

assembly of the air outlet, or exchanging certain attachment screws of the air outlet box assembly on each door, as applicable), in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-92-3077, Revision 01, dated March 29, 2010, or Airbus Mandatory Service Bulletin A340-92-4078, Revision 01, dated April 9, 2010, as applicable.

#### FAA AD Differences

**Note 1:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

(i) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149. Information may be e-mailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto:9-ANM-116-AMOC-REQUESTS@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

#### Related Information

(j) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010-0103R1, dated April 28, 2011; Airbus Mandatory Service Bulletin A330-92-3077, Revision 01, dated March 29, 2010; and Airbus Mandatory Service Bulletin A340-92-4078, Revision 01, dated April 9, 2010; for related information.

Issued in Renton, Washington, on May 13, 2011.

**Ali Bahrami,**

Manager, Transport Airplane Directorate,  
Airframe Certification Service.

[FR Doc. 2011-12507 Filed 5-20-11; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF JUSTICE

### 28 CFR Part 50

[Docket No. OAG 142; AG Order No. 3279-2011]

RIN 1105-AB38

### Assumption of Concurrent Federal Criminal Jurisdiction in Certain Areas of Indian Country

**AGENCY:** Office of the Attorney General, Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to establish the procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before July 7, 2011. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Comments may be mailed to Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue, NW., Room 2310, Washington, DC 20530. To ensure proper handling, please reference OAG Docket No. 142 on your correspondence. You may submit comments electronically or view an electronic version of this proposed rule at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION, CONTACT:** Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, at (202) 514-8812 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

*Posting of Public Comments.* Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

You are not required to submit personal identifying information in order to comment on this rule. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph

of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

The reason the Department is requesting electronic comments before Midnight Eastern Time on the day the comment period closes is that the inter-agency Regulations.gov/Federal Docket Management System (FDMS), which receives electronic comments, terminates the public's ability to submit comments at Midnight on the day the comment period closes. Commenters in time zones other than Eastern may want to take this fact into account so that their electronic comments can be received. The constraints imposed by the Regulations.gov/FDMS system do not apply to U.S. postal comments, which will be considered as timely filed if they are postmarked before Midnight on the day the comment period closes.

#### Discussion

For more than two centuries, the Federal Government has recognized Indian tribes as domestic sovereigns that have unique government-to-government relationships with the United States. Congress has broad authority to legislate with respect to Indian tribes, however, and has exercised this authority to establish a complex jurisdictional scheme for crimes committed in Indian country. (The term "Indian country" is defined in 18 U.S.C. 1151.) Criminal jurisdiction in Indian country typically depends on several factors, including the nature of the crime; whether the alleged offender, the victim, or both are Indian; and whether a treaty, Federal statute, executive order, or judicial

decision has conferred jurisdiction on a particular government.

Here, three Federal statutes are particularly relevant: the General Crimes Act (also known as the Indian Country Crimes Act), 18 U.S.C. 1152; the Major Crimes Act (also known as the Indian Major Crimes Act), 18 U.S.C. 1153; and Public Law 280, Act of Aug. 15, 1953, Public Law 83–280, 67 Stat. 588, *codified in part as amended* at 18 U.S.C. 1162. Under the General Crimes and Major Crimes Acts, which apply to most of Indian country, jurisdiction to prosecute most crimes in Indian country rests with the Federal Government, the tribal government, or both concurrently. State criminal jurisdiction in Indian country is generally limited to crimes committed by non-Indians against non-Indian victims, as well as victimless crimes committed by non-Indians.

But there is an important exception to this general rule: In certain areas of Indian country, Public Law 280 renders the General Crimes and Major Crimes Acts inapplicable and instead gives the States jurisdiction over crimes committed by or against Indians. Specifically, the Public Law 280 criminal-jurisdiction provision codified at 18 U.S.C. 1162 applies in parts of Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin. (Section 1162(a) expressly exempts some areas of Indian country in these States, such as the Red Lake Reservation in Minnesota and the Warm Springs Reservation in Oregon; and some of these States have formally “retroceded” jurisdiction over other reservations.) In the areas of Indian country covered by section 1162, which are known as “mandatory” Public Law 280 jurisdictions, the Federal Government can prosecute violations of general Federal criminal statutes that apply nationwide, such as Federal narcotics laws, but typically cannot prosecute violent crimes such as murder, assault with a dangerous weapon, or felony child abuse.

