Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by OMB unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined that it is not a significant regulatory action under the Executive Order because this rule merely reflects a statutory amendment by removing the regulatory requirement that had mirrored the language of the former statutory requirement.

Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. Any impact on the educational institutions affected by the rule that may be small entities would be minor for at least the reason that the rule merely removes from the regulations a requirement for reporting information that would still be required to be maintained by such educational institutions. Under 38 U.S.C. 3675(b), educational institutions offering accredited courses are still required to maintain written records of credit for prior education given to students using VA education benefits, with the training period shortened proportionately. This final rule is therefore also exempt pursuant to 5 U.S.C. 605(b) from the regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this rule are 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance; and 64.117, Survivors and Dependents Educational Assistance.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 16, 2007.

Gordon H. Mansfield,

Acting Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 21 (subpart D) as follows:

PART 21—[AMENDED]

Subpart D—Administration of Educational Assistance Programs

■ 1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, and as noted in specific sections.

§ 21.4253 [Amended]

■ 2. Amend § 21.4253(d)(3) by removing '', and the person and the Department of Veterans Affairs so notified''.

[FR Doc. E7–25658 Filed 1–4–08; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[Docket No. EPA–R05–RCRA–2007–0722; FRL–8514–1]

Michigan: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting Michigan final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA published a proposed rule on October 9, 2007 at 72 FR 57258 and provided for public comment. The public comment period ended on November 8, 2007. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this final action.

DATES: The final authorization will be effective on January 7, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R05–RCRA–2007–0722. All documents in the docket are listed in the *http://www.regulations.gov* Web site index. Although listed in the index, some of the 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. You may view and copy Michigan's application from 9 a.m. to 4 p.m. at the following addresses: Michigan Department of Environmental Quality, Waste and Hazardous Materials Division, Constitution Hall—Atrium North, 525 West Allegan Street, Lansing, Michigan (mailing address P.O. Box 30241, Lansing, Michigan 48909), contact Ronda Blayer, (517) 353–9548; and at EPA Region 5, contact Judy Greenberg at the following address.

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, Land and Chemicals Division (LR–8J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–4179, e-mail: *Greenberg.Judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What decisions have we made in this rule?

We conclude that Michigan's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Michigan final authorization to operate its hazardous waste program with the changes described in the authorization application. Michigan has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Michigan, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Michigan subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Michigan has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports;
2. Enforce RCRA requirements and suspend or revoke permits; and
3. Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Michigan is being authorized by today's action are already effective and are not changed by today's action.

D. Proposed Rule

On October 9, 2007 (72 FR 57258), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Michigan's hazardous waste program and opened our decision to public comment. The Agency received no comments on this proposal. EPA has found Michigan's RCRA program to be satisfactory.

E. What has Michigan previously been authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804), to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan's program on November 24, 1989, effective January 23, 1990 (54 FR 48608); on April 23, 1991, effective June 24, 1991 (56 FR 18517); on October 1, 1993, effective November 30, 1993 (58 FR 51244); on January 13, 1995, effective January 13, 1995 (60 FR 3095); on February 8, 1996, effective April 8, 1996 (61 FR 4742); on November 14, 1997, effective November 14, 1997 (62 FR 61175); on March 2, 1999, effective June 1, 1999 (64 FR 10111); on July 31, 2002, effective July 31, 2002 (67 FR 49617); and on March 9, 2006, effective March 9, 2006 (71 FR 12141).

F. What Changes are we authorizing with today's action?

On May 21, 2007, Michigan submitted a complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We have determined that Michigan's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we are granting Michigan final authorization for the following program changes:

Description of Federal requirement	Revision checklist [1]	**Federal Register** date and page	Analogous State authority
Mineral Processing Secondary Materials Exclusion	167D	May 26, 1998, 63 FR 28556.	Michigan Administrative Code, R 299.9202(1)(b)(iii) and R 299.9204(1)(v), effective December 16, 2004.
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks.	205	April 26, 2004, 69 FR 22601.	Michigan Combined Laws, 324.11105a(1) and (2), effective December 29, 2006. [2]

[1] Revision Checklists generally reflect changes made the Federal regulations pursuant to a particular **Federal Register** notice and EPA publishes these checklists as aids to states to use for the development of their authorization application. *See* EPA's RCRA State Authorization Web Page at *http://www.epa.gov/epaoswer/hazwaste/state/.*

[2] The legislation we are authorizing contains a ''sunset provision'' by which the substantive requirements of the State legislation will lapse after a period of three years unless the legislature explicitly reauthorizes it. It is EPA's position that once program revisions are authorized, the substantive requirements of the legislation will remain federally enforceable and our authorization of the revised program will persist, until the State requests and receives authorization of superseding program revisions, despite any lapse in the legal effect or enforceability of statutory authority on the State level.

G. Where are the revised state rules different from the Federal rules?

These program revisions do not contain any State requirements that are considered to be more stringent or broader in scope than the analogous Federal requirements.

H. Who handles permits after the authorization takes effect?

Michigan will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA

requirements for which Michigan is not yet authorized.

