

US EPA ARCHIVE DOCUMENT

enclosed with and considered part of the solicitation letter for purposes of applying the proposed test, provided that the letter does not itself list or describe the member benefits. The latter may, however, refer the addressee to the separate list of benefits. (For example, the letter may state: "For a description of benefits available to members, please see the attached sheet", as long as no promotional material concerning the benefits is included.)

Although exempt from the notice and comment requirements of the Administrative Procedure Act {5 U.S.C. 553{b}, {c}} regarding proposed rulemaking by 39 U.S.C. 410{a}, the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. (see CFR part 111).

#### List of Subjects in 39 CFR Part 111

Postal Service.

#### PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend Domestic Mail Manual E670.5.7, by revising b. to read as follows:

#### E Eligibility

\* \* \* \* \*

#### E670 Nonprofit Standard Mail

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\* \* \* \* \*

#### 5.0 ELIGIBLE AND INELIGIBLE MATTER

\* \* \* \* \*

#### 5.7 Other Matter

An authorized nonprofit organization's material is not disqualified from being mailed at the Nonprofit Standard Mail rates solely because that material contains, but is not primarily devoted to:

\* \* \* \* \*

b. References to and a response card or other instructions for making inquiries about services or benefits available from membership in the authorized organization, if advertising, promotional, or application materials for such services or benefits are not included. For purposes of this section, descriptions of member benefits available as a part of membership including the use of adjectives, terms, conditions, and brand names, are

permissible when they are a minor part of a solicitation or renewal request for membership payments. For purposes of this provision, "minor" is defined as "less than half." Measurement is made in accordance with P200.1. The solicitation or renewal request in which, to a minor degree, member benefits may be promoted is considered to include only a printed letter to prospective members or current members whose membership is about to expire, and not to any separate, distinct, or independent brochure, circular, flyer, or other documents. Such separate documents will be considered advertising if they contain any advertising, promotional, or application materials. Exception: A separate document prepared by the qualifying organization, consisting of one sheet, will be considered to be part of the solicitation letter if it describes the organization's member benefits and the solicitation letter does not describe the organization's benefits but instead refers the reader to the separate document.

\* \* \* \* \*

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 98–5772 Filed 3–5–98; 8:45 am]

BILLING CODE 7710–12–U

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 264 and 265

[FRL–5973–4]

#### Project XL Site-specific Rulemaking for OSi Specialties, Inc., Sistersville, WV

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is implementing a project under the Project XL program for the OSi Specialties, Inc. plant, a wholly owned subsidiary of Witco Corporation, located near Sistersville, West Virginia (the "Sistersville Plant"). The terms of the XL project are defined in a Final Project Agreement ("FPA") which was made available for public review and comment. See 62 FR 34748, June 27, 1997. Following a review of the public comments, the FPA was signed by delegates from the EPA, the West Virginia Division of Environmental Protection ("WVDEP") and Witco Corporation on October 17, 1997. The EPA is today proposing a site-specific rule, applicable only to the Sistersville

Plant, to facilitate implementation of the XL project.

Today's action proposes a site-specific regulatory deferral from the Resource Conservation and Recovery Act (RCRA) organic air emission standards, commonly known as RCRA Subpart CC. The applicability of this site-specific deferral is limited to two existing hazardous waste surface impoundments, and is conditioned on the Sistersville Plant's compliance with air emission and waste management requirements that have been developed under this XL project. Today's action proposes site-specific regulatory changes to implement this XL project. The agency expects this XL project to result in superior environmental performance at the Sistersville Plant, while deferring significant capital expenditures, and thus providing cost savings for the Sistersville Plant.

**DATES:** *Comments.* Public comments on this proposed rule will be accepted until March 27, 1998.

*Public Hearing.* A public hearing will be held, if requested, to provide interested persons an opportunity for verbal presentation of data, views, or arguments concerning this site-specific rule to implement the Sistersville Plant's XL project. If anyone contacts the EPA requesting to speak at a public hearing by March 16, 1998, a public hearing will be held on March 20, 1998.

#### ADDRESSES:

*Request to Speak at Hearing.* Persons wishing to make verbal presentations must contact Mr. Tad Radzinski at U.S. EPA Region 3. Mr. Tad Radzinski may be contacted at the following: U.S. Environmental Protection Agency, Region 3 (3WC11), 841 Chestnut Street, Philadelphia, PA 19107–4431, (215) 566–2394.

*Comments.* Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F–98–MCCP–FFFFF.

*Docket.* A docket containing supporting information used in developing this rulemaking is available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–98–MCCP–FFFFF.

A duplicate copy of the docket is available for inspection and copying at

U.S. EPA, Region 3, 841 Chestnut Street, Philadelphia, PA 19107-4431, during normal business hours. Persons wishing to view the duplicate docket at the Philadelphia location are encouraged to contact Mr. Tad Radzinski in advance, by telephoning (215) 566-2394.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tad Radzinski, U.S. Environmental Protection Agency, Region 3 (3WC11), Waste Chemical Management Division, 841 Chestnut Street, Philadelphia, PA 19107-4431, (215) 566-2394.

