

US EPA ARCHIVE DOCUMENT

(i) Incorporation by reference. Rule 3745-35-07, adopted November 3, 1994, effective November 18, 1994.

* * * * *

3. Section 52.1888 is revised to read as follows:

§ 52.1888 Operating permits.

Emission limitations and related provisions which are established in Ohio operating permits as federally enforceable conditions in accordance with Rule 3745-35-07 shall be enforceable by USEPA and by any person under section 304 of the Clean Air Act. USEPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and will be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements or the requirements of USEPA's underlying regulations.

§ 52.1919 [Amended]

4. Section 52.1919 is amended by removing paragraph (a)(2).

[FR Doc. 95-26589 Filed 10-27-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 279

[FRL 5313-5]

Hazardous Waste Management System; Recycled Used Oil Management Standards

AGENCY: Environmental Protection Agency.

ACTION: Administrative stay.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) today is announcing an administrative stay of the regulatory provisions set forth in 40 CFR 279.10(b)(2) applicable to mixtures of used oil destined for recycling and either characteristic hazardous waste or waste listed as hazardous because it exhibits a hazardous waste characteristic. The stay reinstates for these mixtures the regulatory requirements ordinarily applicable to mixtures containing hazardous waste, along with other applicable regulatory requirements, including but not limited to the 40 CFR Part 268 land-disposal restrictions ("LDRs"), until the Agency completes a new rulemaking addressing 40 CFR 279.10(b)(2).

EFFECTIVE DATE: December 29, 1995.

FOR FURTHER INFORMATION CONTACT: Tracy Bone at (202) 260-3509, Office of Solid Waste (5304), U.S. Environmental

Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The contents of today's document are listed in the following outline:

- I. Background
- II. Basis for Stay of Used Oil Mixture Rule
- III. Agency Action
- IV. Effects on State Authorization
- V. Executive Order 12866
- VI. Paperwork Reduction Act

I. Background

Section 3014(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6935(a), requires EPA to establish management standards for used oil destined for recycling. Those standards must protect public health and the environment and, to the extent possible within that context, not discourage used oil recycling.

Section 3014(a) was added to RCRA by the Used Oil Recycling Act of 1980, Pub. L. No. 96-463, § 7(a), 94 Stat. 2055, 2057 (1980). As originally enacted, section 3014(a) required EPA to establish performance standards and other requirements as may be necessary to protect the public health and the environment from hazards associated with recycled oil, but also specified that the Agency shall "ensure that such regulations do not discourage the recovery or recycling of used oil." The Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, § 242, 98 Stat. 3221, 3260 (1984), slightly altered the language of RCRA section 3014(a) to require that, in developing regulations addressing recycled used oil, the Agency shall ensure that such regulations do not discourage the recovery or recycling of used oil, "consistent with the protection of human health and the environment."

On September 10, 1992, EPA promulgated regulations pursuant to RCRA section 3014(a) governing the management of used oil destined for recycling. 57 FR 41566 (1992). These regulations are codified at 40 CFR Part 279. As part of these regulations, EPA promulgated a used oil mixture rule, 40 CFR 279.10(b), that specifies when mixtures of used oil destined for recycling and hazardous waste are regulated as used oil and when they are regulated as hazardous waste. Among other things, the used oil mixture rule specifies that mixtures of used oil destined for recycling and waste that is hazardous solely because it exhibits one or more of the hazardous waste characteristics identified in subpart C of 40 CFR Part 261, and mixtures of used oil and hazardous waste that is listed in subpart D of 40 CFR Part 261 solely because it exhibits one or more of the

characteristics of hazardous waste identified in subpart C, are regulated as a hazardous waste under subtitle C of RCRA only if the resultant mixture exhibits a hazardous waste characteristic. 40 CFR 279.10(b)(2)(i). If the mixture does not exhibit a hazardous waste characteristic, it is regulated under the used oil management standards, and the hazardous waste regulations (including those relating to LDRs) are inapplicable.¹ 40 CFR 279.10(b)(2)(ii)-(iii).