I. How does today's action affect Indian Country (18 U.S.C. 1151) in Michigan?

Michigan is not authorized to carry out its hazardous waste program in Indian country within the State, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Michigan;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation that qualifies as Indian country.

EPA will continue to implement and administer the RCRA program in Indian country. It is EPA's long-standing position that the term ''Indian lands'' used in past Michigan hazardous waste approvals is synonymous with the term ''Indian country.'' *Washington Dep't of Ecology* v. *U.S. EPA,* 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). *See* 40 CFR 144.3 and 258.2.

J. What is codification and is EPA codifying Michigan's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. Michigan's rules, up to and including those revised October 19, 1991, have previously been codified through incorporation-by-reference effective April 24, 1989 (54 FR 7421, February 21, 1989); as amended effective March 31, 1992 (57 FR 3724, January 31, 1992). We reserve the amendment of 40 CFR part 272, subpart X, for the codification of Michigan's program changes until a later date.

K. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (see Supplementary Information, Section A. Why are Revisions to State Programs Necessary?). Therefore this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 18266: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

5. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., 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).

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

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects 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.)

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

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because the EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action as defined in Executive Order 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this rule.

10. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

12. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule authorizes pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

13. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 et seq.) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 21, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E8–16 Filed 1–4–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 07–51; FCC 07–189]

Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission's action concerns ''Multiple Dwelling Units'' such as apartment or condominium buildings and centrally managed residential real estate developments (collectively, ''MDUs''); cable operators that provide video service in MDUs; and agreements that grant them the exclusive right to provide video programming service in an MDU. The Commission finds that such agreements, in granting exclusivity, harm competition, the provision of programming to MDU residents, and broadband deployment. Thus, the Commission prohibits the enforcement of existing exclusivity clauses and the execution of new ones by cable operators (and a few others). This prohibition will materially advance the Communications Act's goals of enhancing competition, consumer choice in video service and programming, and broadband deployment.

DATES: Effective March 7, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, please contact John W. Berresford, (202) 418–1886, or Holly Saurer, (202) 418–7283, both of the Policy Division, Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Report and Order in MB Docket No. 07–51, FCC 07–189, adopted October 31, 2007, and released November 13, 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/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Report and Order

1. The Notice of Proposed Rulemaking (''*Notice*'') in this proceeding solicited comment on the need to regulate contracts containing clauses granting one multichannel video programming distributor (an ''MVPD'') exclusive access for the provision of video services (''exclusivity clauses'') to multiple dwelling units (''MDUs'') and other real estate developments. *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units & Other Real Estate Developments,* Notice of Proposed Rulemaking, 22 FCC Rcd 5935 (2007). Approximately 30 percent of Americans live in MDUs, and their numbers are growing. In this *Report and Order,* we find that contractual agreements granting such exclusivity to cable operators harm competition and broadband deployment and that any benefits to consumers are outweighed by the harms of such clauses. Accordingly, we conclude that such clauses are proscribed by section 628 of the Communications Act of 1934, as amended. That section prohibits unfair methods of competition that have the purpose or effect of hindering significantly or preventing MVPDs from providing ''satellite cable'' and/or ''satellite broadcast'' programming to subscribers and consumers. Thus, in this Order we prohibit the enforcement of existing exclusivity clauses and the execution of new ones by cable operators and others subject to the relevant statutory provisions. This prohibition will materially advance the Act's goals of enhancing competition and broadband deployment.

2. The record in this proceeding does not contain much information regarding the use of exclusivity clauses by providers of Direct Broadcast Satellite (''DBS'') or other MVPDs that are not cable operators subject to section 628 of the Act. In the interests of developing a fuller record, and in the interests of regulatory parity, we also issue a *Further Notice of Proposed Rulemaking* (''*Further Notice*'') concerning MVPDs not subject to section 628. In this *Further Notice,* we also seek comment on whether the Commission should prohibit exclusive marketing and bulk billing arrangements.

I. Background

3. This section reviews the history of this proceeding and makes several important findings of fact. Among these findings are that a large and growing number of Americans live in MDUs and that a significant number of those MDUs are subject to exclusivity clauses. The beneficiaries of most of those clauses are incumbent cable operators. Although Commission rules ensure that many residents of MDUs and other real estate developments may receive satellite-based video service, exclusivity clauses protect cable operators from competition in MDUs from new entrants into the MVPD business, chiefly incumbent local exchange carriers (''LECs'') and other wire-based MVPDs that bring satellite cable and satellite broadcast programming to their subscribers. We also find that the entry of incumbent LECs into the MVPD business has led incumbent cable operators to increase their use of exclusivity clauses in order to bar or deter the new entrants.

4. These practices are reached primarily by our authority under section 628. That section, in brief, makes it unlawful for cable operators to engage in certain unfair acts and methods of competition. Specifically, section 628(b) prohibits cable operators from engaging in unfair practices that have the purpose or effect of hindering significantly or preventing their competitors from providing satellite cable programming or satellite broadcast programming to subscribers or consumers. Such video programming is made for broadcast or cable systems and is delivered by satellite to MVPDs, who in turn deliver it to their subscribers. Section 628