**SUPPLEMENTARY INFORMATION:** The air emission and waste management requirements proposed today are set forth in an associated direct final rule published in the Final Rules section of today's **Federal Register**. The EPA is publishing this action as a proposed rule, and concurrently as a direct final rule without prior proposal, because EPA views this as a noncontroversial action and anticipates no relevant adverse comments. In the event that no relevant adverse comments are received by the close of the twenty-one day public comment period, this action will become effective on April 1, 1998. This rule will become effective without further notice unless the Agency receives relevant adverse comment within 21 days of today's action. Should the Agency receive such comments, it will publish a notice informing the public that the direct final rule did not take effect. If relevant adverse comments are received on this proposed rule or on the associated direct final rule, EPA will withdraw the direct final rule and address the comments received. The EPA would then publish responses to such comments when final action is taken, pursuant to this proposed rule. No additional opportunity for public comment will be provided. Unless the direct final rule is withdrawn, no further rulemakings will be published for this action.

For additional information on today's proposed rulemaking, including the regulatory text of the proposed rule, see the associated direct final rule which is published in the Final Rules section of today's **Federal Register**.

#### Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make verbal presentations regarding this proposed regulation in accordance with 42 U.S.C. § 7004(b)(1); 40 CFR part 25. Persons wishing to make a verbal presentation on the proposed rule to implement the OSi Sistersville Plant XL project should contact Mr. Tad Radzinski of the Region 3 EPA office, at the address given in the

**ADDRESSES** section of this document. Any member of the public may file a written statement before the hearing, or after the hearing, to be received by EPA no later than March 27, 1998. Written statements should be sent in duplicate to the RCRA Information Center Docket Office, and to Mr. Tad Radzinski, at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing, and written statements provided at the hearing will be available for inspection and copying during normal business hours at the EPA addresses for docket inspection given in the **ADDRESSES** section of this preamble.

#### Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this rule would be significantly less than \$100 million and would not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be sixty days. However, in consideration of the very limited scope of today's site-specific rulemaking, and the previous opportunity for public comment (which included the details of today's rulemaking) that EPA provided with the proposed FPA (see 62 FR 34748, June

27, 1997), the EPA considers twenty-one days to be sufficient in providing a meaningful public comment period for today's action.

#### Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because it only affects one facility, the OSi Sistersville Plant in Sistersville, West Virginia. The Sistersville Plant is not a small entity. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, EPA generally 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 an 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 objectives 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 of 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.

As noted above, this rule is applicable only to the OSi Sistersville Plant, located near Sistersville, West Virginia. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### List of Subjects

##### 40 CFR Part 264

Environmental protection, Air pollution control, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Treatment storage and disposal facility, Waste determination.

##### 40 CFR Part 265

Environmental protection, Air pollution control, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Treatment storage and disposal facility, Waste determination.

Dated: February 26, 1998.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 98-5558 Filed 3-5-98; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 25 and 100

[FCC 98-26; IB Docket No. 98-21]

#### Policies and Rules for the Direct Broadcast Satellite Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Communications Commission (FCC) proposes to amend and relocate the regulations covering the Direct Broadcast Satellite (DBS) service. The notice of proposed rulemaking also asks whether the FCC should consider adopting new rules addressing horizontal concentration in the multi-channel video programming distribution (MVPD) market, such as limitations on cable/DBS cross-ownership. The actions are necessary to consolidate and harmonize the Commission's rules for satellite services and to obtain public comment on policies for the DBS service. The effect of relocating the DBS service rules is to simplify and harmonize the rules for satellite services in one part of the Commission's rules.

**DATES:** Submit comments on or before April 6, 1998. Submit reply comments on or before April 21, 1998. Written comments by the public on the proposed information collections are due April 6, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before May 5, 1998.

**ADDRESSES:** Send written comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. For purposes of this proceeding, we hereby waive those provisions of our rules that require formal comments to be filed on paper, and encourage parties to file comments electronically. File electronic comments using the electronic filing interface available on the FCC's World Wide Web site at <<http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.htm>>. Further information on the process of submitting comments electronically is available at that location and at <<http://www.fcc.gov/e-file/>>. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the

Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503 or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

#### FOR FURTHER INFORMATION CONTACT:

*Technical Information:* Kim Baum, 202-418-0756

*Economic Information:* Doug Webbink, 202-418-1494

*Legal Information:* Chris Murphy, 202-418-2373

For additional information concerning the information collections contained in this Notice contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

1. The Commission is authorized to conduct this rulemaking pursuant to its statutory authority contained in the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 303(v). The Commission has historically regulated direct broadcast satellite (DBS) service, which is transmitted using frequency bands that are internationally allocated to the broadcast satellite service (BSS), and direct-to-home fixed-satellite service (DTH-FSS), which is transmitted using fixed-satellite service (FSS) frequency bands, separately. The Commission rules for the DBS service are codified in 47 CFR part 100, while FSS rules, including those applicable to DTH-FSS providers, can be found in part 25. Since both DBS and DTH-FSS provide video services directly to the home via satellite, the notice of proposed rulemaking (Notice) proposes to consolidate, where possible, the DBS service and technical rules with the rules for DTH-FSS and other satellite services under part 25 and to eliminate in its entirety part 100. The Notice also proposes to move certain DBS-specific part 100 rules into part 25 and to eliminate several part 100 rules which the Commission believes are no longer needed. For instance, the Notice proposes to eliminate the part 100 rules (§§ 100.72-.80) which govern DBS auctions and to conduct DBS auctions under the general auction rules contained in part 1, subpart Q. The Notice also seeks comment on proposals to revise the DBS technical rules to conform to the Commission's experience regulating the service. The Notice further proposes to amend the Commission's part 25 rules, where necessary, in order to render them applicable, where appropriate, to DBS and DTH-FSS, as well as other satellite services.

2. In proposing to incorporate certain part 100 rules into part 25, the Notice highlights several rules of particular