Two weeks after EPA promulgated the used oil management standards, the D.C. Circuit issued its decision in *Chemical Waste Management, Inc. v. EPA*, 976 F.2d 2 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 1961 (1993), a challenge to portions of the Agency's LDR regulations that did not prohibit dilution of certain characteristic hazardous wastes as a form of treatment.² The issue before the court was whether these regulations satisfied the requirements of RCRA section 3004(m), which mandates that treatment substantially diminish the toxicity of hazardous waste or the likelihood of migration of hazardous constituents from hazardous waste so that short-term and long-term threats to human health and the environment are minimized. The court held that, in authorizing dilution as a form of treatment for certain characteristic hazardous wastes, the Agency had not satisfied the requirements of RCRA section 3004(m) because dilution only removed the short-term threat posed by the characteristic, and did not address the long-term threat posed by hazardous constituents that could be present in such wastes.³

Petitions for review challenging EPA's used oil mixture rule subsequently were filed in the D.C. Circuit. *Safety-Kleen Corp. v. EPA*, No. 92-1629 (D.C. Cir.).

¹ In a separate part of the used oil regulations, EPA specified that mixtures of used oil and listed hazardous waste, except for wastes listed solely because they exhibit one or more of the characteristics of hazardous waste identified in subpart C of 40 CFR Part 261, must be handled as hazardous waste under subtitle C of RCRA and may not be managed as used oil. 40 CFR 279.10(b)(1); 57 Fed. Reg. at 41,581. That provision is not impacted by this stay.

² The LDR regulations, codified at 40 CFR Part 268, were promulgated pursuant to Section 3004 of RCRA, 42 U.S.C. 6924, which restricts the land disposal of certain hazardous wastes beyond specified dates unless the wastes are treated according to treatment standards established by the Agency.

³ Pursuant to the *Chemical Waste Management* decision, the Agency has promulgated revisions to the 40 CFR Part 268 land disposal restrictions applicable to mixtures containing characteristic hazardous waste. See 58 Fed. Reg. 29860 (1993); 59 Fed. Reg. 47982 (1994).

Citing the *Chemical Waste Management* decision, some petitioners asserted that the used oil mixture rule violates RCRA section 3004(m) because it allows certain characteristic hazardous wastes to be "de-characterized" by dilution with used oil destined for recycling, and to avoid compliance with LDRs. As a result, these mixtures (or residuals derived therefrom) might be disposed in land-disposal units without adequate prior treatment, despite the fact that they may contain significant levels of hazardous constituents in concentrations sufficient to pose a threat to human health and the environment.

EPA subsequently joined with the petitioners in the *Safety-Kleen Corp.* case in moving for a voluntary vacatur of the used oil mixture rule to consider the impact of the *Chemical Waste Management* case on the used oil mixture rule. In an order dated September 15, 1994, the D.C. Circuit, rather than vacating the rule, remanded the record in the case to the Agency with the limited instruction that "[i]f the EPA determines that its rule is invalid, * * * it can proceed accordingly." The court, however, retained jurisdiction over the case, so it still is pending before the D.C. Circuit for judicial review.

Consistent with the D.C. Circuit's remand, the Agency plans to propose a rule in the near future concerning how mixtures of used oil destined for recycling and characteristic hazardous wastes should be regulated under RCRA section 3014(a) in light of the *Chemical Waste Management* decision and other appropriate policy and legal considerations, and requesting public comment on those views. Through this rulemaking, the parties to the *Safety-Kleen Corp.* case, along with all other interested persons, will have the opportunity to submit comments for the Agency's consideration in reaching a decision concerning whether the used oil mixture rule should be revised.

