(G) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and 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)).

VI. List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Implementation plans.

Dated: June 25, 1998.

William E. Muno,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 *et. seq.*

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(8) to read as follows:

§ 52.1885 Control Strategy: Ozone

(a) * * *

(8) Approval—On April 27, 1998, Ohio submitted a revision to remove the air quality triggers from the ozone maintenance plans for the following areas in Ohio: Canton (Stark County), Cleveland (Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage Counties), Columbus (Franklin, Delaware and Licking Counties), Steubenville (Jefferson County), Toledo (Lucas and Wood Counties), Youngstown (Mahoning and Trumbull Counties) as well as Clinton County, Columbiana County, and Preble County.

[FR Doc. 98–17972 Filed 7–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6119–9]

Washington: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Washington has applied for Final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Washington's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Unless adverse written comments are received during the review and comment period provided in this direct final rule, EPA's decision to approve Washington's hazardous waste program revision will take effect as provided below. Washington's application for program revision is available for public review and comment.

DATES: This Final authorization for Washington shall be effective October 5, 1998, if EPA receives no adverse comment on this document by August 6, 1998. Should EPA receive adverse comments, EPA will withdraw this rule before the effective date by publishing a notice of withdrawal in the **Federal Register**. Any comments on Washington's program revision application must be filed by August 6, 1998. Written comments may also be provided to the address below by August 6, 1998. If no adverse comments are received by August 6, 1998, the immediate final rule will take effect and no further action will be taken on the companion proposal, which appears in the proposed rules section elsewhere in this issue of the **Federal Register**.

ADDRESSES: Copies of the Washington program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying during normal business hours at the following addresses: U.S. Environmental Protection Agency, Region 10, Library, 1200 Sixth Avenue, Seattle, WA 98101, contact at (206) 553–1259; and the Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, contact Patricia Hervieux, (360) 407–6756. Written comments should be sent to Nina Kocourek, U.S. Environmental Protection Agency, Region 10, WCM–122, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–6502.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle, WA 98101, (206) 553–6502.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

The revision requested by Washington in its current application is not a result of a change to EPA's rules or regulations, nor is it a result of changes to Washington's rules and regulations. Washington's application for revision results from unique agreements between Washington, the United States and the Puyallup Tribe of Indians. Washington seeks revision of its authorized program to include ''non-trust lands'' within the exterior boundaries of the Puyallup Indian reservation (hereafter referred to as the ''1873 Survey Area'' or ''Survey Area'') pursuant to a settlement agreement finalized in 1988 and ratified by Congress in 1989, which allows Washington to seek authorization for such lands after consultation and communication with the Puyallup Tribe.

B. Washington

The State of Washington initially received Final Authorization on January 30, 1986 (51 FR 3782), effective January 31, 1986 (51 FR 3782), to implement its base hazardous waste management program. Washington received authorization for revisions to its program on November 23, 1987 (52 FR 35556, 9/22/87), October 16, 1990 (55 FR 33695, 8/17/90), November 4, 1994 (59 FR 55322, 11/4/94), and April 29, 1996 (41 FR 7736, 2/29/96)

On June 16, 1998, Washington submitted a final complete program application to revise its program to include non-trust lands within the 1873 Survey Area of the Puyallup Tribe reservation. Today, Washington is

seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

The EPA reviewed Washington's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Washington's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization to Washington for the revision.

As provided in the Proposed Rules section of today's FR, the public may submit written comments on EPA's proposed final decision until August 6, 1998. Copies of Washington's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If EPA does not receive adverse written comment on Washington's program revision by the end of the comment period, the authorization of Washington's revision shall become effective 90 days from the date this document is published and EPA will take no further action on the companion document appearing in the Proposed Rules section of today's **Federal Register**. If the Agency does receive adverse written comment, it will publish a notice withdrawing this immediate final rule before its effective date. EPA then will address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so in accordance with the time frame provided in today's **Federal Register**.

1. State's Revision Request

The State of Washington applied to the EPA to revise its authorized hazardous waste program to include ''non-trust lands within the 1873 Survey Area of the Puyallup Reservation,'' as defined in the Washington Indian (Puyallup) Land Claims Settlement, 25 U.S.C. 1773 *et seq.*, also cited as the Puyallup Tribe of Indians Settlement Act (hereafter ''Settlement Act''), as part of the State's authorized program. The Settlement Act allocates jurisdiction according to an ''Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners,'' (August 27, 1988), hereafter referred to as the ''Settlement Agreement.'' See 25 U.S.C. 1773–1773j. Relying on the Congressional ratification provided in the agreement, the State of Washington is seeking authorization to include non-trust lands within the 1873 Survey Area as part of its authorized program. The State of Washington is not requesting authorization for any new federal rules with this program revision.

