

develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only two states, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. 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 E.O. 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 proposed SIP revision is not subject to Executive Order 13045 because it proposes approval of a state program revision, and it is not economically significant under Executive Order 12866.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not

required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., versus U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments, in the aggregate, or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action proposes to approve amendments to State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

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

Dated: September 29, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99-26510 Filed 10-7-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98-54; FCC 99-258]

1998 Biennial Review—Part 76 Cable Television Service Pleading and Complaint Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: By this document, the Commission denies the petition by EchoStar Communications Corporation to reconsider changes made to the procedural rules for filing petitions and complaints pursuant to part 76.

EchoStar argues that the changes imposed new obligations on part 76 complainants. The Commission finds that the rule changes clarify the procedural requirements of the existing rules, but do not impose any new obligations.

FOR FURTHER INFORMATION CONTACT: Thomas Horan, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CS Docket No. 98-54, FCC 99-258, adopted September 23, 1999, released September 29, 1999. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, NW, Washington, DC 20036, telephone (202) 857-3800, facsimile (202) 857-3805. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or mcontee@fcc.gov. The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th St., SW, Room CY-A257, Washington, DC 20054. The full text of the Order on Reconsideration can also be downloaded at: <http://www.fcc.gov/Bureaus/Cable/Orders/1999/fcc99258.txt> or <http://www.fcc.gov/Bureaus/Cable/Orders/1999/fcc99258.wp>

Summary of the Order on Reconsideration

1. EchoStar Communications Corporation (EchoStar) filed a petition requesting that the Commission reconsider recent amendments to 47 CFR 76.1003(f), 76.1302(e), and 76.1513(g). These amendments and several other rule changes were adopted in the Commission's Report and Order in this proceeding, 64 FR 6565 (February 10, 1999). The amendments at issue clarified the time period for filing complaints pursuant to the existing program access, program carriage and open video system rules. EchoStar argues that the amendment of these rules is inconsistent with the Administrative Procedure Act (APA) because substantive changes, imposing new obligations on part 76 complainants, were made to the Commission's rules without providing notice and opportunity for comment.

2. In denying the petition, the Commission finds that the amendments conform with the APA requirements. Section 553 of the APA (5 USC 553)

excepts interpretative and procedural rules from the notice and comment requirements. The amendments are not substantive rule changes that impose new obligations, but at most clarify how to file complaints under the existing rules, and thus, are interpretive and/or procedural rules that are excepted from the notice and comment requirements.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-26120 Filed 10-7-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket No. FTA-99-5709]

RIN 2132-AA68

Buy America Requirements; Permanent Waiver for Microcomputers

AGENCY: Federal Transit Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In 1986, the Federal Transit Administration (FTA) adopted a waiver of its Buy America requirements for the purchase of microcomputers. FTA has been asked to review whether this waiver should be retained, revoked, or modified in light of changes in the computer industry since then. This Advance Notice of Proposed Rulemaking (ANPRM) solicits public comment on this question.

DATES: Comments on this ANPRM must be submitted by December 7, 1999.

ADDRESSES: Written comments must refer to the docket number appearing above and must be submitted to the Docket Clerk, United States Department of Transportation, Central Dockets Office, PL-401, Nassif Building, 400 Seventh Street SW, Washington, DC 20590. All comments received will be available for examination at the above address. Docket hours at the Nassif Building are from 10:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays. Those desiring agency notification of receipt of their comments should include a self-addressed stamped envelope or postcard with their comments.

FOR FURTHER INFORMATION CONTACT: For legal issues: Meghan G. Ludtke, Office

of Chief Counsel, Federal Transit Administration, Room 9316, (202) 366-4011 (telephone) or (202) 366-3809 (fax) program/technical issues: Spiro M. Colivas, Office of Program Management, Acting Director, Office of Engineering, Federal Transit Administration, same address, Room 9311, (202) 493-0107 (telephone) or (202) 366-7951 (fax). Electronic access to this and other rules may be obtained through the FTA World Wide Web home page at <http://www.fta.dot.gov>, or by using the Universal Resources Locator (URL); both services are available seven days a week.

SUPPLEMENTARY INFORMATION:

I. Background

In section 401 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-594, 92 Stat. 2689), Congress first enacted the Buy America legislation applicable to the expenditure of Federal funds by recipients under FTA grant programs. FTA's implementing regulation was issued at 49 Part CFR 661. In January 1983, Congress repealed section 401 and substituted section 165 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097). On July 5, 1994, section 165 was codified at 49 U.S.C. 5323(j).

The FTA Buy America Regulations, 49 CFR Part 661, apply to all federally assisted procurements using funds authorized by the Federal transit laws, 49 U.S.C. Chapter 53. The general Buy America requirement is that all manufactured products procured in projects funded under the Federal transit laws be produced in the United States. In 1986 under 49 U.S.C. 5323(j)(2)(A) and (B) and the implementing regulations at 49 CFR 661.7(b) and (c), FTA granted a general waiver of the Buy America requirements for microcomputer equipment and software of foreign origin. 49 CFR 661.7, Appendix A(d).

On February 26, 1999, FTA received a request from Prima Facie, Inc. (petitioner) to re-examine the permanent waiver for microcomputers to determine if the basis for the subject waiver still exists, and, if not, whether it is appropriate for FTA to revoke the general waiver. Additionally, petitioner requests that FTA seek comments on whether modification of the waiver to include only selected types of microcomputer equipment is necessary and whether the inclusion of a microcomputer (chip) in a manufactured product should result in the entire product's being considered a microcomputer.