For the reasons discussed below, EPA also is issuing this administrative stay of the used oil mixture rule pending completion of this rulemaking. For mixtures of used oil destined for recycling and either characteristic hazardous waste or waste listed as hazardous because it exhibits a hazardous waste characteristic, this stay reinstates the regulatory requirements, ordinarily applicable to mixtures containing hazardous waste, set forth in 40 CFR 261.3 (a)(2) and (d)(1), along with other applicable regulatory provisions, as revised, including but not limited to LDRs.

II. Basis for Stay of Used Oil Mixture Rule

The only issue addressed in today's document concerns the status of the contested used oil mixture rule, 40 CFR 279.10(b)(2), while the new rulemaking process addressing that provision is undertaken. Section 705 of the Administrative Procedures Act, 5 U.S.C. 705, authorizes EPA to postpone the effective date of action taken by it when "justice so requires," pending judicial review. As discussed in detail below, EPA believes that a stay of the rule is in the interests of justice. It will enable the Agency to address the precedential impact of the *Chemical Waste Management* decision before the regulation takes effect, it will help ensure that mixtures of used oil destined for recycling and characteristic hazardous wastes are managed in a manner protective of human health and the environment until the follow-up rulemaking concerning the used oil mixture rule is completed, it will limit inconvenience to and confusion and inconsistency among the States and within the regulated community concerning how such mixtures are to be managed, and it will impose no significant burden on the States or the regulated community.

This administrative stay of the used oil mixture rule reflects EPA's recognition that the *Chemical Waste Management* decision raises significant legal issues, and may be controlling authority, concerning the applicability of LDR regulations to mixtures of used oil destined for recycling and characteristic hazardous wastes. As noted above, the D.C. Circuit held in that case that, in authorizing dilution as a form of treatment for certain characteristic hazardous wastes, the Agency had not satisfied the mandate of RCRA section 3004(m) because dilution only removed the short-term threat posed by the characteristic, and did not address the long-term threat posed by hazardous constituents that could be present in such wastes.

As currently written, the used oil mixture rule provides that certain mixtures of used oil destined for recycling and characteristic hazardous are subject exclusively to the used oil management standards, which do not include LDRs. Thus, the mixture rule, in effect, allows dilution of certain characteristic hazardous wastes with used oil, instead of treatment under section 3004(m). As a result, some such mixtures (or residuals derived therefrom) containing significant levels of hazardous constituents potentially may be disposed in land-disposal units

without adequate prior treatment. (The Agency will conduct fact-finding on this point as part of the upcoming rulemaking.) The *Chemical Waste Management* decision, however, appears to indicate that such mixtures should be subject to LDRs, unless no hazardous constituents are present in concentrations sufficient to pose a threat to human health or the environment. Because the Agency believes there is a strong likelihood that the used oil mixture rule needs to be modified in light of the *Chemical Waste Management* decision, this stay is in the interests of justice.⁴

This administrative stay also is justified on the ground that human health and the environment are better protected if mixtures of used oil destined for recycling and characteristic hazardous waste are subject to LDRs like other mixtures containing characteristic hazardous waste until the follow-up rulemaking addressing the used oil mixture rule is completed. In particular, EPA believes that further analysis is needed to determine whether mixtures of used oil destined for recycling and characteristic hazardous wastes differ significantly from other mixtures containing characteristic wastes in terms of potential threat to human health and the environment.⁵ Under the used oil mixture rule as currently written, some such mixtures (or residuals derived therefrom) may be disposed in land-disposal units without adequate prior treatment. To address

⁴ RCRA section 3014(a) requires the Agency to ensure that regulations concerning used oil "do not discourage the recovery or recycling of used oil," consistent with the protection of human health and the environment. Based upon this language, some may argue that the regulatory requirements applicable to mixtures of used oil and characteristic hazardous waste appropriately may differ from those applicable to other mixtures containing characteristic hazardous waste for purposes of the land-disposal restrictions. The possible merits of such an interpretation will be explored in the rulemaking concerning 40 CFR 279.10(b)(2) to be initiated in the near future.

