shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, General conformity.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c) (107) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(107) Approval—On August 17, 1995, the Ohio Environmental Protection Agency submitted a revision to the State Implementation Plan for general conformity rules. The general conformity rules enable the State of Ohio to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) *Incorporation by reference.* August 1, 1995, Ohio Administrative Code Chapter 3745–102, effective August 21, 1995.

[FR Doc. 96–5737 Filed 3–8–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 112, 114, and 117

[FRL–5432–9]

Oil Discharge Program; Removal of Legally Obsolete Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today removing from the Code of Federal Regulations (CFR) rules pertaining to the oil and hazardous substances discharge program promulgated under the Clean Water Act (''CWA'') which apply only to violations that occurred prior to enactment of the Oil Pollution Act of 1990 (''OPA''). Because EPA is unaware of any on-going penalty actions for pre-OPA violations, it is deleting these rules from the CFR.

EFFECTIVE DATE: This final rule takes effect on March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Kevin Mould, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, mail code 5202G, phone (703) 603–8728; or the RCRA/Superfund Hotline, phone (800) 424–9346 or (703) 603–9232 in the Washington, DC metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995 the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995 to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of all of its rules, including rules issued under the CWA. 33 U.S.C. 1251 *et seq.* Based upon this review, EPA is today eliminating the following obsolete CWA rules from the CFR: 40 CFR section 112.6, Part 114, and section 117.22.

II. Obsolete Rules

Civil Penalties for Violation of the Oil Pollution Prevention Regulations (Section 112.6 and Part 114)

The civil penalty provision of the oil pollution prevention regulations (40 CFR 112.6), and the related civil penalty provisions and procedures at 40 CFR part 114 were promulgated in 1974 pursuant to section 311(j) of the CWA. 39 FR 31602, August 29, 1974. Part 112 sets out, for onshore and offshore non-transportation-related facilities, requirements designed to prevent discharges of oil into or upon ''navigable waters and adjoining shorelines.'' 40 CFR 112.6 and 114.1 each provide that violations of the oil pollution prevention regulations may result in the assessment of an administrative penalty of not more than $5,000 per day of violation. 40 CFR 112.6 and 114.1 are based on authority in CWA section 311(j)(2), which, before its amendment by the Oil Pollution Act of 1990 (OPA), limited civil penalties assessed for violations of regulations issued under section 311(j) to ''not more than $5,000 for each such violation.''

OPA repealed CWA section 311(j)(2) and amended CWA section 311(b)(6) to provide that violators of CWA section 311(j) may be assessed a Class I penalty of up to $10,000 per violation (up to a maximum assessment of $25,000), or a Class II penalty of up to $10,000 per day of violation (up to a maximum assessment of $125,000). Further, section 311(b)(6) now provides for different administrative proceedings for these two classes of penalties. Respondents in Class I cases are given a reasonable opportunity to be heard and to present evidence, but the hearing need not meet the requirements of the Administrative Procedure Act (APA) for formal adjudications (5 U.S.C. 554). Class II hearings, however, are on the record and subject to 5 U.S.C. 554.

As a result of these OPA-enacted changes in both the penalty amounts and the procedures needed to be followed in issuing penalties, EPA amended section 112.6 and Part 114 to ensure that the provisions would be applicable only to violations of the Oil Pollution Prevention regulations contained in 40 CFR Part 112 which occurred prior to enactment of OPA (August 18, 1990). 57 FR 52704 (Nov. 4, 1992). At the present time—more than five years after enactment of OPA—EPA is unaware on any on-going penalty actions for violations of the Part 112 regulations which occurred prior to August 18, 1990. EPA is therefore deleting section 112.6 and Part 114 from the CFR.

As explained in a prior Federal Register notice, EPA will use two sets of procedures for assessing administrative penalties for violations of CWA section 311(b)(3) occurring after August 18, 1990. 57 FR 52704 (Nov. 4, 1992). For Class I penalties, the Agency follows generally the procedures set forth in the proposed 40 CFR 28, Non-APA Consolidated Rules of Practice for Administrative Assessment of Civil Penalties. 56 FR 29996 (July 1, 1991). For the assessment of CWA section 311 Class II penalties, the Agency uses as guidance the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits at 40 CFR 22.