In contrast, the Public Law 280 provision that is codified at 25 U.S.C. 1321 provides a basis for other States to elect to assume criminal jurisdiction in Indian country on an optional basis, subject to the consent of the affected tribe. In the Indian country of these tribes, known as “optional” Public Law 280 jurisdictions, the Department understands the applicable statutes to provide that the Federal Government retains concurrent jurisdiction under the General Crimes and Major Crimes Acts. *See* U.S. Department of Justice, United States Attorneys’ Manual, tit. 9, Criminal Resource Manual § 688 (Federal Government may exercise concurrent criminal jurisdiction in “the

so-called ‘option states’ \* \* \* which assumed jurisdiction pursuant to Public Law 280 after its enactment”); *United States v. High Elk*, 902 F.2d 660, 661 (8th Cir. 1990) (per curiam) (holding that Federal courts retain Major Crimes Act jurisdiction in those States that voluntarily assumed jurisdiction under Pub. L. 280); *cf. Negonsott v. Samuels*, 507 U.S. 99, 105–06 (1993) (holding that a different Federal statute conferred criminal jurisdiction on a State without divesting the United States of concurrent criminal jurisdiction). *But cf. United States v. Burch*, 169 F.3d 666, 669–71 (10th Cir. 1999) (holding that a 1984 “direct congressional grant of jurisdiction over [crimes committed in one town in] Indian country” vested Colorado with exclusive jurisdiction akin to mandatory jurisdiction under Public Law 280).

#### *The Tribal Law and Order Act of 2010*

The Tribal Law and Order Act of 2010 (TLOA) was enacted on July 29, 2010, as Title II of Public Law 111–211. The purpose of the TLOA is to help the Federal Government and tribal governments better address the unique public-safety challenges that confront tribal communities.

Section 221 of the new law permits an Indian tribe with Indian country subject to State criminal jurisdiction under Public Law 280 to request that the United States accept concurrent jurisdiction to prosecute violations of the General Crimes Act and the Major Crimes Act within that tribe’s Indian country. This jurisdiction will be concurrent among the Federal Government, the State government, and (where applicable) the tribal government. Section 221 provides for the United States to assume concurrent criminal jurisdiction at the tribe’s request, and after consultation between the tribe and the Attorney General and consent to Federal jurisdiction by the Attorney General. The State need not consent. Once the United States has accepted concurrent criminal jurisdiction, Federal authorities can investigate and prosecute offenses that Public Law 280 currently bars them from prosecuting.

Section 221 does not expressly require Indian tribes to request that the United States accept concurrent jurisdiction to prosecute “all” violations of the General Crimes and Major Crimes Acts within the tribe’s Indian country. To the contrary, the statute provides that those two Acts “shall apply in the areas of the Indian country of the Indian tribe” only “at the request of” the tribe and “after consultation with and consent by the Attorney General.” 18 U.S.C.

1162(d). Therefore, the Department understands section 221 to permit the tribe to request and the Attorney General, after consultation with the tribe, to consent to assumption of concurrent Federal jurisdiction over a limited set of crimes or over crimes in a limited geographic portion of the tribe’s Indian country.

#### *Assumption of Concurrent Federal Criminal Jurisdiction*

This rule establishes the framework and procedures for a mandatory Public Law 280 tribe to request the assumption of concurrent Federal criminal jurisdiction within the Indian country of the tribe. It also describes the process to be used by the Attorney General in deciding whether to consent to such a request.

The TLOA provides that the Attorney General is the deciding official for requests submitted by Indian tribes under section 221. Given the potentially high volume of requests, the large number of Department of Justice components and non-Department partners that should be conferred with, and the detailed tribe-by-tribe analyses that will be needed, the Attorney General is delegating decisional authority under section 221 to the Deputy Attorney General. The Office of the Deputy Attorney General (ODAG) will receive recommendations from the Office of Tribal Justice (OTJ), the Executive Office for United States Attorneys (EOUSA), and the Federal Bureau of Investigation (FBI), after discussions with other Department components (including the Bureau of Prisons (BOP) and the Office of Community Oriented Policing Services (COPS)) and other Federal, tribal, State, and local entities. OTJ will handle the staffing and tracking of assumption requests.

