ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6604–3]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma has applied for Final authorization to revise its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA is now making an immediate final decision, subject to receipt of written comment that oppose this action, that Oklahoma's Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization.

DATES: This immediate final rule is effective on July 10, 2000 without further notice, unless EPA receives adverse comments by June 9, 2000. Should EPA receive such comments, it will publish a timely document withdrawal informing the public that the rule will not take effect or affirm that the immdediate final rule will take effect as scheduled.

ADDRESSES: Written comments, referring to Docket Number Ok-00–2, should be sent to Alima Patterson Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1145 Ross Avenue, Dallas, Texas 75202–2733. Copies of Oklahoma program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180–7180 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States that receive 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 Hazardous Waste 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, 260–266, 268, 270, 273, and 279.

B. What Is the Effect of Today's Authorization Decision ?

The effect of this decision is that a facility in Oklahoma subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Oklahoma 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 Oklahoma is being authorized by today's action are already effective, and are not changed by today's action.

C. What Is the History of Oklahoma's Final Authorization and Its Revisions?

Oklahoma initially received Final Authorization on January 10, 1985, (49 FR 50362) to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program on June 18, 1990 (55 FR 14280), effective November 27, 1990; (55 FR 39274) effective June 3, 1991; (56 FR 13411) effective November 19, 1991; (56 FR 47675) effective December 21, 1994; (59 FR 51116–51122) effective April 27, 1995; (60 FR 2699–2702) effective October 9, 1996; (61 FR 52884–52886), Technical Correction effective March 14, 1997 (62 FR 12100); effective February 8, 1999 (63 FR 67800–67802) and (65 FR 16528) effective April 28, 2000. The authorized Oklahoma RCRA program was incorporated by reference into the CFR effective December 13, 1993, and July 14, 1998. On October 21, 1999, Oklahoma applied approval of its complete program revision. In this application, Oklahoma is seeking approval of its program revision in accordance with § 271.21(b)(3).

Oklahoma statutes provide authority for a single State agency, the Oklahoma Department of Environmental Quality (ODEQ,) to administer the provisions of the State Hazardous Waste Management Program. These statutes are the Oklahoma Environmental Quality Act, 27 O.S. Supplement (Supp) 1997 §§ 1–1–101 *et seq*. General provisions of the Oklahoma Environmental Quality Code which may affect the Hazardous Waste Program, 27A O.S. Supp. 1997 §§ 2–1–101 through 2–3–507; and the Oklahoma Hazardous Waste Management Act (OHWMA), 27A O.S. Supp. 1997 §§ 2–7–101 *et seq.* No amendments were made to the above statutory authorities during the 1999 legislative session which will substantially affect the State Hazardous Waste Management Program.

On January 12, 1999, the Council voted to recommend permanent revocation of Oklahoma Administrative Code (OAC) 252:200 and permanent adoption of OAC 252:205. The permanent revocation of OAC 252:200 and permanent adoption of OAC 252:205 is a part of the ODEQ's effort to simplify and streamline it rules for the benefit of regulated entities and the public as well as the agency itself. This ''rewrite'' of Oklahoma's hazardous waste regulations is not intended to change substantive requirements previously found in OAC 252:200, but to make the requirements clearer and more concise. The effort stems in part from 1997 legislation requiring most Oklahoma administrative agencies to perform regulatory reviews. Due to extensive reworking of the language and rearrangement of the text, the ODEQ believes it is more understandable and straightforward to revoke Chapter 200 in its entirety and replace it with a new chapter, Chapter 205, than to present an amended version of Chapter 200.

These rules include provisions, found at OAC 252:205–3–1 through 252:200–3–7, to incorporate by reference, in accordance with the Guidelines For State Adoption of Federal Regulations By Reference, the following EPA Hazardous Waste Management Regulations as amended through July 1, 1998. [The provisions of Title 40 CFR part 124 which are required by 40 CFR part 271.14 as well as parts 124.31, 124.32, and 124.33; 40 CFR parts 260–266, with the exception of 40 CFR parts 260.20 through 260.22, 264.149, 264.150, 264.301(1), the Appendix VI to part 264, 265.149, and 265.150; 40 CFR part 268 except 268.5, 268.6, 268.10–13, 268.42(b) and 268.44; 40 CFR part 270

except 270.14(b)(18); 40 CFR part 273; and 40 CFR part 279]. Additionally, the rules adopt the new or superseding amendments to 40 CFR found in 63 FR 37780–37782 published July 14, 1998 dealing with used oil management standards. Oklahoma has added mercury-containing lamps as a ''State only'' universal waste, thereby modifying appropriate provisions of the above CFR citations.