⁵ The used oil mixture regulations distinguish mixtures of used oil and wastes exhibiting the characteristic of corrosivity, reactivity and toxicity from mixtures of used oil and wastes exhibiting only the characteristic of ignitability. Compare 40 CFR 279.10(b)(2) (i) and (ii) with 40 CFR 279.10(b)(2)(iii). As to wastes exhibiting the characteristic of ignitability, the Agency explained that "mixing to manage ignitable solvents appears to be acceptable, provided the characteristic of ignitability of the ignitable solvents is removed." 57 FR at 41581. EPA noted, as its basis for this statement, that "mixing the solvents in with used oil should not affect the chemical constituents or other properties of used oil" because the solvents are petroleum fractions. *Id.* EPA is not repudiating that statement today, but believes further analysis should be undertaken of mixtures of used oil and ignitable characteristic hazardous wastes to determine the extent to which such mixtures contain hazardous constituents that may endanger human health or the environment.

this concern, during the pendency of the stay mixtures of used oil destined for recycling and characteristic hazardous wastes will be subject to LDRs. As a result, the stay also is in the interests of justice because it is protective of public health and the environment.

This administrative stay also is justified because it will avoid inconvenience to and confusion and inconsistency among the States. Confusion within the States concerning how used oil mixtures should be regulated stems from the strong likelihood that the used oil mixture rule will need to be modified consistent with the *Chemical Waste Management* decision and the pendency of the *Safety-Kleen Corp.* case.

As discussed more fully below, only a limited number of States authorized to administer and enforce the RCRA program for hazardous wastes and used oil have yet modified their programs to reflect the new Federal used oil management standards, but most were required to do so by July 1, 1995. Requiring States to complete the significant task of modifying their programs under circumstances such as these, in which there is a strong likelihood that the used oil mixture rule will need to be modified in light of the *Chemical Waste Management* decision, could result in States being required to make changes and then undo them in short order. These circumstances also may result in uneven implementation and enforcement of the regulatory requirements concerning mixtures of used oil destined for recycling and characteristic hazardous waste. To avoid these concerns, during the pendency of this stay, authorized States simply will be required to maintain (or adopt on a reasonable schedule) regulations no less stringent than otherwise applicable EPA regulations governing mixtures of used oil destined for recycling and characteristic hazardous wastes. See 40 CFR 261.3(a)(2) and (d)(1). Thus, this stay also is in the public interest because it avoids inconvenience to and confusion and inconsistency among the States.

Similarly, this administrative stay is justified because it will avoid inconvenience to and confusion and inconsistency within the regulated community. The regulated community, which is comprised of thousands of small businesses, must comply with EPA (or no less stringent State) regulations applicable to mixtures of used oil destined for recycling and characteristic hazardous wastes, and the goal of obtaining consistent and thorough compliance with those regulations is ill served by the confusion

stemming from the *Chemical Waste Management* decision and the pendency of the *Safety-Kleen Corp.* case.

Accordingly, this stay also is justified because avoiding inconvenience to and confusion and inconsistency within the regulated community is in the public interest.

Finally, EPA believes that neither the States nor the regulated community will be significantly burdened or suffer irreparable harm as a result of this administrative stay. As discussed above, most authorized States have not yet adopted the used oil mixture rule, and they will have no obligation to adopt that rule during the pendency of this stay. The stay will reinstate the regulatory requirements applicable to hazardous waste mixtures set forth in 40 CFR 261.3(a)(2) and (d)(1) on December 29, 1995 in only four States that lack authorization to administer and enforce the RCRA programs for hazardous waste and used oil. Since these States do not have authorized programs, the States themselves will not be impacted by the stay.