Pursuant to Executive Order 13175 of November 6, 2000, the Department has held tribal consultations regarding these proposed assumption procedures.

#### *Retrocession of State Criminal Jurisdiction*

The process described in this rule is separate and distinct from Public Law 280’s “retrocession” process for transferring criminal jurisdiction from the State government to the Federal Government. *See* 25 U.S.C. 1323(a). The retrocession process is initiated by the State, not the tribe. By contrast, the process for a tribe to seek assumption of concurrent Federal criminal jurisdiction under section 221 does not require the State’s approval. And unlike retrocession, a section 221 assumption gives the United States concurrent

criminal jurisdiction without eliminating the State's criminal jurisdiction.

After a tribe has submitted a request under section 221, the Department will publish a notice in the **Federal Register** inviting input from affected State and local law enforcement authorities. But ultimately, it is the tribe's request and the Attorney General's consent that will determine whether the United States accepts concurrent criminal jurisdiction.

#### *Where Section 221 Does Not Apply*

The process described in this rule applies only to Indian country that is subject to "mandatory" Public Law 280 State criminal jurisdiction under 18 U.S.C. 1162. As indicated above, the Department understands that the United States already has concurrent jurisdiction over General Crimes Act and Major Crimes Act violations in areas where States have assumed criminal jurisdiction under "optional" Public Law 280. Accordingly, although the TLOA requires the United States to assume concurrent criminal jurisdiction "[a]t the request of an Indian tribe, and after consultation with and consent by the Attorney General," 25 U.S.C. 1321(a)(2), the Department does not believe requests by tribes are necessary to establish concurrent Federal jurisdiction in such areas.

#### **Regulatory Certifications**

##### *Executive Order 12866—Regulatory Planning and Review*

This regulation has been drafted and reviewed in accordance with Executive Order 12866 of September 30, 1993, as amended, Regulatory Planning and Review, section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), and, accordingly, this rule has been reviewed by the Office of Management and Budget.

##### *Executive Order 13132—Federalism*

This regulation 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. The process provided under section 221 allows the United States to assume concurrent criminal jurisdiction over offenses in a particular area of Indian country, without eliminating or affecting the State's existing criminal jurisdiction, and accordingly it imposes no new

burdens on the State. This regulation sets forth the procedural mechanism for the Department to consider, in consultation with other Federal, tribal, State, and local authorities, whether or not to consent to a request from an individual tribe for the Federal Government to assume concurrent criminal jurisdiction within that tribe's Indian country. Therefore, in accordance with Executive Order 13132 of August 4, 1999, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

##### *Executive Order 12988—Civil Justice Reform*

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988 of February 5, 1996.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

This rule comports with Executive Order 13175 of November 6, 2000. The rule has significant tribal implications, as it will have substantial direct effects on one or more Indian tribes and on the relationship between the Federal Government and Indian tribes. The Department therefore has engaged in meaningful consultation and collaboration with tribal officials in developing this rule. More specifically, the Department of Justice participated in six consultations with tribal officials on the Tribal Law and Order Act of 2010. The dates and locations of those tribal consultations were as follows:

- October 14, 2010, in Billings, Montana
- October 20, 2010, in Albuquerque, New Mexico
- October 28, 2010, in Miami, Florida
- November 16, 2010, in Albuquerque, New Mexico
- December 8, 2010, in Palm Springs, California
- March 23, 2011, in Hayward, Wisconsin

The last two consultation sessions focused on section 221 of Public Law 111–211, with the March 23, 2011 consultation expressly addressing a draft version of this proposed rule.

During these consultations, some tribal officials expressed a desire to see the Attorney General consent to each and every tribal request for concurrent Federal criminal jurisdiction. Other tribal officials raised more specific concerns. In direct response to the latter, the Department of Justice significantly rewrote portions of the draft proposed rule. Eight changes are particularly noteworthy.

First, rather than giving priority only to those tribal requests received by August 31 of any calendar year, the proposed rule now gives priority to requests received by August 31 or by February 28. This change effectively doubles the number of annual cycles in which the Department will consider tribal requests on a prioritized basis.

