



Fact Sheet

Partial Delegation of Administrative Authority to a Tribe (40 Code of Federal Regulations Part 49 Section 122)

Federal Air Rules for Indian Reservations in Idaho, Oregon, and Washington

What is the FARR? The Federal Air Rules for Indian Reservations in Idaho, Oregon, and Washington, also called the FARR, is a set of air quality regulations established under the Clean Air Act. The FARR creates rules to manage activities that cause air pollution.

The FARR applies to all residents (both tribal members and non-tribal members) and businesses located within the exterior boundaries of reservations in Idaho, Oregon, and Washington. The ownership status of land on the reservation does not affect how the rules apply.

What will the FARR do? The FARR will protect human health and the environment for 200,000 people on reservations in the Pacific Northwest. The FARR will also:

- Establish federal air quality rules where EPA-approved state or tribal air quality programs do not exist
- Make air quality standards on reservations consistent with standards off of reservations
- Build capacity for tribes to develop tribal air programs.

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The FARR includes 16 rules that address various air quality issues:

- 49.122 Partial Delegation of Administrative Authority to a Tribe
- 49.124 Visible Emissions
- 49.125 Particulate Matter
- 49.126 Fugitive Particulate Matter
- 49.127 Woodwaste Burners
- 49.128 Particulate Matter Emissions from Wood Products Industry Sources
- 49.129 Sulfur Dioxide
- 49.130 Sulfur Content of Fuels
- 49.131 Open Burning
- 49.132 General Open Burning Permits
- 49.133 Agricultural Burning Permits
- 49.134 Forestry and Silvicultural Burning Permits
- 49.135 Emissions Detrimental to Public Health or Welfare
- 49.136 [Reserved]
- 49.137 Air Pollution Episodes
- 49.138 Registration of Air Pollution Sources and Report of Emissions
- 49.139 Rule for Non-Title V Operating Permits

What is the purpose of this rule?

The rule for Partial Delegation of Administrative Authority to a Tribe establishes a process for EPA to delegate authority to a tribe to administer one or more of the FARR rules on the tribe's reservation. This rule does not delegate any enforcement authority to the tribe. Enforcement authority remains with EPA.

Why is this rule important?

This rule allows a tribe to assist EPA in administering one or more FARR rules for the tribe's reservation. By doing so, the tribe gains experience assisting EPA in implementing air quality regulations. This experience will help the tribe decide whether to develop its own air quality program.

To whom does this rule apply?

This rule applies to EPA and to the tribes on 39 Indian reservations in Idaho, Oregon, and Washington.

What are the requirements of this rule?

To obtain authority to administer one or more of the rules in the FARR, a tribe must follow the process established in this rule. In this process the tribe must submit a written request to the EPA. The EPA will review this request, and if the request is approved, the EPA and the tribe will enter into a "Partial Delegation of Administrative Authority Agreement." Before this agreement is issued, the EPA will consult with other government organizations, and the EPA will inform the public of the agreement.

The request for delegation of administrative authority that the tribe must submit to the EPA must include the following items:

- A list of the specific rules in the FARR that the tribe would like the authority to administer.
- The name of the Indian reservation on which the tribe will administer the rule or rules.
- A statement that the tribe is recognized by U.S. Department of the Interior.
- A description of how the tribe is currently carrying out major governmental duties and powers. (This rule also requires that this description include specific items, such as the types of government functions currently being performed by the tribe.)

**What are the requirements of this rule?
(continued).**

- A description of the tribe's laws that give the tribe adequate authority to administer the rules to be delegated.
- Information showing that the tribe has, or will have, the technical capability and enough resources to administer the rules to be delegated.

The EPA will review the tribe's request for delegation of administrative authority. In determining whether to approve the tribe's request, one major factor that the EPA will consider is whether the tribe will have the technical capability and resources to administer the requested rules. The EPA will not delegate administrative authority to a tribe that cannot meet this requirement.

If the EPA approves the tribe's request, the EPA will prepare a "Partial Delegation of Administrative Authority Agreement." This agreement establishes the terms and conditions of the delegation of administrative authority, including the specific FARR rules that the tribe is authorized to administer. The EPA expects the agreements to also include procedures for the EPA to regularly review the tribe's performance. The EPA may modify, amend, or revoke the agreement after consultation with the tribe.

Before completing the delegation agreement, the EPA will consult with city and county governments within the tribe's reservation. The EPA will also inform the public of the delegation of administrative authority by publishing a notice in the *Federal Register* and by publishing an announcement in local newspapers.

The "Partial Delegation of Administrative Authority Agreement" becomes effective on the date that the EPA and the tribe sign the agreement. Once the delegation is effective, the tribe will have authority under the Clean Air Act to administer the FARR rules specified in the agreement. The EPA will oversee the tribe's administration of the rules.

The EPA will assist the tribe as appropriate to develop ways to fund the work that the tribal staff needs to do to administer the delegated rules. These funding methods may include cooperative agreements and grants, as well as user fees and charges established by the tribe.

The EPA maintains the authority to enforce the FARR rules delegated to the tribe. Because the tribe is being delegated a federal program, the EPA would enforce any federal requirement administered by a tribe. The EPA's enforcement and appeal procedures would be used, not the tribe's procedures.

When does this rule take effect?

This rule is effective June 7, 2005. The final rule was published in the *Federal Register* on April 8, 2005 (67 FR 18074).

Where can the public get more information about this rule?

The final rule is available at the EPA Region 10 FARR website www.epa.gov/r10earth/FARR.htm. The FARR website provides additional background information on the rule and implementation of the FARR. The FARR Hotline is available at 1-800-424-4EPA to provide information and respond to questions.