In addition, the impact on small businesses in these States will be limited.⁶ Businesses that do not generate characteristic hazardous waste, and those that do generate such waste but that either do not mix such waste with used oil or are exempt from hazardous waste regulation because they are conditionally exempt small quantity generators pursuant to 40 CFR 261.5 (i.e., they generate no more than 100 kilograms of hazardous waste per month), will not be impacted by the stay. Moreover, large and small generators alike can avoid having to comply with RCRA regulatory requirements applicable to hazardous waste mixtures during the pendency of the stay simply by not mixing used oil and characteristic hazardous wastes. Additionally, during the pendency of the stay, the Agency intends to focus its enforcement-related activities only on large-quantity generators whose conduct is especially egregious.

The limited number of States that have modified their programs to incorporate the used oil mixture rule also will not be significantly burdened by the stay. They are not required to modify their programs by the effective date of the stay, but rather are required, on a reasonable schedule, to adopt requirements no less stringent than the federal requirements (unless during the

time period during which the States are to modify their programs EPA action on the new rulemaking addressing the used oil mixture rule renders such action by the States unnecessary). See 40 CFR 271.21(e)(2). Therefore, States that already have modified their programs consistent with the used oil mixture rule have flexibility to respond in an appropriate time frame to the stay.

In addition, the regulated community in these States will be impacted only at such time as the States modify their programs. Even in States that do modify their programs, the factors limiting the impact on the regulated community discussed above would be applicable.

The majority of States have not modified their programs to incorporate the provisions of the used oil mixture rule, so they will not be significantly impacted by the stay because they simply can maintain the status quo until the stay is lifted. In addition, in these States the regulated community will not be significantly impacted because it simply will have a continuing, uninterrupted obligation to comply with the same regulatory requirements it has been subject to in the past, and the factors limiting the impact on the regulated community discussed above will be applicable here as well.

III. Agency Action

As discussed above, EPA is issuing an administrative stay of the used oil mixture rule, 40 CFR 279.10(b)(2), until the Agency completes a new rulemaking addressing that provision. This stay is issued pursuant to section 705 of the Administrative Procedures Act, 5 U.S.C. 705, which authorizes EPA to postpone the effective date of action taken by it when justice so requires, pending judicial review.

In its Order dated September 15, 1994, the D.C. Circuit expressly retained jurisdiction over the *Safety-Kleen Corp.* case, so that case still is pending before the court for judicial review. In addition, the Agency finds that justice requires the issuance of this administrative stay because, as discussed in detail above, it will enable the Agency to address the precedential impact of the *Chemical Waste Management* decision before the regulation takes effect, it will help ensure that mixtures of used oil destined for recycling and characteristic hazardous wastes are managed in a manner protective of human health and the environment until the follow-up rulemaking concerning the used oil mixture rule is completed, it will limit inconvenience to and confusion and inconsistency among the States and within the regulated community

⁶ Persons who change their own oil (so-called "do-it-yourself" or "DIY" used oil) are not subject to the used oil regulations, 40 CFR 279.20(a)(1), and this stay does not change how DIY used oil is regulated under subtitles C and D of RCRA. See 40 CFR 261.4(b)(1).

concerning how such mixtures are to be managed, and it will impose no significant burden on the States or the regulated community.⁷

IV. Effects on State Authorization

Under RCRA section 3006, 42 U.S.C. 6926, EPA may authorize qualified States to administer and enforce the RCRA program for hazardous wastes within the State. See 40 CFR Part 271. Section 3006(h) allows EPA to authorize State used oil management programs in the same manner as State hazardous waste programs, even if EPA does not list used oil as a hazardous waste.

EPA retains enforcement authority under sections 3008, 7003 and 3013 of RCRA following authorization of State hazardous waste and used oil programs, although authorized States have primary enforcement authority. Sections 3008 (d)(4), (d)(5) and (d)(7) of RCRA further clarify that EPA may assess criminal penalties for violations of used oil standards even if it does not identify used oil as a hazardous waste. Once EPA grants authorization to a State, the State's requirements become federally enforceable under subtitle C of RCRA. In States that do not have authorization to administer and enforce the RCRA programs for hazardous wastes and used oil, Federal requirements are applicable.