Second, the proposed rule now allows tribes to ask the United States to assume concurrent criminal jurisdiction either over all violations of the General Crimes and Major Crimes Acts within the tribe's Indian country or over a subset of those violations that is clearly defined in the tribal request. Thus, requests can now focus on a limited set of crimes or on crimes in a limited geographic portion of the tribe's Indian country.

Third, the proposed rule now clarifies why it is unnecessary, under the Department's understanding of the applicable statutes, for a tribe in an "optional" Public Law 280 jurisdiction to request an assumption of concurrent Federal criminal jurisdiction.

Fourth, the proposed rule now clarifies that Federal agencies are to supply comments and information relevant to each tribal request, rather than merely announcing their overall support or opposition for each request.

Fifth, the proposed rule reiterates that the assumption of concurrent Federal criminal jurisdiction under section 221 does not require the agreement, consent, or concurrence of any State or local government.

Sixth, the proposed rule now expressly provides that the Department's Office of Tribal Justice may give appropriate technical assistance to any tribe that wishes to prepare and submit a renewed request, following the denial of an earlier request.

Seventh, the proposed rule now states that the assumption of concurrent Federal criminal jurisdiction will commence within six months of the decision to assume jurisdiction, if feasible, rather than merely mandating action within twelve months.

Eighth and finally, the proposed rule now requires that notice of a decision consenting to the request for assumption of concurrent Federal criminal jurisdiction will be published in the **Federal Register**.

The Department of Justice thus believes that many of the concerns that tribal officials expressed about section 221 and the draft proposed regulation at the tribal consultations in 2010 and 2011 have now been met.

### Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This rule provides only a framework for processing requests by Indian tribes for the assumption of concurrent Federal criminal jurisdiction over certain Indian country crimes, as provided for by section 221.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104-4.

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### Paperwork Reduction Act

Section 221 of Public Law 111-211 permits certain Indian tribes to request that the United States accept concurrent jurisdiction to prosecute violations of the General Crimes Act, 18 U.S.C. 1152, and the Major Crimes Act, 18 U.S.C. 1153, within that tribe's Indian country. This jurisdiction will be concurrent among the Federal Government, the State government, and (where applicable) the tribal government. Section 221 provides for the United States to assume concurrent criminal jurisdiction at the tribe's request, and after consultation between the tribe and the Attorney General and consent to Federal jurisdiction by the Attorney General. The Department of Justice will be submitting the information collection request set forth below to the Office of Management and Budget for review and clearance in accordance with the review procedures of the Paperwork Reduction Act of 1995. The information collection

is published to obtain comments from the public and affected agencies.

All comments, suggestions, and questions should be directed to Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue, NW., Room 2310, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the collection of information are encouraged. Comments on the information collection-related aspects of this rule should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Request to the Attorney General for Assumption of Concurrent Federal Criminal Jurisdiction.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No form. Component: Office of Tribal Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Tribal governments.

Other: None.

*Abstract:* The Department of Justice is publishing a proposed rule to establish the procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request. The purpose of the collection is to provide information from the requesting tribe sufficient for

the Attorney General to make a decision whether to consent to the request.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to collect the required information is: Fewer than 350 respondents; 80 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: 28,000 hours.

Fewer than 350 Indian tribes are eligible for the assumption of concurrent criminal jurisdiction by the United States. The Department of Justice does not know how many eligible tribes will, in fact, make such a request. Since the enactment of the Tribal Law and Order Act on July 29, 2010, the Department of Justice has received three such requests as of April 1, 2011.

The information collection requirements contemplated by this proposed rule are new requirements that will require a new OMB Control Number. The Department is seeking comment on these new requirements as part of this proposed rule. These new requirements will require Indian tribes seeking assumption of concurrent criminal jurisdiction by the United States to provide certain information relating to public safety within the Indian country of the tribe.

If additional information is required, contact: Lynn Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, U.S. Department of Justice, Two Constitution Square, 145 N Street, NE., Suite 2E-502, Washington, DC 20530.

### List of Subjects in 28 CFR Part 50

Administrative practice and procedure, Crime, Indians.

