

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 3**

[EPA-HQ-OEI-2003-0001; FRL-8730-8]

RIN 2025-AA23

Extension of Cross-Media Electronic Reporting Rule Deadline for Authorized Programs**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Final Cross-Media Electronic Reporting Rule (CROMERR) deadline for authorized programs (states, tribes, or local governments) with existing electronic document receiving systems to submit an application for EPA approval to revise or modify their authorized programs. This action will extend the current October 13, 2008, deadline until January 13, 2010.

DATES: This rule is effective on December 1, 2008 without further notice, unless EPA receives relevant adverse comment by November 3, 2008. If EPA receives relevant adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OEI-2003-0001, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *E-mail*: oei.docket@epa.gov.

- *Mail*: CROMERR Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand Delivery: EPA Docket Room, EPA West, Room 3334, 1301 Constitution Avenue, Washington, DC 20460. 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-OEI-2003-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or e-mail. The *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 *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 and 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 additional 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 *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 *www.regulations.gov* or in hard copy at the CROMERR Docket, 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. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the CROMERR Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, Office of Environmental Information (2823T), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566-1697; huffer.evi@epa.gov, or David Schwarz, Office of Environmental Information (2823T), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566-1704; schwarz.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Does This Rule Do?

This rule provides temporary regulatory relief to states, tribes, and local governments with "authorized programs" as defined in 40 Code of Federal Regulations (CFR) 3.3. Any such authorized program that operates an "existing electronic document receiving system" as defined in 40 CFR 3.3 will have an additional 15 months to submit an application to revise or modify its authorized program to meet the requirements of 40 CFR Part 3. Specifically, this direct final rule amends 40 CFR 3.1000(a)(3) by extending the October 13, 2008, deadline to January 13, 2010.

II. Why Is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule because the Agency views this as a noncontroversial action and anticipates no adverse comment. This action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements beyond those imposed by the underlying final rule (70 FR 59848, October 13, 2005). After setting the current deadline, EPA learned that some states and local agencies currently working to comply with CROMERR have experienced an unanticipated delay in the completion of necessary upgrades to their electronic document receiving systems. EPA believes it is appropriate to extend the submission deadline for applications related to existing systems by an additional 15 months.

Additionally, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate proposed rule to consider adoption of the time extension contained in this direct final rule should the Agency receive relevant adverse comments regarding this direct final rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this direct final rule or the proposed rule listed elsewhere in today's **Federal Register** must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives relevant adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. EPA will address all public comments in any subsequent final rule based on the proposed rule.

III. Does This Action Apply to Me?

This action will affect states, tribes, and local governments that have an authorized program as defined in 40 CFR 3.3 and also have an existing electronic document receiving system,

as defined in 40 CFR 3.3. For purposes of this rulemaking, the term “state” includes the District of Columbia and the United States territories, as specified in the applicable statutes. That is, the term “state” includes the District of

Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of Northern Mariana Islands, and the Trust Territory of the Pacific Islands, depending on the statute.

Category	Examples of affected entities
Local government	Publicly owned treatment works, owners and operators of treatment works treating domestic sewage, local and regional air boards, local and regional waste management authorities, and municipal and other drinking water authorities.
Tribe and State governments	States, tribes or territories that administer any federal environmental programs delegated, authorized, or approved by EPA under Title 40 of the CFR.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

IV. What Should I Consider as I Prepare My Comments for EPA?

A. Submitting CBI. Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI 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 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.

B. 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.

V. 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 (EO) 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose any information collection burden. This action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 3) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2025–0003, EPA ICR number 2002.03. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or by calling (202) 566–1672. The ICR is also available electronically in www.regulations.gov.

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 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 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 this final rule on small entities, a small entity is defined as: (1) A small business that meets the definition for small businesses based on SBA size standards 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 (Under the RFA definition, States and tribal governments are not considered small governmental jurisdictions.); 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 possibility of economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this direct final rule are small governmental jurisdictions. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 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 direct final rule merely extends the current regulatory schedule for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems. EPA has therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, tribe, or local governments or the private sector. This action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements. EPA has determined that this rule does not contain a federal mandate that may result in expenditures of \$100 million or more for states, tribes, and local governments, in the aggregate, or the private sector in any one year. Thus, today's action is not subject to the requirements of sections 202 and 205 of UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document

receiving systems, and imposes no additional requirements.

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 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 action 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 action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements. Thus, Executive Order 13132 does not apply to this rule.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law. This action merely extends the current due date for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Children's Health Protection

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 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 Order has the potential to influence the regulation.

This final rule is not subject to Executive Order 13045 because it is not an economically significant action as defined by Executive Order 12866 and it does not establish an environmental standard intended to mitigate health or safety risks. This action merely extends the current regulatory schedule for submitting applications under CROMERR for authorized programs with existing electronic document receiving systems, and imposes no additional requirements.

H. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 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 Executive Order 12866.

I. National Technology Transfer and 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, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. EPA's compliance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note)) has been addressed in the preamble of the underlying final rule (70 FR 59848, October 13, 2007).

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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[FR Doc. E8-24824 Filed 10-16-08; 8:45 am]

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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