2. Analysis of State Submission on Revision of Program

In support of its original interim base program application, Washington asserted it had jurisdiction generally over all lands within state borders. However for the limited purpose of supporting its request for this revision, the State relied solely on the Settlement Act, 25 U.S.C. 1773 *et seq.*, as the basis for its assertion of jurisdiction over non-trust lands within the 1873 Survey Area.

The Settlement Act ratified and confirmed the 1988 Settlement Agreement. Pursuant to the Settlement Act, the ''Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.'' 25 U.S.C. 1773g. The Settlement Agreement provides, for the purposes of the Agreement, that ''the federal, state and local governments have exclusive jurisdiction for the administration and implementation of federal, state and local environmental laws on non-trust lands within the 1873 Survey Area.'' Settlement Agreement, Section VIII(A)(3).

The Settlement Agreement defines the 1873 Survey area as the ''area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation conducted by the United States General Land Office and filed in 1874.'' 25 U.S.C. 1773j(1). ''Trust lands'' are defined in the Settlement Agreement to include both ''trust land'' or ''land in trust status,'' meaning ''land or any interest in land the title to which is held in trust by the United States for an individual Indian or Tribe,'' as well as ''restricted land'' or ''land in restricted status,'' meaning ''land the title to which is held by an individual Indian or Tribe and which can be alienated or encumbered by the owner only with the approval of the Secretary of the Interior.'' Settlement Agreement, Section VIII(A). ''Non-trust lands'' exclude those lands defined as ''trust lands'' under the Settlement Agreement.

Pursuant to the Settlement Agreement, ''any federal delegation under the federal environmental laws within the 1873 Survey Area for non-trust lands will be solely to the State of Washington or its political subdivisions, and any federal delegation under the federal environmental laws within the 1873 Survey Area for trust lands will be solely to the Tribe.'' Settlement Agreement, Section VIII(A)(3). All parties to the Settlement Agreement concur that the term ''delegation'' was intended to encompass ''authorization'' as well as ''delegation'' of federal programs.

Washington's application to extend its authorized program to the non-trust lands within the Survey Area, like its predecessor base program application, attempts to reach into Indian country without limiting that reach to non-Indians. Washington relies on the Settlement Act which ratifies the Settlement Agreement, a document which itself is silent on the issue of jurisdiction over Indians in Indian country on non-trust lands in the Survey Area. In analyzing Washington's application, EPA's starting place is the Settlement Agreement.

The EPA believes the language in the Settlement Agreement with respect to the retention of Federal jurisdiction and the deference given to Federal law in the absence of other controlling law is significant to clarifying the authorization EPA is granting to Washington. Neither the EPA nor the Puyallup Tribe of Indians believes the Settlement Agreement changed operative federal law or superseded relevant case law on the issue of authority over Indians or Indian activities. In *Washington Department of Ecology* v. *EPA*, 752 F.2d 1465 (9th Cir. 1985), the Ninth Circuit held that states generally were precluded from exercising jurisdiction over Indians in Indian country unless Congress clearly expressed an intention to permit such jurisdiction. Both EPA and the Puyallup Tribe of Indians believe the case is relevant to the issues of state jurisdiction related to this authorization.

In that case, the Court held that ''EPA reasonably interpreted RCRA not to grant state jurisdiction over the activities of Indians in Indian country.'' *Id.* at 1469. The Court found this conclusion to be well grounded in federal Indian law and went on to say: ''States are generally precluded from exercising jurisdiction over Indians in Indian country unless Congress has clearly expressed an intention to permit it.'' *Id.* Moreover, ''the United States in its role as primary guarantor of Indian interests legitimately may decide that * * * tribal concerns can best be addressed by maintaining federal

control over Indian lands. EPA's interpretation of RCRA permits this option.'' *Id.* at 1470. The Court expressly did not decide ''the question of whether Washington is empowered to create a program reaching into Indian country when that reach is limited to non-Indians.'' *Id.* at 1467. Washington's proposed program, which was the basis of the lawsuit, clearly attempted to reach Indians in Indian country. *Id.*

The Settlement Agreement provides for federal environmental laws within the 1873 Survey Area on non-trust lands to be delegated solely to the State of Washington or its political subdivisions. Settlement Agreement Section VIII.A.3. In carrying out delegated authority, the State and Tribe agree to involve each other in a consultative manner. *Id.* The Settlement Agreement also provides that ''the State and its political subdivisions will retain and exercise all jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon and as provided in federal law over non-Indians.'' Settlement at Section VIII. A.4. Based on the language of the Settlement Agreement as it was ratified by Congress in the Settlement Act, EPA believes that Washington can be authorized for the RCRA program over the non-trust lands within the 1873 Survey Area with limitations.