Accordingly, for the reasons set forth in the preamble, part 50 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

### PART 50—STATEMENTS OF POLICY

1. The authority citation for part 50 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 1162; 28 U.S.C. 509, 510; 42 U.S.C. 1921 et seq., 1973c; and Public Law 107-273, 116 Stat. 1758, 1824.

2. Section 50.25 is added to read as follows:

#### § 50.25 Assumption of concurrent Federal criminal jurisdiction in certain areas of Indian country.

(a) *Assumption of concurrent Federal criminal jurisdiction.* (1) Section 221 of Public Law 111-211 permits the United States to accept concurrent Federal criminal jurisdiction to prosecute

violations of 18 U.S.C. 1152 (the General Crimes, or Indian Country Crimes, Act) and 18 U.S.C. 1153 (the Major Crimes, or Indian Major Crimes, Act) within areas of Indian country in the States of Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin that are subject to State criminal jurisdiction under Public Law 280, 18 U.S.C. 1162(a), if the tribe requests such an assumption of jurisdiction and the Attorney General consents to that request. Once the Attorney General has consented to an Indian tribe's request for concurrent Federal criminal jurisdiction, the General Crimes and Major Crimes Acts shall apply in the Indian country of the requesting tribe, and criminal jurisdiction over those areas shall be concurrent among the Federal Government, the State government, and (where applicable) the tribal government. Assumption of concurrent Federal criminal jurisdiction under section 221 does not require the agreement, consent, or concurrence of any State or local government.

(2) Section 221 also permits the United States to accept such concurrent Federal criminal jurisdiction in other areas of Indian country as to which States have assumed optional Public Law 280 criminal jurisdiction under 25 U.S.C. 1321(a), if a tribe so requests and after consultation with and consent by the Attorney General. The Department does not believe, however, that such requests are necessary, because the Department understands the applicable statutes to establish such concurrent Federal criminal jurisdiction without the need for a request by a tribe or acceptance by the United States.

(b) *Request requirements.* (1) A tribal request for assumption of concurrent Federal criminal jurisdiction under section 221 shall be made by the chief executive official of a federally recognized Indian tribe that occupies Indian country listed in 18 U.S.C. 1162(a). For purposes of this section, a chief executive official shall include a tribal chairperson, president, governor, principal chief, or other equivalent position.

(2) The tribal request shall be submitted in writing to the Director of the Office of Tribal Justice at the Department of Justice. The tribal request shall explain why the assumption of concurrent Federal criminal jurisdiction will improve public safety and criminal law enforcement and reduce crime in the Indian country of the requesting tribe. The tribe may ask the United States to assume concurrent criminal jurisdiction either over all violations of the General Crimes and Major Crimes Acts within the tribe's Indian country or

over a subset of those violations that is clearly defined in the tribal request.

(c) *Process for handling tribal requests.* (1) Upon receipt of a tribal request, the Office of Tribal Justice shall:

- (i) Acknowledge receipt;
- (ii) Open a file;
- (iii) Promptly publish a notice in the

**Federal Register**, seeking comments from the general public;

(iv) Promptly seek comments from the relevant United States Attorney's Offices, the Federal Bureau of Investigation, and other Department of Justice components that would be affected by consenting to the request;

(v) Promptly seek comments from the Department of the Interior (including the Bureau of Indian Affairs), the Department of Homeland Security, other affected Federal departments and agencies, and Federal courts;

(vi) Promptly consult with the requesting tribe, consistent with applicable Executive Orders and Presidential Memoranda on tribal consultation; and

(vii) Promptly seek comments from other affected agencies, including State and local law enforcement agencies.

(2) An Indian tribe may submit a request at any time. However, requests received by February 28 of each calendar year will be prioritized for decision by July 31 of the same calendar year, if feasible; and requests received by August 31 of each calendar year will be prioritized for decision by January 31 of the following calendar year, if feasible.

(d) *Factors.* Factors that may be considered in determining whether or not to consent to a tribe's request for assumption of concurrent Federal criminal jurisdiction include the following:

(1) Whether consenting to the request will increase the availability of law enforcement resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(2) Whether consenting to the request will improve access to judicial resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(3) Whether consenting to the request will improve access to detention and correctional resources for the requesting tribe, its members, and other residents of the tribe's Indian country.