The Board adopted these amendments on March 5, 1999 as permanent rules. These permanent rules which became effective on June 11, 1999, implement the State hazardous waste program, and are codified in the OAC at OAC 252:205 *et seq.*

The ODEQ remains the official agency of the State of Oklahoma, as designated by 27A O.S. Supp. 1998 Section 2–7–105(13) to cooperate with Federal agencies for purposes of hazardous waste regulation.

The OHWMA delegates authority to the ODEQ to administer the State hazardous waste program, including the statutory and regulatory provisions necessary to administer the RCRA cluster VIII provisions. Currently, Oklahoma Corporation Commission (OCC) regulates certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms. The ODEQ and the OCC have in place a ODEQ/OCC jurisdictional Guidance Document that reflects the current sate of affairs between the two agencies. The ODEQ exclusively regulates hazardous waste in Oklahoma (excluding Indian lands) and the OCC does not regulate hazardous waste in Oklahoma. The current ODEQ/OCC Jurisdictional Guidance Document was signed on January 27, 1999.

D. What Revisions Are We Approving With Today's Action?

Oklahoma applied for final approval of its revision to its complete program in accordance with 40 CFR 271.21. Oklahoma's revisions consist of regulations which specifically govern RCRA Cluster VIII. Oklahoma requirements are included in a chart with this document. EPA is now making a final decision, subject to receipt of written comments that oppose this action, that Oklahoma's revisions of its hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Oklahoma final authorization for the following program revisions:

Federal Citation	State Analog
1. Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance [62 FR 37694–37699], July 14, 1997. (Checklist 160).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes, 27 A. O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
2. Second Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed Hazardous Wastes From Carbamate Production [62 FR 45568–45573], August 28, 1997] (Checklist 161).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
3. Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances [62 FR 64504–6409], December 5, 1997. (Checklist 162).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
4. Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators, Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers [62 FR 64636–64671], December 8, 1997. (Checklist 163).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
5. National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Pulp, Paper, and Paperboard Category [63 FR 18504–18751], April 15, 1998. (Checklist 164).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
12. Land Disposal Restrictions Phase IV—Exclusion of Recycled Wood Preserving Wastewaters [63 FR 28556], May 26, 1998. (Checklist 167F).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 § 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.
13. Hazardous Waste Combustors; Revised Standards; Final Rule—Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent to Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions [63 FR 33782–33829], June 19, 1998. (Checklist 168).	27A O.S. Supp. 1998 § 2–2–104 Added by Laws 1994, effective July 1, 1994, 27A O.S. Supp 1998 2–7–106 Amended by Laws 1993, effective July 1, 1993, Rules 252:205–3–1 through 252:205–3–7 permanent effective June 11, 1999.

E. What Decisions Has EPA Made?

We conclude that Oklahoma's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma final authorization to operate its hazardous waste program as revised, assuming we receive no adverse comments as discussed above. Upon effective final approval Oklahoma will be responsible for permitting treatment, storage, and disposal facilities 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 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 Oklahoma, including issuing permits, until the State is granted authorization to do so.

F. How Do the Revised State Rules Differ From the Federal Rules?

In this authorization of the State of Oklahoma's program revisions for RCRA Cluster VIII, there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

G. Who Handles Permits After This Authorization Takes Effect?

The EPA will administer any RCRA permits or portions of permits it has issued to facilities in the State until the State becomes authorized. At the time the State program is authorized for new rules, EPA will transfer all permits or portions of permits issued by EPA to the State. The EPA will not issue any more permits or portions of permits for the provisions listed in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized.

H. Why Wasn't There a Proposed Rule Before Today's Notice?

The EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial we expect no comments that oppose this action. The EPA is providing an opportunity for public comment now. In addition, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments opposing this authorization, that document will serve as a proposal to authorize the changes.

I. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number OK–00–2. We must receive your comments by June 9, 2000. You will not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

J. What Happens If EPA Receives Comments Opposing This Action?

If EPA receives comments opposing this authorization, we will publish a second **Federal Register** document before the immediate final rule takes effect. The second document will withdraw the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

K. When Will This Approval Take Effect?

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on July 10, 2000.

L. Where Can I Review the State's Application?

You can review and copy the State of Oklahoma's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180–7180 and EPA, Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

M. How Does Today's Action Affect Indian Country in Oklahoma?

Oklahoma is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect on Indian Country.

N. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, Subpart LL for this codification of Oklahoma's program changes until a later date.

Regulatory Requirements

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12866.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) The OMB determines is ''economically significant'' as defined under Executive Order 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.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involved technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

Under section 202 of the UMRA, the EPA must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least

burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that sections 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the State of Oklahoma's program, and today's action dos not impose any additional obligations on regulated entities. In fact EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate Treatment, Storage, Disposal, Facilities, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organization, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate Treatment, Storage, Disposal, Facilities are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA 3006 those existing State requirements.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' defined by 5 U.S.C. 804(2).

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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 cost incurred by the tribal governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to OMB, 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''.

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian governments. The State of Oklahoma is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications''. ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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''.

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with

State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It 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 13132, because it affects only one State. This action simply approves Oklahoma's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as result of this action, those newly authorized provisions of the State's program now apply in the State of Oklahoma in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice 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: March 30, 2000.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 00–11560 Filed 5–9–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 11, 73, and 74

[MM Docket No. 00–10; FCC 00–115]

Establishment of a Class A TV Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements the Community Broadcasters Protection Act of 1999, which directs the FCC to establish a Class A television service to provide a measure of primary status to certain low-power television stations. This document addresses a wide range of issues related to the implementation of the statute, including the protected service area of Class A stations, Class A interference protection requirements vis a vis other TV stations, eligibility criteria for Class A status, common ownership restrictions applicable to Class A stations, the treatment of modification applications filed by Class A licensees, and general operating requirements.

DATES: Effective July 10, 2000.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy and Rules Division, Mass Media Bureau, (202) 418–2130, or Keith Larson, Office of the Bureau Chief, Mass Media Bureau, (202) 418–2600.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (''*R&O*''), FCC 00–115, adopted March 28, 2000; released April 4, 2000. The full text of the Commission's *R&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12 St. SW., Washington, DC. The complete text of this *R&O* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 1231 20th St., NW., Washington, DC 20036.

Synopsis of Report and Order

I. Introduction

1. In this *R&O*, we establish a Class A television service to implement the Community Broadcasters Protection Act of 1999 (CBPA), which was signed into law November 29, 1999, Pursuant to the CBPA and our implementing rules, certain qualifying low-power television (LPTV) stations will be accorded Class A status. Class A licensees will have ''primary'' status as television broadcasters, thereby gaining a measure of protection from full-service television stations, even as those stations convert to digital format. The LPTV stations eligible for Class A status under the CBPA and our rules provide locally-originated programming, often to rural and certain urban communities that have either no or little access to such programming. LPTV stations are owned by a wide variety of licensees, including minorities and women, and often provide ''niche'' programming to residents of specific ethnic, racial, and interest communities. The actions we take today will facilitate the acquisition of capital needed by these stations to allow them to continue to provide free, over-the-air programming, including locally-originated programming, to their communities. In addition, by improving the commercial viability of LPTV stations that provide valuable programming, our action today is consistent with our fundamental goals of ensuring diversity and localism in television broadcasting.

II. Background

2. From its creation by the Commission in 1982, the low power television service has been a ''secondary spectrum priority'' service whose members ''may not cause objectionable interference to existing full-service stations, and . . . must yield to facilities increases of existing full-service stations or to new full-service stations where interference occurs. Currently, there are approximately 2,200 licensed LPTV stations in approximately 1,000 communities operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full-service stations and can fit into areas where a higher power station cannot be accommodated in the Table of Allotments. In many cases, LPTV stations may be the only television station in an area providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets. Many LPTV stations air ''niche'' programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including programming in foreign languages.

3. In the CBPA, Congress found that the future of low-power television is uncertain. Because LPTV stations have secondary spectrum status, they can be displaced by full-service TV stations that seek to expand their own service area, or by new full-service stations seeking to enter the same market. The statute finds that this regulatory status affects the ability of LPTV stations to