EPA finds the Settlement Act is not a clear expression of congressional intent to permit the state to exercise jurisdiction over Indians or Indian activities on non-trust lands in the Survey Area. The Settlement Act ratifies the Settlement Agreement, including its provisions for retaining federal jurisdiction, and does not change applicable case law and federal Indian law concerning State jurisdiction over Indians and Indian activities. *See* Settlement Agreement at Section VIII.A.3 and 4. Without a clear expression of intent in the Settlement Agreement as ratified by the Settlement Act to confer jurisdiction on the State over Indians or Indian activities within the 1873 Survey Area, EPA finds that Washington has not adequately demonstrated jurisdiction over Indians or Indian activities within the 1873 Survey Area. The authorization will therefore be limited to non-trust lands within the Survey Area and will not extend to Indians or Indian activities on those non-trust lands. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. EPA believes this is consistent with the language and intent of both the Settlement Act and Settlement Agreement and is otherwise consistent with federal Indian law.

A final issue to be addressed in today's rule is the State of Washington's Regulatory Reform Act of 1995 (''Act''). By letters dated June 10, 1997 and November 20, 1997, EPA expressed its belief that the State's Act conflicted with the necessary enforcement authority required for authorization of federal environmental programs to the State. The Act provided that if a conflict existed between the Act and federal program delegation requirements, conflicting provisions could be rendered inoperative upon notice to the Governor. The Attorney General for the State of Washington acknowledged that the Act precluded the State from assessing a civil penalty except where a violation either was of a specific permit term or condition, was a repeat violation, was a violation for which the violator did not come into compliance within a specified period of time, or had a probability of placing a person in danger of death or bodily harm, causing more than minor environmental harm, or causing physical damage to the property of another in excess of one thousand dollars. Subsequently, on December 10, 1997, in accordance with State law, RCW 43.05.902, the State formally notified the Governor of Washington that a conflict existed with the Act and certain federal laws and programs. As a result of the determination of an existing conflict, sections 605, 606, 607(3) and 608 of the Act (prohibiting the State from issuing civil penalties) were deemed to be inoperative to several State programs including the Hazardous Waste Program. In reliance on this determination, EPA believes the conflict has been addressed by rendering inoperative those portions of the Act that conflicted with the State's authorized RCRA program and with this revision request. In addition, EPA is relying on the State's interpretation of another technical assistance law, RCW 43.21A.085 and .087, finding that the law does not conflict with federal authorization requirements because it is a discretionary program, to conclude that the law does not impinge on the State's authority to administer federal environmental programs, including the RCRA program. EPA understands from the State's interpretation that technical assistance visits conducted by the State will not be conducted under the authority of RCW 43.21A.085 and .087.

C. Decision

EPA has reviewed Washington's application and has made a decision that the State's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA has determined that the State of Washington has submitted a sufficient analysis to support its assertion of authority over the non-trust lands within the 1873 Survey Area of the Puyallup Reservation, as defined in the Settlement Act, except over Indians or Indian activities. Consequently, EPA intends to grant final authorization revising Washington's hazardous waste program to include the non-trust lands within the 1873 Survey Area of the Puyallup Reservation but limiting the authorization so that the revised program does not extend to Indians or Indian activities within the Survey Area.

Washington will implement the revised authorized program in the same manner that the program is implemented elsewhere in the State. This includes all aspects of the authorized program such as waste designation requirements; generator, transporter, and recycling requirements; treatment, storage and disposal (TSD) facility requirements; all permitting procedures; corrective action requirements; and compliance monitoring, and enforcement procedures.

All permits issued by U.S. EPA Region 10 on non-trust lands within the 1873 Survey Area prior to final authorization of this revision will continue to be administered by U.S. EPA Region 10 until the issuance or reissuance after modification of a State RCRA permit. Upon the effective date of the issuance, or reissuance after modification to incorporate authorized State requirements, of a State RCRA permit, those EPA-issued permit provisions which the State is authorized to administer and enforce will expire. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit. EPA will continue to implement and enforce HSWA provisions for which the state is not authorized.