For rules written under RCRA provisions that predate the enactment of HSWA in 1984, authorized States administer their hazardous waste and used oil management programs entirely under State law in lieu of EPA's Federal program. The Federal requirements no longer apply in authorized States. When new, more stringent Federal requirements are promulgated or

enacted, authorized States must develop equivalent authorities within the time frame set out in 40 CFR Part 271. The new Federal requirements do not take effect in an authorized State until the State adopts the requirements as State law, and EPA may not enforce them until it approves the State requirements as a revision to the authorized State program.

The used oil management standards, 40 CFR Part 279, were promulgated under section 3014(a) of RCRA, a provision that predates the enactment of HSWA. As a result, the new standards took effect in the four States (Wyoming, Alaska, Hawaii and Iowa) that lack authorization to administer and enforce the RCRA programs for hazardous waste and used oil on March 8, 1993. See 57 FR 41566, 41605 (1992). In these States, as of December 29, 1995, today's document stays the provisions of 40 CFR 279.10(b)(2), and reinstates the regulatory requirements applicable to hazardous waste mixtures set forth in 40 CFR 261.3 (a)(2) and (d)(1), and other applicable provisions, as revised, including but not limited to the 40 CFR Part 268 LDRs, until the Agency completes a new rulemaking addressing 40 CFR 279.10(b)(2).

In States authorized to administer the RCRA programs for hazardous waste and used oil, the new Federal used oil requirements do not become applicable until the States revise their programs to adopt equivalent requirements under State law. The used oil mixture rule, unlike most provisions of the used oil management standards, generally is less stringent than preexisting Federal regulatory requirements applicable to mixtures containing characteristic hazardous waste. Compare 40 CFR 279.10(b)(2) with 40 CFR 261.3 (a)(2) and (d)(1). As a result, at the time the used oil management standards were promulgated, States with authorized programs had regulatory requirements in place applicable to mixtures of used oil and characteristic hazardous wastes similar to the preexisting, more stringent Federal requirements.

For authorized States in which no statutory change was required to modify their hazardous waste and used oil programs, the State programs were to be modified to reflect the new Federal used oil requirements by July 1, 1994. See 57 Fed. Reg. 41566, 41605 (1992). For authorized States in which a statutory change was required to modify their programs to reflect the new Federal used oil requirements, new State requirements were to become effective by July 1, 1995. *Id.*

To date, only a limited number of authorized States have modified their

programs to reflect the new Federal used oil management standards. In those States, today's stay has the effect of requiring them to remodify their programs to reinstate the more stringent requirements of the preexisting regulations within the time frame set out in 40 CFR 271.21(e)(2). These time frames may be extended in certain cases under 40 CFR 271.21(e)(3), and, of course, may be affected by the completion of the new rulemaking addressing the used oil mixture rule to be initiated in the near future. In the remaining authorized States, today's stay has the effect of requiring these States to maintain their preexisting regulations, which should be no less stringent than the EPA regulations governing mixtures containing characteristic hazardous wastes applicable prior to promulgation of the used oil mixture rule, until the Agency completes a new rulemaking addressing 40 CFR 279.10(b)(2).

V. Executive Order 12866⁸

Under Executive Order 12866, the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. That 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, or 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 entitlements, grants, user fees, or loan payments or 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.

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.

VI. Paperwork Reduction Act

This action does not contain any new information collection requirements subject to Office of Management and Budget ("OMB") review under the

⁸ EPA has evaluated the applicability of Executive Order 12866 to the administrative stay even though, as noted above, the Agency does not regard the stay as a rule.

⁷ Although EPA does not regard today's administrative stay as a rule subject to the requirements of 5 U.S.C. 553, were it viewed as a rule there is good cause for issuing the stay without prior notice and opportunity for comment pursuant to § 553(b)(3)(B) for the same reasons that issuing the stay is in the interests of justice outlined above. In addition, EPA does not view today's stay as subject to the requirement of RCRA Section 3010(b) that regulations take effect six months after promulgation, but were it viewed as subject to that provision the earlier effective date of this stay, December 29, 1995, is warranted because the regulated community does not need six months to come into compliance with the stay. As noted above, in the vast majority of States, the regulated community still operates under the regulatory framework in effect prior to the promulgation of 40 CFR 279.10(b)(2), and the regulated community will not need to change its practices within those States. In the limited number of States in which the used oil mixture rule has become effective, the regulated community operated under the regulatory framework in effect prior to the promulgation of 40 CFR 279.10(b)(2) until recently, and readily should be able to conform its conduct to those requirements. In addition, there is good cause for adopting an earlier effective date for the same reasons that issuing the stay is in the interests of justice outlined above.

provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* Today's action reinstates preexisting information collection requirements imposed under existing RCRA regulations. These requirements have been approved by OMB under the Paperwork Reduction Act and have been assigned OMB Control Number 2050-0085 (see ICR #1442.04, land-disposal restrictions for newly listed waste and hazardous debris; ICR #1442.05, land-disposal restrictions for ignitable and corrosive characteristic wastes; ICR #1442.06, land-disposal restrictions for newly listed and identified wastes; and ICR #1442.07, land-disposal restrictions for decharacterized wastewaters, carbamate, and organobromine waste and spent aluminum potliners).

List of Subjects in 40 CFR Part 279

Environmental protection, Petroleum, Recycling, Reporting and recordkeeping requirements, Used oil.

Dated: October 3, 1995.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows:

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

1. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and Sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

2. Section 279.10(b)(2) is amended by adding the following note immediately after paragraph (b)(2)(iii) to read as follows:

§ 279.10 Applicability.

* * * * *
(b) * * *
(2) * * *

Note to paragraph (b)(2) of this section: The regulatory requirements set forth in 40 CFR 279.10(b)(2) for mixtures of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in subpart C of 40 CFR Part 261, and mixtures of used oil and hazardous waste that are listed in subpart D of 40 CFR Part 261 solely because it exhibits one or more of the characteristics of hazardous waste identified in subpart C, are administratively stayed as of December 29, 1995. The effect of the stay is to reinstate for such mixtures the regulatory requirements otherwise applicable to hazardous waste mixtures, including but not limited to those set forth in 40 CFR Parts 260-266, 268, 270,

and 271, until the Agency completes a new rulemaking addressing that provision.

* * * * *

[FR Doc. 95-26459 Filed 10-27-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-313; RM-8390]

Radio Broadcasting Services; Bay Minette and Daphne, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 293C2 (formerly Channel 293C3), from Bay Minette to Daphne, Alabama, and modifies the license of Baldwin Broadcasting Company for Station WAVH(FM), as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The allotment of Channel 293C2 to Daphne will provide a first local aural transmission service to that community without depriving Bay Minette of local aural transmission service. See 59 FR 43, January 3, 1994. Coordinates used for Channel 293C2 at Daphne, Alabama, are 30-46-21 and 88-03-31. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 8, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-313, adopted October 13, 1995, and released October 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

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, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 293C3 at Bay Minette, and by adding Daphne, Channel 293C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95-26695 Filed 10-27-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 90-283; RM-7222, RM-7313, RM-7485, RM-7486]

Radio Broadcasting Services; Southampton, Bridgehampton, Westhampton and Calverton-Roanoke, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies an Application for Review filed by American Media, Inc., and a Petition for Reconsideration filed by East Shore Broadcasting Corporation, both directed to the *Report and Order* in this proceeding concerning radio broadcasting services in New York. See 57 FR 31664, July 17, 1992. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776-1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 90-283, adopted August 24, 1995, and released October 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 2390, 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.