Notification of Hazardous Substances Discharge(s) and Prohibition Against Unauthorized Discharges

40 CFR 117 generally establishes the reportable quantities for CWA hazardous substances designated under 40 CFR 116 for purposes of CWA section 311. 40 CFR 117.21 sets out the notification requirement for discharges of designated hazardous substances pursuant to CWA section 311(b)(5). 40 CFR 117.22(b) provides that violation(s) of the notification requirement may result in a fine of not more than $10,000

or imprisonment for not more than one year, or both. However, 40 CFR 117.22(b) is based on language in former CWA section 311(b)(5), which was amended by OPA. Section 4301 of OPA amended CWA section 311(b)(5) to provide that any person convicted of violation of the notification requirement in CWA section 311(b)(5) be ''fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.'' 33 U.S.C. 1321(b)(5). As a result of this change in the penalty provision enacted by OPA, EPA amended section 117.22 by making it applicable only to violations occurring prior to August 18, 1990, the date of enactment of the Oil Pollution Act. 40 CFR 117.22(a); see 57 FR 52704 (Nov. 4, 1992).

40 CFR 117.22(c) provides that an owner, operator or a person in charge of a vessel or facility that has discharged a designated hazardous substance exceeding the reportable quantity may be subject to a civil administrative penalty assessment of up to $5,000 per violation. The regulation also states that the Agency may pursue a judicial civil penalty action, seeking up to $50,000 per violation; where the discharge resulted from willful negligence or willful misconduct, the maximum judicial civil penalty is $250,000. 40 CFR 117.22(c) is based on language in former CWA section 311(b)(6)(A), which was amended by OPA.

As indicated above, section 4301 of OPA repealed CWA section 311(b)(6) and replaced it with a new penalty assessment framework. CWA section 311(b)(6) now provides that violators of the prohibition against unauthorized discharges in section 311(b)(3) may be assessed a Class I penalty of up to $10,000 per violation (up to a maximum assessment of $25,000) or a Class II penalty of up to $10,000 per day of violation (up to a maximum assessment of $125,000). 33 U.S.C. 1321(b)(6)(B). Section 4301 of OPA also added CWA section 311(b)(7), which provides for the judicial assessment of civil penalties for violations of CWA section 311(b)(3) of up to ''$25,000 per day of violation'' or up to ''$1,000 per barrel of oil or unit of reportable quantity of hazardous substances.'' For violations of section 311(b)(3) that are a result of gross negligence or willful misconduct, the violator now is subject to a civil penalty of ''not less than $100,000 and not more than $3,000 per barrel or oil or unit of reportable quantity or hazardous substance discharged.''

As a result of the changes in penalties for prohibited discharges of CWA hazardous substances as enacted by the OPA, EPA amended section 117.22(c) to make it applicable only to violations of the discharge prohibition which occurred prior to August 18, 1990, the date of enactment of the Oil Pollution Act. 40 CFR 117.22(a); see 57 FR 52704 (Nov. 4, 1992). At the present time, EPA is unaware of any on-going administrative penalty actions for violations of the notification requirements in CWA section 311(b)(5) or the discharge prohibitions for hazardous substances in CWA section 311(b)(3) which occurred prior to August 18, 1990. All violations of the notification requirements and discharge prohibitions which have occurred or will occur since enactment of OPA will be subject to the different penalty provisions contained in CWA sections 311(b)(6) and 311(b)(7), as amended by OPA. Furthermore, CWA section 311, as amended by OPA, itself provides all the necessary legal authorities establishing penalties for the violation of section 311(b)(5) notification requirements and section 311(b)(3) discharge prohibitions. EPA is therefore deleting 40 CFR section 117.22 from the Code of Federal Regulations.

III. Good Cause Exemption From Notice-and-Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. § 553(b). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment are unnecessary. 5 U.S.C. § 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for comment on the deletion of these rules from the CFR is unnecessary. As discussed in Sections I and II, EPA is unaware of any proceedings pending under these rules. Withdrawing them will affect only the few, if any, future proceedings that may be initiated for pre-OPA violations.

For the same reasons, EPA believes there is good cause for making the removal of these rules from the CFR immediately effective. See 5 U.S.C. § 553(d).

IV. Differentiation between Classes of Oil

The Edible Oil Regulatory Reform Act, Public Law 104–55, requires most federal agencies to differentiate between and establish separate classes for (1) animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin and (2) other greases and oils, including petroleum, when issuing or enforcing any regulation or establishing any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil or grease. EPA has determined that no differentiation between these classes of oil is necessary for the portions of this rule that relate to the discharge of oil (Part 114 and section 112.6). This rule imposes no substantive requirements; instead the rule merely deletes provisions of the oil pollution prevention program that are legally obsolete for the reasons stated above.

V. Analyses under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act and the Paperwork Reduction Act

For the above reasons, this action is not a ''significant'' regulatory action within the meaning of E.O. 12866. It also does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, pursuant to the Regulatory Flexibility Act, I certify that this action would not have a significant economic impact on a substantial number of small entities. Finally, this action would not impose any requirements under the Paperwork Reduction Act.

List of Subjects

40 CFR Part 112

Environmental protection, Oil pollution penalties, Reporting and recordkeeping requirements.

