Doc. E9-13860 Filed 6-11-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09-1236; MB Docket No. 08-134; RM-11466]

Television Broadcasting Services; Bismarck, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed KBMY-KBCY, LLC, the licensee of station KBMY(TV), analog channel 17 and KBMY-DT, to substitute channel 17, its current analog channel, for its assigned post-transition DTV channel 16 at Bismarck, North Dakota.

DATES: This rule is effective June 12, 2009.

FOR FURTHER INFORMATION CONTACT: David J. Brown, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-134, adopted June 2, 2009, and released June 3, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554.

This document 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.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. 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). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under North Dakota, is amended by adding DTV channel 17 and removing DTV channel 16 at Bismarck.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-13863 Filed 6-11-09; 8:45 am]

BILLING CODE 6712-01-P