I conclude that Washington's application for a program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Washington is granted Final Authorization to operate its hazardous waste program as revised. Washington now has responsibility for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA and excluding from its revised program authority over Indians or Indian activities within the 1873 Survey Area. Washington also has

primary enforcement responsibilities for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. EPA retains the right to conduct inspections under section 3007 of RCRA, 42 U.S.C. 6927, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6928, 6934 and 6973.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Washington's program and for incorporation by reference of those provisions of the State's authorized statutes and regulations EPA will enforce under sections 3008, 3013 and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart WW, until a later date.

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 certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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. The section 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. 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. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. To the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law; not because of any new Federal requirement imposed pursuant to today's rule.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is not required, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Today's rule does not impose any federal requirements on regulated entities, whether large or small. Instead, today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. Today's rule carries out Congress' intent under both RCRA and the Settlement Act that states should be authorized to implement their own hazardous waste programs as long as those programs are equivalent to, and no less stringent than, the Federal hazardous waste program. In this case, to the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law; not because of any new Federal requirement imposed pursuant to today's rule.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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 will submit 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'' as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Compliance With Executive Order 12875

Executive Order 12875 restricts, to the extent feasible and permitted by law, the promulgation of any regulation that is not required by statute and that creates a mandate upon a state, local or Tribal government, subject to criteria provided in the order. Today's rule does not impose a mandate upon a State, local or Tribal government. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the Area. As such, the final rule is not subject to the requirements of Executive Order 12875.

Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is ''economically significant,'' as defined under Executive Order 12866, and where EPA determines the environmental health or safety risk addressed by the rule has 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.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and is not a health or safety risk-based determination. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. As such, the final rule is not subject to the requirements of Executive Order 13045.

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.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, section 12(d) (15 U.S.C. 272), 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 involve technical standards. Therefore, EPA did not consider the use of any voluntary standards.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: June 24, 1998.

Chuck Clarke,

Regional Administrator.

[FR Doc. 98–17682 Filed 7–6–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 5, 15, 18, 21, 22, 24, 26, 73, 74, 78, 80, 87, 90, 95, 97, and 101

[ET Docket No. 97–94; FCC 98–58]

Streamlining the Equipment Authorization Process

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to simplify the equipment authorization processes, deregulate the authorization requirements for certain types of equipment, and begin implementation of an electronic filing system for equipment authorization applications. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements so that products can be introduced to the market more rapidly. We believe these actions will greatly benefit both large and small manufacturers and encourage the development of innovative products that best meet consumers' needs.

EFFECTIVE DATE: October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Hugh L. Van Tuyl, (202) 418–7506 or Julius P. Knapp, (202) 418–2468, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket 97–94, FCC 98–58, adopted April 2, 1998, and released April 16, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Report and Order

1. On March 13, 1997, the Commission adopted a *Notice of Proposed Rule Making* (*Notice*) 62 FR 24383, May 5, 1997, in the above captioned proceeding. The *Notice* proposed to amend parts 2, 15, 18 and other rule parts to: (1) simplify our existing equipment authorization processes; (2) deregulate the equipment authorization requirements for certain types of equipment; and (3) provide for electronic filing of applications for equipment authorization. The proposals were designed to reduce the burden of the equipment authorization program on manufacturers.

2. We are adopting many of the proposed changes to simplify the authorization process and relax the equipment authorization requirements for certain devices, as well as making the rule changes necessary to implement an electronic filing system for applications.

Simplification of Existing Equipment Authorization Processes

3. There are currently five different equipment authorization procedures specified in Subpart J of Part 2 of the Commission's Rules. The following is a brief description of each procedure:

Type acceptance calls for the manufacturer or importer to submit a written application for review and approval by the Commission. The application must include a complete technical description of the product and a test report showing compliance with the technical requirements. The type acceptance procedure has traditionally been applied to radio transmitters that are used in authorized radio services, such as commercial and private mobile radio services.

Certification is similar to type acceptance. The manufacturer or importer must submit a written application that includes a technical description of the product and a test report showing compliance with the Commission's technical standards. Certification has traditionally been used for low power, unlicensed consumer devices that operate under Parts 15 and 18 of the rules.

Notification requires submittal of a written application, but no test report is required unless specifically requested by the Commission. Notification has been used for a variety of products that demonstrated a good record of compliance, but the Commission found it appropriate to maintain some degree of oversight.

Declaration of Conformity (DoC) is a relatively new self-approval procedure that was established in connection with the Commission's deregulation of the certification requirements for personal computer equipment. The DoC procedure calls for the manufacturer or importer to test the equipment to determine compliance with the FCC standards. The laboratory performing