40 CFR Part 114

Administrative practice and procedure, Oil pollution, Penalties.

40 CFR Part 117

Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

Dated: February 15, 1996.

Elliott P. Laws,

Assistant Administrator Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, under the authority at 33 U.S.C. 1361(a), title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 112—[AMENDED]

1. The authority citation for part 112 continues to read as follows:

Authority: 33 U.S.C. 1321 and 1361; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

§ 112.6 [Removed]

2. Section 112.6 is removed.

PART 114—[REMOVED]

3. Part 114 is removed.

PART 117—[AMENDED]

4. The authority citation for part 117 continues to read as follows:

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S. C. 1251 et seq.), (''the Act'') and E.O. 11735 superseded by E.O. 12777 56 FR 54757.

§ 117.22 [Removed]

5. Section 117.22 is removed.

[FR Doc. 96–5710 Filed 3–8–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–433; RM–5994 and RM–6181]

Radio Broadcasting Services; Barnesboro, Brookville, Indiana, Johnsonburg, Punxsutawney, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Strattan Broadcasting, licensee of Station WMKX(FM), Channel 240A, Brookville, Pennsylvania, grants Strattan's rule making petition (RM–5994) seeking the upgrade of its Class A channel in Brookville on non-adjacent Channel 288B1. *See Notice of Proposed Rule Making,* 52 FR 39254 (October 21, 1987). The Commission dismisses the counterproposal (RM–6181) of Renda Radio, Inc., licensee of Station WPXZ-FM, Channel 288A, Punxsutawney, Pennsylvania. The Commission also allots Channel 277B1 as an alternative equivalent channel at Brookville, as requested by Strattan in its comments. To accommodate these allotments to Brookville, we also order four channel substitutions: Channel 281A in lieu of Channel 288A at Punxsutawney, Pennsylvania, and the modification of the authorization of Station WPXZ-FM accordingly; Channel 263A in lieu of Channel 277A at Johnsonburg, Pennsylvania; Channel 223A in lieu of Channel 276A at Indiana, Pennsylvania; and Channel 228A for Channel 223A at Barnesboro, Pennsylvania. *See* Supplemental Information, *infra*.

DATES: Effective April 18, 1996. The window period for filing applications will open on April 18, 1996 and close on May 20, 1996.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 87–433, adopted February 16, 1996 and released March 4, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

The Commission orders modification of the licenses of Station WMKX(FM), Brookville, to specify operation on Channel 288B1; of Station WPXZ-FM, Punxsutawney, to specify operation on Channel 281A; and of Station WQMU, Indiana, to specify operation on Channel 223A. Channel 288B1 can be allotted to Brookville in compliance with the Commission's spacing requirements at coordinates North Latitude 41–09–36 and West Longitude 79–04–54. Channel 277B1 can also be allotted to Brookville in compliance with the Commission's spacing requirements at coordinates North Latitude 41–02–12 and West Longitude 79–06–06. Channel 263A can be allotted to Johnsonburg in compliance with the Commission's spacing requirements at either a site located at coordinates North Latitude 41–29–24 and West Longtitude 78–40–36. With this action, the proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by adding Channel 288B1 and Channel 277B1 and removing Channel 240A at Brookville; by adding Channel 281A and removing Channel 288A at Punxsutawney; by adding Channel 263A and removing Channel 277A at Johnsonburg; adding Channel 223A and removing Channel 276A at Indiana; and by adding Channel 228A and removing Channel 223A at Barnesboro.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–5429 Filed 3–8–96; 8:45 am]
BILLING CODE 6712–01–F

47 CFR Part 76

[CS Docket No. 96–40; FCC 96–84]

Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: This Order establishes interim rules to implement Section 641 of the Communications Act, including establishing the hours of the day when a significant number of children are likely to view sexually explicit adult programming or other indecent programming on any channel of the service of a multichannel video programming distributor primarily dedicated to sexually-oriented programming if such programming is not fully blocked or fully scrambled. Section 505 of the Telecommunications Act directs the Commission to establish these hours. In this Order, the Commission determines that the hours of 6 a.m. to 10 p.m. are the hours when such programming may not be shown if not fully scrambled or fully blocked.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION, CONTACT: Meryl S. Icove, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Order in CS Docket No. 96–40, FCC 96–84, adopted March 4, 1996 and released March 5, 1996. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (''ITS Inc.'') at (202) 587–3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

Synopsis of Order

1. On February 8, 1996, the Telecommunications Act of 1996 (''1996 Act''), Pub. L. No. 104–104, 110 Stat. 56 (1996), was enacted. Section 505 of the 1996 Act amends the Communications Act by adding a new Section 641, entitled ''Scrambling of Sexually Explicit Adult Video Service