(4) Other information received from the relevant United States Attorney's Offices, the Federal Bureau of Investigation, and other Department of Justice components that would be affected by consenting to the request.

(5) Other information received from the Department of the Interior (including the Bureau of Indian Affairs), the Department of Homeland Security, other affected Federal departments and agencies, and Federal courts.

(6) Other information received from tribal consultation.

(7) Other information received from other sources, including State and local law enforcement agencies.

(e) *Federal comments.* (1) The deciding official shall consider any comments from the relevant United States Attorney's Offices, the Federal Bureau of Investigation, and other Department of Justice components.

(2) The deciding official shall consider any comments from the Department of the Interior (including the Bureau of Indian Affairs), the Department of Homeland Security, other Federal departments and agencies, and Federal courts.

(f) *Tribal comments.* The deciding official shall consider any comments from tribes and other tribal sources.

(g) *Other comments.* The deciding official shall consider any comments from State, local, and other sources, although assumption of concurrent Federal criminal jurisdiction under section 221 does not require the agreement, consent, or concurrence of any State or local government.

(h) *Decision.* (1) The decision whether to consent to a tribal request for assumption of concurrent Federal criminal jurisdiction shall be made by the Deputy Attorney General after receiving written recommendations from the Office of Tribal Justice (OTJ), the Executive Office for United States Attorneys (EOUSA), and the Federal Bureau of Investigation (FBI).

(2) The deciding official will:

(i) Consent to the request for assumption of concurrent Federal criminal jurisdiction, as of some future date certain within the next twelve months (and, if feasible, within the next six months), with or without conditions, and publish a notice of the consent in the Federal Register;

(ii) Deny the request for assumption of concurrent Federal criminal jurisdiction; or

(iii) Request further information or comment before making a final decision.

(3) The deciding official shall explain the basis for the decision in writing.

(4) A denial of a request for assumption of concurrent Federal criminal jurisdiction is not appealable. However, at any time after such a denial, a tribe may submit a renewed request for assumption of concurrent Federal criminal jurisdiction. A renewed request shall address the basis

for the prior denial. The Office of Tribal Justice may provide appropriate technical assistance to any tribe that wishes to prepare and submit a renewed request.

(i) *Retrocession of State criminal jurisdiction.* Retrocession of State criminal jurisdiction under Public Law 280 is governed by 25 U.S.C. 1323(a) and Executive Order 11435 of November 21, 1968. The procedures for retrocession do not govern a request for assumption of concurrent Federal criminal jurisdiction under section 221.

Dated: May 16, 2011.

**Eric H. Holder, Jr.,**

*Attorney General.*

[FR Doc. 2011-12541 Filed 5-20-11; 8:45 am]

BILLING CODE 4410-07-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2010-0303; FRL-9310-1]

#### Approval and Disapproval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards; Wyoming

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to partially approve and partially disapprove the State Implementation Plan (SIP) submission from the State of Wyoming to demonstrate that the SIP meets the requirements of Sections 110(a)(1) and (2) of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on July 18, 1997. Section 110(a)(1) of the CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIPs to ensure that they meet the requirements of the "infrastructure elements" of section 110(a)(2). The State of Wyoming submitted two certifications of their infrastructure SIP for the 1997 ozone NAAQS, dated December 7, 2007 and December 10, 2009. EPA does not propose to act on the State's May 25, 2007 submission to meet the requirements of section 110(a)(2)(D)(i) of the CAA, relating to interstate transport of air pollution, for the 1997 ozone NAAQS. EPA approved the State's interstate transport SIP submission on May 8, 2008 (73 FR 26019). EPA is also proposing to approve a Wyoming submittal, dated May 10, 2011, revising the State's

Prevention of Significant Deterioration (PSD) program.

**DATES:** Written comments must be received on or before June 22, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2010-0303, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [dolan.kathy@epa.gov](mailto:dolan.kathy@epa.gov).
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
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**FOR FURTHER INFORMATION CONTACT:** Kathy Dolan, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. 303-312-6142, [dolan.kathy@epa.gov](mailto:dolan.kathy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.

##### Table of Contents

- I. General Information
- II. Background
- III. What infrastructure elements are required under sections 110(a)(1) and (2)?
- IV. How did the State of Wyoming address the infrastructure elements of section 110(a)(2)?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews